

**INTELLECTUAL OUTPUT 3:**

**Policy recommendation report for the  
improvement of governmental support in  
Bulgaria and in Turkey towards prevention of  
abuse of elderly people**



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## Introduction

Sometimes life puts us in situations that lead to unstable emotional states, feelings of tension, and increased tension in our relationships with other people. Unfortunately, the daily stress at work, the numerous commitments and the uncertainties in the socio-economic situation around us accumulate and most often the victims of this tension are our loved ones, with whom we spend the most time. At such a time, if we fail to control our emotions on time, they can escalate and may have dangerous consequences for us or for our loved ones. Such a consequence may be the manifestation of some form of domestic violence.

According to Chapter One, Art. 2. of Law on Protection from Domestic Violence: "Domestic violence shall be any act of physical, sexual, mental, emotional or economic violence, as well as the attempt for such violence, the forced restriction of privacy, personal liberty and personal rights committed against persons who are related, who are or have been in a family relationship or in de facto marital cohabitation.

Domestic violence can take the form of one or more of the following:

1. *Psychological control (stalking)* - the abuser constantly stalks the behavior and movement of his victim;
2. *Economic violence* - the victim is completely deprived of the opportunity to dispose of his/her finances and is dependent on the abuser;
3. *Psychological harassment* - the victim is threatened by the abuser in order to be permanently afraid;
4. *Physical violence* - the victim is physically assaulted (eg by hitting or pushing), which is usually a separate crime, in addition to domestic violence within the meaning of the Bulgarian Law against domestic violence;
5. *Sexual violence* - the victim is subject to sexual coercion.

According to recent publications and research, forms of violence are expanding with additional ones (neglecting the needs of adults, harming the person with drugs). The consequences of these new forms are not less traumatic than the others types and can be fatal. Also, in Art. 2 of the Law on Protection from Domestic Violence does not include persons who care for adults without being their relatives.



## How to protect ourselves from domestic violence?

The victim of domestic violence should fill an application for protection from domestic violence to the district court at his / her place of residence within 1 month from the act of domestic violence. This is a common procedure in Bulgaria and in Turkey and the relevant law lists those who can seek help from the court as victims of domestic violence.

These are:

- Spouse or ex-spouse;
- A person with whom s/he is or has been in actual marital cohabitation;
- A person from whom s/he has a child;
- Ascending (parent, grandparent);
- Descending (child, grandson);
- A person with whom s/he is related by collateral line up to and including the fourth degree;
- A person with whom s/he is or has been related by marriage up to and including the third degree;
- Guardian, trustee or foster parent;
- Ascending or descending to the person with whom s/he is in actual marital cohabitation;
- A person with whom the parent is or has been in de facto cohabitation.

After being seized at the request of the victim, the court has the power to order the issuance of an order for protection from domestic violence, as well as to impose specific protection measures.

**We suggested the following measures:**

- Obligation of the perpetrator to refrain from committing domestic violence;
- Removal of the perpetrator from the jointly inhabited dwelling for the term, determined by the court;



- Prohibition of the perpetrator to approach the victim, his home, the place of work and the places for social contacts and recreation visited by him under conditions and term, determined by the court;
- Obliging the perpetrator to attend specialized programs;
- Referral of the victim of violence to rehabilitation programs.

If the request of the victim of violence is accepted, the court issues a protection order and applies the appropriate measure for protection against domestic violence. In addition to the measures taken, the perpetrator is punished with a fine.

When the application contains data on direct, immediate or subsequent danger to the life or health of the victim, the district court in closed session without summoning the parties shall issue an order for immediate protection within 24 hours from the receiving the application. These circumstances must be stated in the application for protection from domestic violence in order for an order for immediate protection to be issued by the court.

The execution of the order for protection from domestic violence is monitored by the Bulgarian police. Possible non-compliance by the abuser with the order for immediate protection constitutes a crime punishable by imprisonment or/and a fine.

**As consortium, we really recommend that in each country, the following actions to prevent domestic violence towards elderly people to be included in the national legal framework:**

- Actions directly and immediately supporting the victims of domestic violence
- Creating attitudes of intolerance to violence, regardless of the risk factors
- Providing immediate support to the victim by a qualified specialist, who is competent to apply crisis interventions and other measures according to the needs of the victim.
- Requirement about availability of knowledge in the specific characteristics of the elderly (biological, psychological and social)
- Support of the victim and timely referral to use appropriate social services



- Recognition of the manifestations of discrimination on the ground of “age” - contempt, lack of tolerance, use of harsh or age-focused language; refusal of support or services due to the age of the victim.
- Targeted information on the human rights, presented in accessible language and format.

The following specialised protection services are provided to a victim of domestic violence:

- 24-hour free telephone line
- Counselling centre for victims of domestic violence
- Crisis centre for victims of domestic violence
- Shelter care (sheltered housing) for victims of domestic violence for accommodation after the sixth month of the incident.

The support should be based on the following basic messages: The professional approach to domestic violence includes several mandatory general support steps, as follows:

- "It's important to talk to someone you trust."
- "You are not alone."
- "Violence is always the responsibility of the abuser."
- "Violence is never your fault."
- "It is not up to you to stop the violence."
- "You have the right to security and protection."

The regulations for combating domestic violence (for example in Bulgaria, such as the Law on Protection from Domestic Violence (PDPA), which were adopted in 2005, and its criminalization (in the form of an aggravating circumstance for some crimes) still needs updates and improvements. The Bulgarian and Turkish legislation in that sense is a step back from modern international standards. That is why our countries are often criticized by the EU, UN and other organisations, but more importantly - ineffective laws do not provide adequate protection for victims of domestic violence, who, according to data



from various institutions, are increasing. One example from Bulgaria: the information from the Ministry of Interior in Bulgaria about the received signals to telephone number 112 for domestic violence is indicative - during the period March 1, 2018 - March 1, 2019 - 22,983 signals were received, and for the period March 1, 2019 - March 1, 2020 - 26 567 or an average of 73 per day, and in the first two months after the introduction of anti-epidemic measures on March 13, 2020, the signals reached an average of 80 per day.

### Identified problems and risks

**In this regard, the following problems / risks have been identified and also as a result of the conducted project ABUTRAINING:**

- Lack of sufficiently reliable, effective protection and guarantee for protection of life, health and rights of persons at risk of domestic violence;
- Existence of different institutions with functions in the field of domestic violence without effective coordination between them, resp. lack of a coordination mechanism to ensure reliable, timely and adequate prevention and protection against domestic violence by the relevant competent authorities;
- Lack of official statistics on national level in Bulgaria and Turkey, lack of summary database and systematic collection of complete and comprehensive statistical information on domestic violence and its various forms in order to conduct research on the causes and extent of violence against women and domestic violence and policy making;



## Suggested changes in Bulgaria and Turkey

**To address the identified weaknesses, our consortium suggested to the Governments in Bulgaria and Turkey a number of changes** in the current legislation concerning combating with domestic violence and provision of support to victims of such violence.

We believe that the following main objectives should be taken into consideration:

- Improving the legislation and regulating a set of measures aimed at creating a reliable, effective protection and guarantee for the protection of life, health and rights of persons at risk of domestic violence by:
  - Expanding the circle of persons entitled to protection under the law;
  - Expanding the range of protection measures and determining effective measures for both victims and perpetrators;
  - Expansion of prevention programs and specialized services for protection of victims of domestic violence;
  - Ensuring fast, effective and adequate protection and support of victims of domestic violence;
  - Optimisation of the production for imposition of measures for protection from domestic violence in the direction of speed, effective law enforcement and creation of guarantees for protection of the interest of the victims.

Lack of a single national body responsible for formulating, implementing and evaluating the policies and coordination of the actions of the bodies for prevention and counteraction to domestic violence is evident. Precisely because of the need to eliminate





weaknesses and gaps in the current legal framework in Bulgaria and in Turkey and to implement the recommendations of the European Commission and various control and monitoring mechanisms under UN conventions in the field of human rights related to the problems of violence against women, and to bring of the Bulgarian and Turkish legislation in accordance with the European legislative practices and the international standards in this field, at the moment of public discussion is in subject (example: draft version of the Law for amendment and supplement of the Law for protection from domestic violence in Bulgaria - [Проект на Закон за изменение и допълнение на Закона за защита от домашното насилие](#)).

**The proposed changes can be divided into the following main areas:**

- Improving the legislation - changes in procedures, deadlines, measures and scope.
- Establishment of a national body responsible for the formulation, implementation and evaluation of the policies and coordination of the actions of the bodies for prevention and counteraction to domestic violence;
- Establishment of a Centralized Register for cases of domestic violence;
- Changes in the Penal Code (PC)

The draft version of the Law for amendment and supplement of the Law for protection from domestic violence in Bulgaria envisages important changes, but again there are gaps in the legislation and the recommendations for compliance with international standards remain unimplemented. Also outside the scope of the new bill does not cover persons using social services in the home environment and residential type.



## New protective measures

The proposed changes may introduce new measures to protect against domestic violence:

- Prohibition of the perpetrator to make contact with the victim in any form, including by telephone, e-mail or regular mail and fax, as well as by any other means and systems of communication.
- Referral of abused children to specialized services for the protection of children, victims or witnesses of violence.
- Obliging the perpetrator to attend an addiction treatment program in cases where it has been found that he uses narcotic or psychoactive / psychotropic / substances, alcohol or other intoxicating substance or other type of addiction.
- A ban on the issuance of a permit for the acquisition, storage, carrying and use of explosives, weapons, ammunition and pyrotechnic articles of the perpetrator or the termination of the validity of a permit issued for a period determined by the court.
- The introduction of new measures is a positive change that will make it possible to provide more complete and individualized protection to victims of violence.

### Access to court protection

A significant improvement in access to protection by the court is the proposed possibility to apply for protection to the district court in whose area the victim actually resides (i.e. the jurisdiction should not be determined only by address registration). The possibilities for the directors of the Social Assistance Directorates in Bulgaria and



Turkey to apply for protection of persons in a state of helplessness due to severe disability, old age or illness and the introduction of the possibility for a prosecutor to initiate proceedings should be further expanded.

At the same time, for persons with disabilities, who are placed under guardianship, we suggest to change the current legal framework. At the moment they can apply for protection through a guardian or director of the Social Assistance Directorate, which is contrary to the right of access to court for persons with disabilities. Access to justice is an absolute condition for the exercise of any right and that right should be exercised in person. The creation of obstacles to his personal exercise is in practice deprivation of the right and in this case it will be a sign of abusing rights. Such regulation would be in contradiction with the Convention on the Rights of Persons with Disabilities. All state institutions should provide people with disabilities with effective access to justice on an equal basis with others, including by providing procedural and age-appropriate support measures in view of their role at all stages of the process.

In response to a recommendation from the UN Committee on the elimination of all forms of discrimination against women ([Комитета за премахване на всички форми на дискриминация срещу жените на ООН](#)) launched in 2012, our amendments propose to extend the limitation period, within which the person has the right to apply to the court - from one month to three months after the act of domestic violence (in some cases the term might be six months). It should be also envisaged that in case of evidence of acts of violence that occurred before the specific case of violence, they will be taken into account when individualising the measures for protection of the victim. With regard to acts of violence, which occurred after the initiation of the case and before the conclusion of the court at first instance, it is proposed that they be able to be considered in the same proceedings.



## Legal definitions amendment

The suggested amendments by our consortium envisaged for the first time the introduction of legal definitions of "economic violence" and "mental violence". In this way, these forms of domestic violence will become more easily recognizable, while not restricting the rights of victims, as the proposed definitions provide an example, rather than an exhaustive, list of acts that can be considered as the respective form of violence.

The term "de facto cohabitation on a marital basis" is also defined, replacing "de facto cohabitation". This is how the legislation is synchronized, as "De facto cohabitation" is also used in other regulations (especially when regulating rules to prevent conflicts of interest.) However, this does not solve another problem mentioned in the report of the [UN Special Rapporteur](#) on violence against women - the lack of protection for victims of domestic violence in same-sex couples. A broader definition of de facto cohabitation for the purposes of the national legislation should be introduced, which should not be discriminatory on the basis of gender or sexual orientation.



## Establishment of a National commission for prevention and protection against domestic violence

Our proposal for legislative amendments envisages the establishment of a National commission for prevention and protection against domestic violence as a specialised permanent collegial body for the implementation of the state policy on prevention and protection against domestic violence (thus to some extent Article 10 of the Istanbul Convention not adopted by Bulgaria is implemented.) The body should be chaired by a Deputy prime minister, and its composition should include deputy ministers from 7 ministries as well as representatives of the Social Assistance Agency, the Agency for the Quality of Social Services, the Supreme Court of Cassation and the Prosecutor General in Bulgaria and Turkey.

The composition and leadership of the Commission that was determined ensures the involvement of all state bodies at the highest level in the fight against domestic violence, but at the same time limits the involvement of non-governmental organisations only to the opportunity to participate in meetings. The structure, organisation and activity of the National Commissions could be adopted by the Council of Ministers in Bulgaria and Turkey. In order to ensure the effective participation of civil society in the work of the Commission, specific guarantees should be laid down at legal level for the admission of certain categories of NGOs to participate in meetings of the national authority.

In the Bulgarian and in Turkish version of this document, we described in detail the activities of the National Commissions related to policy development, data collection,



results analysis, coordination and allocation of funds. It is also envisaged that the National Commissions will build and maintain a 24-hour telephone hot-line for support and referral of victims of domestic violence with national coverage for information, counseling and assistance to victims of domestic violence.

These National Commissions could be also responsible for the financing of social service providers under programs for prevention of domestic violence, programs for providing assistance to victims of domestic violence, for training of persons performing protection under the law, specialised programs attended by persons, who have committed domestic violence and who include social and psychological counselling. The procedure for selection of social service providers, as well as the procedure for reporting and control should be determined by the relevant law. We have pointed out to the policy makers, that it is not clear why only social service providers have been identified as beneficiaries, as some of the activities for which funding is envisaged are also inherent in a wider range of organisations (e.g. monitoring the implementation of the law; conducting seminars and conferences), publications etc.)

It is envisaged in our proposal, that in carrying out its activities the National Commission will be assisted by a coordination unit, which will consist of civil servants (for example in Bulgaria recruited under Art. 86a of the Civil Servant Act,) by the heads of the structures included in the composition of the National Commission. The advantages of this approach are: saving the state budget and administrative capacity without violating the administrative board and creating a common administration, ensuring continuous communication and up-to-date exchange of information with the competent institutions with functions in the field, increasing knowledge and skills in this field. policy area, flexibility for the administrations involved in the posting of employees (may be short-term, shift and rotational, for a week, month, year).



## Establishment of a Central register for domestic violence cases

Countries like Bulgaria and Turkey have often been criticized for lacking mechanisms for the systematic collection of statistics on domestic violence cases. As a result, it is not possible to identify the real scale of the problem and to create and maintain policies based on information analysis, and accordingly to adequately assess the results of measures and policies taken. In our proposal to the government we are addressing this problem by proposing the establishment of a Central register of domestic violence cases at the National Commission.

It is difficult to draw a conclusion as to what extent this Central Register will be useful, because the procedure for collecting information and other important issues will be regulated by other legislative acts. It is important to note, however, that field research should be funded, supported and carried out to collect data on cases of violence that are not reported or do not go to court, as well as data on the root causes of domestic violence. In the absence of such surveys, there will be no basis for comparing the data planned to be collected in the Central Register.



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## Changes in the Criminal Code in Bulgaria and in Turkey

Both Bulgaria and Turkey have often been criticized for its penalties for domestic violence. Our proposal envisages changes in the Criminal Code in both countries with some introduced recommendations.

An important change is the envisaged wording of the definition of a crime committed “in the conditions of domestic violence.” The proposed by our consortium change eliminates the condition that violence is systematically apply, i.e. it will not be necessary to establish at least 3 acts of violence committed by one and also a person against the same victim in order to consider the act to be a condition of domestic violence.





## Conclusions

The expected results of the changes in the legislation are:

- Upgrading the legal framework for combating domestic violence and increasing its effectiveness;
- Implementation of international standards in this area, incl. recommendations of the European Commission and of various control and monitoring mechanisms under the UN conventions in the field of human rights and related to the problems of violence against women, and in particular domestic violence;
- Ensuring rapid, effective and adequate protection and support of victims of domestic violence and effective implementation of measures to protect the rights of victims of violence.
- Financial and other resources necessary for the implementation of the new regulation.

This will ensure adequate planning and implementation of the activities set out in it, and on the other hand will ensure the sustainability of their implementation, as well as ensuring long-term care for victims of domestic violence.



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*N.B.: The Bulgarian and Turkish version of this document consist of detailed proposal for changes/alterations in the above mentioned laws.*