

**Law No.03/L –182**

## **ON PROTECTION AGAINST DOMESTIC VIOLENCE**

**Assembly of Republic of Kosovo,**

Pursuant to Article 65 (1) of the Constitution of Republic of Kosovo,

Approves

### **LAW ON PROTECTION AGAINST DOMESTIC VIOLENCE**

#### **CHAPTER I GENERAL PROVISIONS**

##### **Article 1 Purpose of the Law**

1. This Law aims to prevent domestic violence, in all its forms, through appropriate legal measures, of the family members, that are victims of the domestic violence, by paying special attention to the children, elders and disabled persons.
2. This Law, also aims, treatment for perpetrators of domestic violence and mitigation of consequences.

##### **Article 2 Definitions**

1. Terms used in this Law have the following meaning:

1.1. **Family Relationship**- is considered to exist amongst persons if they:

1.1.1. are engaged or were engaged;

1.1.2. are married or were married;

1.1.3. are in extra martial union or were in extra marital union;

1.1.4. are cohabiting in a common household or were cohabiting in such a household;

1.1.5. use a common house and are in connection by blood, marriage, or adoption, in-law or are in a guardian relationship, including parents, grandparents, children, grandchildren, nephews, siblings, aunts, uncles or cousins;

1.1.6. are parents of a common child;

1.1.7. are procedural parties in a dispute of family relationship.

1.2. **Domestic Violence** - one or more intentional acts or omissions when committed by a person against another person with whom he or she is or has been in a domestic relationship, but not limited to:

1.2.1. use of physical force or psychological pressure exercised towards another member of the family;

1.2.2. any other action of a family member, which may inflict or threaten to inflict physical pain or psychological suffering;

1.2.3. causing the feeling of fear, personal dangerousness or threat of dignity

1.2.4. physical assault regardless of consequences;

1.2.5. insult, offence, calling by offensive names and other forms of violent intimidation;

1.2.6. repetitive behavior with the aim of derogating the other person;

1.2.7. non-consensual sexual acts and sexual ill-treatment;

1.2.8. unlawfully limiting the freedom of movement of the other person;

1.2.9. property damage or destruction or threatening to do this;

1.2.10. causing the other person to fear for his or her physical, emotional or economic wellbeing;

1.2.11. forcibly entering removing from a common residence or other person's residence;

1.2.12. kidnapping.

1.3. **Protected Party** - a person subjected to domestic violence and his/her subordinate for whose benefit a protection order, an emergency protection order or temporary emergency order is sought.

1.4. **Petition** - the act through which protection from domestic violence is sought.

1.5. **Perpetrator** - a person who has committed an act or acts of domestic violence and against whom a protection order, an emergency protection or temporary protection order is sought.

1.6. **Victim** - a person who was subjected to domestic violence.

1.7. **Authorized Representative** - the person who is authorized to advocate the interests of the protected party and to provide support and assistance to victims.

1.8. **Protection of victims** - the official authorized person, who directly protects the damaged party since the first contact with competent protection authorities, advises, initiates procedures for imposing protection measures, is obliged to participate in all judicial sessions, to monitor the progress of the judicial process.

1.9. **Protection order** - an order issued by a court decision providing protection measures for the victim.

1.10. **Emergency protection order** - an order issued temporarily with the court decision.

1.11. **Temporary Emergency Protection Order** - a order issued outside working hours of courts.

### **Article 3**

#### **Court Jurisdiction, Competent Authorities and Protection Measures**

1. The municipal court that has the jurisdiction at the municipality where the applicant is temporarily or permanently residing or staying shall be competent to issue protection measures.
2. Every municipal court shall have the authority to review the request for protection order or emergency protection order and for issuing the order, if the competent court according to paragraph 1 of the present Article has submitted a request for protection order or emergency protection order and if that court has jurisdiction at the municipality where the protected party has changed his/her place of residence or stay or if this transfer serves to the best interest of the protected party.
3. If at the competent court, the request has been submitted according to the Law No. 2004/32 on Family of Kosovo, the same court shall be competent to review the request for protection order or emergency protection order as well as to issue the order.
4. Protection measures shall be issued with the purpose of preventing domestic violence, to protect a person who is exposed to violence, by removing the circumstances which impact or may impact in committing other acts.
5. The competent municipal court, with protection order or emergency protection order, may impose one or more protection measures.
6. Competent body for the execution of protection measures shall be the Kosovo Police.

### **Article 4**

#### **Protection Measure of Psycho-Social Treatment**

1. The protection measure for psycho-social treatment may be issued to a perpetrator of domestic violence in combination with any other preventing measure with the aim of eluding violent behaviors of the perpetrator or if there is a risk to repeat the domestic violence .
2. The measure from paragraph 1 of this Article continues until the causes on basis of which it was issued, but may not continue more than six months.
3. Ministry responsible for Labor and Social Welfare in cooperation with the Ministry responsible for Health and relevant institutions prepare and propose for approval to the Government the issuance of a sub-legal act with which the way and location of implementation of psycho-social treatment is determined.

### **Article 5**

#### **Protection Measure on prohibition of approaching the domestic violence victim**

1. Protective measures on prohibition of approaching the domestic violence victim and his/her subordinate and other persons if necessary, may be issued to a person who has committed domestic violence, if there is a risk of repetition of domestic violence.

2. In the order with which there is issued the measure on prohibition of approaching the domestic violence victim, the Court defines the location, region and distance within which the perpetrator cannot approach the victim of domestic violence.

#### **Article 6**

##### **Protection Measures of Prohibition of Harassment to Persons Exposed to Violence**

1. Protective measure of prohibition of harassment, in compliance with the definition provided in Article 2 paragraph 1.2. of this Law may be imposed to a perpetrator of domestic violence, where there is a risk of repetition of domestic violence.

2. The child custody shall be entrusted temporarily to the victim of domestic violence, while the parental right temporary shall be removed from the perpetrator of domestic violence.

#### **Article 7**

##### **Protection Measures of Removal from Apartment, House or other Living Premises**

1. Removal from the apartment, house or other living premise may be imposed to a person who has committed violence against a member of the family sharing the same apartment, house or living premise if there is a risk to repeat domestic violence.

2. A person who has been imposed measures as per paragraph 1. of the present article is immediately obliged to leave the apartment, house or other living premise, at the presence of a police officer.

#### **Article 8**

##### **Protection Measure of Accompanying Victim of Violence**

1. Accompanying victims may be imposed with the purpose of protection during collection of personal items.

2. Measure from paragraph 1. of this Article are applied under accompaniment of a police officer.

#### **Article 9**

##### **Protection measures medical treatment from alcohol dependency and dependency from psychotropic substances**

1. Mandatory medical treatment from alcohol and psychotropic substance dependency may be imposed to a person who has committed domestic violence under their influence, where there is a risk to repeat domestic violence.

2. Ministry responsible for Health shall issue a sub-legal act, for the treatment manner of persons to whom is imposed mandatory treatment from alcohol and psychotropic substances dependency.

#### **Article 10**

##### **Protection Measure of Confiscation of Item**

1. Protection Measure of confiscation of item by means of which the act of violence was committed, or items by means of which the act of violence is suspected to be repeated, is imposed with the aim of protection of person against whom domestic violence has been committed or other persons.

2. Protection measure from paragraph 1 of this Article is implemented in accordance with the Kosovo Criminal Code.

## **Article 11**

### **Property Protection Measures**

1. The Court, in addition to measures envisaged under articles 4 to 10 of this law, may impose the following measures:
  - 1.1. ordering the perpetrator to allow the protected party to use living premises shared, or a part of the premise;
  - 1.2. ordering the perpetrator to pay for rent of temporary living premise of the protected party or to pay alimony to the protected party and any children, for whom the domestic violence perpetrator has an obligation to support;
  - 1.3. prohibiting the perpetrator or the protected party to sell any assets within a determined period of time;
  - 1.4. offering the possibility to the protected party to exclusively possess and use its assigned personal assets;
  - 1.5. imposing any other measures that are necessary to protect the safety, health or welfare of the protected party or person the protected party is in a domestic relationship with;
  - 1.6. to order the perpetrator to allow the protected party to return to the household.
2. The perpetrator has the right to collect personal belongings in the presence of police officers.
3. Protective measures foreseen in articles 4,5,6,7,8,9,10,11 are issued in accordance with the duration of the protective measures.

## **Article 12**

### **Relation to other Orders**

1. Regardless of any other order issued by the court or any other decision issued by the court or any competent body, the protection order, emergency protection order or temporary emergency protection order may be issued in compliance with the present Law.
2. Issuance of a protection order, emergency protection order or temporary emergency protection order shall not infringe the property or custodian rights of any person following its expiry.

## **Article 13**

### **Petitions for Protection Orders or Emergency Protection Orders**

1. A petition for protection order may be submitted by:
  - 1.1. the protected party;
  - 1.2. an authorized representative of the protected party;
  - 1.3. a victim advocate, upon consent of the protected party;
  - 1.4. representative social welfare centre in the municipality where the protected party permanently or temporary resides in cases where the victim is minor.

2. A petition for emergency protection orders may be submitted by:

2.1. the protected party;

2.2. an authorized representative of the protected party;

2.3. the victim advocate, upon consent of the protected party;

2.4. a person with whom the protected party has a domestic relationship;

2.5. a representative from the Center for Social Work in the municipality where the protected party permanently or temporarily resides in cases where the victim is minor;

2.6. a person with direct knowledge of an act or acts of domestic violence against the protected party.

3. A petition for protection order or emergency protection order may be submitted by NGOs that are familiar with problem of the victim and are well informed for their treatment.

#### **Article 14**

##### **Petition Form for Protection Order or Emergency Protection Order**

1. A petition for protection order or emergency protection order shall be submitted in writing or verbally and includes:

1.1. the name of the court;

1.2. the name, address and occupation of the perpetrator;

1.3. the name and address of the protected party and the person who has petitioned for protection of the party who is to be protected by the protection order and the relationship of such persons to the perpetrator;

1.4. a detailed description of the subject matter and, where possible, evidence should be attached as well as the reasons for petitioning to issue a protection order or emergency protection order;

1.5. the proposal protection measure.

2. If the disclosure of the permanent or temporary address of the petitioner, the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order or emergency protection order, would endanger such person, the one or more following measures may be taken:

2.1. the petition may provide an alternative address;

2.2. the alternative address provided in the petition shall be the only address reflected in public court documents and records; or

2.3. if the court determines that disclosure of an address in the court records is necessary, the records which reflect that address shall be sealed.

**Article 15**  
**Review of Petitions for Protection Orders**

1. The competent court shall decide on a petition for a protection order within fifteen (15) days of receipt of the petition.
2. In reviewing a petition for a protection order, the court shall hold a hearing so that the following persons may be heard:
  - 2.1. the protected party, an authorized representative or the victims advocate;
  - 2.2. the perpetrator or an authorized representative;
  - 2.3. the petitioner;
  - 2.4. a representative from the Center for Social Work of the municipality where the person referred to below permanently or temporarily resides in a case where:
    - 2.4.1. the petitioner is under the age of eighteen (18) years or lacks capacity to act; or
    - 2.4.2. the alleged acts of domestic violence impact on a person who is under the age of eighteen (18) years or lacks capacity to act;
  - 2.5. any witness deemed necessary by the court.
3. The hearing and issuance shall be held in the absence of the perpetrator where such individual was properly summoned and the petition is supported by sufficient evidence.
4. The court shall immediately summon the persons referred to in paragraph 2 of the present article, in accordance with the Law on Contentious Procedure.
5. The petition shall be considered withdrawn if neither the protected party nor the authorized representative of the protected party appear at the hearing, where such persons were properly summoned and did not inform the court for the reasons of their absence.
6. The withdrawal of the petition does not prevent the submission of another petition.

**Article 16**  
**Review of Petition for Emergency Protection Order**

1. The court shall decide on a petition for an emergency protection order within twenty-four (24) hours after the submission of the petition.
2. In reviewing a petition for an emergency protection order, the court shall hold a hearing so that the following persons may be heard:
  - 2.1. the protected party, the authorized representative, or the victims advocate;
  - 2.2. the perpetrator or an authorized representative;
  - 2.3. the petitioner; and
  - 2.4. any witness, who knows about the domestic violence.

3. The court may hold a hearing and issuance of the protection order in the absence of the perpetrator, where appropriate, by applying also other alternative measures including electronic ones.

### **Article 17**

#### **Issuance of Protection Order and Emergency Protection Order**

1. The competent court shall issue a protection order or emergency protection order, where it suspects that the perpetrator shall unavoidably risk the health, safety or wellbeing of the protected party and the person who has a domestic relationship with the protected party and who is to be protected by the protection order or emergency protection order.

2. A protection order or emergency protection order is executed immediately with a respective decision, issued by the competent court and shall be sent immediately to the domestic violence perpetrator, Kosovo Police, social welfare centers, as well as other parties in procedure.

3. Upon expiry of a protection order or emergency protection order, all imposed limitations shall cease to be effective.

### **Article 18**

#### **Contents of a Protection Order and Emergency Protection Order**

1. In the protection order shall be stated:

- 1.1. the protection measure ordered by the court;
- 1.2. non-enforcement of the protective order constitute criminal offence;
- 1.3. a notification on the right to appeal;
- 1.4. a notification that the perpetrator may be assisted by authorized representative.

2. The duration of the prosecution order shall not exceed twelve (12) months, but with possible extension of no more than twenty-four (24) months.

3. In the emergency protection order shall be stated:

- 3.1. the protection measure ordered by the Court;
- 3.2. non-enforcement of the emergent protective order constitutes a criminal offence;
- 3.3. a notification on the right to appeal;
- 3.4. the date of the hearing for the confirmation of the emergency protection order, which shall be within eight (8) days of the issuance of the emergency protection order;
- 3.5. a notification that the perpetrator may be assisted by authorized representative.

4. The duration of the emergency protection order shall expire at the end of the hearing for the confirmation of the emergency protection order.

5. At the hearing for the confirmation of the emergency protection order, the court may:

- 5.1 order the termination of the emergency protection order; or
- 5.2 issue a protection order.



## **Article 19 Appeals**

1. An appeal against a decision on a protection order may be filed within eight (8) days from the day of issuance of such decision.
2. An appeal, against a decision on emergent protective order, may be filed by an unsatisfied party, within three (3) days from the day of issuance of such decision.
3. The filing of an appeal shall not stay the execution of a protection order or emergency protection order.

## **Article 20 Modification, Termination and Extension of Protection Order**

1. When the circumstances have changed, the protected party or the perpetrator may submit a petition to the court for the modification or termination of a protection order, where the court may decide that the protection order:
  - 1.1. to remain in force;
  - 1.2. to be modified;
  - 1.3. to be terminated, where the Court assesses that all causes on basis of which the protection order was issued have ceased to exist.
2. The submission of a petition for the modification or termination of a protection order shall not suspend the execution of the protection order.
3. Within fifteen (15) days prior to the expiration of a protection order, the protected party or his/her authorized representative may submit a petition for the extension of the protection order. If no petition for extension is submitted, the protection order will terminate immediately on the day of expiration.
4. Upon receipt of a petition for the extension of a protection order, the court may:
  - 4.1. terminate the protection order on its date of expiration; or
  - 4.2. order the extension of the protection order, where the causes on basis of which the protection order was issued have ceased to exist.

## **Article 21 Modification, Termination and Extension of Emergency Protection Orders**

1. Upon review of an appeal filed by the perpetrator or an authorized person, the Court may decide to confirm the emergency protection order, its modification or termination.
2. Within two (2) days prior to the expiration of an emergency protection order, the protected party or his or her legal representative, or the victims advocate may submit a petition for the extension of the emergency protection order.
3. If no petition for extension is submitted for an emergency protection order, the order will terminate immediately on the day of expiration.

4. Upon receipt of a petition for the extension of an emergency protection order, the court may:

4.1. order the extension of the emergency protection order, where the causes on basis of which the protection order was issued continue to exist.

4.2. terminate the emergency protection order on its date of expiration.

## **Article 22**

### **Temporary Emergency Protection Order**

1. Outside working hours of courts, a petition for a temporary emergency protection order may be submitted to Kosovo Police by:

1.1 the protected party;

1.2. the authorized representative or victims advocate;

1.3. a person with whom the protector party has a domestic relationship;

1.4. a representative from the Center for Social Work where the protected party permanently or temporarily resides;

1.5. a person with direct knowledge of an act or more acts of domestic violence against the petitioner.

2. The duration of the temporary emergency protection shall expire on the end of the next day that the court is in operation.

3. The Head of the Regional Kosovo Police Unit against Domestic Violence, may issue a temporary emergency protection order and order one or more of the measures referred to Articles 5, 6, 7 and 10 of this Law, if he or she determines that:

3.1. there are grounds to believe that the perpetrator has committed or threatened to commit an act of domestic violence;

3.2. the perpetrator poses an immediate or imminent threat to the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order; and

3.3. the issuance of a temporary emergency protection order is necessary to protect the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order.

4. A petition for temporary emergency protection order may be submitted to the Kosovo Police by the NGOs that have reliable information for domestic violence and are familiar with the victim.

## **Article 23**

### **Contents of the Temporary Emergency Protection Order**

1. In the temporary emergency protection order shall be stated:

1.1. the measure ordered by the Head of the Kosovo Police Regional Unit against Domestic Violence;

- 1.2. the duration of the temporary emergency protection order, which shall expire on the end of the next day that the court is in operation;
  - 1.3. a warning that a violation of the interim emergency protection order constitutes a criminal offence;
  - 1.4. a notification that the perpetrator may be assisted by legal counsel in the legal procedures, and
  - 1.5. an explanation that after the expiry of the temporary emergency protection order, the protected party may file a petition for an emergency protection order which, if granted, would be subject to a confirmation hearing or a petition for a protection order against which there is submitted appeal.
2. A temporary emergency protection order issued by the Head of the Kosovo Police Regional Unit against Domestic Violence shall immediately be served on the perpetrator, in accordance with the Law.
3. The law enforcement authorities shall immediately deliver one copy of the temporary emergency order to each of the following persons:
  - 3.1. the protected party and other persons named in the temporary emergency protection order;
  - 3.2. the petitioner;
  - 3.3. the local police station in the localities where the protected party and other persons named in the temporary emergency protection order reside on a permanent or temporary basis;
  - 3.4. the Center for Social Work in the municipality where the protected party and other persons named in the temporary emergency protection order reside on a permanent or temporary basis;
  - 3.5. the competent municipal court; and
  - 3.6. victim protector.
4. A temporary emergency protection order shall be effective immediately upon issuance by the Head of the Kosovo Police Regional Unit against Domestic Violence or the acting Head of the Kosovo Police Regional Unit and shall be enforceable against the perpetrator after it had been delivered personally to him.

## **Article 24**

### **Responsibilities of the Kosovo Police**

1. Kosovo Police shall respond to any report for acts or threats to commit acts of domestic violence or a violation of a protection order or emergency protection order, regardless of who reports.
2. Where there are grounds for suspicion that a crime involving domestic violence was committed, Kosovo Police shall arrest the alleged perpetrator according to the law.
3. Kosovo Police shall use reasonable means to protect the victim and prevent further violence, including, but not limited to:
  - 3.1. assuring the special telephonic line for reporting domestic violence;

- 3.2. informing the victim or the legal representative or the protector of the victim for his rights pursuant to this Law, including the right to request a temporary emergency protection order pursuant to Article 22 of the present Law;
  - 3.3. informing the victim about legal, psychological, and other assistance services available from governmental institutions as well as from the authorized network of non-governmental organizations providing services for the victims;
  - 3.4. informing the relevant service providers referred to in paragraph 3.2 of this Article regarding the incident of domestic violence and facilitating contact between the service provider and the victim, upon the request of the victim;
  - 3.5. providing transport for the victim and the victim's dependants to an appropriate medical facility for treatment or a medical examination;
  - 3.6. providing transport for the victim and when necessary also the victim's dependants to a shelter or other suitable safe haven, upon the request of the victim;
  - 3.7. if it is need , providing protection to the reporter of violence in accordance with relevant legal obligations regarding protection of witnesses;
  - 3.8. removing the perpetrator from the temporary or permanent residence of the protected party or a portion thereof, where the envisaged measure is imposed by means of a protection order or emergency protection order as per Article 7 of this Law;
  - 3.9. providing the victim or the legal representative of the victim an official contact for an investigating officer within the Kosovo Police should further assistance be required. In case of the absence of the investigating officer, any other officer within the Kosovo Police will assist the victim.
4. The law enforcement authorities shall complete an incident report whether or not a crime was committed or an arrest was made and provide a copy of the incident report to the victim or the legal representative of the victim.
  5. Where the victim is a person under the age of eighteen (18) years or a person who does not have capacity to act, or where the acts of domestic violence are so grave as to impact the safety or security of a person under the age of eighteen (18), or a person who does not have the full capacity to act living in the same residence, the law enforcement authorities shall immediately report the incident to the Center for Social Work of the Municipality where that person permanently or temporarily resides.
  6. Where there are grounds for suspicion that a crime involving domestic violence was committed, whether or not the suspected perpetrator has been arrested or his whereabouts ascertained, the Kosovo Police shall regularly provide the victim or the legal representative of the victim with an update on the status of the investigation, including any information on the whereabouts of the suspected perpetrator or his or her release from custody.

## **Article 25**

### **Violation of Protection Orders**

1. Whoever violates a protection order, emergency protection order or an interim emergency protection order, in whole or in part, commits a criminal offence and shall be sentenced to a fine of two hundred (200) euro to two thousand (2000) euro or imprisonment of up to six (6) months.

2. The continues repetition of the violation in whole or in part of a protection order, emergency protection order or an interim emergency protection order shall be considered aggravating circumstances for the perpetrator.

**Article 26**  
**Prosecution of Criminal Offences Related to Domestic Violence**

1. A violation of a protection order, emergency protection order or a temporary protection order shall be immediately prosecuted *ex officio*.

2 Issuance of a protection order or of an emergency protection order through a court decision shall not prevent the interested parties to file criminal proceedings regarding actions or inactions constituting criminal offences.

**Article 27**  
**Kosovo Program against Domestic Violence**

1. Ministry for Labor and Social Welfare, in cooperation with: Ministry of Health, j Ministry of Justice, Ministry of Internal Affairs, Ministry of Culture, Youth and Sports and Ministry of Education is responsible for support and raise ancillary structures and necessary infrastructure, which serves to support and meet the needs of persons against whom domestic violence is exercised, including social assistance and medical services, in accordance with applicable law.

**CHAPTER II**  
**TRANSITIONAL AND FINAL PROVISION**

**Article 28**  
**Implementation**

1. Kosovo Government, six (6) months after entry into force of this Law, issues sub-legal acts arising from this Law.

2. For cases on which a legal procedure has started up to the point of entry into force of this law, applicable provisions shall apply.

**Article 29**  
**Abrogation**

This Law abrogates UNMIK Regulation No. 2003/12 on Protection against Domestic Violence.

**Article 30**  
**Entry into force**

This law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

**Law No.03/L –182**  
**1 July 2010**

**Promulgated by the Decree No. DL-036-2010, dated 15.07.2010, of the President of Republic of Kosovo, Dr. Fatmir Sejdiu.**