



# The EU Mutual Learning Programme in Gender Equality

## Preventing domestic violence with Men and Boys: Challenges and Opportunities

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Justice

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# Prevention policies in domestic violence with men and boys

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## Abstract:

The legal framework for preventing and combating domestic violence in Romania was recently improved by harmonising in 2018 the national specific legislation with the provisions of the Istanbul Convention ratified and signed in 2017. However, in the fieldwork many limitations and failure can be observed. Education is one area where important changes must take place. The penal legislation does not insure the efficiency of the intervention of the police whose actions must be controlled by the state prosecutors. One of the key constraints is the possibility of civil servants to operate without sanctions based upon their own convictions about gender roles and women's rights.

## 1. Relevant country context

The first services and shelters for victims of domestic violence were established in Romania in 1997 by feminist NGOs. The specific legal regulations came out in 2003 in the form of the Law 217 which introduced the term “violence in the family” and not “domestic violence”. This denomination indicated the fact that the state considered this type of violence a family, health and welfare problem and not a women's rights one. Specific provisions for violence in the family crimes were introduced in the Penal Code in 2014. The protection order was introduced in the Law 217 from 2003 in 2012. Romania signed the Istanbul Convention in 2016. The provisional protection order was introduced in the same law in 2018. Both protective measures are within the civil law. Sexual violence has new definitions and regulatory legal framework since 2014. The stalking is incriminated by the Penal Code.

Legislation makes no distinction between domestic violence and intimate partner violence and does not separate male-to-female perpetrated IPV. This form of GBV is comprised in the definition of domestic violence. In order to comply with the provisions of The Istanbul Convention the law for preventing and combating domestic violence was modified in 2018. The prevention and combating of domestic violence in Romania<sup>1</sup> are considered to be issues of protection and support for family and the development and consolidation of the family constitutes a national priority. In other words, the phenomenon is not a gender or a health issue, but a family one. This shifts

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<sup>1</sup> See the Law 217 from 2003 with modifications, available at <https://lege5.ro/>

the priority from the actually occurring violence to the preservation of the traditional concept of family. Even if the content of the law is in compliance with the Istanbul Convention, this allows a number of interpretations at the level of state institutions and promotes the general idea that family prevails<sup>2</sup>. The majority of private shelters for women are run by churches of various denominations in a context where the majority of Romanian is Christian Orthodox. The EIGE study published in 2014 shows that in Romania, one in four women has been victim of physical and sexual violence from a partner during their life after 15 years of age.

In Romania, measurements of IPV are approximate due to this definition in the law. The police give us yearly the statistics of complaints made by victims segregated by sex of the victim and sex of the perpetrator. For the interval in between 2015 – 2018, there is an increase in numbers for IPV from 12315 up to 18143. In 2015, 12315 complaints were reported in 2015, in 2016 - 14668 complaints, in 2017 - 16078 complaints and in 2018 - 18143 complaints.

We assume the phenomenon of non-reported cases to be high based upon field experience. In shelters or in counselling centres there are always numerous women who want to get away from violence, but do not want to send the perpetrator to prison for reasons such as “he is the father of my children”, “I still love him” or “he is a good person when he does not drink”.

In Romania, it is extremely difficult to build a case of stalking and have a success in court primarily due to the safety of victim. In 2016 five victims of DV with a protection orders were killed by their perpetrator. Victim protection is very poor due to fable implementation of the law provisions by the police. During the first 6 month of 2019 28% of the issued protection orders and 8% of the provisional protection orders were broken<sup>3</sup>. To advocate for change in this domain is next to impossible because police procedures are classified.

Cost estimations in Romania do not exist. The Network VIF did try to obtain data from the main financing body i.e. local councils, but it had no means to detect the specific spending because local councils include only general social welfare spending in their annual financial report.

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<sup>2</sup> Statistics produced by The Network for Preventing and Combating Violence Against Women (The VIF Network) shows that more than 40% of the request for issuing a protection order by the judges were rejected during 2012 - 2016. The Study can be accessed at URL <http://violentaipotrivafemeilor.ro/wp-content/uploads/2017/07/Study-Network-VAW-RO-2017.pdf>

<sup>3</sup> According to the police statistics obtained by FILIA Centre published on the website of The Network VIF accessible at URL <https://violentaipotrivafemeilor.ro/ordine-de-protectie-si-ordine-de-protectie-provizorii/>

## 1.1 The responsibility of the perpetrators in Romania – current legislation and policies

The regulations concerning accountability of the aggressor are to be found in the Penal Code. Punishment of domestic violence is not regulated by a distinct crime in the Romanian Penal Code. Even if a separate chapter deals with the “violence in the family”<sup>4</sup>, the content reflects that domestic violence is only an aggravating circumstance for “Crimes against physical integrity or health”<sup>5</sup> thus the three articles do not reflect the continuous character of the criminal action therefore it is very difficult for the victims to build their case and as a rule the perpetrators are acquitted. Also, if the victim redraws the complaint the criminal prosecution is terminated. As the cited Study estimates, the victims redraw their complaints in more than 55% of the cases. The result is an extremely low level of punishing of the DV. This fact sends to all perpetrators men and boys the message that domestic violence is not a real crime and that they can go on with this behaviour.

A possible source of the low number of domestic violence cases tried can be found in the provisions of The Penal Code concerning the *ex parte* and *ex officio* proceedings. The investigation into or prosecution of offences initiates *ex officio* only if the victim needs more than 90 days of medical care in order to heal after the violent act. The data in one national study<sup>6</sup> and one regional study<sup>7</sup> shows that the majority of the lesions suffered by victims of domestic violence registered by The National Institute of Forensic Medicine (Romania) between 2003 – 2007 require less than 20 days of medical care. However, for the “violence in the family” crime the Penal Code provides the possibility for the prosecutors to initiate the action *ex officio* even if the number of days for medical care is lower than 90, if they decide there is a high risk of relapse and a serious danger for the victim. Very few such cases are known by the workers and experts of NGOs members of the Network VIF and statistics are not available.

Violence against children is regulated by the Law 272 from 2004. Although this should allow segregating easier the male-to-female IPV in practice domestic violence is treated as a matter of family protection and support and not considered to be a separate issue.

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<sup>4</sup> The Penal Code of Romania, art. 199.

<sup>5</sup> Idem, The Special Section, Chapter II.

<sup>6</sup> In “*Studiu national asupra violentei domestice in romania si evaluarea caracteristicilor medico-legale, juridice si sociologice: noi directii de asistenta si actiune in perspectiva integrarii europene*”- VIODOM, issued by “Acad. Andrei Rădulescu” Legal Research Institute of Romanian Academy, 2008, the report of the research can be accessed at URL: <http://www.icj.ro/en/excellence-research-program.html>

<sup>7</sup> Buhas,C., Mihalache,G., Radu,C., *Rolul medicinei legale în combaterea fenomenului „femeia - victimă a violenței domestice”*, in *The Romanian Journal of Legal Medicine*, 15 (4) 313 – 317 (2007).

The prevention of criminal behaviour is carried out in high schools and it is the task of The Romanian Police to develop activities with teen agers and to implement programmes. One example of such a programme is Gandirefresh<sup>8</sup> (translated as Fresh Thinking) developed by The Analysis and Crime Prevention Service within The General Directorate of The Bucharest Municipal Police (GDBMP) in partnership with non-governmental organisations and experts working all pro-bono<sup>9</sup>. The design of the programme was based upon *The Strategy for Preventing Crime at the Level of Bucharest Municipality 2011 – 2016*<sup>10</sup> and was not focused on general violence of adolescent students and risk of IPV violence but it addressed general delinquency and pre-delinquent behaviour. Domestic violence constituted a separate subject for only one session a semester. Within the school programme information about domestic violence is included in various curricula such as *civic education*, *counselling for personal development* and *education for health*<sup>11</sup> being limited to basic information about the phenomenon and lacking the interactive integrative approach.

The overwhelming majority of the actions, measures, campaigns and legal measures focus on the woman victim and not on the men perpetrator. The latest trend with adolescents is that the boys consider they are discriminated against by girls and women<sup>12</sup>. The Law for preventing and combating domestic violence provides a framework for services for violent men who (a) already received a penal sentence for domestic violence or (b) are subject of a civil protective measure issued by a judge. The services should consist of sessions in the counselling centres and programmes offered by various public and private providers. The system is in its very beginning. There are only 3 documented counselling centres for men in Romania. Also the National Administration of Penitentiaries offers a programme for domestic perpetrators but in 2016 there were only 43 domestic perpetrators registered for the programme out of approximately 23.000 inmates in the penitentiary system.

Public campaigns also focus on women and girls as victims rather than on men and boys. A unique example of campaign focused on raising awareness and educating men and boys is the #HeForShe campaign promoted by the President of Romania Mr Klaus Johannis<sup>13</sup>. This situation is a reflection of the fact that *The National Strategy for*

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<sup>8</sup> The programme can be accessed at the facebook page <https://ro-ro.facebook.com/pages/category/Community/Gandire-Fresh-Creativ-1643355409257985/>

<sup>9</sup> A more detailed description will be available in Sasarman, M., *Moral Education in Secondary School and High School in Romania. Present State and Future Strategies*, p.150 - a thesis submitted in fulfilment of the requirements for the degree of Doctor in Philosophy at The Faculty of Philosophy – University of Bucharest.

<sup>10</sup> Accessible at URL [http://www.jandarmeriabucuresti.eu/download/programe\\_strategii/strategia-de-prevenire-a-criminalitatii\\_537ro.pdf](http://www.jandarmeriabucuresti.eu/download/programe_strategii/strategia-de-prevenire-a-criminalitatii_537ro.pdf)

<sup>11</sup> The respective curricula can be accessed at URL <http://www.ise.ro/>

<sup>12</sup> This is a personal direct observation from participating in a number of education sessions about DV and GBV in secondary schools and high schools in Bucharest, Bacau, Arges and Giurgiu counties during 2017 – 2018 and 2018 – 2019 school years.

<sup>13</sup> Accessible at URL <https://www.heforshe.org/en/node/76>

*Promoting Equal Opportunities for Women and Men and Combating Domestic Violence for 2018 – 2021* does not have specific distinct goals for victims and perpetrators.

The main source for education for family life for youth is The Orthodox Church. On their educational pages and on their educational sites they promote the traditional family roles of men and women. In our country, the religion class in schools was mandatory effectively until two years ago, Religion is studied one hour per week 13 years of schools and the content is catechetical.

## 2. Policy debate

The fact that prosecution of domestic violence is so feeble induces the perpetrators awareness about the lack of consequences for domestic violence and particularly for male-to-female IPV. A number of public awareness campaigns organised in 2012 – 2017 promoted the idea of zero tolerance for domestic violence asking for action in the communities. At the same time, the national and local strategies lack the executive measures to put this declaration in fact and to stimulate a change in attitude. The legal framework allows public servants to apply the law the way they see fit case-by-case. This leads to the following situations reported by victims and their support groups: police agents not registering the penal complaints, prosecutors deciding not to prosecute cases, judges not sentencing the perpetrator in cases known to be real, social workers mediating between the victim and the perpetrator in situations of long history of domestic violence, shelters asking victims to have had filed a penal complaint at the police prior to admission and registration in the shelter. A systemic phenomenon registered during 2018 and 2019 is the referral of the 112 calls for domestic violence cases to the rural police, the same rural police which refuses to intervene in domestic violence cases of families they know particularly of Roma and poor families. This procedure was not public and was not openly accepted by police workers in their collaboration with the NGO services. The tragic death of two young girls in a small town of southern Romania in the summer of 2019 revealed that this is a nationwide procedure depriving victims from rural areas of access to a higher more protective and less biased level of intervention. There are no statistics for these facts due to the fear of victims remaining in the same village with the same policeman and to the lack of funds for NGOs for a fully functioning Social Observatory.

The police procedures concerning public order (the exact translation from the Romanian “ordine publica”) in Romania are secret. The only police procedure made public is the response and intervention of the police in emergency situations in order to issue a provisional protection order exclusively for domestic violence cases and this as a consequence of the fact the procedure was elaborated by police experts together with experts from NGO’s.

All the progress registered after the legislative changes is local and concentrated in the urban centres. This is illustrated by the prevalence of the protective orders and of the provisional protective orders in urban communities. For protective orders the victims usually need an advocate to help them with the case in order to insure a bigger



chance of success and it is very difficult for a victim in rural areas to find and pay for legal representation. All the legal councillors employed by public services are not allowed to represent victims in the court trials.

In Romania, the majority of services are public and more and more private services lose funding. The responsibility for funding services for victims and perpetrators goes to local authorities. It is compulsory for them to allocate a lump sum to insure the functioning of the local social welfare institution in charge of all social cases. It is not compulsory though to allocate money for DV. Most of rural communities cannot hire a properly trained social worker. The majority of local councils even in small towns decide not to fund a specialised service for victims of domestic violence and for perpetrators. The regulations concerning fund allocation foreseen by the Law 217 from 2003 are too loose the justification being the autonomy of local authorities. This leads to the conclusion that although some action could be taken at local level rarely funding is allocated for specialised services because of the low priority of DV for the respective community.

As a conclusion, there is not detailed specific national prevention strategy in Romania. Prevention is mentioned in all important policy documents but it is not operationalised.

### 3. Good practice examples

In the large field of private initiative there is one case study relevant for this discussion. The community project *Making women's voice be heard!*<sup>14</sup> implemented since 2015 by FILIA Centre in partnership with E-Romnja – the Association for Promoting Roma Women's Rights, two feminist Romanian NGOs located in Bucharest. The project is financed by The Open Society Foundations – Human Rights Institute. The project focuses on community organising and advocacy for women's safety. The community comprises 3 villages lead by a local council and a mayor located in the Moldavian historical region in the county of Bacau in the Eastern more economically challenged part of Romania with approximately 4,000 inhabitants and a strong numerous Roma community. The first activity was to create and develop women's initiative groups in order to discuss the GBV and what women want to do about it. In the beginning, the level of awareness of women about them being victims of various forms of GBV was extremely low. Over 3 years women became knowledgeable and willing to take action in order to reduce levels of violence. All three groups of initiative were very preoccupied by the violence in school therefore the team of the project organised in two successive school years sessions with all the school students from the secondary school, discussions with the school management and the school councillor, meeting with the parents, meetings with the police in sessions and participated in solving cases of GBV.

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<sup>14</sup> Formerly the "Phenja – violence has no colour!" project.



The conclusion drawn at the end of 2018 was that the only correct approach is to create a local strategy for preventing men and boys from perpetrating violence against women. The first presentation of the idea to develop a local strategy was presented in the ordinary local council session of June 2018. The result was that the local council officially agreed to organise a Local Support Group to tackle first the school dropouts, the marriages of juvenile girls as a cause for school abandonment and vaccination. The project team accepted this blend of problems of different nature as a first step towards discussing and successfully implementing the prevention strategy. In May, June and July 2019 a training course was developed for the official Local Intervention Team for DV cases organised in the framework of the Law 217 from 2003 and the final sessions was dedicated to the actual design of the prevention strategy.

Some lessons that could be drawn from the conducted trainings:<sup>15</sup>: The representatives of the community do not accept the idea of the responsibility of men and boys for their violent behaviour towards women and girls. They blame the alcohol, the Roma culture, the bad nature of the boys, the absence of the parents who work abroad, the girls who allure the men and boys and the women who are not able to be good wife. During the first session, it was difficult to maintain the dialogue and the communication channels open.

The second example of good practice in Romania concerns the intervention targeting men executing a sentence for a DV crime, which aimed at managing the risk of relapse after executing the sentence or during a community sentence the National Administration of Penitentiaries (NAP)<sup>16</sup> and The National Directorate of Probation (NDP)<sup>17</sup>. As a result of this intervention, the first instrument for risk evaluation in Romania was developed in collaboration with The Association 'The Romanian Group for the Protection of Human Rights', the NAP and NDP introducing Canadian expertise with the support of The Embassy of Canada to Romania, Bulgaria and the Republic of Moldova.

## 4. Transferability aspects

In Romania, the prerequisites for introducing the described Swedish practice are in place. This prerequisites include: the Istanbul Convention ratified and signed, the Law for preventing and combating domestic violence modified, the existence of the National Strategy for preventing and combating domestic violence, the presence of information about domestic violence in school curricula, the existence of an agency<sup>18</sup> in charge of the implementation of the specific law and the awareness of the public for this subject. The main constraints are: the gaps in the penal law allowing the soft

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<sup>15</sup> The report is unpublished but can be consulted by request at the FILIA Centre.

<sup>16</sup> The NAP Decision 303 from 8.01.2018.

<sup>17</sup> The NDP Decision 167 from 28.12.2018.

<sup>18</sup> The National Agency for Equal Opportunities for Women and Men, <http://anes.gov.ro/>

response to DV and GBV crime, the lack of transparency of the police and prosecutors in the day-by-day intervention in cases, a possible prevalence of patriarchal macho attitudes in the ranks of public servants of various key institutions and their possibility to act upon their convictions and not upon the law, the poor legal provisions to regulate the financing of the national programmes and local initiatives.

## 5. Recommendations

- To improve the legal framework in order to efficiently make perpetrator accountable. The modification of Penal Code to introduce clearer framework for action for the prosecution of the perpetrator.
- To improve the procedures for intervention in IPV cases in order to increase effective protection of victims.
- To evaluate all the existing local prevention strategies in order to identify what works and what is needed e.g. clear definition of the responsibilities of institutional stakeholders.
- To create a national comprehensive prevention strategy which has as a backbone the collaboration and coordination of different stakeholders in actions.
- To identify the best strategies for education for men and boys through a broad debate of the results of national evaluation.
- To allocate appropriate financial means to the future National Prevention Strategy.
- Transparency in the police work, declassification of police procedures concerning the intervention in domestic violence case.
- Comprehensive reports and statistics of the public prosecutor's office, police procedures which limit the degree of personal evaluation by the police worker following the model of Risk Evaluation Interview for the provisional protection order.