

**Group of Experts on Action against Violence  
against Women and Domestic Violence  
(GREVIO)**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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**Report submitted by Romania  
pursuant to Article 68, paragraph 1  
of the Council of Europe Convention  
on preventing and combating violence  
against women and domestic violence  
(Baseline Report)**

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**ROMANIAN'S GOVERNMENT FIRST REPORT  
ON THE  
IMPLEMENTATION OF THE COUNCIL OF EUROPE  
CONVENTION ON PREVENTING AND COMBATING  
VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE  
(ISTANBUL CONVENTION)**

06 February 2020

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**LIST OF ABBREVIATIONS (in certain cases, based on Romanian acronyms)**

**National Agency for Equal Opportunities between Women and Men - NAEO**  
**General Inspectorate of Romanian Police - IGPR**  
**General Directorate of Social Assistance and Child Protection - GDSACP**  
**Ministry of Labor and Social Protection - MMPS**  
**Ministry of Finance- MFP**  
**Ministry of Education and Research - MEN**  
**Ministry of Justice – MoJ**  
**Ministry of Internal Affairs- MIA**  
**Ministry of Foreign Affairs - MAE**  
**Public Ministry - PM**  
**National Institute of Magistracy - INM**  
**National Agency against Trafficking in Persons - ANITP**  
**General Inspectorate for Immigration - GII**  
**National Authority for the Rights of Persons with Disabilities, Children and Adoptions - NARPDCA**  
**National Administration of the Penitentiaries – NAP**  
**Public Service for Social Assistance - PSSA**  
**GO – Government Ordinance**  
**GD – Government Decision**

## INTRODUCTION

The Istanbul Convention is widely recognized as the most far-reaching legal instrument to prevent and combat violence against women and domestic violence as a violation of human rights. Since its opening for signature in 2011, it has generated significant support at all levels: national, regional and local governments, the public, parliaments, other national, regional and international human rights organizations, civil society organizations, media and academic level. It has been awarded national and international prizes for its vision to keep women and girls safe from violence.

*Romania is the 14th state that ratified the Istanbul Convention in March 2016, by Law 30/2016, and the instrument of ratification was deposited with the Council of Europe in May 2016. The Convention entered into force in Romania on **1 September 2016**.*

Over the past 3 years, Romania has embarked on an ambitious and comprehensive reform of domestic violence legislation and has consistently taken steps to prepare for the implementation of the Istanbul Convention provisions, this being one of the priorities of the Government Program 2017-2019, chapter 8-Respect and Dignity for Women.

In order to carry out the complex legislative steps required by the implementation of the Convention, a series of important actions were planned and carried out.

The governmental institutions and non-governmental organizations both had the same purpose and a common and determined voice in order to implement and harmonize effectively the IC provisions within the national legal framework.

A Working Group under the auspices of the Superior Council of Magistracy was set up during 2016 and was attended by representatives of: non-governmental organizations, ministries with responsibilities in the field, judicial experts and representatives in academic field. The Working Group aimed at drafting relevant draft legislation necessary for the implementation of the Istanbul Convention. Specifically, in order to implement the Istanbul Convention, the necessary legislative package was developed and includes the following normative acts adopted on *June 18 2018* by the Romanian Parliament:

- Law no. 174/2018, amending and supplementing Law 217/2003 for preventing and combating family violence (having as central pillar the regulation of the Provisional Protection Order, in accordance with Article 52 of the Convention).
- Law no. 178/2018 amending and supplementing Law 202/2002 on equal opportunities and treatment between women and men (regulating the concept of gender-based violence)

The legislative initiative for these drafts belonged to National Agency for Equal Opportunities between Women and Men (NAEO), which also coordinated the drafting process. These two pieces of legislation are of major importance for the field of preventing and combating domestic violence, this representing a progress stage with absolute relevance from the perspective of the requirements imposed by the implementation of the provisions of the Istanbul Convention.

After the adoption of the laws, NAEO has started the process of setting up an interinstitutional working group in order to elaborate the normative acts at the level of secondary and tertiary legislation (methodological norms, procedures) necessary for the efficient implementation and observance of the mentioned laws.

### A. GENERAL PRINCIPLES OF THE CONVENTION

1. In Romania, gender equality is a fundamental principle of human rights regulated by the law, with a wide application in various fields of activity with important economic, social, political and cultural implications.

The Constitution enshrined these principles in Title I General Principles and in Title II, Fundamental Rights, Freedoms and Duties:

- - *Art. 4, paragraph 2 Unity of the people and equality between citizens: "Romania is the common and indivisible homeland of all its citizens, regardless of race, nationality, ethnic origin, language, religion, sex, opinion of political belonging, wealth or social origin".*

- *Art. 16 para. (1) Equality in rights: "Citizens are equal before the law and public authorities, without privileges and without discrimination".*

- According to Art. 22 of the Romanian Constitution *"the right to life, as well as the right to physical and mental integrity of the person is guaranteed"* ; in accordance with Art. 26 of the Constitution *"The public authorities shall respect and protect the intimate, family and private life" and "Any natural person has the right to freely dispose of himself unless by this he causes an infringement upon the rights and freedoms of others, on public order or morals".*

2. Besides the Romanian Constitution the principle of equal opportunities and treatment between women and men is enshrined both at the legislative and public policies levels. This principle is regulated by *Law no. 202/2002* on equal opportunities and treatment between women and men, republished, amended and supplemented, which provides for the measures to promote equal opportunities and treatment between women and men in all spheres of public life in Romania and defines terms such as: **equal opportunities between women and men, discrimination on the grounds of sex, direct or indirect discrimination, harassment and sexual harassment, equal pay for work of equal value, positive actions, multiple discrimination, sex, gender, gender stereotypes, gender-based violence.**

This law contains also specific chapters in which the measures regarding the respect of equal opportunities and treatment between women and men in the labor market, participation in decision making, education, elimination of gender roles and stereotypes are presented.

According to Art. 23 paragraph (1) of the above-mentioned normative act, the NAEO is a specialized body of the central public administration, with legal personality, subordinated to the Ministry of Labor and Social Protection, which promotes the principle of equal opportunities and treatment between men and women, in order to eliminate all forms of discrimination based on gender, in all national policies and programs.

The Agency is the institutional guarantor of respecting the principle of equal opportunities and treatment between women and men and of ensuring the elaboration and implementation of the necessary legal framework.

Its role is to ensure the foundation, elaboration and implementation of the Government's strategy and policies in the field of equal opportunities and treatment between women and men, as well as to monitor the application and observance of the legal provisions in the field.

3. At the same time, the Government Ordinance *no. 137/ 2000*, republished, regulates the prevention and sanctioning of all forms of discrimination, including the discrimination on gender criteria.

4. Through the new legal provisions of the **Law no. 174/2018 mentioned above**, Romania aims to support domestic violence victims, through an immediate and coherent intervention by all responsible actors and, at the same time, to increase the level of trust of victims in the authorities' ability to intervene.

- The provisions of the Directive no. 2012/29/EU were transposed by several normative acts, the most important being the Emergency Ordinance no. 24/2019 for amending and supplementing Law no. 211/2004 regarding some measures to ensure the protection of victims of crime, adopted. This normative act provides for the principle of non-discrimination on gender criteria principle.

5. The most effective instrument for achieving equality between women and men is the integration of the gender perspective in all the policies and programs developed at national

and local level. In order to implement the gender mainstreaming approach, specially designed tools and specialized human resources are needed.

- In this respect, **Law no. 178/2018** mentioned above regulates measures for the promotion of equal opportunities and treatment of women and men, in order to eliminate all forms of gender based discrimination in all spheres of public life in Romania; it also regulates the general legal status of the profession of "Equal Opportunities Expert", as a new and efficient tool that public and private institutions with over 50 employees will be able to use, by hiring a person with specific attributions in the job description, in the field of equal opportunities. One of the main tasks of the gender equality expert consists in analyzing the context of the occurrence and evolution of the phenomenon of gender discrimination as well as the non-observance of the principle of equal opportunities for women and men and the recommendation of appropriate solutions for the observance of this principle, and formulating recommendations / observations / proposals to prevent / manage / remedy the context of risk that could lead to violation of the principle of equal opportunities between women and men, while observing the principle of confidentiality.
- During 2018, the National Strategy for the Promotion of Equal Opportunities and Treatment for Women and Men and Preventing and Combating Domestic Violence for the Period 2018-2021 and the Operational Plan for its implementation were approved through GD no. 365/2018. The new strategy benefits from an integrated approach, focusing on the two pillars regarding both areas of NAEO activity. The elaboration of the strategy was carried out with the collaboration and in consultation with all the relevant actors in the field: representatives of the civil society, ministries with attributions in the field, representatives of the associative structures of the local public administration. Thus, the strategy provides for measures to ensure the gender mainstreaming in all aspects of public life.
- It is worth mentioning that the principle of equal opportunities and treatment for women and men was also promoted within the Governance Program 2017-2019, under the chapter "Respect and Dignity for Women".
- Romania's firm commitment towards this principle is illustrated by our participation in the main international instruments in the field of human rights, that are mentioned in the preamble of the Istanbul Convention.

## **B. Scope of application of the Convention and key definitions**

Domestic violence is one of the most serious violations of women's rights and one of the most serious social problem faced by contemporary societies, recognized by Romania also from its **public health perspective**. The responsibility of the governmental institutions and of central and local public authorities to provide essential conditions for the full exercise of women's fundamental rights are an essential element of our policies. Thus, political commitment was expanded in order to engage all stakeholders and improve mutual cooperation, for ensuring a better promotion and protection of the fundamental rights of women and girls and to prevent and combat domestic violence.

In this context, as it will be further developed in the sections concerning "Substantive Law", the **different forms of violence** that are referred to in the Convention are classified as criminal offences, under the Criminal Code of Romania. Furthermore, the **domestic violence** is now defined by the **Law no. 217/2003** in full compliance with Article 3 of the Convention: "*domestic violence refers to any action or omission to act intended by physical, sexual, psychological, economic, social or spiritual violence, which occurs in the family or domestic environment or between spouses or former spouses, as well as between current or former partners, regardless of whether the aggressor lives with or lived with the victim*". All forms of domestic violence are covered by this law: **verbal, physical, psychological, sexual, economic, social and spiritual**.

At the same time, **the Law nr.178/2018** introduced the concept of "gender-based violence" as follows: "*gender-based violence is the act of violence directed against a woman or, as the case may be, a man and motivated by gender. Gender-based violence against women or*

*violence against women represents any form of violence that affects women disproportionately. Gender-based violence includes, but is not limited to, domestic violence, sexual violence, genital mutilation of women, forced marriage, forced abortion and forced sterilization, sexual harassment, trafficking in human beings and forced prostitution.*

Also, as a result of the work done within the working groups, a draft law for amending and completing the **Law no. 286/2009** on the Criminal Code was forwarded to the Ministry of Justice for the exercise of the legislative initiative, according to its specific and exclusive competences. The draft normative act refers to the regulation of new offences, acts that are not criminally sanctioned in Romania so far: *female genital mutilation, forced abortion, forced sterilization, as well as punishment of facilitation and attempted treatment of these crimes under the Convention.*

- **In Romania, the harassment is regulated in 4 normative acts, both from the civil and from the criminal perspectives.**
  1. Harassment is expressly regulated as a particular form of discrimination according to the art. 2, par. 5 of the GO no. 137/2000 on the prevention and sanctioning of all forms of discrimination: *"it constitutes harassment any behaviour on the ground of race, nationality, ethnicity, language, religion, social category, beliefs, gender, sexual orientation, membership of a disadvantaged category, age, disability, refugee or asylum seeker status or any other ground that leads to the creation of an intimidating, hostile, degrading or offensive environment"*.
  2. According to Law no. 202/2002 *"psychological harassment is understood to mean any inappropriate behaviour that occurs in a period, is repetitive or systematic and involves physical behaviour, oral or written language, gestures or other intentional acts that could affect the physical or psychological personality, dignity or integrity of a person"*;
  3. The Criminal Code contains a series of regulations regarding the harassment and the violation of private life (art. 208, art. 223 and art. 226).
  4. Law no. 53/2003 - Labour Code, republished, with subsequent amendments and completions contains regulation regarding the harassment at work place.
- ❖ At the same time, Law no. 232/2018 for amending and completing the law no. 202/2002 regarding equal opportunities and treatment between women and men has expressly forbidden *any behaviour of harassment, sexual harassment or psychological harassment, manifested in both public and private. This regulation allows the effective sanctioning of the harassment behaviours, in all its forms, manifested especially in the public spaces, by applying contravention fines in the amount of 3,000 to 10,000 lei, by the Romanian Police or the Gendarmerie.*
- ❖ According to Istanbul Convention *"women` includes girls under the age of 18"* (art. 3 lit. f). Consequently, the National Authority for the Rights of Persons with Disabilities, Children and Adoptions reports on violence against girls, which is part of violence against children,
- ❖ As regards the measures adopted to ensure that the Convention will apply in situations of armed conflict, at the present, a draft Government Decision of the Ministry of National Defense is under approval and has as main pillar the implementation of the measures included in the future National Action Plan on gender issues, for the implementation of the UN Security Council Resolution 1325 (UNSCR 1325) **"Women, peace and security"**.

### **C. State obligations and due diligence**

Romania fulfills the obligations and due diligence imposed for signatory States in article 5 of the Convention. As previously stated, in compliance with the: **Romanian Constitution, Law 202/2002, GO no. 137/2000, Law no. 217/2003 (art. 1,7,13,14), Law no. 188/1999 regarding the Statute of civil servants**, the principle of equality and non-discrimination, the right to life and physical and moral integrity, the prevention and combating of domestic violence are binding for all public authorities that shall promote the conditions in which liberty and equality are real and effective, removing any obstacles that impede or obstruct their full fulfillment.

**In addition, by signing and ratifying the Convention, Romania has sent a strong positive signal on the commitment to respect and promote a series of measures in order to ensure adequate prevention and control of the phenomenon of domestic violence and violence against women.**

In this context, NAEO is currently working to enforce the new legal provisions introduced by the legislative package on promoting gender equality and preventing and combating domestic violence. By these diligences, Romania marks a crucial moment characterized by an important reform in the field of preventing and combating domestic violence, generated by the harmonization of the internal legal framework with the provisions of the Istanbul Convention.

At the same time, NAEO continues the efforts to improve the measures in order to raise awareness on the new legislation, on the victims' rights, and to provide protection and new support services.

Beyond that, mechanisms and tools based on the National Strategy and the action plan for the implementation were developed, structured on the two pillars: gender-based violence and gender equality, through ***which authorities act in order to integrate and promote the gender perspective, the spirit of tolerance, non-violence, non-discrimination, equity, respect for the fundamental rights of all citizens, regardless of ethnicity, race, nationality, religion or gender, for the evolution and progress of contemporary societies.*** All the measures provided by the national strategy of NAEO are presented in the section related to public policies.

Also, the information on remedies is provided in the following sections of the report: **Protection and support, Substantive Law, Investigation, prosecution and procedural law and protective measures (granting financial compensation to victims of crime).**

#### **D. Bodies, agencies, institutions and organizations involved in the preparation of the report submitted by the Party in application of Article 68, paragraph 1**

Regarding the national coordination mechanism, NAEO is responsible for coordinating the collection of information in response to this questionnaire and for the elaboration of the report. NAEO represents the governmental institutional mechanism which acts as a national integrating body for two relevant and specific areas: equal opportunities and treatment between women and men and the prevention and combating of the domestic violence. NAEO has the task to develop effective policies and programs and to address the challenges and complex vulnerabilities accumulated and generated throughout the time, both in the field of equal opportunities and in the prevention and combating of domestic violence.

In exercising its function as State authority in both areas of competence, NAEO ensures the coordination of the implementation of the two key programmatic documents: the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Istanbul Convention.

The activity of NAEO is governed by the provisions of two very important laws: Law 217/2003 on the Preventing and Combating Domestic Violence and Law no. 202/2002 on equal opportunities and treatment for women and men, mentioned above.

At the same time, NAEO coordinates and monitors the implementation of the National Strategy for Promoting Equal Opportunities for Women and Men and Preventing and Combating Domestic Violence for the period 2018-2021 and the Operational Plan.

The following institutions have been asked to contribute to the report: Ministry of Labour and Social Protection, Ministry of Finance, Ministry of Education and Research, Ministry of Justice, Ministry of Internal Affairs, Ministry of Health, Ministry of Foreign Affairs, Public Ministry, Ministry for the Public Works, Development and Administration, National Institute of Magistracy, National Agency Against Trafficking in Persons, General Inspectorate of Romanian Police, General Inspectorate for Immigration, General Directorate for Social Assistance and Child Protection, National Authority for the Rights of Persons with Disabilities, Children and Adoptions, National Administration of the Penitentiaries. Other organizations

were consulted on the preparing the report, respectively non-governmental organizations (NGOs) representatives in the domain from two national networks: Network of Non-Governmental Organizations "We break the silence about sexual violence!" and the Network for the prevention and combating of violence against women- VIF.

## INTEGRATED POLICIES AND DATA COLLECTION (*Chapter II of the Convention, Articles 7 to 11*)

### **A. STRATEGIES/ACTION PLANS AND OTHER RELEVANT POLICIES:**

The national strategy in the field of equal opportunities between women and men **2014 - 2017** adopted by GD. no. 1050 / 18.11.2014, published in the Official Journal of Romania, Part I, no. 890 / 8.12.2014 continued the policies in the field of equal opportunities between women and men developed up to that moment and the promotion at national level of the values and principles of non-discrimination on the sex criterion, and at the same time proposed concrete measures and actions for the prevention and combating of domestic violence.

During 2018, the National Strategy for the Promotion of Equal Opportunities and Treatment for Women and Men and Preventing and Combating Domestic Violence for the Period 2018-2021 and the Operational Plan for its Implementation were approved through GD no. 365/2018. **The new strategy provides for the first time for an integrated approach, focusing on the two pillars specific to both areas of activity.**

All relevant international documents (Istanbul Convention, CEDAW, UN Agenda 2030, and EU Strategic Commitment in the Field of Equal Opportunities 2015-2019) were taken into account in its elaboration.

The drafting of the strategy was carried out in collaboration and consultation with all the relevant actors in the field: representatives of the civil society, ministries with attributions in the field, representatives of the associative structures of the local public administration.

Concerning the field of preventing and combating domestic violence, the following objectives will be covered by the strategy for 2018-2021:

1. Improving the current legislative framework and ensuring the unitary implementation of primary legislation through the adoption of secondary and tertiary legislation
2. Development of social services appropriate to the identified needs and providing easy access, quality assistance to all victims and as well measures for aggressors
3. Development and consolidation of professional competences through the necessary training and training of different categories of specialists for intervention tailored to the case
4. Strengthening the institutional capacity of central and local public administration authorities to manage domestic violence
5. Development of the cooperation between the internal partners and between the Romanian state and the states or international bodies involved in the prevention and the fight against domestic violence
6. Increasing the effectiveness of measures to prevent domestic violence and relapse
7. Developing non-violent attitudes and behaviors in order to achieve the goal of "zero tolerance" towards domestic violence.

- Also, during the last part of 2019, NAEO has initiated the elaboration process of the National Strategy on preventing and combating sexual violence. The strategy will be approved at the end of 2020 and will target early education, coordinated response, integrated actions and strengthened legislation. The strategy will be elaborated by NAEO in collaboration with NARPDCA, ANITP, MEN, IGPR and NGOs with expertise in the field, etc.
- At the same time, through the new legal provisions, NAEO aimed to support domestic violence victims through an immediate and coherent intervention by all responsible actors and, at the same time, to increase the level of trust of victims in the authorities' ability to intervene.

At the governmental level, it is assumed that not only legislation and harmonization with the provisions of the Istanbul Convention are sufficient, and that specific training for different categories of specialists, vocational training and adequate financial support for the implementation of all measures are needed.

These legislative measures are accompanied by training programs for specialists working in the field (judges, prosecutors, policemen, social workers, public or private social service providers etc.) that will empower these categories of professionals, improving their perception and the intervention in relation to the victims of domestic violence and, , will increase the confidence of the victims in the effectiveness of prevention and protection measures.

Other legislative measures involving this integrated approach:

- the obligation of the local public administration authorities to establish in public partnership or public-private partnership social services in order to prevent and combat domestic violence and also to support their functioning has been regulated.

- Local public administration authorities have the obligation to set up integrated intervention teams and to regulate risk assessment measures in cases of domestic violence. They also need to take action to really know the phenomenon and to allocate a budget appropriate to the needs of the beneficiaries, otherwise, contravening fines could be applied for non-observance of the obligation to set up intersectorial teams and the creation and operation of the necessary social services in a geographical distribution appropriate to identified needs.

- The Romanian Government has become aware of the importance of interinstitutional cooperation and the involvement of civil society and, from this perspective, on the 5<sup>th</sup> of October 2016, the Inter-Ministerial Committee for the Prevention and Combat of Domestic Violence was created ,in response to the Article 10 of the Istanbul Convention, as a body which must ensure the implementation of the Istanbul Convention through the co-operation of all relevant actors in the field.
- **We reiterate that all forms of violence covered by the Convention are regulated into the domestic Romanian legislation.**

Progress made in the implementation of the legal provisions is highlighted through the specific projects developed by NAEO and different institutions or NGO (social services, training, campaigns) and specific measures and actions like: issuance of the provisional protection order, creation of the mobile teams at the level of the communities, etc.

➤ According to NADPCRA the measures taken for the **girls under the age of 18** were the following:

- operational definitions for all the main forms of violence against children, particular forms as well, including violence against girls were included in Annex 1 of GD no. 49/2011– Framework methodology for the prevention and multidisciplinary intervention and networking in situations of violence against children and domestic violence

Main forms: physical abuse, emotional/ psychological abuse, sexual abuse, neglect, exploitation (sexual exploitation, child labor), trafficking in children.

Particular forms: non-accidental intoxications, shattered child syndrome, Munchausen by proxy syndrome, online violence.

- There are no statutory limitations provided in the legislation. Regardless of the moment of occurrence (as long as the age is under 18), every suspicion or situation of violence against children, is to be reported to the a GDSACP. The situation is evaluated, including from the perspective of the criminal legislation. Legislation on preventing and combating violence against children is based on children's rights as they are stipulated by UN Convention on the rights of the child, ratified by Romania.
- The same GD no. 49/2011 offers in its above-mentioned Annex 1 an effective and comprehensive response for an adequate coordination of the authorities' intervention in a case of violence against a child,

The document specifies the case management in cases of violence against children:

□ Reporting to GDSACP is mandatory, according to Law no. 272/2004 on the protection and promotion of child rights, republished, with further modifications. A helpline or a dedicated phone number for reporting is established within each GDSACP, according to the law.

□ Evaluation in the field is mandatory as well. In emergency cases – defined by GD no. 49/2011 – a mobile team, which counts among its members a police officer, intervenes within an hour and decides on the spot if the child needs medical care immediately and a child protection measure is to be issued.

□ Afterwards, the multidisciplinary team evaluates the child within his/ her family and social environment – social, medical, psychological and legal evaluation – and draws up a plan of rehabilitation and social reintegration for the child, family and perpetrator. If reasonable grounds to consider a criminal deed was committed are noted, the criminal investigation is initiated, as the police officer is part of the multidisciplinary team.

□ Services are provided throughout the duration of the process in court and the child is monitored 6 months after the completion of the plan.

- According to GD no. 797/2017, GDSACP's organization chart includes a specialized compartment for intervention in case of abuse, neglect, trafficking, migration and repatriation, that will provide the case management.
- Prevention is ensured and supported by Intersectional County Teams for the prevention and combating of violence against children and domestic violence (ICT), whose establishment is regulated by the same annex 1 of GD no. 49/2011. ICTs are set up through decisions of county councils/ local councils of the districts of Bucharest, are coordinated by GDSACP and their minimal structure must include representatives from GDSACP, police, gendarmeries, health, education, labor inspection and NGOs.
- Quarterly and annual statistics on children victims of violence (abuse, neglect, exploitation and national trafficking) – including disaggregated data by sex and services provided to children victims – are in the responsibilities of NARPDCA, that also centralizes data on ICTs' annual activity.

## **B. FINANCIAL RESOURCES**

Currently, there are not settled criteria for identifying the specific budgetary resources allocated in different manners for all public policies in the field within the annual budget.

At the NAEO, European funds were allocated for important projects and the total amount of 13.937.345 million euros ensures the implementation of the mentioned policies during the period 2019-2023 that are currently in different stages:

- The predefined project "Support for the implementation of the Istanbul Convention in Romania" has a value of 2.5 million euros for a period of 3 years (e.g.: 10 crisis centers for rape, 8 centers for perpetrators).
- The VENUS project for combating violence against women and domestic violence funded by European funds (POCU) is worth 11 million euros for a period of 4 years (e.g.: 42 protected houses, 42 support groups, 42 vocational orientation offices).
- Project "Justice has no gender" financed by the EU Commission – 224.616 euro (e.g.: tool kit for education campaigns)
- Gender budgeting in public policies (POCA)– 212.729 euro

## **C. NGOS AND OTHER CIVIL SOCIETY ACTORS - Articles 8 and 9**

- In Romania, NGOs and other civil society actors play an important role in this field, thus representatives of civil society have actively participated at the elaboration of the legislative package for the implementation of the Istanbul Convention, the strategies initiated by NAEO being a part of all working groups developed in the field for the elaboration of tertiary legislation or projects.

Also, NAEO has signed protocols with all the active NGOs in the field of gender-based violence and gender equality. In the same time, the NGO presence is a *sine qua non* condition

regarding the competence of the national institutional mechanisms of cooperation like: Inter-Ministerial Committee for the Preventing and Combating Domestic Violence and National Commission for Gender Equality. The allocation of financial resources for an NGO is possible under the Romanian law (through the conclusion of a contract regarding services provided by the NGO) but depends on the availability of those resources in the budget of the local administration authorities. Another financing modality is regulated under the *law no. 34/1998 regarding the granting of subsidies for Romanians associations and foundations with legal personality that set up and manage social assistance units.*

- Law no. 217/2003 stipulates in Article no. 8, para (2) that, ministries and other specialized institutions of the central public administration, local public authorities, non-governmental organizations and other civil society representatives sign cooperation partnerships and agreements in different areas: information, prevention and intervention. Article 13, para(4) of Law no. 217/2003 provides for inter-sectorial working groups, established under county/Bucharest municipality districts' general departments of social assistance and child protection, composed of representatives from police, gendarmerie, public health department, domestic violence division of the GDSACP in question, social services for preventing and combating domestic violence, active non-governmental organizations, as well as representatives of probation offices, of legal medicine units and other institutions with relevant responsibilities in the area. In addition, some partnerships provide for the possibility to receive funds from local budgets by nongovernmental organizations that have activities in the field of reference.

To conclude, law 217/2003 on preventing and combating domestic violence has explicit provisions that highlight the importance of the cooperation between public local and central institutions and NGOs and civil society working in the field.

Also at the level of NAEO, besides the important role that civil society and NGOs have played in the elaboration of the legislation and strategies, they are very active opinion vectors in the field and, in this context, their representatives were invited over time to all the important domestic and international events that NAEO has organized. At the same time, within the projects that NAEO has developed in the field of domestic and gender-based violence, NGOs have been co-opted as partners in their implementation.

#### **D. BODIES ESTABLISHED OR DESIGNATED IN APPLICATION OF ARTICLE 10.**

In exercising its function of state authority in the two areas of competence, NAEO ensures the coordination of the implementation of the Istanbul Convention.

NAEO is a specialized institution of central public administration, with legal personality, subordinated to the Ministry of Labor and Social Protection, and has the mission to promote the principle of equal opportunities and treatment between women and men in order to eliminate all forms of discrimination based on this criterion and to prevent and combat domestic violence by implementing measures, policies and programs tailored to the needs of the victims.

The institution exercises the functions of strategy, regulation, representation and state authority in the field of equal opportunities between women and men and in the field of domestic violence, having specific attributions regarding the elaboration, coordination and application of the strategies and policies of the Government within the two areas of competence. At the same time, NAEO is the institutional guarantor of respecting the principle of equal opportunities and treatment between women and men, and ensuring the elaboration and implementation of the necessary legal framework.

According to the GD no.177 / 2016, regarding the organization and functioning of NAEO, the organizational structure of NAEO comprises a number of 50 positions, exclusively the state secretary. Currently, the staff structure comprises **39 occupied positions and 11 vacancies.**

Of the total of 39 positions occupied, a number of 5 counsellor positions have exclusive attributions in providing support services through the telephone line - a dedicated non-stop line for victims of domestic violence - **0800 500 333** and 2 positions are dedicated to the social services accreditation.

According to the legal provisions for the occupied positions, university studies with a bachelor's degree have been requested, respectively long-term higher studies graduated with a bachelor's degree or equivalent. From the perspective of the NAEO competences for regulating and elaborating the public policies and programs in the two fields of competence and continuous harmonization with the EU and international regulations, regarding the area of specialization covered by these studies, the highest percentage is represented by the legal studies - 27, 27%, followed by economic sciences - 21.21% and other specializations from the spectrum of socio-human disciplines (medicine, psychology, social assistance, political science, international relations and European sciences, public administration, education sciences, etc.). Also, the NAEO employees from the Directorate for Preventing and Combating Domestic Violence were directly involved in the drafting process and participated in working groups and seminars regarding the ratification of the Istanbul Convention and the harmonization of the national legislation with the provisions of the Convention.

The annual budget of NAEO for the year 2017, only from State budget, without the external project financing was 696.500 EUR. At that point there were only 33 employees in the Agency. In the year 2019 there were 38 employees and the budget was 1.116.000 EUR which included external funding (Norwegian funds) that were used for implementing two bilateral projects.

Since its establishment (in March 2014), NAEO has made significant progress in the field. It has managed to initiate the process of signing and ratification of the Istanbul Convention, has implemented many projects, has elaborated, implemented and monitored the strategies in the field and at the same time started the process of harmonization of the internal legislation with the provisions of the Istanbul Convention. NAEO was the main governmental institution in charge for all the progress that Romania has registered in the last years in the field of gender equality and gender-based violence regarding the legislation, public policies, social services, campaigns.

- ❖ Regarding the collaboration mechanisms existing at national level, according to Law no. 202/2002, the National Commission for Equal Opportunities between Women and Men (CONES) is working under the coordination of the State Secretary of NAEO. CONES is made up of representatives of ministries and other specialized bodies of the central public administration subordinated to the Government or autonomous administrative authorities, trade union organizations and representative employers' associations at national level, as well as representatives of non-governmental organizations, with an activity recognized in domain, designated by consensus thereof. CONES has the role of supporting the activities carried out by NAEO with an important role in introducing the gender perspective into the policies and programs developed at each level of activity.
  - Based on the provisions of the Law 202/2002, starting with 2005, the County Commissions for Equal Opportunities between Women and Men (COJES) function in the coordination of NAEO in all territorial administrative units of Romania (42 counties and Bucharest) information and advisory structures having as their main responsibility the promotion and implementation at local level of the values and principles of non-discrimination based on sex.
  - The Romanian Government has become aware of the importance of the interinstitutional cooperation and civil society involvement, and from this perspective, on October 5, 2016, the Inter-Ministerial Committee for the Preventing and Combating Domestic Violence was created through a Governmental Memorandum (in response to Art. 10 of the Istanbul Convention, as a body which must ensure the implementation of the Istanbul Convention through the cooperation of all relevant actors in the field.

## E. DATA COLLECTION

The following data is collected by the law enforcement/criminal justice services:

- a) The statistical situation of victims and crimes provided for in law no. 217/2003 on preventing and combating domestic violence and crimes provided for by Criminal Code;
- b) The number of protection orders issued by courts (at the victim's request, at the prosecutor's request, at the request of other relevant institutions);
- c) Cases pending with the first instance courts, cases with decisions issued by first instance courts, means of settlement – admission, denial and other solution, by:

- Geographic area;
- Perpetrators (minors-adults, men-women);
- Victims (minors-adults, men-women);
- Kinship among victim and aggressor (husband – wife; concubines; parent – legal guardian, son-daughter; other);
- minor-adult defendants (women-men defendants) sent to trial;
- minor-adult victims (women-men victims);
- Cases pending before the first instance courts;

Cases decided in first instance;  type of decisions/solutions (conviction, acquittal, other solutions);  individuals convicted through a final judicial decision.

NAEO manages the national database with domestic violence victims and offenders who benefit from existing social services, delivered in each county. Data is extracted from the reports submitted by general departments for social assistance and child protection (GDSACP), institutions that are subordinated to the county councils and the Bucharest municipality districts' local councils.

The statistical data refers to the cases of domestic violence recorded by each GDSACP during the reporting period, including through the national telephone helpline 0800 500 333, and distributed per gender, environment, citizenship, age, types of intervention, services offered, types and level of settlement, legal measures, safety and protection measures, typology of solutions and risk factors.

NAEO collects the data from the General Directorate for Child protection and social Assistance regarding the beneficiary of social services: shelter, psychological counselling, vocational and judiciary counselling for victims and perpetrators. This data is centralized and starting with 2018, annually is elaborated a national study that is made public on the site of the Agency ([www.anes.gov.ro](http://www.anes.gov.ro)).

NGOs: Collection of statistical data on beneficiaries, disaggregated by: geographical area, crime type, solution/services offered, sex, age, source of reference, collection and data correlated between public institutions.

NADPCRA collects data on children victims of abuse, neglect, exploitation and national trafficking.

For each of the following forms of violence against children - physical abuse, emotional abuse, sexual abuse, neglect, child labor, sexual exploitation and exploitation for committing crimes – data is disaggregated as follows:

- urban/ rural; children remained in their families/ children removed from their families with emergency placement decided by the GDSACP's manager/ emergency placement decided by the court; criminal investigation initiated; cases on-going/ closed
- Cases occurred within the family/ foster family/ residential centers/ schools/ other services/ other places
- sex; age groups < 1 y/ 1-2 y/ 3-6 y/ 7-9 y/ 10-13 y/ 14-17 y/ over 18 y

□ Rehabilitation services (psychological counselling/ psychotherapy/ other therapies), medical services (other than rehabilitation), educational services (school reintegration/ professional counselling and training) and legal counselling and/or legal assistance

For each of the following forms of national trafficking in children – for child labor, sexual exploitation, committing of crimes, illegal adoption, organs trafficking – data is disaggregated as follows:

□ urban/ rural; children remained in their families/ children removed from their families with emergency placement decided by the GDSACP's manager/ emergency placement decided by the court; penal investigation initiated; cases on-going/ closed

□ With/ without family involvement

□ Sex; age groups < 1 y/ 1-2 y/ 3-6 y/ 7-9 y/ 10-13 y/ 14-17 y/ over 18 y

□ Rehabilitation services (psychological counselling/ psychotherapy/ other therapies), medical services (other than rehabilitation) and educational services (school reintegration/ professional counselling and training).

NADPCRA collects the data from GDSACP quarterly through the monitoring template. Statistics on abuse, neglect, exploitation are public ([www.copii.ro](http://www.copii.ro)).

Other official bodies mandated for data collection (e.g. statistical office/bureau): National Institute of Statistics.

The Office for Judicial Statistics that operates within the **Ministry of Justice** collects data relating to the cases before the courts, which are collected by the courts through specialized personnel when introducing data in the ECRIS system, which are periodically replicated on these servers for statistical purposes. In what concerns the statistical data on the convicted persons against whom there is a final decision ordered by the court, they are available through databases managed by the MoJ and disaggregated according to the criteria of sex (male / female) and age (in the sense of age groups: adults / minors). No other disaggregation criteria are available in the databases managed by the ministry at this time

In accordance with the provisions of the General Prosecutor's Order no. 213/2014 on the organization and functioning of the information system of the Public Ministry, as subsequently amended and supplemented, the Judicial Documentation and Statistics Service within the Prosecutor's Office attached to the High Court of Cassation and Justice collects and centralizes biannually and annually, the statistical data on criminal activity.

The legal basis for collecting and centralizing the statistical data at the level of the Public Ministry is represented by the Decision no. 69/2014 of the Plenary of the Superior Council of Magistracy for the approval of the statistical templates, the indicative guidelines for their completion and the unique classification of the criminal cases at the prosecutor's offices units.

The judicial statistics of the Public Ministry are drawn up on templates prepared by the Prosecutor's Office attached to High Court of Cassation and Justice, in a unitary system of statistical reporting. The templates are compulsory for all the prosecutor's offices attached to the district or country courts, courts of appeal, as well as for the directorates, sections and other compartments of the Prosecutor's Office attached to the High Court of Cassation and Justice, including the military prosecutor's offices.

As far as that goes the statistical data regarding the gender-based violence and violence against women, we mention that by the Order of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice no. 298/2017, the Order no. 213/2014 regarding the organization and functioning of the information system of the Public Ministry was modified and thus, 2 new statistical forms (Annexes 19 and 20) were introduced and, by using them, starting with the first semester of 2018, additional data regarding hate crimes are collected.

By the Annex no.19 to Order no. 213/2014, entitled "Statistical situation regarding the hate crimes - to which the aggravating circumstance provided by Art. 77 lit. h) of the Criminal Code or to which the hate element is part of the constitutive content of the crime (Art. 369 of the Criminal code, Art. 297 para. 2 of the Criminal code, etc.)", the statistical data are collected,

regarding: the existing cases at the beginning of the period, the entered cases during the period, the total cases to be resolved, the total resolved cases, the number of cases resolved by court sending (indictments and plea bargain agreements), the number of cases resolved by waiver of prosecution, the number of cases resolved by closing, the number of individuals and legal persons, accused and sent to court, by indicating the reason for discrimination and the number of victims to whom the reason for discrimination refers to, the number of suspected/accused individuals and legal persons against whom the waiver of criminal investigation was ordered, by indicating the discrimination reason and the number of victims to whom the discrimination reason refers to, the number of suspected/accused individuals and legal persons for whom it was ordered the closing, indicating the reason for discrimination and the number of victims to which the reason for discrimination refers to and the number of cases still unresolved, at the end of the period (including the cases with unidentified authors).

By the Annex no. 20 to Order no. 213/2014, entitled "Statistical situation regarding the offenses provided by G.E.O. no.31/2002", there shall be collected statistical data broken down by the Articles 3, 4, 5, 6 and 61, as regards: the existing cases at the beginning of the period, the entered cases during the period, the total cases to be solved, the total solved cases, the number of cases solved by court sending (indictments and plea bargain agreements), the number of cases solved by waiver of prosecution, the number of cases solved by closing, the number of individuals and legal persons, accused and sent to court, by indicating the grounds regarding the number of defendants, the number of suspects/defendants, individuals and legal persons against whom it was ordered the waiver of the criminal prosecution, by indicating the grounds regarding the number of suspects/defendants, the number of suspects/defendants, individuals and legal persons for whom it was ordered the closing, by indicating the grounds by number of suspects/defendants and the number of cases still unresolved at the end of the period (including the cases with unidentified authors).

Also, in the statistical forms that are currently used by the Public Ministry, there are statistical indicators regarding the number of female victims of crimes (as stipulated by the Criminal Code and by the criminal provisions of the special legislation), as well as regarding the number of minor female victims, without specifying the registered number of criminal files with such victims or the manner of solving them during the statistical centralization period (semester or year).

As regards the description of the method of collecting the above referred to data, we specify that the information contained in the statistical forms are collected from the databases of each prosecutor's office, by taking over the status of the criminal files and the works from the judicial activity, on June 30 and December 31 of each year.

The aggregation (summing, counting, and quantification) is performed automatically by observing the rules within the "Guideline on filling in the statistical forms". At the same time, data validation is performed according to the requirements of the same guide.

Detailed statistical indicators, referring to gender-based violence against women, will be introduced in the new statistical forms to be generated from ECRIS V, by the instrumentality of the project managed by the Ministry of Justice and entitled "Development and implementation of an integrated strategic management system at the judicial system level-SIMS"- SIPOCA 55, the Public Ministry - the Prosecutor's Office attached to the High Court of Cassation and Justice being the beneficiary.

Within the Ministry of Internal Affairs, the ANITP collects data on victims of trafficking in persons, disaggregated by sex, age, type of exploitation, relationship with the recruiter, county of origin, county of recruitment, county/ country of exploitation, suffered abuses, as well as other relevant data for analyzing the evolution of the phenomenon of trafficking in persons and policy making.

Other data categories are collected and reported in the process of implementing and monitoring the National Identification and Referral Mechanism for victims of human trafficking. Statistical analysis of the collected data is posted on the ANITP website on a biannual and annual basis.

Statistical data on victims of human trafficking are also included in the annual reports on trafficking in persons in Romania, presenting the main activities carried out by the institutions with responsibilities in the field.

At the level of the Romanian Police the statistic is being structured on the number of criminal offences reported, number of authors and victims, taking into consideration the environment in which the crime was committed, sex, age and if the persons involved are related or not and in what degree. Also, from 2019, indicators regarding restriction orders were introduced, respectively temporary restriction orders.

The statistic is generated on a monthly basis and is centralized at a national level.

NAEO collects the data from the General Directorate for Child protection and social Assistance regarding the beneficiary of social services: shelter, psychological counselling, vocational and judiciary counselling for victims and perpetrators. This data are centralized and starting with 2018, annually is elaborated a national study that is made public on the site of the Agency ([www.anes.gov.ro](http://www.anes.gov.ro)).

Other data categories are collected and reported in the process of implementing and monitoring the National Identification and Referral Mechanism for victims of human trafficking. Statistical analysis of the collected data is posted on the National Agency against Trafficking in Persons website on a half-yearly and annually basis.

Statistical data on victims of human trafficking are also included in the annual reports on trafficking in persons in Romania, presenting the main activities carried out by the institutions with responsibilities in the field.

NARPDCA collects the data from GDSACP trimestral through the monitoring form. Statistics on abuse, neglect, exploitation are public ([www.copii.ro](http://www.copii.ro)).

## **F. RESEARCH - ARTICLE 11 PARAGRAPH 1B IN THE YEARS 2017-2018.**

*Study regarding domestic violence. Causes of the phenomenon and institutional response*

The study, made by the Institute of Research and Prevention of Criminality from the Romanian Police, tried to describe the phenomenon of domestic violence, the frequency and the ways in which it manifests, especially considering the legislative modifications that occurred in the last years that should support the victims of these situations, namely the temporary restriction order. Also, the research focused on the institutional response of the police in handling these cases of domestic violence, taking into consideration both the internal perspective of those involved in managing these situations (intervention limits, problems occurred and effects of the intervention), and also the victim's perception regarding the intervention of the police.

NARPDCA was partner to *Save the Children Organization* in conducting the sociologic study Child abuse and neglect, 2013, at national level. The study used the same methodology as the similar national study in 2001, conducted by NARPDCA with support from WHO.

The study includes disaggregation by sex and thus it provides information on violence against girls.

## **G. POPULATION-BASED SURVEYS**

### **Investigation on public safety (2015, 2016, 2017)**

1. Domestic violence (physical, verbal, sexual, psychological).

2. National level.

3. Main results – from the investigation of 2017:

- 4, 6% of the persons involved in the study were verbally abused by a family member in the last 12 months.

- 0, 5% of the persons involved in the study were physically abused by a family member in the last 12 months.

- 0, 1% of the persons involved in the study were sexually abused by a family member in the last 12 months.
- 0, 1% of the persons involved in the study were threatened by a family member in the last 12 months.

The information refers to domestic violence and were shared by both women and men.

4. Yes. The official site of the Romanian Police

In **2015**, FILIA center (NGO) ran an exploratory study on sexual harassment in universities by launching an anonymous online questionnaire highlights this phenomenon. More information about this study can be found at <http://centrulfilia.ro/hartuirea-sexuala-in-universitati/>

In **2017**, an opinion poll was done on domestic violence, as part of the project „The national awareness and information campaign about domestic violence”, implemented by the NAEO and financed through the Norwegian Financial Mechanism, part of the programme “RO20 Domestic violence and gender-based violence”.

**Public safety questionnaire (2015-2016)** is the result of the cooperation between the National Institute of Statistics and the General Inspectorate of Romanian Police:

- **for 2015** – done through an interview of **7,920 random households**, distributed in all counties, with all adults from those households being interviewed (13,782).
- **for 2016** – done through an interview of **6,528 random households**, distributed in all counties, with all adults from those households being interviewed (13,407).

**b. Geographic region reached:**

Activities were conducted at the national level, in all regions of the country.

**c. Main results:**

1. After the questionnaires were filled in for the opinion poll made by FILIA Center, one of the conclusions resulted from FILIA Center questionnaires is that 1 of 2 women declared that they have experienced **sexual harassment in universities**.

- The opinion poll done by the NAEO showed that 9 out of 10 Romanians think that domestic violence is a problem for the Romanian society;
- 78% of interviewed individuals have knowledge about the existence of a law on preventing and combating domestic violence;
- 4 out of 10 Romanians say they have acquaintances that experienced domestic violence. In most of these cases, the person aggressed was the wife (79%);
- 86% of those interviewed thinks that domestic violence should be punished more severely;
- The Police is the main institution that Romanians expect to intervene in domestic violence cases (72%);
- The message that was most picked in the campaign was: “The domestic violence victims are protected by law” (73%).

The data was collected between 03.03.2017 – 20.03.2017, using the sociologic telephone survey (<http://www.primulpas.eu/raport-studiu-egalitate/>).

2. **Public safety questionnaire** conducted by the National Institute of Statistics and the General Inspectorate of Romanian Police, in 2015 and 2016, shows, among other aspects, the following:

	Totally agree	Somewhat agree	Somewhat disagree	Totally disagree
If a woman does not react to violence, it means it does not bother her.	3,4%	5,6%	25,4%	65,6%
Occasional Slapping does not affect the relationship.	1,0%	4,8%	26,8%	67,3%
A child is better off in a family, even in a violent one, rather than with divorced parents.	1,3%	5,4%	27,4%	65,9%
It is better to suffer beatings, than make a fool of yourself.	0,8%	3,2%	25,4%	70,6%
I In order to properly educate a child, the parent can resort to beatings.	0,9%	8,4%	28,5%	62,2%
Violent conflicts between the parents are family issues and should be solved in the family.	22,3%	18,4%	19,2%	40,1%

### Child abuse and neglect, NARPDCA and save the Children

1. the form(s) of violence covered: verbal abuse, physical abuse, emotional abuse, neglect, exploitation, sexual abuse; within the family and outside the family, within the school environment
2. its geographical reach (national, regional, local): national
3. its main results:

Regarding violence against girls, the following information has been extracted from the study:

- Regarding school, girls declare they feel shy and insecure in a higher percentage than boys
- In case of abuse within school environment, girls declare that are beaten by teachers in a significant lower percentage than boys (2% in comparison with 11%)
- Verbal abuse of teachers towards girls is more frequent (29%) than towards boys (37%)
- Girls declare they feel under supervision by their parents in a higher measure than boys
- When they are punished by their parents, girls declare they cry often, while boys suffer in silence or talk with someone else

4. The results were made public (with an indication of the sources): <https://www.salvaticopiii.ro/sci-ro/files/a2/a271a06c-4e1e-4a6f-831a-b1c8de0917bd.pdf>

Bullying against children, 2016, Save the children

1. the form(s) of violence covered: bullying
2. its geographical reach (national, regional, local): sociological study at national level
3. its main results:

Regarding violence against girls, the following information has been extracted from the study:

- Girls declare they feel under supervision by their family in a significant higher measure than boys
- Girls declare they play truant in a significant lower percentage than boys
- Girls declare that their parents are interested in their grades more frequently than for boys' grades
- Girls declare they have less friends (girls or boys) than boys in a significant higher measure

- Girls declare that their parents know their friends (girls or boys) in a significant higher measure
- 51% of the girls declare they heard about bullying, in comparison with 44% of the boys

4. However the result were made public (with an indication of the sources):  
<https://www.salvaticopiii.ro/sci-ro/files/10/10551dfa-f0b2-4cb0-a103-08d811dc31a9.pdf>

## PREVENTION *(Chapter III of the Convention, Articles 12 to 17)*

### A. Campaigns and programs - Article 13, paragraph 1

**Between April 2015 – April 2017, the National Agency for Equal Opportunities for Women and Men has implemented, as a Promoter, the “National awareness and public information campaign on domestic violence”,** a project financed by the Norwegian Financial Mechanism for 2009-2014, as part of the RO20 “Domestic violence and gender-based violence”. The activities of the campaign included: 8 debates at the regional level; creation and distribution of a TV spot with 1,796 distributions and a Radio spot with 1,515 distributions; publishing and distribution of informative materials as part of the national campaign, addressed for the general public: 40,000 posters, 90,000 brochures, 90,000 prospectuses and 8 banners; 5 public debates on TV and radio in November, the latter being the month of the activism against violence against women, an opinion poll carried out, which studied the public attitude and awareness on domestic violence and evaluated the awareness of the institutional actors involved.

To celebrate the March 8 – the International Women’s Day, the National Agency for Equal Opportunities for Women and Men organized an on-line campaign that was carried out throughout March 2017. A representative story was being posted each day, inspired from the lives of women who called the telephone helpline (0800 500 333), managed by NAEO. The heroines of those stories were common women who have taken a stand, have asked for help in order to overcome a crisis and have made the first steps towards a decent and autonomous life.

As part of a partnership between the NAEO and the National Wrestling Federation, during the 2017 International wrestling tournament for cadets and juniors, a campaign was carried out for combating gender stereotypes through practicing this old and noble sport without discrimination, both by girls and boys.

**In 2017, NAEO signed a partnership with the Ministry of Youth and Sports,** which provides for the implementation of some specific activities to promote the principle of equal opportunities and treatment for women and men in educating young people, thus conducting activities such as: awareness campaigns, informative sessions, training sessions and awareness campaigns on gender aspect in youth education, in order to raise their awareness and information on the meaning and importance of respecting the right to non-discrimination and equal opportunities for all, promote the gender/gender-based violence perspective, at the county level, develop and implement projects with non-refundable financing in promoting equal opportunity and treatment principle for women and men in youth education.

**National campaign for preventing domestic violence “Broken wings”** was a premiere campaign and a model of cooperation between the Romanian police and the civil society. As part of the campaign, 810,500 preventive materials were printed and distributed. Furthermore, a safety guide for the domestic violence victims and for persons who realize they are in an abuse-type situation was produced, along with an A4 poster for the “black number” of violence, which was posted in apartment buildings nationwide. The materials were distributed by all 3,537 police stations nationwide both in the rural and urban areas. During 2017, 11,600

police officers were involved in implementing the campaign. They have carried out 9,000 activities in the urban area and 17,300 activities in the rural area. The materials have reached 5,000 pre-university education institutions, 12,697 commercial enterprises and 124 non-governmental organizations and 977 public institutions were involved in public debates organized at the national level. As part of this campaign, a "Broken wings" caravan was organized and has reached 15 counties. In this context, awareness raising events were organized and were attended by local public institutions with responsibilities in the sector (health, education, justice, non-governmental organizations, politicians, academia and mass-media).

**As part of a corporate social responsibility project in the field of domestic violence that was carried out in partnership in 2016 between NAEO and Carrefour**, a wide-ranging campaign to raise awareness of the fight against domestic violence was carried out through the popularization in Carrefour supermarkets of the free phone line dedicated to combating domestic violence, 0800 500 333. Posters were placed in the common areas by Carrefour employees, shop stops and 0800 500 333 was promoted through a presentation running on LCD screens next to cash registers and also a radio spot was made. The free phone line dedicated to victims of domestic violence was also promoted in Carrefour's product catalogs during the campaign.

#### **The campaign "Apply for a new life" - Carrefour Romania**

On November 14, 2018, NAEO together with Carrefour Romania, launched the "Apply for a New Life" Campaign in order to promote the emergency number for victims of domestic violence, as well as to support measures with national coverage for victims of domestic violence.

Thus, NAEO and Carrefour Romania promoted the dedicated emergency line 0800 500 333, free of charge for the victims of domestic violence. Launched in November 2015 by NAEO, this non-stop number 0800 500 333 provides access to information, guidance and telephone counseling for victims of domestic violence.

At the same time, in November 2018, Carrefour Romania introduced an exclusive line of orange biodegradable bags in all its stores in the country, a line dedicated to the campaign "Apply for a new life", the funds collected after its sale were directed to the centers for domestic violence victims, according to the partnership concluded with NAEO.

#### **The "Orangez le Monde / Orange the World" campaign of the United Nations**

On November 23, 2018, NAEO and the French Embassy in Romania signed a Declaration of Intent between the two institutions they represent, in the margins of the International Day for the Elimination of Violence against Women, which is marked every year on November 25.

The purpose of this Statement of Intent was to intensify the cooperation between the two entities for the implementation of joint actions aimed at promoting equal opportunities and treatment between women and men and for preventing and combating domestic violence. Thus, the Embassy of France in Romania started at the beginning of the year with the support of 10 other diplomatic missions, the Campaign to support the fight against violence against women "Ambassadors in Orange", as an echo of the "Orangez le Monde / Orange the World" Campaign of the United Nations.

In this context, the Orangez le Monde Campaign creates new premises for UN Member States, to identify new solutions and to develop innovative mechanisms and relevant and effective tools, in order to best protect victims of domestic violence.

To continue with, in 2015, on May 8th, Romania joined the UNWomen campaign "**HeForShe**", which aims to involve men by taking attitude and promoting gender equality, combating violence against women, women's empowerment. This step represents a gender equality solidarity movement developed by UN Women.

In the HeForShe campaign, the IMPACT 10x10x10 pilot initiative was launched. IMPACT 10x10x10 involves key decision makers in governments, corporations, and universities around the world to drive top-down change.

President of Romania, Mr. Klaus Iohannis, is one of the leaders who became IMPACT 10x10x10 champions that committed to promote gender equality.

Purpose of the campaign: "HeForShe" campaign aims to involve men by taking action and promoting gender equality, combating violence against women, women's empowerment. The campaign was launched in September 2014. This is a gender equality solidarity movement developed by the United Nations Entity for Gender Equality and Empowerment of Women.

**Dimensions of the UN Strategy in the HeForShe Campaign:**

a. Awareness, education and understanding. By raising awareness, "HeForShe" aims to make men refer to gender equality as human rights, as an economic and social imperative that both men and women will benefit equally. The involvement of men will be facilitated by a comprehensive approach to online and offline messages as well as through national awareness campaigns.

b. Support, impact through policies and programs.

The pilot program of the IMPACT10x10x10 Campaign aims at a tangible and concrete impact by engaging governments, companies and universities.

**Within the HeForShe Campaign conducted by UN Women, Romania, has assumed three specific commitments until 2020:** Commitment 1. Training of specialists: experts and technicians in the field of equal opportunities in the central and local public administration; Commitment 2. Launch of a unique integrated information system for reporting, managing and prosecuting cases of domestic violence and violence against women; Commitment 3. Develop and implement programs on the involvement of girls and boys in social, political and economic life: mobilizing over 100,000 young people.

- At the same time, the legislative package adopted in order to harmonize the Istanbul Convention provisions with the internal legislation, law 174/2018 for amending and completing the law 217/2003 on preventing and combating domestic violence regulates the fact that in any way and under any circumstances, custom, culture, religion, tradition or so-called "honour" cannot be considered as justification for any acts of violence against women and men according to Art. 42 and Art. 12 par. (5) of the Convention.

Moreover, the National Strategy for the Promotion of Equal Opportunities and Treatment for Women and Men and Preventing and Combating Domestic Violence for the Period 2018-2021 and the Operational Plan for its Implementation provide specific measures for promoting work-life balance and the active contribution of men for preventing and combating all forms of violence against women:

- Increasing the awareness of children and young people regarding the legal provisions in the field of equal opportunities between women and men.
- Combating gender stereotypes among young people
- Sexual and reproductive health of women and men
- Encouraging entrepreneurship among women and young people from disadvantaged backgrounds
- Improving the situation of women in the labour market
- Reconciliation of professional life with family and private life
- Increasing the level of participation of women in the decision-making process

- introducing the gender perspective into national policies

At the level of the Romanian Police, within the project „Effective criminal justice strategies and practices to combat gender – based violence in Eastern Europe” financed by the Council of Europe and OSCE, between September and December 2019, a national awareness raising campaign was organized, that consisted of distributing materials in order to inform the population (pocket guides for police workers and posters for the population), tv and radio spots and also of prevention activities organized by police units.

The national unit CEPOL, from the Ministry of Internal Affairs, coordinates and makes possible the participation of the personnel at training sessions (courses, webinars, etc.) organized by CEPOL, including in the field of preventing and combating violence against women and domestic violence.

Regarding the phenomenon of trafficking in persons, the campaigns that are developed aim at covering all the areas of this phenomenon (sexual exploitation, labor exploitation, forced begging).

The prevention campaigns mainly aim raising awareness of the public opinion regarding risks and implications of the phenomenon of trafficking in persons, as well as direct interaction with target groups. Between 2017 – 2018 over 100 campaigns and project for preventing trafficking in persons were implemented. Examples:

2017 - Campaign Choose to value or to crush?

- Joint action plans for preventing trafficking in persons EMPACT – Joint Action Days
- Campaign being informed at home! Safe in the world!
- Campaign preventing trafficking of persons week!

2018 – Campaign Know your rights! Respect your obligations!

- Campaign Work safely abroad! Second edition
- Campaign being informed at home! Safe in the world! Second edition
- Campaign preventing trafficking of persons week!

2019 – Campaign Destroy the wall of indifference! Trafficking in persons can be prevented!

- Campaign Give freedom! Don't pay her exploitation!
- Campaign being informed at home! Safe in the world! Third edition.
- Campaign preventing trafficking of persons week! Third edition.
- Campaign Are you a victim of trafficking in persons? You have rights!

At the level of the Romanian Police, between 2016-2017 the „Broken Wings” campaign, which aimed to form non-violent behavior for young people, zero tolerance regarding domestic violence and informing a large number of women on their rights and the institutions involved in handling these cases was implemented at a national level.

In 2018 and 2019, domestic violence was approached as a national priority in the field of crime prevention, in each county programs for preventing this phenomenon were prepared.

Also, at the Al.I.Cuza Police Academy, a new subject, International Protection of Human Rights was introduced in the curricula, with seminars in which cases from the European Court of Human Rights (ECHR), relevant in this area are presented.

Also, from the perspective of NARPDCA in 2017, Intersectional County Teams (ICT) reported the following prevention activities addressed to violence on women:

□ International day for the elimination of violence against women (November 25)/ Campaign of the activism days on violence against women (November 25 – December 10) – celebration activities in 8 counties

□ Conferences “Violence against women” (Al.I.Cuza University Iași, National College for Social Workers Iași and GDSACP Iași)

In 2018, ICTs reported the following prevention activities addressed to violence on women:

□ International day against sexual exploitation and trafficking in women and children (September 23) – celebration activities in 2 counties, 145 participants

- International day for the elimination of violence against women (November 25e)/ Campaign of the activism days on violence against women (November 25 – December 10) – celebration activities in 26 counties, 45,330 participants
- Information for women at social risk in community regarding reproductive health – one county, 164 participants.

**Other Campaigns and programs for prevention:**

- A.L.E.G. NGO has developed a project for preventing domestic violence in schools. The results of the project and the documents elaborated are available here: <https://aleg-romania.eu/2015/03/20/gear-mecanism-impra-violente-intre-parteneri-intimi/>  
<http://www.gear-ipv.eu/images/news/Workshops/AdolescentWorkshopsPolicyBriefRO.pdf>  
[http://www.gear-ipv.eu/images/news/Training\\_seminars/TrainingSeminarsPolicyBriefRO.pdf](http://www.gear-ipv.eu/images/news/Training_seminars/TrainingSeminarsPolicyBriefRO.pdf)
- Starting with 2017, A.L.E.G. has carried out an annual national campaign SiEuReusesc (I can do it), which collects and showcases the testimonies of the women who have managed to overcome the violence through the [www.sieureusesc.ro](http://www.sieureusesc.ro) platform and builds support communities of the winners of the violence, which improves the access of victims to information and assistance services. The purpose of the program is to combat the victim's self-blaming attitudes and change the bias that women deserve violence if they accept it, but also to encourage women who are currently experiencing violence by showing positive examples but also by contacting women who have succeeded within the framework of local support groups (in Sibiu, Braşov, Bucharest and Satu Mare) and online socializing groups (e.g. Facebook closed groups Winners Network, SiEuReusesc Bucharest group).
- SiEuReusesc campaigns include:
  - - Collecting and promoting testimonials on the [www.sieureusesc.ro](http://www.sieureusesc.ro) platform
  - - Online campaigns (Facebook, Youtube, Instagram), including video clips available here <https://www.facebook.com/sieureusesc/>
  - - Annual meeting of women who have overcome violence - The Winners Forum (here the clips from the 2018 edition [https://www.youtube.com/watch?v=msf\\_tcjOTPE](https://www.youtube.com/watch?v=msf_tcjOTPE) and the 2019 edition <https://www.youtube.com/watch?v=NVtA1hPeopo>)
  - - Materials made by DoR (Only a Magazine) publication, Recorder or Digi24: <https://www.dor.ro/invingatoarele/> , <https://www.dor.ro/reunionunea-invingatoorelor/> , <https://recorder.ro/invingatoarele/>
- The SiEuReusesc campaigns were realized with private funds, attracted by A.L.E.G. from the following sources: Tech4Stories Program, Vital Voices, Global Fund for Women, AVON and IKEA - Gender Equality Fund run by the Bucharest Community Foundation.

**B. Steps taken to include teaching material in formal education curricula at all levels of education, and/or in non-formal education - Article 14, paragraph 1**

Within the legislative package elaborated and voted for the harmonization of the national legislation with the provisions of the Istanbul Convention it is provided that in the teaching material(curricula) there will be included important subjects such as gender equality, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, all this adapted to the evolving ability of students, in the formal curriculum and at all levels of education.

During 2018, NAEO took the initiative to organize a working group with experts from: Ministry of National Education, Institute for Educational Sciences (ISE), Romanian Agency for Quality Assurance in Pre-university Education (ARACIP), National Center for Evaluation and Examination (CNEE), UNICEF and representatives of the organizations implicated promoting the gender perspectives in the school program.

The results of the Working group were sent to the Ministry of Education in June 2018 in order to elaborate a normative act (Order) that would take into consideration the necessary measures to complete the curricular reforms and the revision of all school textbooks as well as gender perspective in pre-university school education.

The Ministry of Internal Affairs distributed to the Police Schools and the Police Academy materials used in the working groups of the „Effective criminal justice strategies and practices to combat gender – based violence in Eastern Europe” project financed by the Council of Europe and OSCE.

During the initial training, in the curricula of learning institutions of the Ministry of Internal Affairs are established relevant and necessary themes that assure development of professional competencies that can be used in the relation with citizens, including in cases of domestic violence.

In order to provide the necessary skills in relation with potential victims, including those of domestic violence, the Ministry of Internal Affairs sets out the relevant topics for the initial training course for new employees / officers.

The police officers training courses contain lectures on various topics related to combatting domestic violence:

- Preventing and combating domestic violence:
- General considerations regarding domestic violence.
- Causes of domestic violence.
- The role and competencies of police in preventing and combating domestic violence.
- Establishing the police workers specific activities as first responders in cases of domestic violence.
- Filling the form for risk evaluation.
- Filling the temporary restriction order and the report for informing on the measure taken.

In training centers for personnel hired from external sources are organized initiation courses. In the courses curricula, human rights and domestic violence themes are included. These activities are organized by specialized trainers from the Romanian Police.

### **C. INITIAL TRAINING FOR PROFESSIONALS**

The National Institute of Magistracy has included in the Initial Training Programme of the future judges and prosecutors of each thematic study year elements on domestic violence, as follows:

1. In the seminars dedicated to the training of justice auditors, issues related to domestic violence are addressed in the ‘Criminal Law’ discipline (in the context of the analysis of offences against the person), as well as in the ‘Family Law’ discipline.
2. Similarly, conferences dedicated to the phenomenon of domestic violence are contained in the programmes of the ‘Family Law’ and the ‘Judicial psychology’. In the context of these conferences, issues relating to the different types of domestic violence, the forms it can take, the vulnerabilities of victims of domestic violence and the specificities of resolving the causes of this matter, including applications for protection orders, are analyzed.

The probation officers receive initial and continuous professional training regarding the reintegration programs and working methods applied by the probation system for the social reintegration of the offenders convicted for domestic violence offences.

**See Table 1 in Appendix**

### **D. IN-SERVICE TRAINING**

**Information for 2017:** The National Institute of Magistracy, as project partner, in collaboration with the Public Prosecutor’s Office attached to the High Court of Cassation and Justice, as Project Promoter, carried out the project “Institutional development and training for magistrates in the management of cases of domestic violence”, funded under the RO 20 programme “Domestic violence and gender-based violence”, the Norwegian Financial Mechanism 2009-2014.

The project aimed at strengthening the capacity of Romania's judiciary to combat crimes of domestic violence with the intention to use the principle of non-discrimination and a victim-centered approach.

Within this project, under Activity 2, a number of 3 training sessions for trainers were organized in Bucharest in the period October-November 2016 for a group of 20 magistrates (10 judges and 10 prosecutors), specialists in the fight against domestic violence, with the aim of building a body of trainers specialized in combating domestic violence by identifying and discussing good practices at European level in the field of reference and developing their training skills.

The project planned, following the train-the-trainer sessions, to organize 8 activities of 3 days each of continuous training in the fight against domestic violence, in line with the provisions of the project, carried out between January and April 2017 (Bucharest, 1-3 February; Bucharest, 15-17 February; Bucharest, 22-24 February; Predeal, 8-10 March; Sibiu, 15-17 March; Iași 22-24 March; Oradea, 5-7 April; Constanța, 19-21 April). A total of 158 magistrates (74 judges and 84 prosecutors) have been trained in the field of the management of cases of domestic violence.

Specialists from the IGPR, GDSACP, National Probation Directorate, College of Psychologists in Romania, NECUVINTE Association, Children's Association of the Children, Sensiblu Foundation and ANAIS Foundation, were also invited to the 8 continuous professional training sessions.

Between June 2014 and April 2017, NIM was a partner in the Project "JAD — Joint Action against Family Violence", funded by the Norwegian Financial Mechanism 2009-2015, Programme "Domestic Violence and Gender Based Violence" (Programme Area 20), the Programme Operator being the Ministry of Justice. The project was coordinated by the General Inspectorate of the Romanian Police in partnership with the Public Prosecutor's Office attached to the Public Prosecutor's Office, the Alexandru Ioan Cuza Police Academy and the Institute of National Economy of the Romanian Academy and aimed at strengthening the capacity of the judicial authorities (police officers, prosecutors and judges) in Romania in the fight against domestic violence.

Between October and December 2016, 15 workshops were organized in Predeal for the Romanian judicial authorities (each workshop being intended for the inter-institutional training of 62 judges, 67 prosecutors and 250 police officers).

On 4 April 2017, the closing conference of the project was organized with representatives of partner institutions, trainers, representatives of the institutions responsible for preventing and combating violence in the family and representatives of governmental organizations active in the field.

**Information for 2018:** a number of 33 prosecutors at the beginning of their careers attended a one-day seminar on the best interests of the child in solving civil cases, which also focused on the protection of the child against domestic violence.

**Information for 2019:**

The NIM runs, from 2019 to 2021, the project 'Justice 2020: Professionalism and integrity', code SIPOCA 453, MySMIS2014 + 118978. Within this project, domestic violence was identified as a field of training, both by strategic documents and by the judicial system.

For this area, it was planned to organize 10 seminars with a length of 2 days, for the participation of 20 judges and prosecutors with competences in solving, and respectively handling of cases concerning domestic violence.

The preliminary meeting was held on 3 April 2019 with the participation of all 6 selected experts that will ensure the professional training for this field. It also sets out the following topics of interest to be addressed during the 10 training seminars: awareness of the phenomenon of domestic violence; interim protection order; the protection order; procedural and substantive elements; crimes of domestic violence and other crimes affecting family

members; the administration of evidence in criminal cases; preventive measures, the individualization of penalties, complementary penalties, compatibility with the obligations of the protection order; protection orders with cross-border implications.

On 19-20 September 2019, the seminar on *Combating violence in the family* was held at the NIM headquarters, with the participation of 9 judges, 9 prosecutors, a guest from the Anais Association, 2 Chief Commissioner to the IGPR and 2 representatives of the institution of the Ombudsman.

Another seminar in this field was held on November 15, 2019, as part of the continuous decentralized professional training of magistrates, at the Prosecutor's Office attached to the Pitesti Court of Appeal and gathered 27 prosecutors.

In order to streamline efforts in the fight against trafficking in persons, mostly in terms of improving the early identification capacity of victims, as well as providing them assistance, the work of the regional centers of the ANITP included, throughout 2017-2018, the organization and support of more than 300 training sessions of specialists who come in contact with victims/ potential victims of trafficking in persons, addressing a number of about 9,980 specialists (community policemen, proximity guards, public order and judiciary, border police officers, gendarmes, teachers and school inspectors, psychologists, social workers, placement centers experts, educational advisers, priests, town hall representatives, military personnel, volunteers).

In 2019, more than 140 training sessions were attended by approximately 4000 direct beneficiaries from specialists in the field of preventing and combating trafficking in persons and the assistance and protection of victims of this phenomenon. Among the most important training sessions, we would like to underline 5 sessions attended by more than 80 representatives of hotel staff in the ACCOR chain.

Between October 2018 and July 2019, a number of 350 specialists were trained on the implementation of the National Identification and Referral Mechanism for victims of trafficking in persons.

The training sessions targeted the specialists with attributions in the field of human trafficking, but also the specialists who may come in contact with potential victims (representatives of specialized police structures for combating trafficking in human beings, DIICOT prosecutors, National/ County Employment Agency, personnel from school institutions, specialized personnel from the General Directorates of Social Assistance and Child Protection/ Public Social Assistance Services, representatives of nongovernmental organizations, police officers from the field of public order and safety, of judicial police and transportation, Border Police, respectively the Romanian Gendarmerie, the Inspectorate General for Immigration, Labor Inspection).

The training sessions were organized within the project "Trafficking in persons - a victim-centered approach", 15 sessions aiming at identifying and referring victims of Romanian citizens and 2 sessions for the identification and referral of victims, of foreign citizens.

**See Table 2 in Appendix.**

## **E. PROGRAMS FOR PERPETRATORS OF DOMESTIC VIOLENCE**

Currently, the probation system does not have specific programs dedicated to offenders who committed domestic violence, but in some cases an anger management program designed to address the anger as the cause of the violence is applied. The program is available in all probation services.

Family education, rediscovery and redefinition of the role of the family in human life, the quality of a competent and efficient parent require a responsible approach, as stand-alone profession

that must be learned. In the penitentiary environment, adult education for family life is all the more necessary, since most of the persons deprived of their liberty comes from disorganized family environments, with numerous educational and social deficiencies.

Thus, the program "Education for the family life", carried out at the system level, is addressed also to the persons deprived of liberty men and women, for their preparation in assuming a family role (conjugal and parental), which will focus on effective communication in the family framework and reconsider the position of those who have failed as a life partner or parent.

In this context, we also mention the program "Marital and family relation", which is addressed to women deprived of liberty, since most of them come from families where the "normality" of couple's relationship refers to a completely different standard than the statistical norm or the ideal norm.

The characteristics of these families are the lack of communication and affective commitment as well as the consumption of alcohol and/or psychotropic substances and physical and sexual abuse.

The program aims to inform women deprived of liberty on issues related to gender differences that do not have negative impact, the women stereotype, and the social perception of what means to be a woman and is not negatively polarized in relation to men.

Particularities related to the couple, the conflict and its causes as well as the communication within the couple are also addressed. All of these are discussed by reference to their dysfunctional side, and then the switch to functionality.

A particular interest it's given to intra-family abuse, as well as its effects on both woman and the child. It also aims to raise awareness of the woman in relation to the position of victim or persecutor that she may have within the couple and to leave the dramatic triangle, implicitly blocking psychological games, discovering and focusing on resources.

Among the objectives of the program are.'

- Informing women deprived of liberty about different aspects related to gender (physiologically, psychologically, socially),
- Identification of dysfunctional behaviors at the couple and family level;
- Identification of personal, family, institutional resources to which women can call in case of crises;
- Highlighting possibilities for behavioral change.

In the aforementioned coordinates, we specify that we do not have and do not collect statistical data on the persons who have fallen victim to family abuse.

- ❖ Is worth mentioning that NGOs with expertise in the field have developed programs for perpetrators both in prisons and under the judicial control. Most of them are based on support groups for addictions and anger management issues, also therapeutic educational programs for people with aggressive behavior. These programs are developed in a public-private partnership with institutions that have attributions in the field.
- ❖ The implementation of these programs is focused on the victims needs in order to ensure safety and support and the specific measures are developed in co-operation with specialist support services for women victims.
- ❖ All the programs are oriented to specific issues related to the non-violent behavior, respect and dignity in interpersonal relation in order to assure a better understanding of the gender perspective.
- ❖ The application of the program is part of the current probation activity and is financed from the public budget.
- ❖ There are no specific measures to evaluate the impact of the programs, but statistic data about the number of program's applications are collected by the National Probation Service at the beginning of every year at the beginning of every year.

## F. PROGRAMS FOR SEX OFFENDERS

According to the provisions of Law no.118/2019 regarding the automated national register for persons that committed sexual crimes, of exploiting persons or minors, until December 31st 2020, the automatic national register for persons that committed sexual crimes and exploitation of persons or minors will be functional, and will establish a set of obligations for convicted persons, with the scope of preventing this phenomenon and stopping perpetrators to commit the same crime again.

At the same time, in relation to the problem referred to in Chapter III, letter E, as provided for in Article 16, paragraph 1, we mention for the places of detention:

Program for the primary prevention of domestic violence "STOP VIOLENCE! ", a social assistance program is carried out, and its beneficiaries are:

- Persons definitively convicted for crimes against family members;
- Persons deprived of their liberty, who, following the initial social evaluation or following the appeal were identified as having difficulties to relate with the members of the family, as a result of aggressive, violent manifestations towards them.

Also, it is to be mentioned that during the year 2019, a training of the prison administration system personnel on gender issues was organized. It was supported by a specialist from the Ministry of National Defense as a lecturer, and attended by all the heads of structures from the National Administration of Penitentiaries.

## G. PARTICIPATION OF THE PRIVATE SECTOR, THE INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) SECTOR AND THE MEDIA

As mentioned in the previous sections at the NAO level several campaigns and projects in close cooperation with the private sector were implemented.

Regarding the phenomenon of trafficking in persons, the National Agency against Trafficking in Persons (ANITP) had some collaborations with partners from the private sector:

- Cooperation Protocol between ANITP and the Romanian Hotel Industry Federation (FIHR) – The purpose of this collaboration is to conduct joint prevention activities and training sessions of the hotel staff in the ACCOR chain. The trainings aim to improve the ways of detecting potential victims of trafficking in human beings and preventing the phenomenon.
- Cooperation Protocol between ANITP and the INCA Romania Association;
- Cooperation Protocol between ANITP and Bucharest Airports National Company;
- Cooperation Protocol between ANITP and "Gheorghe Lazar" National College;
- Collaboration Protocol between ANITP and the County Council for Resources and Educational Assistance of Sibiu.

## H. SELF-REGULATORY STANDARDS THE ICT SECTOR AND THE MEDIA

The Audiovisual Law n° 504/2002, *with the subsequent amendments*, provides in Art. 40: "*the broadcasting of programs containing any form of incitement to hatred on the basis of race, religion, nationality, sex or sexual orientation is prohibited.*" According to Art. 10 paragraph 4<sup>1</sup> of the aforementioned Law, the National Audiovisual Council (NAC) exercises its control over the content of the programs offered by the audiovisual media service providers only after their public communication.

Please note that in the context of the implementation of the provisions of the Convention, on March 24, 2019, the Romanian Parliament has amended the *Audiovisual Law n° 504/2002*, by Law n° 52/2019, introducing chap. III, which refers to the protection of victims of domestic violence<sup>2</sup>.

<sup>1</sup> Art. 10 – "(4) The National Audiovisual Council exerts its control right upon the content of the programs offered by radio-broadcasters audio-visual media services providers only after the public communication of such programs."

<sup>2</sup> Art. 42<sup>2\*</sup>)– "Within the broadcasting of television and radio services of programs addressing the topic of domestic violence, it is mandatory to ensure that victims of domestic violence are informed about the existence of the telephone number Telverde for victims of domestic violence. Art. 42<sup>3\*</sup>) "Informing the victims of domestic violence about the existence of the telephone number Telverde for victims of

Regarding the codes of conduct for the media sector, we mention the *NAC Decision n° 286/2011 regarding the publication of the codes of professional conduct adopted by the audiovisual media service providers and the Code of Practice in Commercial Communication*, elaborated by the Romanian Advertising Council and consolidated in April 2018.

The legislative measures adopted by the NAC, according to the Audiovisual Law, through the secondary legislation (*NAC Decision n° 220/2011 on the Regulatory Code of the Audiovisual Content*), aim, in general, the theme of violence. The role of these measures is to strengthen the protection of human dignity and minors with regard to the audiovisual content, with potentially harmful effect on physical, mental or moral development. On this purpose, we specify the modifications made to the Regulatory Code, through the NAC Decision n° 63/2017 which, by extension, also applies to the NAEO request:

- ART. 1 "(1) *Within the meaning of the present Regulatory Code, further mentioned as the Code, the following terms and phrases have the following meaning: g) violent language - addressing in offensive, brutal language, such as the use of insulting, threatening, degrading or humiliating or discriminatory words and expressions, ; trivial, nonverbal behaviors, included*”;
- ART. 6 “(3) *In case of a minor over the age of 16, which is victim or witness to crimes or has been physically, psychologically or sexually abused, the following are necessary for the dissemination: a) his/her explicit agreement, written or registered; b) the elimination of any element that may lead to his/her identification, upon the minor’s, the parents’ or the legal representative’s request;*
- ART. 18 “(1) *From 6.00 to 23. 00 hours, productions presenting: a) physical, mental or language violence, repeatedly or with a high degree of intensity or severity; (...) cannot be broadcasted*”;
- ART. 29 “(2) *before the release of shocking images, scenes of violence or negative emotional impact that may unpleasantly impress the viewers, verbal warnings should be made: Attention! Images that can affect you emotionally. This statement shall be displayed statically and legibly; broadcasters cannot present scenes of violence repeatedly, within the same audiovisual production*”;
- ART. 44 “(2) *The identity of the persons who are victims of crimes related to sex life cannot be revealed in any way; the situations in which the victims gave their written consent are exempted, subject to the observance of the identification limits established by the agreement concluded before the dissemination; the prior agreement cannot justify violations of the rights and freedoms of other persons, public order or good morals and cannot remove the responsibility of the audiovisual media services provider for the content of the programs, provided in art. 3 of the Audiovisual Law*”;
- ART. 47 “(1) *It is forbidden to broadcast in audiovisual programs any form of incitement to national, racial or religious hatred, discrimination and the commission of genocide crimes against humanity and war crimes; (2) The broadcasting of any form of racist, anti-Semitic or xenophobic manifestations in audiovisual programs shall be prohibited; (3) Broadcast defamatory statements against a defined gender, age, race, ethnicity, nationality, citizenship, religious beliefs, sexual orientation, level of education, social category, medical condition (s) are prohibited in audiovisual programs; (4) Broadcast of defamatory statements against a person based on their belonging to a group / community defined by gender, age, race, ethnicity, nationality, nationality, religious beliefs, sexual orientation, level of education, social category, medical conditions or physical characteristics are forbidden*” ;

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*domestic violence, in the case of broadcasters, is done by reading the text In case of emergency, call the Telveverde number for victims of domestic violence, with the mention of the Telveverde phone number”. Art. 42<sup>4\*</sup>) "Informing the victims of domestic violence about the existence of the telephone number Telveverde for victims of domestic violence, in the case of television services, is done by displaying the text In case of emergency, call the Telveverde number for victims of domestic violence, together with the mention of the Telveverde phone number, displayed statically and legibly throughout the program."*

- ART. 93 "(1) *The audiovisual commercial communications must respect, regardless the type and duration, the principles of the minor's protection, the correct information of the public, the respect for human dignity, the fair competition principle and may not use incorrect, misleading or aggressive commercial practices, as defined by Law n° 363/2007 on combating the incorrect practices of the traders in the relation with the consumers and legislation following the harmonization of the regulations of the European Union legislation on consumer protection; (2) It is forbidden the make advertising that prejudices the respect for human dignity according to the sex criterion, affecting the image of a person in public and/or private life, as well as of groups of people; (3) It is forbidden to use in advertising situations in which people, regardless of their gender, are presented in degrading, humiliating and pornographic attitudes, including by using gender stereotypes*".

The social phenomenon of *domestic violence* and the subjects related to *the violence against women* are included in the wider sphere of human rights (*human dignity the right to one's own image and, the protection of children*). The Monitoring Department of the NAC performed monitoring reports on these topics during 2017-2018, as follows:

- In 2017, on the television stations: 1678 monitoring reports on the topic of *the protection of human dignity and the right to one's own image* and 1337 monitoring reports on the topic of *the protection of minors*; on radio stations: 115 monitoring reports on the topic of human dignity and *the right to one's own image* and 125 monitoring on the protection of minors.
- In 2018, on the television stations: 3469 monitoring reports on the topic of *the protection of human dignity and the right to one's own image* and 1745 monitoring reports on the topic of *the protection of minors*; on the radio stations: 34 monitoring reports on the topic of *human dignity and the right to one's own image* and 91 monitoring reports on the protection of minors.

Regarding the sanctions applied following the discussion of the monitoring reports in the public sessions of the Council, we specify the following:

- In 2017, the National Audiovisual Council applied 17 warnings and 28 fines on the topic of *the protection of human dignity and the right to one's own image* and 11 warnings and 9 fines on the topic of the protection of minors.
- In 2018, the National Audiovisual Council applied 10 warnings and 20 fines on the topic of *the protection of human dignity and the right to one's own image* and 5 warnings and 14 fines on the topic of the protection of minors.

**Other regulations:**

- Criminal code, art.317 – on issues related to discrimination;
- Decision 220/2011 on the code for regulating the audio-visual content;
- Law 148/2000 on publicity;
- Ordinance 137/2000 on preventing and punishing all forms of discrimination;
- Art. 18 and 19 of Law no. 202/2002 on equal opportunities for women and men, republished;
- Law 217/2003 on preventing and combating domestic violence.

Online communications for physical entities: The Supreme Court of Justice ruled through Decision no. 4546/2016 that Facebook and other online social network platforms are public space, not private and, as a result, users can be hold criminally liable for their deeds, consisting of distribution of a content that is a material object of a crime. Thus, the posts that lead to a public provocation, incitement to hatred or discrimination, disturbing the peace and public order, with an explicitly sexual content, child pornography, abuse against decent behavior etc. can be legally punished.

## I. MEASURES IN THE WORKPLACE

**Currently, the Law no. 202/2002 on equal opportunities and treatment between women and men, provides important measures regarding the promotion of the gender perspective** and regulates that within the central and local civil and military institutions and authorities with a more than 50 employees, as well as private companies with more than 50 employees, the possibility of identifying an employee to assign tasks in the field of equal opportunities between men and women or the employer may choose to hire an expert / technician in equal opportunities within the existing salary budget.

In September 2017 in New York, within the framework of the 72nd UN General Assembly, the Romanian President presented the Good Practice Model on Equal Opportunities Expert as an integral part of Romania's Campaign Report HeForShe. In this context, President Klaus Iohannis mentioned that by 2020, 70% of Romanian institutions will have experts on gender equality. This ambitious model has been highly appreciated by UN Women officials. Romania is one of the top 10 global leaders who have become champions of the "HeForShe" campaign and its public commitment to gender equality has been expressed. Commitment no. 1 assumed by our country was based on the introduction of the Equal Opportunities Expert (COR 242230) from 2014 into the Classification of Occupations in Romania (according to the Joint Order of MMFPSPV and INS no. 1419/328/2014 regarding the modification and completing Classification of Occupations in Romania).

One of the main tasks of the gender equality expert is focused on analyzing the context of the occurrence and evolution of the phenomenon of gender discrimination as well as the non-observance of the principle of equal opportunities for women and men and the recommendation of appropriate solutions for the observance of this principle, and formulating recommendations / observations / proposals to prevent / manage / remedy the context of risk that could lead to violation of the principle of equal opportunities between women and men, respecting the principle of confidentiality.

Also, within the National Strategy for the Promotion of Equal Opportunities and Treatment for Women and Men and Preventing and Combating Domestic Violence for the Period 2018-2021 there were provided specific measures that promotes activities in order to continue fighting the phenomenon of harassment and sexual harassment at work and combating the phenomenon of gender-based violence;

To continue with, during the last part of 2019, NAEO has initiated the elaboration process of the National Strategy on preventing and combating sexual violence. The strategy will be approved at the beginning of 2020 and will be targeted on early education, coordinated response, integrated and strengthened legislation. The strategy will be elaborated by NAEO in collaboration with National Authority for Disabled persons, Children and Adoption, National Agency against Trafficking in Persons, NGOS with expertise in the field, General Inspectorate of Romanian Police etc.

Moreover, through the GD no. 262/2019 for the approval of the Methodological Norms on the Law no. 202/2002 beside the regulation of the gender expert position, for the employers have been introduced new provisions: the elaboration of an action plan to implement gender equality (with specific elements to prevent sexual harassment – art.3) and developing a clear internal labour relations policy aimed at eliminating tolerance for harassment in the workplace and anti-harassment measures(art.5 alin.(1) (a)

## J. OTHER MEASURES

Multi-sectoral services, programs and mechanisms

Beneficiaries receive primary counseling of psychological and social assistance, guidance and towards specialized institutions / services according to specific needs.

Since November 27, 2015, there is a Free Telephone Line for Victims of Domestic Violence, a social service set up in accordance with the provisions of Art. 24 of the Istanbul Convention at the level of NAEO. Romania is one of the 10 EU Member States with a National Hotline for Women - Helpline, which are both free and non-stop -24/7.

The victims of domestic violence, as well as the potential witnesses or other persons who are aware of a violence situation, any person who needs support, information and counseling on issues pertaining to violence against women, can call for free at 0800 500 333, both on the Romanian territory and abroad.

Beneficiaries receive primary counseling of psychological and social assistance, guidance towards specialized institutions / services, according to specific needs

Managing calls received through the call-center emergency telephone line or cases is done on the basis of an operational procedure approved at NAEO level, setting out a set of standards, rules and steps that are followed by all call operators' centers with a view to achieving a uniform and coherent response and call resolution framework.

As concerns the provisions of Article 25 of the Istanbul Convention, sexual violence remains a constant priority for NAEO. In this regard, an integrated approach is taken into account by providing medical and forensic examination, post-traumatic assistance and counseling to victims of sexual violence, and by setting up at the level of Emergency Units (hospitals) of 10 integrated emergency centers with medical staff specialized in dealing with Victims of Sexual Violence. At the request of NAEO, the Superior Council of Forensic Medicine approved the Decision No. 18/2017 on "Standard kit for collecting biological samples in sexual assaults", putting into practice a kit for the collection of biological samples in cases of sexual violence/rape. This regulation creates the possibility for specialists (forensics and emergency physicians, gynecologists) to take samples immediately according to a standard procedure using the standard kit and to manage from the perspective of forensic harvesting, the cases of rape. In this context, on November 26, 2018, NAEO in partnership with the Bucharest University Emergency Hospital and the Ministry of Health launched the Pilot Crisis Center for Rape Situations.

Through this approach, NAEO intended to send an important message at the start of the Campaign "16 Days of Activism Against Gender-Based Violence", the Pilot Project being the starting point for replicating this type of integrated support service at national level by creating 10 crisis centers for rape in the 8 development regions.

NAEO actively participates annually in the initial and continuous training of police officers based on a constant partnership with the Institute for Public Order Studies. The courses focus on two training modules addressing domestic violence and gender equality from a practical perspective by proposing case studies and exercises.

NAEO is part of the Reference Group providing support for the implementation of the project: "Effective Criminal Justice System Strategies and Practices to Combat Gender-based Violence in Eastern Europe" funded by the OSCE and the Council of Europe (April 2018-April 2020) and implemented by the General Inspectorate of the Romanian Police. The project is particularly important for reforming the working and intervention modalities by training specialists with responsibilities in preventing and combating domestic violence and improving cooperation in order to promote and respect equal opportunities between women and men and to prevent and combat violence based on gender. The project addresses both the senior

management of the judiciary, practitioners in criminal matters, at the level of Romanian Police, through activities of capacity building and by establishing national coordination groups.

A number of 120 specialists in the criminal field participated in the activities of professional capacity building and will acquire practical knowledge and skills to prevent and respond effectively to the phenomenon of gender violence. Also, a total number of 15,000 police officers who are at the beginning of their careers in this field of activity received practical information on how to work properly for the needs of victims of gender-based violence, 15,000 potential victims of vulnerable groups received useful information on their rights and, in a sum, through awareness-raising activities, approximately 100,000 people were informed on the appropriate behavior for preventing and combating gender violence.

*In order to provide financial support for the development of all working tools and instruments for the implementation of primary legislation, NAEO has developed a number of projects that are currently in different stages:*

- The predefined project "**Support for the implementation of the Istanbul Convention in Romania**", will be implemented in the period 2019- 2022 and aims to facilitate the implementation of the Istanbul Convention under the Justice Program financed by the Norwegian Financial Mechanism. This project will focus on the development of at least 10 crisis centers for rape and 8 centers for perpetrators at the local level, in 8 development regions of Romania, coupled with the elaboration of working procedures and specialized intervention programs for aggressors in order to prevent the relapse of domestic violence acts.

- **The VENUS project** for combating violence against women and domestic violence will be funded by European funds (POCU) - - 11 million euros – and will be implemented in the period 2019-2023. The project aims to develop measures focused on the integrated and unitary approach of social services in order to create and develop an integrated, national network of 42 protected houses, 42 support groups and 42 vocational counseling offices for victims of domestic violence, in every county of Romania and in Bucharest. In this regard, the creation of a national network of approx. 42 protected houses will provide hosting, information, counseling and support services in order to achieve the transfer to active, independent living and social rehabilitation and also reintegration of women victims of domestic violence.

In relation with this project, NAEO has elaborated a **Draft Decision on the approval of the National Program for the protection of victims of domestic violence** providing for the methodology on the organization and functioning of the innovative National Network of Integrated Housing for victims of domestic violence, which is to be submitted for approval to the Romanian Government.

We consider that, by implementing a **National Program for the Protection of Victims of Domestic Violence**, the dimension of social innovation in the field of preventing and combating domestic violence would be highlighted. Thus, the protection of the victims of domestic violence against the negative and repeated effects produced by domestic violence as well as the need for concrete material conditions necessary to restore a normal and independent life of these victims, is evidently serving the general social interest.

- NAEO together with the National Authority for Disabled Persons and ActiveWatch implemented in the period 2017-2019 the **Justice has no gender** project within the framework of DG Justice's call for action "Actions to support national information, awareness-raising and education activities aimed at preventing and combating violence against women ". The project aims to raise awareness among high school teachers and students about gender-based violence in schools, with an emphasis on gender-based violence (including sexual violence

and violence against girls and women with disabilities) and gender equality through the development of educational activities.

At the same time, at the level of the Romanian Police, training sessions involving all public order territorial structures took place in November 2018. Approximately 5500 public safety police officers that intervene as first responders were trained.

Gender equality and combating domestic violence was a priority on the agenda of the Romanian Presidency of the EU Council, which took place during the first six months of 2019. In this regard, NAEO has organized an International Conference and Synergy Network, in the context of the EU Council PRES RO 2019 "A Europe free from violence against women and girls. Perspectives of the Istanbul Convention: A New Horizon - Changing the Paradigm for All Decision Makers ". The event was funded through the Norwegian Financial Mechanism 2014-2021, within the Bilateral Relations Fund and has been an opportunity to convey a strong commitment from our country to continuous efforts and determination to prevent and combat gender-based violence and also to reaffirm the support for the ratification of the Istanbul Convention by all Member States and the EU.

## PROTECTION AND SUPPORT (Chapter IV of the Convention, Articles 18 to 28)

### A. INFORMATION

• **According Art. 6 7 (1), (2) of the Law 217/2003 on preventing and combating domestic violence as** amended and completed local and central public administration authorities have the obligation to:

- To take necessary action to prevent domestic violence, and to prevent the perpetuation of infringements of the rights of the victims of domestic violence, including by providing information and education programs on the prevention, recognition and reporting of cases of domestic violence.
- To inform, according to their competences the victims of domestic violence on their rights, as the case may be, regarding:
  - a) Non-governmental institutions and organizations providing psychological counselling or any other forms of assistance and protection of the victim, according to his needs;
  - b) The criminal investigation body to which they can make a complaint;
  - c) The right to legal assistance and the institution where they can be addressed for exercising it right;
  - d) The conditions and the procedure for granting free legal assistance;
  - e) The procedural rights of the injured person, the injured party and the civil party;
  - f) The conditions and the procedure for granting financial compensations by the state, according to the law;
  - g) The measures that can be ordered by the provisional protection order and, as the case may be, by the order for protection measures, the necessary steps for issuing them and the judiciary procedure."

### B. GENERAL SUPPORT SERVICES

**The victim of domestic violence has the right according to Law 217/2003 Art. 6:**

- a) to be respected as regards her/his personality, dignity and private life;
- b) to be properly informed on the exercise of her/his rights;
- c) to a special protection, appropriate to her/his situation and needs;

d) to be counselled, rehabilitated, and socially reintegrated, as well to receive free medical assistance services, under the conditions of this law;

e) To get free legal advice and assistance, according to the law.

The special line 0800 500 333 is free and available to call from the whole territory of Romania and abroad by victims of domestic violence, potential witnesses or by any other persons who are aware of such acts of violence and/or who need support or information and counselling.

**Beneficiaries receive primary psychological counselling, legal counselling, information on social assistance measures and guidance to specialized institutions / services according to their needs.**

**Also, according to Art. 37<sup>1</sup> (1) of the Law 217/2003:** *“The emergency intervention is carried out from the perspective of providing social services through a mobile team made up of representatives of the Public Social Service Assistance, hereinafter referred to as PSSA.*

*(2) The mobile team has the role of checking the alerts, to make initial evaluation and realization of the necessary measures to overcome the immediate risk, consisting of: transport to the nearest health unit in situations where the victim needs medical care, the notification of the criminal investigation bodies, the notification of the competent bodies for the issuance of a provisional protection order, the orientation towards the General Direction of social assistance and child protection, hereinafter referred to as GDSACP, or, as the case may be, at PSSA, with a view to host the victim in residential centers appropriate to her/his needs and to apply the case management for victims and aggressors.*

*(3) Reporting the urgent situations of domestic violence in which support from social services is necessary is done by using the telephone lines of public institutions empowered to intervene in cases of domestic violence, including emergency telephone lines.*

*(4) The personnel within the PSSA perform the risk assessment, from the perspective the granting of social services, based on a specific instrument, which is approved, together with the procedure for emergency intervention in cases of domestic violence, by Order of the Minister of Labor and Social Justice.”*

As regards minors (girls), GDSACP ensure access of children victims of violence to public and private services. Statistics are not disaggregated by sex for each indicator. However, there is available data on the number of children victims of domestic violence, receiving legal counselling, psychological counselling, education and training, and on the number of children in emergency placement meaning children in residential services and substitute families (foster family, placement families, and family members). Residential services could be considered as housing services, but statistic is not disaggregated at this level. This type of social service is complementary to the ones mentioned above.

In order to ensure the access of victims of human trafficking to assistance and protection services, at National Identification and Referral Mechanism of the victims of human trafficking has been established since 2008, following its approval by a common order of the institutions with attributions in the field. The mechanism includes procedures for identification and referral to specialized services depending on the place of identification and of the institution which is in first contact with the victim.

Moreover, a draft Methodology for interinstitutional and multidisciplinary evaluation in granting support and protection for victims of crimes, including domestic violence victims is still under discussion between the Ministry of Labor and Social Protection, Ministry of Internal Affairs, and Ministry of Justice. According to the National Identification and Referral Mechanism<sup>4</sup> informing the victims on their rights they have according to the law a measure aimed at

identifying the adult/ minor as a presumed/ identified victim. It implies providing information to the presumed/ identified victim for:

- Being aware of the rights he/she has under the law;
- Obtaining informed consent for referring to specialized protection and assistance services;
- Being aware of the importance of cooperating with the investigation and criminal prosecution bodies.
- Obtaining the consent for the use of the personal data and information related to the traffic situation in the Integrated Monitoring and Evidence System for Victims of human trafficking.

Also, in the judicial practice, on the occasion of the first hearing, the judicial bodies (the case prosecutor or the police in charge to hear the victim) inform the victim about the rights she/he has according to art. 4 of Law 211/2004 on certain measures to ensure the information, support and protection of the victims of crime, with the subsequent amendments and completions, as well as on the rights provided by the Criminal Procedure Code (art. 11-113).

The judicial bodies should draw up a double copy report in this regard a copy being handed to the victim, regardless of their participation in the criminal trial as a witness or as an injured person.

- Having regard the transposition of the Directive no.2012/29/EU the Emergency Ordinance no.24/2019 for amending and supplementing Law no. 211/2004 regarding some measures to ensure the protection of victims of crime, as well as other normative acts, was adopted. This normative act provides the non-discrimination on gender criteria principle. The normative act provides for the establishment of services to support the victims of crime within the Directorate General for Social Assistance and Child Protection, at departmental level, with specialists in the fields of social assistance, psychology, legal sciences, according to art. 8 and art. 9 of the Directive.

Consideration was given to the need of creating appropriate support services for victims of crime, from the perspective of their integration into the category of persons in need and the prerogatives of the state provided by Art. 2 of the Law no. 292/2011 on the social assistance system, preventing, limiting or removing the temporary or permanent effects of situations that may lead to marginalization or social exclusion of the person or family.

Support services for victims of crime, introduced by this law are: *information services, counselling on the risks of secondary or repeat victimization, intimidation and revenge, advice on financial matters and practical follow - up to crime, social insertion / reintegration services, emotional and social support in order to facilitate social reintegration, information and counselling on the role of the victim in criminal proceedings, including preparation for participation in the trial, as well as guiding the victim to medical services, employment services, education when is the case.*

According to the Law 217/2003 victims of the domestic violence are supported through the existing social services depending of their individualized needs (housing, psychological support, legal counselling, social assistance benefits, orientation for social and professional reintegration, support for children education) within residential care or day care. The residential care social services are: emergency receiving centers, recovery centers and protected houses. The day care social services are: preventing and combating domestic violence centers, information and awareness centers, centers for perpetrators, help lines, crisis centers for rape.

### **Measures to ensure women victims benefit from appropriate health and care services**

As mentioned above, the rights of the victims of domestic violence are the ones provided by Art. 6 of the Law 217/2003 and enumerated above: respecting his personality, dignity and private life; information on the exercise of his rights; special protection, appropriate to her/his

situation and needs; counselling, rehabilitation, social reintegration, as well as assistance services free medical, under the conditions of this law; free legal advice and assistance, according to the law.

**Also, according to Art. 15 of the Law no. 217/2003** the social services for preventing and combating of domestic violence may be organized in residential, day or continuous regime, with or without legal personality, of local or county interest. The types of specialized social services were mentioned in the previous section. ***Specialized social services for the prevention and combating of domestic violence are offered free of charge to victims.***

**NAEO** also elaborated his contribution for the Government Decision supplementing the Government Decision no. 867/2015 for the approval of the List of social services. NAEO has provided also the framework regulations for the organization and functioning of social services, with amendments and subsequent completions, in order to regulate the social services provided in its field of activity. Other legal measures undertaken by NAEO were the following: the elaboration of the Minister Order regarding the approval of minimum quality standards for social services for victims of domestic violence (Order no.28/2019) and the Minister Order for the approval of the minimum standards costs for social services for victims of domestic violence.

**Moreover, according to Law no. 217/2003** emergency receiving centers, hereinafter referred to as shelters, are social assistance units, with or without legal personality, of residential type, which provides protection, hosting, medical care and counseling to victims of domestic violence. The shelters provide free family assistance for a certain period (between 5 to 60 days) for the victim, as well for the minors in her care, protection against the aggressor, medical care, food, accommodation, psychological counseling and legal counseling, according to the instructions of organization and operation elaborated by the authority. The receiving of victims in the shelter is done only in case of emergency or, as the case may be, with approval of the management of the center, when the isolation of the victim of aggressor requires that protection measure. Persons who have committed the act of aggression are prohibited to access inside the shelter where the victims are located. The location of the shelters is secret to the general public. All shelters must enter into a collaboration agreement with a hospital or with another health unit, which provides medical and psychiatric care. The convention is made by the local councils, respectively by the councils of the sectors of the municipality of Bucharest or, as the case may be, by the county councils, as well as by the governing bodies of accredited private social service providers. Recovery centers for victims of domestic violence are assistance units' residential social type, with or without legal personality, which provides hosting (up to 180 days), care, legal and psychological counseling, support to adapt to an active life, professional insertion of victims of domestic violence, as well as rehabilitation and reintegration their social status. Centers will conclude agreements with the authorities for the employment of the county and of the sectors of the municipality Bucharest in order to provide support for integration into work, rehabilitation and professional retraining of assisted persons. The protected houses are social assistance units organized in residential regime for a determined period (up to 12 months), with or without legal personality, which ensures hosting in the regime emergency, care, social assistance, legal and psychological counseling and vocational guidance victims of domestic violence. The address of the protected houses is secret to the general public.

The centres for the prevention and combating of domestic violence are assistance units' social security system, with or without legal personality, which provides social assistance, psychological, legal counselling, as well as information and guidance to victims of violence domestic. The centres for information and awareness-raising services are assistance units social, with or without legal personality, which provides information and education services, social assistance and an emergency telephone service for information and counselling telephone line services are free social services that provide counselling the appellants, in a confidential manner, on all forms of violence.

Integrated emergency centres for sexual violence provide medical examination and forensic, post-traumatic assistance and counselling for victims of sexual violence.

As regards victims under 18, GDSACP ensure access of children victims of violence to medical services, but statistics are not disaggregated by sex for each indicator. There is available data on the number of children victims receiving medical services, other than rehabilitation. All children victims registered to GDSACP receive social services.

#### **ANNUAL NUMBER OF WOMEN VICTIMS OF VIOLENCE WHO HAVE BEEN ASSISTED BY HEALTH AND SOCIAL SERVICES.**

The total number of the social services beneficiaries collected at the level of NAEO is:

- for 2017 there were 13201 domestic violence victims that benefited from social services
- for 2018 there were 13182 domestic violence victims that benefited from social services
- for the first semester of 2019 there were 6.731 domestic violence victims that benefited from social services

In 2017, a total of 362 female victims of human trafficking, benefited from services for the recovery and social (re)integration (accommodation, medical assistance, psychological assistance, school (re) integration, professional counselling, professional (re) orientation, labor integration, legal assistance for divorce situations, custody of minors, etc.), depending on the identified individual needs.

Out of the total number of assisted victims, 221 victims (130 minors and 91 adults) were identified in 2017, and 141 victims (77 minors and 64 adults) were identified in previous years. In 2018, 377 victims received assistance services, out of which 181 (112 minors and 69 adults) identified in 2018 and 196 (107 minors and 89 adults) identified before 2018.

As regards the social services for girls under 18, GDSACP ensure access of children victims of violence to medical services, but statistics are not disaggregated by sex for each indicator. There is available data on the number of children victims receiving medical services, other than rehabilitation. All children victims registered to GDSACP receive social services.

- 8,156 girls victims of violence received health and social services in 2017, out of which 8,024 girls victims of abuse, neglect and exploitation and 132 girls victims of national trafficking
- 8,210 girls victims of violence received health and social services in 2018, out of which 8,103 girls victims of abuse, neglect and exploitation and 107 girls victims of national trafficking

#### **C. COLLECTIVE COMPLIANTS MECHANISM**

- ❖ Information and standard forms for victim's orientation and guidance are posted on the NAEO, GDSACP, PSSA, National Council against Discrimination, Ombudsman and NGO websites. Also, projects and campaigns were implemented in order to support the access to justice for the vulnerable groups, including victims of domestic violence.

#### **D. SUPPORT SERVICES**

- ❖ In 2019, from the GDSACP level 102 Centers for victims of domestic violence and perpetrators were reported out of which **96 destined for victims and 6 for aggressors:**

**Functional services for victims of domestic violence (94) are divided as follows:**

**Residential services for domestic violence victims: 61**

**Emergency receiving centers (CPRU): 44 coordinated as follows:**

- Local Council: 5 (Alba - 1, Dâmbovița - 1, Gorj - 2, Satu Mare -1);
- Accredited private bodies: 6 (Sector 1 Bucharest - 1, Buzău - 1, Ilfov - 1, Mureș - 1, Sibiu -1, Timiș - 1);
- GDSACP: 33 (Argeș - 2, Bacău -1, Brașov - 1, Brăila - 2, Sector 2 Bucharest - 1, Sector 3 Bucharest - 1, Sector 5 Bucharest - 1, Sector 6 Bucharest - 1, Cluj - 1, Constanța - 1, Covasna - 1, Dolj - 3, Giurgiu - 1, Gorj - 1, Ialomița - 1, Maramureș - 2, Mehedinți - 1, Olt - 1, Prahova - 1, Satu Mare -1, Sibiu -1, Suceava - 1, Teleorman - 2, Timiș -1, Vaslui - 1, Vrancea - 2).

**Recovery centers for victims of domestic violence: 17**

- Local Council: 4 (Alba - 1, Buzău - 1, Iași -1, Maramureș - 1);
- Accredited private bodies: 5 (Ilfov - 1, Giurgiu - 1, Galați - 1, Sector 3 Bucharest - 1, Sibiu - 1);
- GDSACP: 8 (Buzău - 1, Cluj - 1, Dâmbovița - 1, Galați - 1, Iași - 1, Tulcea - 1, Vâlcea - 1, Vaslui - 1).

**Day care services for domestic violence victims: 33**□ **Centers for preventing and combating domestic violence - 29 coordinated as follows:**

- Local Council: 6 (Alba - 1, Cluj - 2, Călărași - 1, Vâlcea - 1, Timiș - 1, Ialomita - 1);
- Accredited private bodies: 11 (Bistrița Năsăud - 1, Brașov - 1, Sector 2 Bucharest - 1, Sector 3 Bucharest - 1, Cluj - 1, Covasna - 1, Ilfov - 1, Mureș - 3, Prahova -1);
- GDSACP: 11 (Bacău - 1, Brăila - 1, Sector 1 Bucharest - 1, Sector 2 Bucharest - 1, Sector 4 Bucharest - 1, Constanța - 2, Dolj - 1, Galați - 1, Maramureș - 1, Timiș - 1).

□ **Centers for information and awareness-raising services for the population: 6**

- Local Council: 3 (Neamț - 2, Suceava - 1, Ialomita - 1);
- Private accredited bodies: 0;
- GDSACP: 2 (Alba - 1, Cluj - 1).

**Functional services for family abusers (6) are divided as follows:**

Day-to-day services for aggressors:

- Local Council: 4 (Alba -1, Bucharest DGASMB - 1, Maramureș - 1, Timiș -1)
- Accredited private bodies: 2 (Mureș - 1, Călărași - 1).

The functioning of the social services is governed by the Minister Order no.28/2019 regarding the approval of minimum quality standards for social services for victims of domestic violence and other relevant laws (Law no. 292/2011 regarding the national social assistance system, for example).

The social services are functioning based on a framework regulation according to the Government Decision no. 797/2017 for approving the organizational and functioning framework regulation for public social assistance services and personnel guidance structures. The access within social services is granted for: women or women with children, migrant women and women with disabilities.

Accommodation capacity at the national level, for the 61 residential centres for victims of domestic violence is estimated at 940 beds. According to the minimum quality standards for social services the proportion of the staff is 10 beneficiaries/1 employee. All the social services are free of charge. The funding depends on the way they are organized: public provider, private provider or in partnership public-private.

**E. HELPLINE**

- ❖ As stated previously in the report, at national level, there is a Free Telephone Line for Victims of Domestic Violence, a social service set up in accordance with the provisions of *Art. 24 of the Istanbul Convention*, **free charge, available 24 h / 24h, 7 days / 7 days**.

The free telephone line for victims of domestic violence with the unique number **0800 500 333**, is served by a number of 5 operators whose salaries are provided by NAEO.

Through the partnership with the ANAIS Association, operators benefited from monthly supervision and legal assistance from a lawyer during 2016- May 2019.

The national emergency telephone line for women was created in November 27, 2015 so Romania is one of the 10 EU Member States (referring to 28 MS) who have National Hotline for Women - Helpline, which are both free and non-stop -24/7.

At this unique number victims of domestic violence, as well as potential witnesses or other persons who are aware of violence of this kind and who need support, information and counselling, can make free calls both on the Romanian territory and abroad and the calls are placed under the confidentiality and observance of the GDPR provisions.

Beneficiaries receive primary counselling of psychological and social assistance, guidance and guidance to specialized institutions / services according to detailed needs.

Managing calls received through the call-center emergency telephone line or cases is done on the basis of an operational procedure approved at NAEO level, setting out a set of standards, rules and steps that are followed by all call operators' centers with a view to achieving a uniform and coherent response and call resolution framework.

In order to analyze the aggression severity, there is a risk assessment sheet developed as a tool for guiding and evaluating the level of aggression.

The number of calls recorded at the level of the NAEO call-center are:

- In 2017 a number of 2627 of calls were recorded.
- In 2018 a number of 1963 of calls were recorded.
- In 2019 (October) a number of 1405 of calls were recorded.

- ❖ As regards children, Art. 96, second paragraph of the Law no. 272/2004 provides for the mandatory establishment of a telephone for reporting violence against children – child telephone, at the level of every GDSACP. Information below is extracted from situation analysis of child telephone (GDSACP) in 2018:

1. 45 telephone numbers are available, out of 47 GDSACP units at state level;
2. 36 out of 45 are free of charge;
3. 36 out of 45 are available 24/7;
4. all available child telephone lines ensure confidentiality and anonymity, according to legislation
5. all 45 child telephone lines have mobile teams consisting in specialists (social worker, psychologist) and police officer, which intervene in emergency cases

At national level, there are other two helplines supported by Child Helpline Association:

- a) Line 116.111 – European harmonized number for child helplines ([www.telefonulcopilului.ro](http://www.telefonulcopilului.ro))  
Most of the received calls reported on cases of violence against children and those children were referred to GDSACP.

In 2017, 110,699 calls were registered. The main forms of violence against children reported to Child Helpline Association were the following: emotional abuse, neglect and physical molestation. Sexual abuse registered a new trend regarding perpetrator: 53,73% of the perpetrators were adults out of social environment of the child, which registered an alarming increase in comparison with 2016 (28%); most of the victims of sexual abuse were girls (65,68%); age groups and gender of children victims of sexual abuse: boys 6 – 12 y (20.89%), boys 13 – 16 y (13.43%), girls 6 – 12 y (32.83%), girls 13 – 16 y (32.85%).

In 2018, 101,340 calls were registered. The main forms of violence against children that were reported to Child Helpline Association were the following: physical molestation, emotional abuse and neglect. There was also an increase of 42.62% of number of bullying cases, with 2,212 cases more than 2017; out of bullying cases, 77.22% occurred in schools.

- b) line 116.000 – European hotline number for missing children (initially supported by FOCUS Romania and since 2016 by Child Helpline Association)

## F. ACTION TAKEN FOR CHILD WITNESS

- *Annex 1 (GD no. 49/2011) provides for the rights and needs of children witnesses of domestic violence. Thus, one of the working principles in multidisciplinary intervention in situations of violence against children and domestic violence is the following: “ensuring and facilitating the access to support services and specialized services for all children in the family (victims, witnesses, siblings of the child victim)”. When emotional abuse is defined in section 21 chapter II on conceptual framework, child witness of domestic violence is mentioned:*

„Child witness of domestic violence suffers indirectly of an emotional/ psychological abuse.”

Regarding the housing services for victims of domestic violence, section 32 chapter IV on case management mentions: “In case of domestic violence, child may be victim, together with the mother, other siblings or adults' members of the family, or may be witness. In fact, the situation of the child witness is not neutral, as he/ she suffers an emotional/ psychological

abuse indirectly. Therefore, when the child is either victim or witness, and the mother is a victim of domestic violence, the general rule is to protect the child together with the mother." Taking these provisions into account, the child witness is treated in the same way as the child victim.

### G. OTHER MEASURES

The campaigns mentioned in previous sections contributed to encourage the reporting of the domestic violence situations. At the end of 2019, through the Campaign within the project "Effective strategies and practices of the criminal justice system for combating gender violence in Eastern Europe", were promoted the emergency number 112 and phone line for the domestic violence - 0800 500 333. The slogan of the campaign was: "Say NO TO DOMESTIC VIOLENCE! Call 112 for a CASE REPORT or 0800-500-333 for counseling! Don't be indifferent, your attitude can save lives! "

Reporting of violence against children is mandatory to GDSACP, according to Law no. 272/2004. Professionals which are interacting with children are obliged to report any suspicion or case (art. 89 line (3) and art. 96 line (1)). Any other person can report to GDSACP (art. 89 line (2)).

Annex 1 (GD no. 49/2011) details the reporting procedures to GDSACP, as well to the other responsible authorities (police, prosecution), and also to other entities (Public Service for Social Assistance, Child Helpline Association, other specific helplines and hotlines).

Emergency situations are reported immediately to child telephone lines (GDSACP). Emergency situations are considered the following:

1. Child's life is in danger.
- 2 Child is severe wounded.
3. Child suffered a sexual abuse.
4. Child under 8 years is left alone in the house.
5. Child requests immediate help.
6. Child refuses to go home.
7. Child is severe neglected.
8. Child is involved in the worst forms of child labour.

One of the working principles is the following: "respecting confidentiality and professional deontological norms, without interfering with reporting of violence against children situations or case management".

## SUBSTANTIVE LAW (Chapter V of the Convention, Articles 29 to 48)

### A. LEGAL FRAMEWORK

- **Law no. 286 on the Criminal Code:** Art 189 letter g) Aggravated first degree murder against a pregnant woman; Art. 193 Battery and other acts of violence; Art. 194 Bodily harm; Art 199 Domestic violence; Art. 201 Termination of pregnancy; Art. 205 Illegal deprivation of freedom; Art. 206 Threats; Art. 208 Harassment; Art 210 Trafficking in persons; Art 211 Trafficking in underage persons; Art 213 Pandering; Art 218 Rape; Art 219 Sexual assault; Art 220 Sexual intercourse with a minor; Art. 221 Sexual corruption of minors; Art. 222 Recruitment of minors for sexual purposes; Art 374 Child pornography; CHAPTER II Offenses against family: Art. 376 Bigamy; Art 379 Failure to comply with measures taken for a minor's custody; Art 380 Preventing access to compulsory education. TITLE XII Crimes of genocide, crimes against humanity and war crimes - CHAPTER I Crimes of genocide and crimes against humanity; Art. 439 Crimes against humanity, letter c) slavery or trafficking in human beings, especially women or children; letter f) rape or sexual assault, compelling to engage in prostitution, forced sterilization or illegal detention of a woman who was forced to become pregnant, with a goal to

change a population's ethnic composition; Art. 440 War crimes against individuals letter d) rape or sexual assault, compelling to engage in prostitution, forced sterilization or illegal detention of a woman who was forced to become pregnant, with a goal to change a population's ethnic composition.

- **Law no. 287/2009 on the Civil Code**, CHAPTER IV Termination of the exercise of parental rights Art 508 Terms; Art 509 Extent of termination of parental rights; Art 510 Obligation to offer financial support; Art 511 Guardianship of minor children; Art 512 Reinstatement of parental rights. CHAPTER IV Civil liability, SECTION 1 General provisions, Article 1.349. Tort liability, CHAPTER IV Civil liability, SECTION 3 Liability for own action, Art.1357 Conditions of liability, SECTION 6 Reparation of the damage in case of tort liability; Art. 1.381 The object of the reparation; Art. 1.385 Scope of reparation; Art. 1.386. Forms of reparation; Art. 1.387 Injury to bodily integrity or health; Art. 1.388 Establishing the loss and non-realization of the gain from work; Art. 1.389 Injury of the minor; Art.1.390. The person entitled to compensation in case of death; Art. 1.391 Reparation of non-material damage; Art. 1.392 Expenses of health care. Funeral expenses.
- Also, the provisions of **Law no.118/2019 regarding the National automatic register for authors of sex related crimes**, of exploitation of persons or minors, as well as the completion of Law no. 76/2008 regarding the organizing and functioning of the National System of Genetic Judicial Data, as well as the provisions of Law no 211/2014 regarding measures for informing, supporting, and protecting crime victims, with subsequent amendments, are all relevant.
- Furthermore, the Minister of Internal Affairs **Order no.60/2013** regarding the starting of a phone line and an e-mail address where acts of discrimination, harassment or similar acts against the personnel of the Ministry of Internal Affairs can be reported, as well as establishing necessary measures.
- **Legislative package to implement the Istanbul Convention comprised the following provisions: EGO no. 24/2019 for amending and supplementing Law no. 211/2004 regarding some measures to ensure the protection of victims of crime, as well as other normative acts; Law no. 174/2018 amending and supplementing Law no. 217/2003 for the prevention and combating of violence in the family, republished, with subsequent amendments and completions; Law no. 178 / 2018 amending and supplementing the Law no. 202/2002 on gender equality and treatment between women and men republished, GD no. 476/2019 for amending and supplementing of the Methodological Norms for applying the provisions of Law no. 197/2012 regarding quality assurance in the field of social services, GD no. 365/2018 regarding the approval of the National Strategy on promoting equal opportunities between women and men and the prevention and combating of domestic violence for the period 2018-2021 and of the Operational Plan on the implementation of the national strategy on promoting equal opportunities between women and men and the prevention and combating of domestic violence. 2018-2021, GD no. 877/2018 regarding the adoption of the National Strategy for the sustainable development of Romania 2030, GD no. 262/2019 for the approval of the Methodological Norms for applying the provisions of Law no. 202/2002 on equal opportunities and treatment between women and men, Order no. 28/2019 regarding the approval of the minimum quality standards for the accreditation of social services aimed at preventing and combating domestic violence, Order no. 2524/2018 regarding the approval of the Methodology on the participation in the special programs of psychological counseling, organized by the specialized public or private services, Joint Order MAI / MMJS no.146 /2578/2018 regarding the management of the domestic violence situation by the police officers, **Order no. 2525/2018** regarding the approval of the Procedure for the emergency intervention in the domestic violence situations.**
- The main core of the legal provisions addressing violence against women is represented by the Law no. 217/2003 on preventing and combating of the domestic violence, republished, amending and supplementing. Also, similar provisions are regulated in more normative binding

in accordance with the specific responsibilities of governmental institutions and these were mentioned in the previous sections.

**APPENDIX - COMPILATION OF EXTRACTS FROM OR SUMMARIES OF THE RELEVANT LEGAL TEXTS, INCLUDING SPECIFIC LEGISLATION ADDRESSING VIOLENCE AGAINST WOMEN.**

**ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

**B. ACTION TAKEN TO PROVIDE RELEVANT PROFESSIONALS WITH GUIDANCE ON HOW TO IMPLEMENT THE ABOVE LEGAL FRAMEWORK**

We mention the following regulations:

- Order no.146/2578/2018 regarding ways of handling cases of domestic violence by police staff that establish the intervention procedure in cases of domestic violence and cooperation with other institutions with attributions in preventing and combating domestic violence, how to use risk evaluation form, the procedure of issuing the temporary restriction order and the procedure for applying the provisions of the temporary restriction order.
- Order no. 2525/2018 regarding the approval of the Procedures for the emergency intervention in the cases of internal violence

**C. PROCEDURES AVAILABLE TO WOMEN VICTIMS TO PROVIDE THEM WITH CIVIL REMEDIES:**

**ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

*In Romanian Code of Criminal Procedure there are legal provisions that allow victims to obtain adequate civil damages against the perpetrator.*

The injured persons participate in the penal process and can be constituted a civil part, the rule being that the civil action is exercised within the criminal process (art. 19, 27 Criminal Procedure Code). The victim of the crime has the right to make requests and exceptions and to appeal both in the criminal and civil aspects of the case - if he / she has been a civil party (art. 81, 84, 85 Criminal Procedure Code).

The civil action can be obtained: restoring the situation before the crime was committed, restoring things, material damages and moral damages.

Through the criminal decision, complementary penalties can be established such as: prohibition of parental rights [art. 66 paragraph (1) lit. e) Criminal code], respectively of the right to be guardian or curator (art. 66 paragraph (1) lit. f) Criminal Code]; prohibiting communication with the victim or her family members or approaching these persons [art. 66 paragraph (1) lit. n) Criminal Code]; the prohibition to approach the house, the work place, the school or other places where the victim carries out social activities [art. 66 paragraph (1) lit. o) Criminal Code]; the prohibition of being in certain localities [art. 66 paragraph (1) lit. l) Criminal Code]; the prohibition to own, carry and use any category of weapons [art. 66 paragraph (1) lit. h) Criminal Code].

**D. Other procedures**

Civil compensations against the aggressor, as explained in the Explanatory Report (paragraph 157), can be considered according to the internal law, and:

- **The measures that can be taken, through the provisional protection order**, through the judicial protection order, provided by art. 22/4 and 23 of Law no. 217/2003 (temporary evacuation of the aggressor from the common house, regardless of whether he is the owner of the property right; reintegration of the victim and, as the case may be, of the children in the common house; obliging the aggressor to keep a minimum distance determined to the victim, to the family members it, either to the protected person's residence, place of work or school; the aggressor's prohibition to move to certain localities or certain areas that the protected person visits or visits regularly; the prohibition of any contact, including by telephone, through correspondence or in any other way with the victim).

- **Civil means of defense of personal non-patrimonial rights:** Art. 253 Civil code - (1) The natural person whose non-patrimonial rights have been violated or threatened can at any time request the court: a) the prohibition of the commission of the illicit act, if it is imminent; b) the cessation of the infringement and the prohibition for the future, if it still lasts; c) the finding of the unlawful nature of the act committed, if the disorder that produced it subsists ... (4) Also, the injured person may seek compensation or, as the case may be, a patrimonial reparation for the damage, even non-patrimonial, that was caused to him, if the injury is attributable to the perpetrator of the harmful event.

- **The victim of crimes of domestic violence or of offenses against sexual freedom and integrity has the right to be granted by the state the financial compensations** (art. 21-26 of Law no. 211/2004 regarding some measures to ensure the information, support and protection of the victims' offenses). The financial compensation, in the amount of maximum 10 minimum gross basic salaries in the country, is granted, under the conditions and the deadlines established by the law, for: hospitalization expenses and other categories of medical expenses incurred by the victim; the material damages resulting from the destruction, degradation or bringing into the state of non-use of the victim's goods or from their possession by committing the crime; the earnings that the victim is deprived of as a result of the crime; funeral expenses; the maintenance of which the victim is deprived because of the crime.

#### **E. PROCEDURES AVAILABLE TO WOMEN VICTIMS:**

#### **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

#### **F. CRIMINALIZATION OF DIFFERENT FORMS OF VIOLENCE:**

#### **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

*Within the Law 217/2003, psychological violence includes in the definition not only the sphere of art. 33 of the Convention, but also harassment, as defined by Article 34 of the Convention:*

"Art. 4 lit. b): psychological violence - imposing personal will or control, provoking states of tension and mental suffering in any way and by any means, by verbal threat or in any other way, blackmail, demonstrative violence on objects and animals, ostentatious display of weapons, neglect, control of personal life, acts of jealousy, coercion of any kind, lawless pursuit, supervision of the home, workplace or other places frequented by the victim, making phone calls or other types of communications by means of transmission. at a distance, which by frequency, content or moment they are issued, creates fears, as well as other actions with similar effect";

*Criminal Code - refers not only to the victim who is a family member, but to any person, for the following offenses:* **Art. 206 – Threat** (1) The act of threatening a person for committing an offense or of a harmful act directed against him or of another person, if it is likely to cause him a state of fear, shall be punished by imprisonment from 3 months to one year, or with a fine, without the penalty imposed being able to exceed the sanction provided by law for the offense that formed the object of the threat. (2) The criminal action is initiated on the preliminary complaint of the injured person. **Art. 207 – Blackmail** (1) The compulsion of a person to give, to do, not to do or to suffer something, in order to unfairly acquire a non-patrimonial benefit, for himself or for another, is punished with imprisonment from one to 5 years. (2) With the same punishment, the threat is sanctioned with the release of a real or imaginary deed, compromising for the threatened person or for a family member thereof, for the purpose stipulated in par. (1). (3) If the facts provided in par. (1) and para. (2) were committed for the purpose of unfairly acquiring a patrimonial use, for themselves or for another, the punishment is imprisonment from 2 to 7 years. **Art. 208 – Harassment** (1) The act of the one who repeatedly pursues, without law or without a legitimate interest, a person or supervises his / her house, place of work or other places frequented by it, thus causing a state of fear, is punished with imprisonment from 3 to 6 months or with a fine.

(2) Making telephone calls or communications by means of distance transmission, which, by

frequency or content, causes a person a fear, is punished by imprisonment from one month to 3 months or by fine, if the deed does not constitute a more serious crime.

(3) The criminal action is initiated on the preliminary complaint of the injured person.

**Article 35 of the Convention - Physical violence - Law no. 217/2003** - Art. 4 lit. c) physical violence - bodily harm or health by striking, tearing, tugging, hair pulling, pricking, cutting, burning, strangling, biting, in any form and intensity, including masking as a result of accidents, by poisoning, intoxication, as well as other actions with similar effect, submission to exhausting physical efforts or to activities with high degree of risk to life or health and bodily integrity, other than those from the letter. e);

**Penal Code, Art. 199 - Domestic violence** (1) If the facts provided in art. 188 (murder), art. 189 (qualified murder) and art. 193 - 195 (Art. 193 - Hit or other violence, Art. 194 - Personal injury, Art. 195 - Deaths or injuries) are committed on a family member, the special maximum of the punishment provided by law is increased by one quarter.(2) In the case of the offenses provided in art. 193 (hit or other violence) and art. 196 (bodily injury) committed on a family member, the penal action can also be initiated ex officio. Reconciliation removes criminal liability.

**Art. 200 - The killing or injury of the new-born committed by the mother** (1) The killing of the new-born child immediately after birth, but not later than 24 hours, committed by the mother in a state of mental disorder is punishable by imprisonment from one to 5 years.(2) If the facts provided in art. 193 - 195 are committed on the new-born child immediately after birth, but not later than 24 hours, by the mother in a state of mental disorder, the special limits of the sentence are one month and 3 years respectively.

**Art. 197 - The bad treatments applied to the minor** -The serious endangerment, by measures or treatments of any kind, of the physical, intellectual or moral development of the minor, by the parents or by any person in whose care the minor is, is punished by imprisonment from 3 to 7 years and the prohibition of the exercise rights.

**Article 36 of the Convention: Sexual Violence -Law no. 217/2003**, Art. 4 lit. d): sexual violence - sexual aggression, imposing degrading acts, harassment, intimidation, manipulation, brutality in order to maintain forced sexual relations, conjugal rape;

**Penal Code: Art. 218 - Rape** (1) The sexual intercourse, the oral or anal sexual act with a person, committed by constraint, making it impossible to defend or express his will or taking advantage of this condition, is punished by imprisonment from 3 to 10 years and prohibition of the exercise of rights.(2) Any other acts of vaginal or anal penetration committed under the conditions of par. (1).are sanctioned with the same punishment.(3) The punishment is the imprisonment of 5 to 12 years and the prohibition of the exercise of rights when: a) the victim is in the care, protection, education, guard or treatment of the perpetrator's) the victim is a relative in a direct line, brother or sister; c) the victim is a minor; d) the deed was committed for the purpose of producing pornographic materials; e) the deed resulted in personal injury; f) the deed was committed by two or more persons together.(4) If the deed resulted in the death of the victim, the punishment is the imprisonment from 7 to 18 years and the prohibition of the exercise of certain rights. (5) The criminal action for the deed provided in par. (1) and para. (2) is set in motion at the prior complaint of the injured person. (6) Attempt to the offenses provided in par. (1) - (3) is punished.

**Art. 219 - Sexual assault** (1) The act of a sexual nature, other than those provided in art. 218, with a person, committed through coercion, making it impossible to defend or express his will or taking advantage of this condition, is punished by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.(2) The punishment is the imprisonment of 3 to 10 years and the prohibition of the exercise of some rights when: a) the victim is in the care, protection, education, guard or treatment of the perpetrator; b) the victim is a relative in a direct line, brother or sister; c) the victim is a minor; d) the deed was committed for the purpose of producing pornographic

materials; e) the deed resulted in personal injury; f) the deed was committed by two or more persons together. (3) If the deed has as result the death of the victim, the punishment is the imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights. (4) If the acts of sexual aggression were preceded or followed by sexual acts stipulated in art. 218 para. (1) and para. (2), the act constitutes rape. (5) The criminal action for the deed provided in par. (1) is set in motion at the prior complaint of the injured persons. (6) Attempt to the offenses provided in par. (1) and para. (2) shall be punished.

**Art. 220 - The sexual act with a minor** -(1) Sexual intercourse, oral or anal intercourse, as well as any other acts of vaginal or anal penetration committed with a minor between the ages of 13 and 15 years shall be punished by imprisonment from one to 5 years.(2) The act provided in par. (1), committed on a minor who has not attained the age of 13 years, is punished by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.(3) The act provided in par. (1), committed by a major with a minor between the ages of 15 and 18, is punished by imprisonment from 2 to 7 years and the prohibition of the exercise of rights if: a) the minor is a family member of the major; b) the minor is in the care, protection, education, guard or treatment of the perpetrator or he / she has abused his / her recognized position of trust or authority over the minor or the particularly vulnerable situation, due to a mental or physical disability or as a result of a situation of dependency; c) the act endangered the life of the minor; d) was committed for the purpose of producing pornographic materials.(4) The act provided in par. (1) and (2) shall be punished by imprisonment from 3 to 10 years and the prohibition of the exercise of rights, when: a) the minor is a family member; b) the minor is in the care, protection, education, guard or treatment of the offender or he has abused his recognized position of trust or authority over the minor;c) the act endangered the life of the minor; d) was committed for the purpose of producing pornographic materials. (5) The facts provided in par. (1) and para. (2) is not sanctioned if the age difference does not exceed 3 years. (6) Attempt to the offenses provided in par. (1) - (4) shall be punished.

**Art. 221 - Sexual corruption of minors** -(1) Committing an act of a sexual nature, other than the one provided in art. 220, against a minor who has not attained the age of 13 years, and the determination of the minor to endure or to perform such an act shall be punished by imprisonment from one to 5 years.(2) The punishment is the imprisonment from 2 to 7 years and the prohibition of the exercise of some rights, when: a) the minor is a direct relative, brother or sister; b) the minor is in the care, protection, education, guard or treatment of the perpetrator; c) the deed was committed for the purpose of producing pornographic materials; d) the act endangered the life of the minor.(3) The sexual act of any kind committed by a major in the presence of a minor who has not reached the age of 13 years shall be punished with imprisonment from 6 months to 2 years or with a fine.(4) The determination by a major of a minor who has not attained the age of 13 to assist in committing acts of exhibitionistic character or in performances or representations in which sexual acts of any kind are committed, as well as making available to them pornographic materials are punished with imprisonment from 3 months to one year or with a fine.(5) The deeds provided in par. (1) is not sanctioned if the age difference does not exceed 3 years.(6) Attempt to the offenses provided in par. (1) and (2) shall be punished.

**Art. 222 - Recruitment of minors for sexual purposes**-The deed of the senior person to propose to a minor who has not reached the age of 13 to meet, in order to commit an act provided for in art. 220 or art. 221, including when the proposal was made by means of distance transmission, shall be punished by imprisonment from one month to one year or by a fine.

**Explanations:** - the internal law incriminates acts of sexual violence, including rape, committed against current or former spouses or partners, without any aggravation or mitigation related to this relationship between the aggressor and the victim  
- all acts of vaginal, anal or oral penetration of another person's body with any body part or

object are incriminated as rape and punished with imprisonment from 3 to 10 years and prohibition on the exercise of certain rights. The punishment is more severe (5-12 years imprisonment) if: the victim is in the care, protection, education, guard or treatment of the perpetrator; the victim is a relative in the direct line, brother or sister; the victim is a minor.

- engaging in other non-consensual acts of a sexual nature with a person are criminalized as sexual assault and punished with imprisonment from 2 to 7 years and the prohibition of exercising certain rights; The punishment is more severe (3-10 years imprisonment) if: the victim is in the care, protection, education, guard or treatment of the perpetrator; the victim is a relative in the direct line, brother or sister; the victim is a minor;

- are incriminated the acts of penetration (sexual intercourse, oral or anal intercourse, as well as any other acts of vaginal or anal penetration) committed on minors between the ages of 13 and 15 years, even if they have expressed their consent, the punishment is bigger if the minor has not turned 13 (the crime of sexual intercourse with a minor - art. 220 Criminal Code). Among the aggravations of this crime are: the minor is a family member of the major; the minor is in the care, protection, education, guard or treatment of the perpetrator or he has abused his recognized position of trust or authority over the minor; the sexual act with a minor is also punished if the act was committed by a major with a minor between the ages of 15 and 18, and the minor is a family member of the major or the minor is in the care, protection, education, guarding or the offender's treatment or he abused of his or her recognized position of trust or authority over the minor or of the particularly vulnerable situation, as a result of a mental or physical disability or as a result of a situation of addiction;

- acts of a sexual nature without penetration committed on minors who did not reach the age of 13 are incriminated, even if they have expressed their consent (the crime of sexual corruption of minors - art. 221 Criminal Code). Among the aggravations of this crime are: the minor is a direct relative, brother or sister; the minor is in the care, protection, education, guard or treatment of the perpetrator;

**Article 37 of the Convention – forced marriage**, as defined in Article 37, is not incriminated in the national law

**Article 38 of the Convention - the genital mutilation of women**, as defined in Article 38, is not expressly incriminated, but the act can be sanctioned by means of hits and other violence, respectively bodily injury in the Criminal Code, and if the victim is a minor, by the crime of bad treatments applied to minors.

**Article 39 of the Convention - forced abortion and forced sterilization** is incriminated in the Criminal Code (art. 201 paragraph 2):

**Art. 201 - Interruption of the course of pregnancy** (1) Interruption of the course of the pregnancy in any of the following circumstances: a) outside the medical institutions or medical offices authorized for this purpose; b) by a person who does not have the quality of specialist obstetrician-gynecology doctor and the right of free medical practice in this specialty; c) if the pregnancy age has exceeded fourteen weeks, is punished by imprisonment from 6 months to 3 years or with a fine and the prohibition of the exercise of certain rights.(2) The interruption of the course of pregnancy, carried out under any conditions, without the consent of the pregnant woman, is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.(3) If by the facts provided in par. (1) and para. (2) the pregnant woman was injured in a bodily injury, the punishment is the imprisonment of 3 to 10 years and the prohibition of the exercise of rights, and if the deed resulted in the death of the pregnant woman, the punishment is the imprisonment from 6 to 12 years and the prohibition of exercising some rights. (4) When the facts have been committed by a doctor, in addition to the prison sentence, the prohibition of practicing the medical profession shall apply. (5) The attempt to the offenses mentioned in par. (1) and para. (2) shall be punished. (6) It is not a crime to interrupt the course of pregnancy for therapeutic purpose performed by a specialist obstetrician-gynecologist, until the age of twenty-four weeks of pregnancy, or the subsequent interruption of the course of pregnancy, for therapeutic purposes, in the interest of the mother or fetus. (7) The pregnant woman who interrupts the course of her pregnancy shall not be punished.

Although there is no express incrimination in the national law, regarding forced sterilization,

performing a surgery without the consent of the woman, which had the effect of ending her ability to reproduce naturally, is incriminated as bodily injury.

#### **G. SEXUAL HARASSMENT**

##### **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

#### **H. AIDING OR ABETTING**

##### **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

#### **I. ATTEMPTS**

##### **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

#### **J. UNACCEPTABLE JUSTIFICATION OF CRIMINAL ACTS**

Law 174/2018 for amending and completing the law 217/2003 on preventing and combating domestic violence regulates the fact that in any way and under any circumstances, custom, culture, religion, tradition or so-called "honor" cannot be considered as justification for any acts of violence against women and men according to Art. 42 and Art. 12 par. (5) of the Convention.

#### **K. THE NATURE OF THE RELATIONSHIP OF THE PERPETRATOR TO THE VICTIM**

The incriminations in the Criminal Code are applicable regardless of the nature of the relations between the aggressor and the victim.

Moreover, for some of the offenses provided for in the Criminal Code, the punishment is higher if they were committed against a family member or taking advantage of the nature of the relationship between the perpetrator and the victim (for example rape, sexual act with a child, physical injuries etc.)

#### **L. SANCTIONS AND OTHER MEASURES**

##### **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

According to the law no.217/2003, Art. 31 6) In exercising the duties of supervising the observance of the protection orders, the police bodies put in place measures to prevent a decision of non-observance, that may consist in: the activity of surveillance the home of the injured person, the telephone call to control the victim / aggressor, requesting information from neighbors, colleagues from the victim/perpetrator's workplace, from the victim/perpetrator's frequent learning unit, or from the other persons that could provide relevant information, as well as any other means specific police activities. 7) In conditions when it is found that the execution of the protection order has been violated, a criminal investigation will be started. Art. 40<sup>1</sup> - the supervising of the observance on the protection orders and provisional protection orders can be realized with an electronic surveillance system, in specific condition regulated by the law.

#### **M. AGGRAVATING CIRCUMSTANCES**

##### **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

For the circumstance provided by the Convention, in which "the offense was committed against a former or current spouse or partner, as the internal law recognizes, by a member family, a person living with the victim or a person who has abused his power "there are

aggravated forms of offenses against the life and bodily integrity or health of the person, which correspond, in part, to the text of the Convention.

As regards physical violence, art. 199 The Criminal Code provides for aggravation of liability if the crimes are committed against a family member. The notion of family member provided by art. 177 Criminal code does not include all categories of persons provided by art. 5 of Law no. 217/2003. **Art. 177 Penal code:** (1) Family member means: a) the ascendants and descendants, the brothers and sisters, their children, as well as the persons made by adoption, according to the law, such relatives; b) the husband; c) persons who have established relationships similar to those between spouses or between parents and children, if they live together. (2) The provisions of the criminal law regarding family member, within the limits provided in par. (1) lit. a), in the case of adoption, is applied to the adopted person or to his descendants in relation to the natural relatives.

Art. 199 - Domestic violence - (1) If the facts provided in art. 188 (murder), art. 189 (qualified murder) and art. 193 - 195 (hits and other violence / bodily injury / bodily injury or death / bodily injury) are committed on a family member, the special maximum of the punishment provided by law is increased by one fourth.

- **In the case of sexual offenses**, there are also aggravations for the situations in which the aggression was committed against certain categories of victims among those that can be included in the family sphere. Rape (art. 218 para. 3 Criminal Code) is more serious if: a) the victim is in the care, protection, education, guard or treatment of the perpetrator; b) the victim is a relative in a direct line, brother or sister; c) the victim is a minor.

The same aggravations are also found in the case of the crime of sexual assault (art. 219 para. 2 Criminal Code). The relevant aggravations in the case of the offense of sexual act with a minor (art. 220 paragraph 4 Criminal Code) are: a) the minor is a family member of the major; b) the minor is in the care, protection, education, guard or treatment of the perpetrator or he has abused his recognized position of trust or authority over the minor. Acts of a sexual nature without penetration committed on minors who did not reach the age of 13, even though they expressed their agreement (the crime of sexual corruption of minors - art. 221, paragraph 2 Criminal Code) have as aggravating: a) the minor is a direct relative, brother or sister; b) the minor is in the care, protection, education, guard or treatment of the perpetrator.

- **In the case of the crime of child pornography**, are aggravated the situations in which the deed is committed by a family member or by a person in whose care, education, guard or treatment the minor is or by a person who has abused of its recognized position of trust or authority over the minor - art. 374 para. 3/1 lit. a) and b) Criminal code;

For the circumstance provided by the Convention, stating that "the offense or offenses associated (s) has been repeatedly committed", are applicable the general provisions regarding the continued offense (art. 36 Criminal Code), the contest of offenses (art. 39 Criminal code), recidivism and intermediate plurality (art. 43-44 Criminal code).

The crime of qualified murder (art. 189 Criminal Code) contains two aggravating hypotheses, from the analyzed perspective, for the deed committed: e) by a person who has previously committed a crime of murder or an attempt at the crime of murder; f) on two or more persons.

**Art. 189 - Qualified homicide:**(1) The crime committed in any of the following circumstances: a) with premeditation; b) from material interest; c) to evade or to evict another from the criminal charge or from the execution of a punishment; d) to facilitate or conceal the commission of another crime ;e) by a person who has previously committed a crime of murder or an attempt at the crime of murder; f) on two or more persons; g) on a pregnant woman ;h) through cruelty.

For the circumstance provided by the Convention consisting in the fact that "the crime was committed against a person who has become vulnerable by the particular circumstances", there is the aggravating legal circumstance applicable for any offense, provided by the final thesis of art. 77 lit. h) Criminal code: "The following circumstances are aggravating circumstances: h) the offense for reasons related to race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion or political affiliation, wealth, social origin, age, disability, illness chronic non-contagious or HIV / AIDS infection or *for other circumstances of*

*the same kind, considered by the perpetrator to be causes of one person's inferiority in relation to the others”.*

For the circumstance provided by the Convention, in which "the offense was committed against or in the presence of a child":

- there are special aggravations: the commission of the act against a minor in the case of offenses against sexual freedom and integrity: Rape (art. 218 para. 3 letter c) Criminal code), Sexual assault (art. 219 par. 2 letter c) Criminal code)
- regarding the acts committed in the presence of a minor, there is a type of the crime of sexual corruption of minors (art. 221 paragraph 4 letter c) Criminal Code) with the following content: "Determination by a major of a minor who has not fulfilled the age of 13 to attend the commission of acts of an exhibitionist nature or of performances or representations in which sexual acts of any kind are committed, as well as the availability of pornographic material ..."
- the act of the major, committed on a minor under the age of 13, is incriminated, in the form of making proposals to the child to meet in order to commit consented sexual acts: Art. 222 Penal code - Recruitment of minors for sexual purposes - The act of the person major to propose to a minor who has not reached the age of 13 to meet, in order to commit an act provided for in art. 220 or art. 221, including when the proposal was made by means of distance transmission. "
- the act committed on a minor for his or her recruitment for the purpose of participating in a pornographic show, obtaining benefits from such a show in which minors participate, or exploiting a minor in any other way, is incriminated, being aggravating the situations in which the deed is committed by a family member or by a person whose care, protection, education, guard or treatment was the minor or a person who abused his / her recognized position trust or authority over the minor;

#### **Art. 374 Criminal Code - Child pornography**

(1) The production, possession, procurement, storage, exposure, promotion, distribution, as well as the provision, in any way, of pornographic materials with minors shall be punished by imprisonment from one year to 5 years.

(1/1) With the punishment provided in par. (1) it is punishable also the exhortation or recruitment of a minor for the purpose of participating in a pornographic show, obtaining benefits from such a show in which minors participate or exploiting a minor in any other way for performing pornographic performances.

(1/2) Watching pornographic shows involving minors is punished by imprisonment from 3 months to 3 years or with a fine.

(2) If the facts provided in par. (1) were committed through a computer system or other means of storing computer data, the punishment is imprisonment from 2 to 7 years.

(3) The access, without right, of pornographic materials with minors, through computer systems or other means of electronic communications, is punishable by imprisonment from 3 months to 3 years or with a fine.

(3/1) If the deeds mentioned in par. (1), (1/1), (1/2) and (2) were committed in the following circumstances:

- a) by a family member;
- b) by a person in whose care, education, guard or treatment the minor was or by a person who abused his or her recognized position of trust or authority over the minor;
- c) the act endangered the life of the minor; the special limits of the penalties are increased by one third.

(4) By pornographic material with minors is meant any material that presents a minor or a *major person as a minor*, having explicit sexual behavior or who, although not presenting a real person, credibly simulates a minor having such behaviour, as well as any representation of the genital organs of a child for sexual purposes.

(4/1) By pornographic spectacle is meant the direct exposure to a public, including information and communications technology, of a child involved in explicit sexual behaviour or of the genital organs of a child, for sexual purposes.

*(5) The attempt is punished.*

- the deed is committed in the presence of a minor and in the hypothesis in which he / she contributes to the commission, it is a situation concerned by the aggravating legal circumstance, applicable for any crime, provided by art. 77 lit. d) Criminal Code: "the commission of the crime by a major offender, if it was committed together with a minor";
- the offense of bad treatments applied to the minor (art. 197 Criminal Code) is a special case of sanction, more severe, of any measures or treatments of any kind taken against a minor, by the parents or by any person in whose care the minor is, if they endanger the physical, intellectual or moral development of the minor;
- physical or sexual violence perpetrated on another person, but in the presence of a child is a form of psychological violence and criminal liability can be attracted, the liability for the offense of bad treatments applied to the minor (affects the intellectual and moral development of the minor, and article 5 paragraph 2 of Law no. 217/2003 explicitly provides that there are also victims and "the witnesses children to these forms of violence").

**ART. 197 - The bad treatments applied to the minor**

The serious endangerment, by measures or treatments of any kind, of the physical, intellectual or moral development of the minor, by the parents or by any person in whose care the minor is, is punished by imprisonment from 3 to 7 years and the prohibition of the exercise rights.

e) For the circumstance provided by the Convention, in which "the offense was committed by two or more persons acting together":

- There is, in part, an aggravating legal circumstance, applicable for any crime, provided by art. 77 lit. a) Criminal code: a) the act of three or more persons together.
- It constitutes a special aggravation of committing the act by two or more persons together in the case of rape offenses (art. 218 para. 3 letter f) Criminal code) and sexual assault (art. 219 para. 2 letter f) Criminal code).

f) For the circumstance stipulated by the Convention, consisting of the fact that "the crime was preceded or accompanied by extreme levels of violence" there are general aggravating legal circumstances: Art. 77 Criminal Code, lit. b) committing the crime through cruelty or subjecting the victim to degrading treatment; c) the commission of the crime by methods or means that could endanger other persons or goods;

**This fact is especially aggravating for certain offenses:**

- in the case of qualified murder - art. 189 paragraph 1 letter h) Criminal code - expressly provides the situation in which it is committed h) through cruelty;
- in the case of offenses against sexual freedom and integrity, the act is punished more severely if: it resulted in personal injury: Rape (art. 218 para. 3 letter e) Criminal code), sexual assault (art. 219 par. 2 lit. e) Criminal code), respectively the death of the victim: Rape (art. 218 paragraph 4 Criminal code), Sexual assault (art. 219 paragraph 3 Criminal code). The offense of sexual act with a minor has aggravated incrimination in the situation in which the act endangered the life of the minor (art. 220 para. 3 letter c) Criminal code and par. 4 lit. c) Criminal code). Also, the crime of sexual corruption of minors has aggravated criminality in the situation in which the act endangered the life of the minor (art. 221 para. 2 letter d) Criminal code), as well as the crime of child pornography (art. 374 par. 3/1 letter c) Criminal code).

g) For the circumstance provided by the Convention, in which "the crime was committed with the use or threat of a weapon", there is no general legal aggravating circumstance, but the punishment can be increased by applying the criminal offense with the separately incriminated facts that violate the weapons regime and ammunition.

h) For the circumstance provided by the Convention, in which "the offense had as a result the physical or psychological injury of the victim", there is no general aggravating legal circumstance.

In the case of certain crimes, it constitutes a special aggravation, the act being punished more severely if: it resulted in personal injury: Rape (art. 218 para. 3 letter e) Criminal code), Sexual assault (art. 219 par. 2 lit. e) Criminal Code). The offense of sexual act with a minor has aggravated incrimination in the situation in which the act endangered the life of the minor (art.

220 para. 3 letter c) Criminal code and par. 4 lit. c) Criminal code). Also, the crime of sexual corruption of minors has aggravated criminality in the situation in which the act endangered the life of the minor (art. 221 paragraph 2 letter d) Criminal code). And for child pornography, an aggravation consists in endangering the life of the minor (art. 374 paragraph 3/1 letter c) Criminal code).

h) For the circumstance provided by the Convention, in which "the aggressor was previously convicted of crimes of a similar nature" there is no general legal aggravation or special recidivism regulated. The general provisions regarding recidivism and intermediate plurality (art. 43-44 Criminal Code) are applicable.

#### **N. PROHIBITION OF MANDATORY ALTERNATIVE DISPUTE RESOLUTION PROCESSES**

The law expressly provides that mediation is an optional procedure in all types of cases.

Moreover, in criminal matters mediation is only allowed in special cases, expressly provided by law. When permitted by law, it is an optional procedure.

Law No. 192/2006 of May 16, 2006 regarding the mediation and organization of the profession of mediator

ART. 67 -(1) The provisions of this law also apply in criminal cases, both on the criminal side and on the civil side, according to the distinctions shown in this section.(2) In the criminal side of the trial, the provisions on mediation apply only in cases concerning offenses for which, according to the law, the withdrawal of the previous complaint or the reconciliation of the parties removes the criminal liability, if the author has acknowledged the deed before the judicial bodies or, in the case provided for in art. 69, in front of the mediator. (2 ^ 1) In criminal cases where mediation is possible under the conditions provided in par. (1) and (2), it must be carried out in such a way that the victim does not come into contact with the perpetrator, unless the parties express their agreement at the conclusion of the mediation contract. (3) The parties and the procedural subjects cannot be forced to accept the mediation procedure.

#### **O. Administrative and judicial data:**

The statistical data that are available in the databases managed by the MoJ (Office for Judicial Statistics) cannot be disaggregated according to criteria that refer to the characteristics of the victims, as previously mentioned. The data requested on the basis of these criteria are not available and, by extrapolation, neither the data regarding the persons against whom there is a final decision ordered by the court for these cases that are filtered by the specific criteria mentioned.

***Within the annex 1 and 2- Public Ministry***, there are two tables containing the statistical data collected at the level of the Prosecutor's Office attached to the High Court of Cassation and Justice, regarding the domestic violence for the period 2017-2018.

We note that these data can be found within the annual activity reports of the Public Ministry, which can be accessed on the institution's website - [www.mpublic.ro](http://www.mpublic.ro) – "Activity reports" heading.

III. Among other measures that are relevant from the evaluation perspective of evaluation, we mention:

1. The implementation of the project entitled "Institutional development and vocational training for magistrates in the field of domestic violence case management", whose activities took place between July 27, 2016 - May 30, 2017 and included:

- Activity 1: The drafting of an action guide for the management of domestic violence cases for the use of judges and prosecutors, who operates in the courts and tribunals, respectively in the prosecutor's offices attached to the courts and tribunals. Activity calendar: September 5, 2016 - January 31, 2017.

- Activity 2: The conducting of three training sessions for trainers, with the aim of establishing a body of specialized trainers in the field of domestic violence. Activity calendar: September 5 - November 30, 2016. (ToT1: 03-05.10.2016, ToT2: 26-28.10.2016, ToT3: 16-18.11.2016).

- Activity 3: Eight training sessions for prosecutors and judges involved in investigating the domestic violence cases. Activity calendar: January 5, 2017 – April 30, 2017 (S1: 01-03.02.2017, S2: 15-17.02.2017, S3: 22-24.02.2017, S4: 08-10.03.2017, S5: 15-17.03.2017, S6: 22-24.03.2017, S7: 05-07.04.2017, S8: 19-21.04.2017).

The direct achieved results and the deliverables obtained as a result of the project are:

- The action guide for the management of domestic violence cases in progress before the prosecutors and courts was developed by a team consisted of three experts (2 Romanian magistrates and a consultant of the Council of Europe), printed in 500 copies and distributed to the courts and tribunals, as well as to the prosecutor's offices attached to first instance courts and tribunals;

- A body of 16 magistrates (10 judges and 6 prosecutors), specialized in the field of domestic violence by completing an intensive training program for trainers including 3 course sessions;

- A total of 158 magistrates (74 judges and 84 prosecutors) who were trained in the field of domestic violence case management.

2. The project entitled "Protection of human rights and fundamental freedoms in the criminal prosecution phase", initiated by the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, that took place between November 15, 2017 - May 22, 2018 and consisted in organizing a launch conference and six regional internships (Bucharest, Iași, Alba Iulia, Cluj-Napoca, Timișoara and Constanța). Special presentations regarding the case Bălșan against Romania there were made within the project, focusing on discussing the vulnerabilities identified by the decision of the European Court of Human Rights.

3. Informing the victims of domestic violence about the rights during the judicial proceedings was achieved by creating the dedicated sections on the web pages of the prosecutor's offices, including the one of the Prosecutor's Office attached to the High Court of Cassation and Justice. In this regard, we exemplify as follows: [www.mpublic.ro](http://www.mpublic.ro) - the section "Rights of victims of crimes" (domestic law, international law, and statistical data), <http://pcabucuresti.mpublic.ro>.

4. As a result of the modification of the Law no.217/2003 by the Law no.174/2018, measures were taken in order to apply the provisions regarding the provisional protection order, so that guidelines and recommendations were sent to the prosecutor's offices (regarding the following aspects: the competent prosecutor to confirm the provisional protection order; the legal nature and the concrete content of the control carried out by the prosecutor as regards the provisional protection order; the coexistence of the provisional protection measures with the possible preventive measures that can be ordered in the criminal case, when the domestic violence is notified, constitutes one of the offenses provided by Article 199 of the Criminal Code; the matter regarding the victim's presence before the prosecutor, in order to complete the request for issuing the protection order).

On the same occasion, observations were sent to the Ministry of Internal Affairs regarding the draft order on the handling manner by the police, of the cases of domestic violence, an administrative document with a normative character to be issued by the Ministry of Internal Affairs and the Ministry of Labor and Social Justice, pursuant to Art. 2210 of the Law no. 217/2003 for the prevention and combating of domestic violence.

Furthermore, a proposal for amending the Law no. 217/2003 was sent to the Ministry of Justice, regarding two aspects: the presence of the victim of the domestic violence act(s) before the prosecutor, when he completes the request for issuing the protection order and respectively, the legal remedy which can be exercised against the decision by which the request for issuing the protection order was rejected by the court.

## **P. OTHER MEASURES**

### **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

Also between the National Institute for Statistic and NAEO was concluded a collaboration Protocol having regard the creation of a Working Group in order to implement the provisions of the art. 11 from the Convention on two main components: 1.the implementation of an

information system on domestic violence and designing and conducting of the survey on domestic violence based on gender criteria (2022-2023).

2. Interinstitutional cooperation on the provision of statistical data needed to carry out national monitoring and reporting procedures in accordance with international commitments, namely: Istanbul Convention and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

**Investigation, prosecution, procedural law and protective measures** (*Chapter VI of the Convention, Articles 49 to 58*)

## **COORDINATED RESPONSE AND ASSESMENT**

The form for evaluating risk in cases of domestic violence, as mentioned in Annex 1 of the Order of the Minister of Internal Affairs no. 146/2018 is one of the measures that ensures an immediate response to domestic violence cases, which can generate the issuance of a provisional protection order on the spot by the police officer.

The National Agency against Trafficking in Persons, the General Inspectorate of the Romanian Police, the General Inspectorate of the Romanian Border Police, the General Inspectorate of the Romanian Gendarmerie, the General Inspectorate for Immigration and the Directorate for Investigating the Organized Crime and Terrorism signed a collaboration protocol in 2008, in order to facilitate the participation of victims of trafficking in human beings in the criminal trial.

The program is targeting all victims of trafficking in persons, regardless of their nationality, who wish to cooperate with the criminal investigation bodies in investigating the crime of trafficking in persons.

Participation in the program is voluntary.

As for the victims under 18, Risk evaluation is part of the detailed evaluation performed by multidisciplinary team. Annex 1 (GD no. 49/2011) details the procedures for the risk evaluation in situations of violence against children, in the family and outside of it (section 24 lit. E chapter IV on case management).

” Risk evaluation begins from the first contact with the violence situation and continues throughout the intervention. Tools for risk evaluation are recommended to be used in order to prevent new forms of abuse and repeated acts, as well for the adjustment of intervention.”

There are two types of risks:

- a) Risk of occurring a new form of violence – often after revealing the violence situation, the emotional abuse is amplified throughout the intervention, due to parents, professionals, court’s procedures
- b) Risk of repeating the abuse/ violence (relapse)

Risk evaluation is part of monitoring and periodically evaluation phase as well (section 5 chapter IV) and contributes to the adjustment of the plan for rehabilitation and social reintegration.

Nevertheless, the working principle for the professionals involved in solving the case, who must prevent revictimization through repeated interviews/ hearings and who must be trained on interviewing/ hearing children victims of violence.

## **PROVISIONAL PROTECTION ORDER AND PROTECTION ORDER**

Criminal complaints– 2017: 36.245, 2018: 38.445, 2019(11 months): 35.623

Provisional Protection Order (PPO) issued: 2019: 7.986

Breaches of PO: 2017: 1.011; 2018: 1.424; 2019(months): 766

Breaches of PPO - 2019(5 months): 236

Protection Order (PO) issued– 2017: 2.894, 2018: 3.775, 2019: 7.899

The civil protection measure of the provisional protection order regulated by the Law no.174/2018 was put in place at the end of the 2019. Thus, were issued 7.986 orders (5 days validity), out of which 2.958 were transformed in protection orders (6 month validity), without any supplementary diligences from the victims.<sup>1</sup> Police officers, according to the provisions of the Minister of Internal Affairs Order no.146/2018.

2 a. According to the provisions of the Order of the Minister of Internal Affairs no.146/2018. (There is not mentioned a minimum or maximum interval).

B. 5 days, 120 hours from the moment it was issued.

c. According to art.22, point 7, in case of issuing a temporary protection order according to the provisions of the 6th point, the initial duration will be prolonged as long as it is necessary for the protection order to be issued, with informing the author about this situation.

d. It applies to all victims that are family members, according to the provisions of art.5 from Law 217/2003 regarding preventing and combating domestic violence.

e. specific police measures.

We consider important regarding the authorities that issue the order the time provided for issuing the order, the maximum length of the emergency order, the possibility to extend the it's duration, the measures used for applying the order, namely the support and the advice available for women that request protection. Also, the provisions of Chapter 3 of Law no.217/2003 for preventing and combating domestic violence, republished, with subsequent amendments, include:

Section 1 – Authority and terms for issuing

Art. 22

(1) The temporary protection order is issued by police officers in exercising their authority, when they notice that there is an imminent risk for someone's life, physical activity or freedom, and that those values are in danger because of an act of domestic violence, for diminishing the risk.

(2) Police officers note the existence of the risk by evaluating the factual situation resulting from:

a) the evidence obtained as a result of the verification of the domestic violence complaint, when the domestic violence acts are not investigated for committing a crime.

b) the evidence collected according to the provisions of Law no.135/2010 regarding the Criminal Procedure Code, with subsequent amendments, when the acts of domestic violence are investigated as crimes according to the provisions of art.199 of Law no.286/2019 regarding the Criminal Code, with subsequent amendments.

(3) Police officers evaluate the factual situation based on the risk evaluation form and it's using methodology, established by the provisions of art.22.

(4) In case that, after the evaluation of the factual situation it is decided that the conditions for issuing the temporary protection order are met, police officers issue the temporary protection order, according to the provisions of art.22.

(5) In case that, as a result of the evaluation of the factual situation, it is established that the conditions for issuing the temporary restriction order are not met, police officers have the obligation to inform the persons that claim to be victims of domestic violence about the possibility to request a protection order according to art.23, and to give them the form according to art.26.

(6) The issuing of the temporary protection order does not stop the possibility to impose protective measures, according to the provisions of Law 135/2010, with subsequent amendments.

Section 2 – Checking the complaint for domestic violence -Art 22(1) For verifying complains for domestic violence, in order to discover the truth and solve the case in a fair manner, police officers have the right to obtain evidence through the following meanings:

- a) to establish by themselves and to write down the situation noticed or to record what was noticed through technical means.
- b) to consult data bases according to their competencies and to write down what was established.
- c) the personal statements of all the persons involved in the domestic violence act, of the persons that witnessed the domestic violence act and of other persons that can give information regarding the persons involved in acts of domestic violence.
- d) audio or video recordings, photos, regardless their origin.
- e) documents, including messages and online posts and/or mobile phones ones.

(2) For verifying complaints for domestic violence acts and for obtaining evidence, police officers have the right to enter in any home or residence, without prior approval from a natural person and in any office of a legal person without prior approval, if there is information that the domestic violence act happened there.

(3) Police officers can use force or their equipment, in an adequate and proportional manner, to enter the spaces aforementioned.

(4) Police officers' actions in the spaces aforementioned can be registered with audio video or photo tools, without prior consent, the recordings and photographs representing evidence following the evidence regime mentioned in Law no.134/2010 regarding the Civil Procedure Code, republished, with subsequent amendments or Law no. 135/2010 with subsequent amendments.

(5) Police officers gather evidence according to the provisions of Law no. 135/2010, with subsequent amendments, when, during the acts for verifying the complaint for domestic violence, they notice that the conditions established by law are met in order to investigate the acts of domestic violence as crimes.

Section 3 – Formal requirements for issuing temporary protection order Art 22. (1) The temporary protection order contains compulsory mentions regarding:

- a) The date, hour and place where it is issued;
  - b) First name, last name, quality and police unit where the police officer is working;
  - c) Data that can help identify the author against whom obligations and interdictions are issued;
  - d) Data that assure identifying the victims or other persons when the provisions of the order favor them;
  - e) Describing factual reasons that determined the issue of the order and indicating the evidence that helped evaluate the situation;
  - f) The legal base for issuing the order;
  - g) The date and time when the provisions of the order are applicable and the date and time when they stop;
  - h) The right to appeal the temporary protection order, the term for exercising this right and the court where the appeal can be made;
- (2) The protection order is mandatory signed by the police officer that issues it.

Section 4 – Protection measures that can be issued through the temporary protection order, for decreasing the risk discovered Art 22(1) Through the temporary protection order are issued for 5 days, one or more protection measures, that can help decreasing the risk discovered, from the following obligations or interdictions:

- a) temporary evacuation of the aggressor from the shared home, regardless if the aggressor is the owner;
- b) victim's reintegration and, if necessary, children reintegration in the shared home;
- c) forcing the aggressor to keep a certain minimum distance towards the victims and its family members, or from the residence, work place or educational institution of the protected person;

- d) forcing the aggressor to wear all the time an electronic surveillance system;
- e) forcing the aggressor to surrender all the weapons he possesses.

(2) The protection measures aforementioned; letter **a and b** are issued together.

(3) The protection measure stated at letter d is issued if the following conditions are fulfilled:

a) the measure at letter c was issued;

b) when the aggressor was forced to keep a minimum distance from the victim and the victims' family members and the protected persons express their approval to wear an electronic surveillance system that can help verify if the aggressor complies its obligation.

(4) The temporary restriction order contains the mention that the violation of any of its measures showed in the first paragraph represents a crime according to the provisions of art.32 paragraph 2.

(5) If through the temporary protection order the measure of temporary evacuating the aggressor was issued and the aggressor does not have another place to stay, the authorities will inform and guide the author towards residential centers that offer accommodation or night shelters under the public administration, or any other adequate place. In case that the author requires to be accommodated in one of the aforementioned centers, he will be guided there by the responsible authorities.

(6) In case that the aggressor does not want to be accommodated in any of the aforementioned centers, and decides to stay at a relative or at any other persons place, he has to give a statement where he will mention the address where he will live and the owner of the house. In case that the aggressor refuses to give the statement, it will be mentioned into a form according to the provisions of art.22 paragraph 4.

(7) The competent authorities and public institutions have to, ex officio or at the request of the police unit or any person interested, apply urgent specific protection measures regarding minors, persons with disabilities or special needs, that the temporary protection order apply to.

#### Section 5 – Applying the temporary protection order

Art 22 paragraph 5 (1) The obligations and interdictions against the authors imposed through the temporary protection order became mandatory immediately after the issuing of the order, without any subpoena.

(2) The 5 days timeframe mentioned in art.22 paragraph 1 is calculated on hours, which means that it lasts for 120 hours, beginning from the moment the temporary protection order was issued.

(3) Police officers can use force and their equipment, adequately and proportionally, in order to impose the measures stated through the temporary protection orders.

(4) Protection measures issued according to the provisions of art.22 paragraph 1 letter e, will be implemented on the spot by the police officers that issue the temporary protection order, if there are weapons in the places that have been checked according to the provisions of art 22 paragraph 2, or near them.

(5) In case that the temporary measures cannot be applied, police officers that issue the temporary protection order take the necessary measures for applying them as soon as possible.

Art 22 paragraph 6-(1) The temporary protection order is communicated to the aggressor and the victim.

(2) The communication is represented by handing them a copy or a duplicate of the temporary protection order, on the spot, right after it was issued.

(3) The temporary protection order is considered to be communicated in the following situations:

a) the aggressor refuses to receive a copy or refuses to sign for that copy

b) the aggressor leaves the place where the protection order was issued, after he was informed that it was necessary to wait for the results for the enquiry regarding the complaint for domestic violence

(4) Police officers that issue the temporary protection order prepares a form in which they state the situations mentioned in paragraph 3.

(5) The temporary protection order is considered to be communicated to the aggressor if he was not present to the investigations made to verify the complaint for domestic violence or when the order was issued, but, can't be proved through witness statements, audio and video recordings, including texts or posts online or through mobile phones, that the aggressor was informed that the temporary protection order was issued as well as the measures stated.

(6) In cases mentioned at paragraph 3 and 5 the aggressor has the right, anytime the restriction order is valid, to request and to obtain, from the police unit where the police officer that issued the order works, a copy of the order.

## Section 6 – Confirming and challenging the temporary protection order

Art 22 paragraph 7-(1) The temporary protection order is forwarded for confirmation by the police unit where the police officer that issued the order works to the prosecutor's office in maximum 24 hours from the moment it was issued.

(2) The temporary protection order is forwarded to the prosecutor's office according to the provisions of paragraph 1, with the risk evaluation form and the evidence obtained according to the provisions of paragraph 22 or gathered according to the provisions of Law no.135/2010, with subsequent amendments. The evidence gathered according to the provisions of Law no.135/2010 with subsequent amendments, can be forwarded in certified copy by the criminal investigation body.

(3) The prosecutor from the prosecutor's office with competencies according to the provisions of paragraph 1 decides regarding the necessity to maintain the measures imposed through the protection order in 48 hours from the moment the order was issued.

(4) The prosecutor confirms the need to maintain the protection measures imposed by the police officer through the temporary protection order by applying an administrative resolution on the original.

(5) In case that it is established that the protection measures issued are no longer required, the prosecutor can decide to stop the protection measures, mentioning the exact time from when the measures stop. The prosecutor informs the police unit about the decision, the latter taking the necessary measures to inform the persons involved.

(6) Immediately after the confirmation mentioned at paragraph 4, the prosecutor forwards the temporary protection order, with the documents that represent the base on which the order was issued and the confirmation to the competent court, also with a request for issuing the protection order, according to the provisions of art.25 paragraph 3 letter a and art 26.

(7) In the case of forwarding the temporary protection order according to the provisions of paragraph 6, the initial duration of the order is prolonged with the duration necessary for the procedure for issuing the protection order, and informing the author about this situation.

Art 22 paragraph 8 (1) The temporary protection order can be appealed in court according to the provisions of art. 22 paragraph 1, within 48 hours from the time it was communicated.

(2) The appeal is solved with both of the parties summoned. If the parties are not present, this does not mean that the proceedings cannot take place.

(3) The appeal is solved as soon as possible, but not later than the date when the temporary protection order expires.

(4) The prosecutor's presence is mandatory.

(5) The decision that solves the appeal is definitive.

Art 22 paragraph 9 The provisions of the current chapter complement accordingly with the one's regarding the protection order. Section 7 - Subsequent acts Art 22 paragraph 10 (1) The manner in which police officers handle cases of domestic violence is established through a common order from the minister of internal affairs and the minister of labor.

(2) The order mentioned at paragraph 1 contains:

a) Intervention procedure by police officers regarding cases of domestic violence and cooperation with other institutions with attributions in preventing and combating domestic violence;

b) the model for the risk evaluation form and its using methodology;

c) the procedure for issuing the temporary protection order and its model;

d) the procedure for applying the temporary protection order.

(3) In establishing, according to paragraph 1, of the risk evaluation form and its using methodology, the following are taken in consideration:

a) establishing the risk evaluation criteria that can be relevant for domestic violence, the following criteria are mandatory: the type of domestic violence, the person's vulnerability, the context in which the domestic violence acts happen and the conduct of the aggressor;

b) Presenting the way to use the risk evaluation criteria and to interpret the results obtained.

#### **AVAILABILITY RESTRAINING OR PROTECTION ORDERS**

According to the provisions of Law no.217/2003 regarding preventing and combating domestic violence, art.22.(5) In case that, following an assessment of the factual situation, it is decided that there are no conditions for issuing the temporary restriction order, the police personnel has the obligation to inform the persons that claim to be victims of domestic violence about the possibility to formulate a request for issuing a protection order according to the provisions of art.23 and to give them the form mentioned at art.26.

1. Formulating a request toward the court, according to the provisions of art.23, Law no, 217/2003.

2. It is applicable to all victims that are family members, according to the provisions of art.5 of Law 217/2003 for preventing and combating violence.

3. According to the provisions of Law no.217/2003, art.26:

a. The request regarding the issuing of the protection order is made according to the form referred to in the annex of Law no. 217/2003.

b. The request is accepted of any judicial fees.

4. According to Law no 217/2003 art.29

1) The protection order is executory.

2) Enforcement of the decision is made without a subpoena and without the passing of any time lapse.

5. According to the provisions of Law no.217/2003 art.24

1) The duration of the measures ordered through the protection order is established by the judge, and it cannot be longer than 6 months from the moment the order was issued.

2) If the decision does not contain any referral to the duration, it will be applicable for 6 months, from the moment it was issued.

8. According to Law no.217/2007 art. 32,

1) The violation by the person against whom the protection order was issued or any other measure mentioned in art. 23 (1) and (4) letter a) and b) that was issued through the protection order represents a crime and is punished with prison between one month and a year.

We mention that restriction orders are issued by court according to the provisions of Law no. 217/2003 for preventing and combating domestic violence, with subsequent amendments, the police having the obligation to enforce this measure and oversee its enforcement.

#### **Administrative and judicial data (see section I. Introduction) on:**

**1. the number of restraining or protection orders issued by the competent authorities;**

**2. the number of breaches of such orders; and**

**3. the number of sanctions imposed as a result of these breaches.**

Breaches of PO: 2017: 1.011; 2018: 1.424; 2019(5 months): 766

Protection Order (PO) issued– 2017: 2.894, 2018: 3.775, 2019: 7.899

### **Legal proceedings *ex officio* - (Article 55, paragraph 1)**

Art. 199 Penal Code - Domestic violence - (2) In the case of the offenses provided under the art. 193 (Hit or other violence) and art. 196 (Personal injury from guilt).

Committed on a family member, the criminal action can be initiated also *ex officio*.

Legal provisions related to the other forms of violence covered by the Convention are mentioned within **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION.**

### **Legal proceedings *ex parte* - Article 55, paragraph 1**

Law 286/2009 regarding the Criminal code

ART. 158 -Withdrawal of a prior complaint

(1) Withdrawal of a prior complaint is possible before a final decision is returned, in case of offenses for which initiation of criminal action is conditioned on filing a prior complaint, ruled.

(2) Withdrawal of a prior complaint removes criminal liability from the person with respect to the person of the withdrawn complaint.

(3) In case of persons with no mental competence, the prior complaint may be withdrawn only by the legal representatives of the same. In case of persons with limited mental competence, the withdrawal shall be authorized by the persons provided by law.

(4) In case of offenses for which the criminal liability is conditioned on filing a prior complaint and the criminal action was initiated *ex officio*, according to law withdrawal of the complaint causes effects only if acknowledged by the prosecuting attorney.

ART. 159 Reconciliation (1) Reconciliation may occur if the criminal action is initiated *ex officio*, if expressly provided by law.

(2) Reconciliation removes criminal liability and cancels the civil action.

(3) Reconciliation is effective only with respect to the persons who agree to such reconciliation and if it takes place before the legal action document is read.

(4) In case of persons with no mental competence, reconciliation may be agreed only by the legal representatives of the same, whereas in case of persons with limited mental competence, reconciliation is possible only if authorized by the persons provided by law.

(5) With respect to legal entities, reconciliation is reached by the legal or conventional representative of the same or by the person appointed to replace the representative.

Reconciliation between the legal entity perpetrating the offense and the legal entity harmed by such offense has no impact on the individuals who participated in the commission of the same offense.

(6) If the offense is committed by the representative of the legal entity harmed by such offense, the stipulations under Art. 158 par. (4) shall apply accordingly.

### **NGOs or other civil society actors**

Art. 25 from the Law 217/2003 - The request for the protection order issue is within the jurisdiction of the judge of the territorial area of the domicile or residence of the victim.

(2) The request for issuing the protection order may be submitted by personal victims or by legal representative.

(3) The request may be filed on behalf of the victim and about:

a) prosecutor;

b) the representative of the competent authority or structure, the establishment of the territorial administrative administration with attribution regarding the protection of victims of domestic violence;

c) Representative of any of the social services providers in the field of preventing and combating domestic violence, accredited according to the law, with the consent of the victim.

### **Measures of protection available during investigations and judicial proceedings (Article 56, paragraph**

All the measures referred to in Article 56 paragraph 1 are applicable in current activities of the law enforcement institutions. Also at the level of the judicial activities were elaborated guides, practical guides with good practice examples and handbooks for policemen, prosecutors and judges (e.g. : [https://bim.lbg.ac.at/files/sites/bim/HANDBOOK\\_AGIS\\_RO.pdf](https://bim.lbg.ac.at/files/sites/bim/HANDBOOK_AGIS_RO.pdf))

**Special measures available to offer protection to child victims and child witnesses of violence covered by the Convention (Article 56, paragraph 2).**

### **ANNEX 3 MINISTRY OF JUSTICE – ROMANIAN LEGISLATION**

Protection of the children victims of violence and children witnesses' domestic violence from intimidation, retaliation and repeat victimization represents one of the aspects of detailed evaluation and case monitoring. Risk evaluation contributes to ensuring the above-mentioned protection, by taking the necessary measures to reduce the risks identified by each professional involved in solving the case.

Witness protection during court proceedings is stipulated by annex 1 (GD no. 49/2011, section 6 chapter IV on case management), taking into account that the same measures are taken for both children victims and witness:

" When child/ adult victim benefits of special measures of witness protection, the monitoring phase after the completion of the plan is in force until the decision of the National Office for witness protection regarding the termination of any danger situation."

Child interviewing/ hearing is presented in section 23 chapter IV on case management, on brief:

- " The best place for child interviewing/ hearing is the psychologist's office, compulsory equipped with one-way mirror and audio-video recording system. These facilities permit:
  - a) Participation of the other professionals involved in solving the case, behind the one-way mirror, so they can intervene in the interview as it is needed from their perspective;
  - b) Obtaining audio-video evidence, with the consent of the child and family, evidence that can be used in court;
  - c) Prevention of repeating the victimization, when telling many times, the facts about the violence situation.
- Interview protocols are recommended to be drafted and used, adapted to the forms of violence.
- Child interviewing/ hearing to be performed by trained professionals in this field.
- For young children and children with disabilities, other techniques of interviewing/ hearing are recommended, such as: anatomical dolls, drawings, play."

Regarding the protection of the private life and image of the child victim, Law no. 272/2004 includes stipulations for all children (art.27 line (1) and (2)) and specifically for children victims (hearing in the council chamber in court - art. 101 line (3)).

„Art. 27 (1) The child has the right to have his or her public image and personal, private and family life protected.

(2) Any action which may affect the public image of the child the child's right to personal, private and family life is forbidden."

Regarding the avoiding contact between the child victim and perpetrator, two stipulations can be mentioned: first, in case of children with special protection measure within residential service for children victims of violence, its location is not public; the second, protection of the child during the process in court (art. 101).

„Art. 101 (1) During the process mentioned under art. 94, paragraphs (3) and (4), the written statement of the child concerning the abuse or neglect situation to which he or she was subjected, may be administered ex-officio as evidence. The child's statement may be recorded, according to the law, through technical audio-visual methods. The recordings are made obligatorily with the assistance of a psychologist.

(2) The child's consent is mandatory for the recording of his or her statement.

(3) If the court of law deems necessary, it may subpoena the child in order to conduct a hearing. The hearing only takes place in the council chamber, in the presence of a psychologist and only subsequent to an initial preparation of the child in this regard.”

**Availability of free legal aid for women victims, as required by Article 57, including eligibility criteria.**

According to Law 211/2004 on some measures to ensure the information, support and protection of victims of crime, victims of certain offenses, including rape, sexual assault and bodily harm as well as the spouse, children and persons in the care of the deceased by committing the crimes of murder benefit from the request of free legal assistance.

The free legal assistance of victims of other types of crime is also possible, as follows:

According to art. 93 paragraph (4) of the Criminal Procedure Code, legal assistance is compulsory when the injured person or the civilian party is a person lacking in exercise capacity or with limited exercise capacity.

Also, in other cases, when the judiciary considers that for some reasons the injured person could not make his own defense, they have to take the measures for appointing an ex-officio lawyer (art. 93 para. (5) of the Criminal Procedure code).

When legal aid is ex officio, it is also free.

Law 135/2010 regarding the Criminal procedure code: Art. 93 Legal assistance provided to victims, civil parties and parties with civil liability

(1) During the course of the criminal investigation, the counsel of a victim, a civil party or a party with civil liability has the right to be informed, under the terms of Art. 92 par. (2), to be present when any criminal investigation act is performed under the terms of Art. 92, the right to consult documents of the case file, and to file applications and memoranda. The stipulations of Art. 89 par. (1) shall apply accordingly.

(2) The counsel of a victim, a civil party or a party with civil liability has the right set by Art. 92 par. (8).

(3) During the course of trial, the counsel of a victim, a civil party or of a party with civil liability shall exercise the rights of the assisted person, except for those exercised by such party in person, and the right to consult documents of the case file.

(4) Legal assistance is mandatory when a victim or civil party lacks mental competence or has a limited mental competence.

(5) When a judicial body believes that, for various reasons, a victim, civil party or party with civil liability cannot prepare their defense on their own, it shall order steps for securing a court appointed counsel.

**Information on any other existing investigation, prosecution, procedural law and protective measures in relation to violence against women, together with any available data on the recourse to such measures.**

The People's Advocate also has responsibilities in terms of defending human rights in general, so also in the area provided by the convention.

Law no. 35/1997 on the organization and functioning of the People's Advocate Institution

Art. 15. - (1) The People's Advocate has the following powers :(...)

e) Decide on the petitions made by the persons harmed by the violation of their rights or freedoms by the authorities of the public administration;

f) Verifies the activity of legal resolution of the received petitions and asks the authorities or officials of the public administration concerned to cease the violation of the rights and freedoms of the natural persons, to restore the rights of the petitioner and to repair the damages;

n) can file court proceedings or criminal complaints and may represent the minor in court, when he or she has been the victim of physical or mental violence by parents, guardian or legal representative, abuse, violence and sexual exploitation, exploitation through work,

trafficking in human beings, neglect and exploitation, as well as any form of violence against the child, provided for and sanctioned by the domestic and international legislation to which Romania is a party;

(2) The People's Advocate ensures the protection, protection and promotion of the rights of the child by specific means provided by this law through the Domain regarding the protection and promotion of the rights of the child or, as the case may be, through the National Prevention Mechanism.

### **MIGRATION AND ASYLUM (Chapter VII of the Convention, Articles 59 to 61)**

Law no. 122/2006 regarding Asylum in Romania, as amended and supplemented, establishes the legal status of the foreigners who apply for a form of international protection in Romania, the legal status of the foreigners who hold a form of protection in Romania, the procedure for granting, ceasing and cancelling of a form of protection in Romania, the procedure for establishing the EU Member State responsible for examining the asylum application, as well as the conditions for granting, exclusion and ceasing of temporary protection. The application of the provisions of the mentioned normative act is made taking into account the special needs of vulnerable persons.

According to the provisions of article 51 of Law no. 122/2006 regarding Asylum in Romania, in the category of vulnerable persons or those with special needs are included victims of human trafficking, persons who have been subjected to torture, rape or other serious forms of psychological, psychological or sexual violence.

- According to article 17 paragraph (1) letter h) of Law no. 122/2006, a temporary identity document shall be issued to the applicant for international protection, whose validity shall be regularly extended by G.I.I. throughout the asylum procedure.

According to article 20 paragraph (1) and paragraph (6), after recognizing the refugee status/granting subsidiary protection, as soon as possible, the beneficiary of a form of international protection shall be issued with a residence permit, on which a personal identification number shall be entered, as soon as possible after, with a validity of 3 years, in the case of persons who have been granted refugee status, respectively 2 years, to the persons who have been granted subsidiary protection.

- The asylum legislation in Romania (Law no. 122/2006 on Asylum in Romania) does not provide for the possibility of issuing a residence permit for the beneficiaries of international protection, in the event of the marriage breakdown or of the relationship due to particularly difficult situations such as it would be violence, regardless of the duration of the marriage or relationship.

According to article 64 of Government Emergency Ordinance No. 194 from 12 December 2002 on the Regime of Foreigners in Romania, the right of temporary residence for family members is granted independently, upon request, to the foreigner who cumulatively fulfills the following conditions:

a) Is the holder of a temporary residence permit granted for the purpose of family reunification;

b) Had the right of temporary residence for the purpose of family reunification during the last 5 years before the application was submitted. In the case of the family members of the EU Blue Card holders, the 5-year period can be calculated by summing their periods of residence in different Member States.

The foreigner is exempted, upon request, from the fulfilment of the condition provided in para. (1) lit. b) in the following situations:

a) The dissolution of the marriage was pronounced;

b) the partnership relationship has ceased;

Foreigners who fulfil the conditions for granting the right of temporary residence independently, may request the extension of the right of temporary residence under the

conditions and for any of the purposes provided in the normative act that regulates the regime of foreigners in Romania, without the obligation to obtain a long stay visa.

- Law no. 122/2006 provides for the possibility of re-examination the situation of beneficiaries of a form of international protection (refugee status or subsidiary protection) in certain situations. The re-examination procedure is performed individually, and according to art. 104 paragraph (1) of the aforementioned normative act, the finding of cessation or disposition of the cancellation of the protection form does not produce effects on the family members of the beneficiary of the international protection
- National asylum legislation does not provide for the possibility of issuing a residence permit for beneficiaries of a form of international protection in such a situation.
- National asylum legislation does not provide for the possibility of issuing a residence permit for beneficiaries of a form of international protection in such a situation.
- National asylum legislation does not provide for the possibility of issuing a residence permit for beneficiaries of a form of international protection in such a situation.

### **RECOGNIZING GENDER-BASED VIOLENCE AGAINST WOMEN AS A FORM OF PERSECUTION FOR ASYLUM CLAIMS**

Depending on the specific circumstances of the case and following the analysis of the request for international protection, aspects related to gender-based violence may lead to the granting of refugee status on the grounds of belonging to a certain social group.

### **GENDER-SENSITIVE INTERPRETATION**

At the G.I.I. level, internal guidelines ("guidelines") for the analysis of asylum applications based on gender considerations have been developed in collaboration with UNHCR, which describes how to approach cases in terms of interviewing and solving them.

### **DATA ON THE NUMBER OF WOMEN VICTIMS OR THOSE AT RISK WHO HAVE BEEN GRANTED REFUGEE STATUS**

At the G.I.I. level there does not exist a database to generate information on the number of victims or those at risk, who have been granted refugee status compared to the total number of women who have applied for asylum in Romania.

### **ENSURING THAT WOMEN WHOSE ASYLUM CLAIMS HAVE BEEN REJECTED ARE NOT RETURNED TO ANY COUNTRY WHERE THEIR LIFE WOULD BE AT RISK OR WHERE THEY MIGHT BE SUBJECTED TO ILL-TREATMENT**

The analysis of the asylum application is carried out only in relation to the applicant's country of origin (foreign national or stateless person), that is, the country of which the citizen is or where he had his last habitual residence.

According to article 19 lit. j) of the Law no. 122/2006, the foreigner has the obligation to leave the territory of Romania within 15 days from the completion of the asylum procedure, if he has not obtained international protection in Romania, except in the case where the asylum application it was rejected as obviously unfounded following its resolution in an accelerated procedure, in which case it must leave the territory of the Romanian state as soon as the asylum procedure has been completed. The obligation does not exist if the foreigner has a right of residence regulated according to the legislation regarding the regime of foreigners in Romania.

### **OTHER MEASURES**

In the case of applicants for international protection at the G.I.I. level, through responsible specialists, the special needs of reception and assistance (psychological and medical) are established, taking the appropriate measures to combat the vulnerability during the accommodation in the regional centres of procedures and accommodation for asylum seekers.

In order to support the interview for determining the international protection, if possible, if the applicant requests this, both the interviewer and the interpreter will be of the same sex with the interviewed person (art. 45 paragraph (2) of Law no. 122/2006).

In the case of beneficiaries of a form of international protection

The General Inspectorate for Immigration acts for the integration of the persons who benefit from a form of international protection (Order no. 44/2004 regarding the integration of foreigners who have obtained a form of protection in Romania, with the subsequent modifications and completions), by carrying out integration programs (for a period of six months, with the possibility of an extension of six months), which involve the following assistance measures:

- Accommodation in the regional accommodation centres and procedures administered by the G.I.I.;

- granting, for a period of 2 months, a material aid; granting a non-reimbursable financial aid of 540 RON/person (for a period of maximum 12 months), with the fulfilment of the conditions of enrolment and participation in the activities of the integration program established in the individual integration plan;

- Cultural orientation courses;

- Social counselling and psychological support;

- Romanian language courses organized in collaboration with the Ministry of National Education, through the school inspectorates.

If the persons who have obtained a form of protection fall in the category of vulnerable persons, including in the category of persons who have been subjected to torture, rape or other serious forms of psychological, mental or sexual violence, appropriate measures are taken to combat the vulnerability and it is envisaged the possibility of extending the integration and free accommodation program in the G.I.I. regional accommodation centres, for an indefinite period, until the vulnerability ceases to be established.



**Table 2: In-service training**

	NUMBER OF PROFESSIONALS TRAINED	MANDATORY NATURE	AVERAGE LENGTH OF CURRICULUM	PERIODICITY	FUNDING SOURCE	BODY MANDATED TO CARRY OUT/CERTIFY IN-SERVICE TRAINING	TRAINING EFFORTS SUPPORTED BY GUIDELINES AND PROTOCOLS
Police and other law-enforcement officials			3-5	Twice a year		NAEO ISOP	
Prosecutors	2017: 84 2018: 33 2019: 9 27		2017: 3 days 2018: 1day 2019: 2 days	Once a year		Annex	
Judges	2017: 74 2018: - 2019: 9		2017: 3 days 2018: - 2019: 2 days	Once a year		Annex	
Social workers							
Medical doctors							
Nurses and midwives							
Psychologists, in particular counsellors/ psychotherapists							
Immigration/asylum officials							
Educational staff and school administrators							
Journalists and other media professionals							

<b>Servicemen and women</b>							
<b>Any other relevant category</b>							



ROMANIA  
PUBLIC MINISTRY  
PROSECUTOR'S OFFICE ATTACHED TO THE HIGH COURT OF CASSATION AND JUSTICE  
Human Resources and Documentation Section  
Judicial Documentation and Statistics Service

No. 3044/C/18266/18266/2019

STATISTICAL DATA  
ON THE VICTIMS OF FAMILY VIOLENCE  
2018, THE PUBLIC MINISTRY IN TOTAL

CRIMINAL OFFENCE	TOTAL NUMBER OF DEFENDANTS INDICTED FOR DOMESTIC VIOLENCE	TOTAL NUMBER OF VICTIMS OF DOMESTIC VIOLENCE, OUT OF WHICH::	JUVENILES	THE VICTIM'S RELATIONSHIP WITH THE OFFENDER											
				PARENTS	GRANDPARENTS	SPOUSES	SON/ DAUGHTER, OUT OF WHICH:	JUVENILES	BROTHERS/ SISTERS, OUT OF WHICH::	JUVENILES	OTHER RELATIVES UP TO GRADE IV, OUT OF WHICH:	JUVENILES	FATHER IN LAW/ MOTHER IN LAW	SON IN LAW/ DAUGHTER IN LAW	CONCUBINES
Murder - Art.188, Art.189 C.C.	199	207	16	29	3	45	29	12	28	0	20	4	5	0	48
Common assault - Art.193 C.C.	520	558	58	56	3	189	82	53	60	2	66	3	11	6	85
Injury - Art.194 C.C.	19	21	3	3	0	2	3	2	1	0	3	1	0	0	9
Injuries or death causing injuries - Art.195 C.C.	15	16	0	4	0	6	0	0	0	0	2	0	1	0	3
Mistreatment of a minor - Art.197 C. C.	13	12	12	0	0	0	12	12	0	0	0	0	0	0	0
Offenses committed against a family member Art. 199 - 200 C.C.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Pregnancy interruption- Art.201 C.C.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Fetal injury - Art.202 C.C.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Unlawfully deprivation of liberty - Art.205 C.C.	18	19	3	1	0	2	3	2	0	0	3	1	0	0	10
Rape - Art.218 C.C.	70	81	50	11	1	4	32	30	8	5	20	15	0	1	4
Sexual assault - Art.219 C.C.	17	24	19	3	0	0	13	13	1	1	6	5	0	1	0
Sexual act with a juvenile - Art.220 C.C.	60	60	60	0	0	0	7	7	2	2	5	5	0	0	46
Sexual corruption of juveniles - Art.221 C.C.	5	10	10	0	0	0	4	4	0	0	6	6	0	0	0
Recruitment of juveniles for sexual purposes - Art.222 C.C.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Incest - Art.377 C.C.	1	1	1	0	0	0	1	1	0	0	0	0	0	0	0
Family abandonment - Art.378 C.C.	421	636	469	75	0	15	542	469	0	0	0	0	0	0	4
Non-observance of the measures regarding the custody of the minor Art.379 C.C.	2	2	1	1	0	0	1	1	0	0	0	0	0	0	0
<b>TOTAL NUMBER OF FAMILY VIOLENCE CASES</b>	<b>1.360</b>	<b>1.647</b>	<b>702</b>	<b>183</b>	<b>7</b>	<b>263</b>	<b>729</b>	<b>606</b>	<b>100</b>	<b>10</b>	<b>131</b>	<b>40</b>	<b>17</b>	<b>8</b>	<b>209</b>

VERIFIED BY,

Mihaela Gulii, prosecutor

ELABORATED BY,

Marian Samoilă, public manager



ROMANIA  
PUBLIC MINISTRY  
PROSECUTOR'S OFFICE ATTACHED TO THE HIGH COURT OF CASSATION AND JUSTICE  
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No. 3044/C/18266/18266/2019

ANNEX

STATISTICAL DATA  
ON THE VICTIMS OF FAMILY VIOLENCE  
2017, THE PUBLIC MINISTRY IN TOTAL

CRIMINAL OFFENCE	TOTAL NUMBER OF DEFENDANTS INDICTED FOR DOMESTIC VIOLENCE	TOTAL NUMBER OF VICTIMS OF DOMESTIC VIOLENCE, OUT OF WHICH:	JUVENILES	THE VICTIM'S RELATIONSHIP WITH THE OFFENDER											
				PARENTS	GRANDPARENTS	SPOUSES	SON/ DAUGHTER, OUT OF WHICH:	JUVENILES	BROTHERS / SISTERS, OUT OF WHICH:	JUVENILES	OTHER RELATIVES UP TO GRADE IV, OUT OF WHICH:	JUVENILES	FATHER IN LAW/ MOTHER IN LAW	SON IN LAW/ DAUGHTER IN LAW	CONCUBINES
Murder - Art.188, Art.189 C.C.	206	213	18	27	5	43	39	17	29	0	16	1	4	2	48
Common assault - Art.193 C.C.	550	586	35	72	13	213	55	30	68	0	51	5	15	6	93
Injury - Art.194 C.C.	21	23	1	5	1	3	2	1	3	0	2	0	0	0	7
Injuries or death causing injuries - Art.195 C.C.	18	18	2	5	1	4	2	2	1	0	1	0	1	0	3
Mistreatment of a minor - Art.197 C. C.	12	18	18	0	0	0	18	18	0	0	0	0	0	0	0
Offenses committed against a family member Art. 199 - 200 C.C.	1	1	1	0	0	0	1	1	0	0	0	0	0	0	0
Pregnancy interruption - Art.201 C.C.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Fetal injury - Art.202 C.C.	1	1	1	0	0	0	1	1	0	0	0	0	0	0	0
Unlawfully deprivation of liberty - Art.205 C.C.	19	19	5	2	0	6	5	4	0	0	1	1	0	1	4
Rape - Art.218 C.C.	72	80	56	4	3	3	44	37	14	12	9	7	0	0	3
Sexual assault - Art.219 C.C.	15	19	18	1	0	0	15	15	0	0	3	3	0	0	0
Sexual act with a juvenile - Art.220 C.C.	68	68	68	0	0	0	3	3	3	3	4	4	0	1	57
Sexual corruption of juveniles - Art.221 C.C.	4	4	4	0	0	0	0	0	1	1	3	3	0	0	0
Recruitment of juveniles for sexual purposes - Art.222 C.C.	1	1	1	0	0	0	0	0	0	0	1	1	0	0	0
Incest - Art.377 C.C.	1	1	0	0	0	0	1	0	0	0	0	0	0	0	0
Family abandonment - Art.378 C.C.	493	704	557	55	0	21	622	557	0	0	0	0	0	0	6
Non-observance of the measures regarding the custody of the minor Art.379 C.C.	9	10	9	1	0	0	9	9	0	0	0	0	0	0	0
<b>TOTAL NUMBER OF FAMILY VIOLENCE CASES</b>	<b>1.491</b>	<b>1.766</b>	<b>794</b>	<b>172</b>	<b>23</b>	<b>293</b>	<b>817</b>	<b>695</b>	<b>119</b>	<b>16</b>	<b>91</b>	<b>25</b>	<b>20</b>	<b>10</b>	<b>221</b>

Abbreviations: Q- question

### Chapter V -Q A.3

#### A. Law no.286 on the Criminal Code

##### **Art. 189\*) Aggravated murder**

(1) Murder committed under any of the following circumstances:

(....)

g) against a pregnant woman;

(...)

shall be punished by life imprisonment or no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

(2) The attempt shall be also punishable.

##### **Art. 193 Battery and other acts of violence**

(1) Battery or any other acts of violence causing physical suffering shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) An act causing traumatic injuries or affecting the health of an individual, the seriousness of which is assessed based on medical-care days of maximum 90 days, shall be punishable by no less than 6 months and no more than 5 years of imprisonment or by a fine.

(3) The criminal action shall be initiated based on a prior complaint filed by the victim.

##### **Art. 194 Bodily harm**

(1) The act set by Art. 193, which caused any of the following consequences:

a) an impairment;

b) traumatic injuries or health impairment of an individual the healing of which required more than 90 medical care days;

c) a serious and permanent aesthetic injury;

d) miscarriage;

e) endangering of an individual's life,

shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) When such act was committed for the purpose of causing any of the consequences listed under par. (1) lett. a), lett. b) and lett. c), it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(3) The attempt to commit the offense set under par. (2) shall be punishable.

##### **ART. 199 Domestic violence**

- (1) If the acts set by [Art. 188](#), [Art. 189](#) and [Art. 193](#)- 195 are committed against a family member, the special maximum term of the penalty set by law shall be increased by one-fourth.
- (2) In case of offenses set by [Art. 193](#) and [Art. 196](#) committed against a family member, a criminal action may be initiated also ex officio. Reconciliation shall eliminate criminal liability.

#### **ART. 201 Termination of pregnancy**

(...)

(2) Termination of pregnancy, committed under any circumstances, without the consent of the pregnant woman, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(3) If the acts set under par. (1) and par. (2) caused bodily harm to a pregnant woman, the penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, and if such acts resulted in a pregnant woman's death, the penalty shall be no less than 6 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.

(...)

#### **Art. 205 Illegal deprivation of freedom**

(1) Illegal deprivation of freedom of an individual shall be punishable by no less than 1 and no more than 7 years of imprisonment.

(2) The kidnapping of an individual unable to express their will or to defend themselves shall also constitute deprivation of freedom.

(3) If such act is committed:

a) by an armed person;

b) against a underage person;

c) by jeopardizing the victim's health or life, it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(4) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(5) The attempt to commit the offenses set under par. (1) - (3) shall be punishable.

#### **Art. 206 Threats**

(1) The act of threatening an individual with the commission of an offense or of a prejudicial act against them or other individual, if this is of nature to cause a state of fear, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine; however, the applied penalty may not exceed the penalty established by law for the offense that was the subject matter of the threat.

(2) Criminal action shall be initiated based on a prior complaint filed by the victim.

#### **Art. 208 Harassment**

(1) The act of an individual who repeatedly, with or without a right or legitimate interest, pursues an individual or supervises their domicile, working place or other places attended by the latter, thus causing to them a state of fear, shall be punishable by no less than 3 and no more than 6 months of imprisonment or by a fine.

(2) Making of phone calls or communications through remote communication devices which, through their frequency or content, cause a state of fear to an individual, shall be punishable by no less than 1 and no more than 3 months of imprisonment or by a fine, unless such act represents a more serious offense.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.

#### **Art.210 Trafficking in human beings**

(1) Recruitment, transportation, transfer, harboring or receipt of persons for exploitation purposes:

a) by means of coercion, abduction, deception, or abuse of authority;

b) by taking advantage of the inability of a person to defend themselves or to express their will or of their blatant state of vulnerability;

c) by offering, giving and receiving payments or other benefits in exchange for the consent of an individual having authority over such person,

shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(2) Trafficking in human beings committed by a public servant in the exercise of their professional duties and prerogatives shall be punishable by no less than 5 and no more than 12 years of imprisonment.

(3) The consent expressed by an individual who is a victim of trafficking does not represent an acceptable defense.

#### **ART. 211 Trafficking in underage persons**

(1) Recruitment, transportation, transfer, harboring or receipt of a juvenile for the purpose of their exploitation shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(2) The punishment is the imprisonment from 5 to 12 years and the ban on the exercise of certain rights when: a) the deed was committed under the conditions of art. 210 paragraph (1); b) the deed was committed by a public official in the exercise of his duties; c) the deed endangered the life of the minor; d) the deed was committed by a family member of the minor; e) the deed was committed by a person in whose care, care, education, guard or treatment the minor was or by a person who abused his or her recognized position of trust or authority over the minor.

(3) The consent expressed by an individual who is a victim of trafficking does not represent an acceptable defense.

#### **Art 213 Pandering**

(1) The causing or facilitation of the practice of prostitution or the obtaining of financial benefits from the practice of prostitution by one or more individuals shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) In the event that a person was determined to engage in or continue the practice of prostitution through coercion, the penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(3) If such acts are committed against an underage person, the special limits of the penalty shall be increased by one-half.

(4) Practicing prostitution means having sexual intercourse with various individuals for the purpose obtaining financial benefits for oneself or for others.

### **Art 218 Rape**

(1) Sexual intercourse, oral or anal intercourse with a person, perpetrated by constraint, by rendering the person in question unable to defend him/herself or to express his/her will or by taking advantage of such state, shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(2) The same penalty shall apply to any act of vaginal or anal penetration perpetrated under par. (1).

(3) It shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights, when:

a) the victim is entrusted to the perpetrator for care, protection, education, safeguarding or treatment;

b) the victim is a first degree relative, i.e. brother or sister;

c) the victim is a minor;

d) the act was perpetrated for the production of pornography;

e) the act resulted in bodily injury;

d) the act was perpetrated by two or more individuals, acting together.

(4) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 18 years of imprisonment and a ban on the exercise of certain rights.

(5) Criminal action for the act set by par. (1) and par. (2) shall be initiated based on a prior complaint filed by the aggrieved party.

(6) An attempt to perpetrate the offenses set out in par. (1) - (3) shall be punished.

### **Art 219 Sexual assault**

(1) An act that is sexual in nature, other than those set out under Art. 218, with a person, committed by constraint, by rendering the person in question unable to defend themselves or to express their will or by taking advantage of such state, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) The penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, when:

a) the victim is entrusted to the perpetrator for care, protection, education, guard or treatment;

b) the victim is a direct-line relative, a brother or sister;

c) the victim is a minor;

- d) the act was committed for the production of pornographic material;
  - e) the act resulted in bodily harm;
  - f) the act was committed by two or more individuals, acting together.
- (3) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.
- (4) If the sexual assault acts were preceded or followed by the commission of the sexual intercourse set out in Art. 218 par. (1) and par. (2), such act shall constitute rape.
- (5) Criminal action for the act set by par. (1) shall be initiated based on a prior complaint filed by the victim.
- (6) The attempt to commit the offenses set out in par. (1) and par. (2) shall be punishable.

#### **ART. 220 Sexual intercourse with a minor**

- (1) Sexual intercourse, oral or anal sex, as well as any act of vaginal or anal penetration committed with a juvenile aged 13 to 15 shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) The act set by par. (1), committed on a minor who has not turned 13 years of age, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.
- (3) The act set by par. (1), committed by a person of age with a minor aged 15 to 18, when the former abused their authority or influence over the victim, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.
- a) the minor is a family member of the adult;
  - b) the minor is in the care, protection, education, guard or treatment of the perpetrator or he has abused his recognized position of trust or authority over the minor or his particularly vulnerable situation, as a result of a mental or physical disability or as a result of a situation of addiction;
  - c) the act endangered the life of the minor;
  - d) it was committed for the purpose of producing pornographic materials.
- (4) The act provided in par. (1) and (2) shall be punished by imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights, when: a) the minor is a member of the family; b) the minor is in the care, protection, education, guard or treatment of the perpetrator or he has abused his recognized position of trust or authority over the minor; c) the act endangered the minor's life; d) was committed for the purpose of producing pornographic materials.
- (5) The facts provided in par. (1) and para. (2) shall not be sanctioned if the age difference does not exceed 3 years.
- (6) Attempt to the offenses provided in par. (1) - (4) shall be punished.

#### **ART. 221 Sexual corruption of juveniles**

- (1) The commission of an act that is sexual in nature, other than the one set out in [Art. 220](#), against a juvenile who has not turned 13 of age, as well as determining a juvenile to endure or carry out such an act shall be punishable by no less than 1 and no more than 5 years of imprisonment.

- (2) The penalty shall be no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights, when:
- a) the juvenile is a direct-line relative, a brother or sister;
  - b) the juvenile is entrusted to the perpetrator for care, protection, education, guard or treatment;
  - c) the act was committed for the production of pornographic materials.
  - d) the act endangered the life of the minor.
- (3) The sexual act of any nature, committed by a person of age in the presence of a juvenile who has not turned 13 shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.
- (4) Determination of a juvenile who has not yet turned 13 years of age, by a person of age, to assist to the commission of acts that are exhibitionist in nature or to shows or performances in which sexual acts of any kind are committed, and making materials that are pornographic in nature available to the juvenile shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.
- (5) The acts set out in par. (1) shall not be punishable if the age difference does not exceed 3 years.
- (6) Attempt to the offenses provided in par. (1) - (2) shall be punished.

**ART. 222 Recruitment of juveniles for sexual purposes**

The act of an individual of age to propose that a juvenile who has not yet turned 13 years of age to meet for the purposes of the commission of one of the acts set out in [Art. 220](#) or [Art. 221](#), including when such proposal has been made using remote communication means, shall be punishable by no less than 1 month and no more than 1 year of imprisonment or by a fine.

**Art.374 Child pornography**

(1) The production, possession, procurement, storage, exposure, promotion, distribution, as well as the provision, in any way, of pornographic material with minors shall be punished by imprisonment from one year to 5 years.

(1 ^ 1) With the punishment provided in par. (1) the punishment or recruitment of a minor for the purpose of his participation in a pornographic show, the obtaining of benefits from such a show in which minors participate or the exploitation of a minor in any other way for performing pornographic performances shall be punished.

(1 ^ 2) Watching pornographic shows in which minors participate is punished by imprisonment from 3 months to 3 years or with a fine.

(2) If the facts provided in par. (1) were committed by means of a computer system or other means of storing computer data, the punishment is imprisonment from 2 to 7. (3) Access, without right, of pornographic materials with minors, through computer systems or other electronic means of communication, shall be punished with imprisonment from 3 months to 3 years or with a fine (3 ^ 1) If the facts provided in par. (1), (1 ^ 1), (1 ^ 2) and (2) were committed in the following circumstances: a) by a family member; b) by a person in whose care, care, education, guard or treatment is the minor or a person who has abused his recognized position of trust or authority over the minor; c) the act has endangered the life of the minor, the special limits of the penalties are increased by one third.

(4) By pornographic material with minors is meant any material that presents a minor or a major person as a minor, having an explicit sexual behavior or who, although not

presenting a real person, credibly simulates a minor having such behavior, as well as any representation of the genital organs of a child for sexual purposes.

(4 ^ 1) By pornographic spectacle is meant the direct exposure to a public, including information and communication technology, of a child involved in explicit sexual behavior or the genital organs of a child, for sexual purposes.

5) The attempt shall be punished.

### **Art. 376 Bigamy**

(1) Entering of a new marriage by an individual who is still legally married to another shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) An unmarried individual who gets married to an individual about whom they know is married, shall be punishable by no less than 1 month and no more than 1 year of imprisonment or by a fine.

### **ART. 379 Failure to comply with measures taken for a juvenile's custody**

(1) If a parent withholds their juvenile child without the approval of the other parent or of the individual to whom the juvenile was entrusted under the law, they shall be punishable by no less than 1 month and no more than 3 months of imprisonment or by a fine.

(2) The same penalty shall apply to the act of an individual to whom the juvenile was entrusted by Court order, to be raised and educated, in order to repeatedly prevent any of the parents from having personal interactions with the juvenile, according to the conditions agreed upon by the parties or by the authorized body.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.

### **ART. 380 Preventing access to compulsory public education**

(1) A parent or a person to whom a juvenile was entrusted by law and who withdraws the juvenile from school or prevents them, by any means, from attending compulsory public education, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) The act shall not be punishable if, before the criminal investigation is complete, the defendant submits evidence that the juvenile has resumed attendance.

(3) If, before the Court order remains final, the defendant ensures the resumption of attendance to courses by the juvenile, the Court shall order, as applicable, the deferred enforcement of the penalty or the suspended service of the sentence under supervision, even if the requirements provided by the law for such action are not met.

### **Art. 439 Crimes against humanity**

(...)

letter c) slavery or trafficking in human beings, especially women or children;

letter f) rape or sexual assault, compelling to engage in prostitution, forced sterilization or illegal detention of a woman who was forced to become pregnant, with a goal to change a population's ethnic composition.

(...)

#### **Art. 440 War crimes against individuals**

(...)

letter d) rape or sexual assault, compelling to engage in prostitution, forced sterilization or illegal detention of a woman who was forced to become pregnant, with a goal to change a population's ethnic composition.

(....)

#### **Law no. 287/2009 on the Civil Code**

#### **CHAPTER IV Termination of the exercise of parental rights**

##### **Art 508 Terms**

(1) The guardianship court, at the request of the public administration authorities with responsibilities in the field of child protection, may decide to withdraw from the exercise of parental rights if the parent endangers the life, health or development of the child by the bad treatments applied to it, by the consumption of alcohol or drugs, by the abusive behavior, by the gross negligence in the fulfillment of the parental obligations or by the serious attainment of the best interest of the child.

(2) The request is judged urgently, with the parents' summons and based on the psychosocial investigation report. The participation of the prosecutor is mandatory.

##### **Art 509 Extent of termination of parental rights**

(1) The withdrawal from the exercise of parental rights is total and extends to all children born at the date of the judgment. this way, the growth, education, learning and professional training of children are not jeopardized.

##### **Art 510 Obligation to offer financial support**

Dismissal from the exercise of parental rights does not relieve the parent of his obligation to care for the child.

##### **Art 511 Guardianship of minor children**

Establishment of guardianship If, after the expiry of the exercise of parental rights, the child is in a situation of being deprived of the care of both parents, guardianship is set up.

##### **Art 512 Reinstatement of parental rights**

(1) The court shall render to the parent the exercise of parental rights, if the circumstances which led to the termination of the parents rights ceased and if the parent no longer endangers the life, health and development of the child.

(2) Until the request is resolved, the court may allow the parent to have personal links with the child, if it is in the best interests of the child.

#### **Article 1.349. Tort liability**

(1) Every person has the duty to respect the rules of conduct that the law or the custom of the place imposes and not to prejudice, by his actions or inactions, the legitimate rights or interests of other persons

(2) The person who, having discernment, violates this duty is responsible for all the damages caused, being obliged to repair them completely.

(3) In certain cases provided by law, a person is obliged to repair the damage caused by the deed of another, by the things or animals under his guard, as well as by the ruin of the edifice.

(4) The liability for the damages caused by the defective products is established by special law.

### **SECTION 3 Liability for own action**

#### **Art. 1.357 Conditions of liability**

(1) The person who causes harm to another by an unlawful act, committed with guilt, is obliged to repair it.

(2) The perpetrator of the damage is responsible for the easiest guilt.

### **SECTION 6 Reparation of the damage in case of tort liability**

#### **Art. 1.381 The object of the reparation**

(1) Any injury gives the right to reparation.

(2) The right to reparation arises from the day when the damage was caused, even though this right cannot be used immediately.

(3) From the date of his birth, all the legal provisions regarding the execution, transmission, transformation and extinction of the obligations are applicable to the right to reparation.

#### **Art. 1.385 Scope of reparation**

(1) The damage shall be fully repaired, unless otherwise provided by law.

(2) Compensation may also be granted for future damage if its production is doubtful.

(3) The compensation must include the loss suffered by the injured party, the gain which he could have made under ordinary circumstances and which he was deprived of, as well as the expenses he has incurred to avoid or limit the damage.

(4) If the wrongful act has also determined the loss of the opportunity to obtain an advantage or to avoid a loss, the reparation will be proportional to the probability of obtaining the advantage or, as the case may be, of avoiding the damage, taking into account the circumstances and the concrete situation of the victim.

#### **Art. 1.386. Forms of reparation**

(1) The repair of the damage is done in kind, by restoring the previous situation, and if it is not possible or if the victim is not interested in the repair in kind, by payment of compensation, established by the agreement of the parties or, in default, by a court decision .

(2) When establishing the compensation, the date of the injury shall be taken into account, unless otherwise provided by law.

(3) If the damage is of a continuity nature, the compensation shall be granted in the form of periodic benefits.

(4) In the case of the future damage, the compensation, regardless of the form in which it was granted, may be increased, reduced or suppressed, if, after its establishment, the damage has increased, decreased or ceased.

#### **Art. 1.387 Injury to bodily integrity or health**

(1) In case of injury to the bodily integrity or health of a person, the compensation must include, in accordance with art. 1.388 and 1.389, as the case may be, the equivalent of the gain in work that the injured person was deprived of or which he is prevented from acquiring, through the effect of losing or reducing his work capacity. In addition, the compensation must cover the costs of medical care and, where appropriate, the expenses determined by the increased needs of the injured person's life, as well as any other material damages.

(2) Compensation for the loss or non-realization of the gain of the work is granted, taking into account also the increase of the life needs of the injured one, in the form of periodic money benefits. At the victim's request, the court will be able to award compensation, for sound reasons, in the form of a lump sum.

(3) In all cases, the court may grant the injured party a provisional compensation to cover the urgent needs.

#### **Art. 1.388 Establishing the loss and non-realization of the gain from work**

(1) Compensation for the loss or non-realization of the gain of the work shall be established on the basis of the net monthly average income of the work of the last year before the loss or reduction of his capacity of work or, in default, on the basis of the net monthly income that he - they could have achieved it, taking into account the professional qualification they had or would have had at the end of the training they were receiving.

(2) However, if the injured party proves the possibility of obtaining a higher labor income based on a contract concluded in the last year and this has not been implemented, the compensation of these incomes will be taken into account.

(3) If the injured person did not have a professional qualification and was not in the process of receiving it, the compensation will be established on the basis of the net minimum wage on the economy.

#### **Art. 1.389 Injury of the minor**

(1) If the person who suffered the injury of bodily integrity or health is a minor, the compensation established according to the provisions of art. 1,388 paragraph (1) will be due from the date when the minor would normally have completed his / her professional training.

(2) Until that date, if the minor had a gain at the time of the injury, the compensation will be established on the basis of the gain he was deprived of, and if he did not have a gain, according to the provisions of art. 1.388, which applies accordingly. The latter compensation will be due from the date when the minor has reached the age stipulated by the law in order to be part of an employment relationship.

#### **Art. 1.390. The person entitled to compensation in case of death**

(1) Compensation for the damages caused by the death of a person shall apply only to those entitled, according to the law, to maintenance by the deceased.

(2) However, the court, taking into account the circumstances, may award compensation to the person whose victim, without being obliged by law, regularly provides maintenance.

(3) When determining the compensation, the needs of the injured party will be taken into account, as well as the income that the deceased would normally have had during the time for which the compensation was granted. The provisions of art. 1.387-1.389 applies accordingly.

#### **Art. 1.391 Reparation of non-material damage**

(1) In case of injury of the bodily integrity or of the health, a compensation can be granted for restricting the possibilities of family and social life.

(2) The court will also be able to award damages to the ascendants, descendants, brothers, sisters and the husband, for the pain tried by the death of the victim, as well as to any other person who, in his turn, could prove the existence of such damage.

(3) The right to compensation for infringement of the rights inherent in the personality of any subject of law may be surrendered only if it has been established by a transaction or by a final court decision.

(4) The right to compensation, recognized in accordance with the provisions of this article, does not pass to the heirs. However, they can exercise it, if the action was initiated by the deceased.

(5) The provisions of art. 253-256 remain applicable.

#### **Art. 1.392 Expenses of health care. Funeral expenses**

The person who made expenses for the care of the victim's health or, in case of her death, for the funeral has the right to return them from the person responsible for the deed that caused these expenses.

### **Chapter V - Q C**

1. In order to recover the material damage or to compensate for the moral or other damage suffered, the victim can become a civil part in the criminal proceedings and formulate civil claims (compensation, recovery in the previous situation, etc.).

If the civil party has not participated in the criminal proceedings as a civil party, he/she can bring to the civil court an action to repair the damage caused by the crime.

Also, the injured person can obtain the protection of his/her non-patrimonial rights by means of civil claims.

## **Law 135/2010 - Criminal procedure code**

### **ART. 19 Purpose and use of a civil action**

(1) A civil action initiated in criminal proceedings seeks to establish the civil liability in tort of the persons liable under the civil law for damages caused by having committed an act that is the subject matter of criminal action.

(2) A civil action is used by a victim or by their successors, who become a civil party against the defendant and, as applicable, against the party with civil liability.

(...)

### **ART. 27 Circumstances in which civil action are settled by civil courts**

(1) If it does not become a civil party in criminal proceeding, a victim or its successors may file an action for the remedy of damages caused by an offense with a civil court.

(2) A victim or its successors who became civil parties in criminal proceedings may file an action with a civil court if, through a final sentence, the criminal court left the civil action unsettled. Evidence produced during the course of criminal proceedings may be used before that civil court.

(3) A victim or its successors who became civil parties in criminal proceedings may file action with a civil court if the criminal trial was suspended. If criminal proceedings are resumed, the action filed with the civil court shall be suspended under the terms specified by par. (7).

(4) A victim or its successors who initiated an action before a civil court may leave this court and address the criminal investigation body, the judge or the court, if the criminal action was initiated subsequently or if criminal proceedings were resumed following suspension. A civil court may not be abandoned if it rendered a court decision, even a non-final one.

(5) In the event that civil action was initiated by the prosecutor, if from the evidence it results that damages were not fully covered through the final sentence of the criminal court, the difference may be claimed through action filed with a civil court.

(6) A victim or its successors may file an action with a civil court for the remedy of damages resulted or discovered after they became a civil party in criminal proceedings.

(7) In the situation specified by par. (1), the trial before the civil court shall be suspended after the initiation of criminal action and until settlement of the criminal case by the court of first instance, but no longer than a year.

(...)

## **CHAPTER V**

### **Civil parties and their rights**

#### **ART. 84 Civil party**

(1) A victim who initiates a civil action within criminal proceedings is party to the criminal proceedings and is called a civil party.

(2) The heirs of a victim also have the capacity of civil parties, if they initiate a civil action within criminal proceedings.

(...)

#### **ART. 255 Return of assets**

(1) If the prosecutor or the Judge for Rights and Liberties, during the criminal investigation, the Preliminary Chamber Judge, during preliminary chamber procedure or the Court, ascertain, upon request or ex officio, that the assets seized from a suspect or defendant or from any other person who received such assets for safekeeping are owned by the victim or by any other person or have been abusively taken from their holders or owners, they shall order the return of such assets. Art. 250 shall apply accordingly.

(...)

#### **ART. 256 Return to the previous condition**

During trial the Court can take steps to provide a return to the condition that prevailed before the commission of the criminal offense, wherever the change in that original condition was the result of the commission of the criminal offense and the return is feasible.

#### **ART. 397 Settling the civil action**

(1) The court shall decide in the same ruling on the civil action as well.

(...)

(3) At the same time, the court in its ruling shall also take a decision the restitution of things and the reinstatement of the previous condition, according to the provisions under Article 255 and 256.

(...)

(6) When, during the criminal investigation, the preliminary chamber procedure or the trial, the preventive measure of the judicial control on bail was taken against the defendant or the decision was taken to replace another preventive measure with the preventive measure of the judicial control on bail and the civil action is sustained, the court shall order such payment of damages to repair the consequences of the crime be taken from the bail, according to the provisions under Article 217.

### **Law 287/2009 regarding the Civil code**

#### **Liability of the legal entity: Defense of non-patrimonial rights**

##### **ART. 252 Protecting the human personality**

Every natural person has the right to protect the intrinsic values of the human being, such as life, health, physical and mental integrity, dignity, privacy of privacy, freedom of conscience, scientific, artistic, literary or technical creation.

## **ART. 253 Means of defense**

(1) The natural person whose non-patrimonial rights have been violated or threatened may at any time request the court:

- a) the prohibition of committing the unlawful act, if it is imminent;
- b) the cessation of the infringement and the prohibition for the future, if it still lasts;
- c) ascertaining the unlawful nature of the act committed, if the disorder that it produced subsists.

(2) By exception from the provisions of par. (1), in case of violation of non-patrimonial rights by exercising the right to free expression, the court can order only the measures provided in par. (1) lit. b) and c).

(3) At the same time, the person who has suffered an infringement of such rights may ask the court to oblige the perpetrator to perform any measures deemed necessary by the court to reach the restoration of the right attained, such as:

- a) order the author, at his expense, to publish the conviction decision;
- b) any other measures necessary to end the wrongful act or to repair the damage caused.

(4) Also, the injured person may seek compensation or, as the case may be, a patrimonial reparation for the damage, even non-patrimonial, which has been caused to him, if the injury is attributable to the perpetrator of the harmful event. In these cases, the right to action is subject to the extinguishing prescription.

2. When state authorities that have failed in their duty to take the necessary preventive or protective measures within the scope of their powers, the victim has the option between entailing the civil-delictual liability of the legal person or that of the legal person's bodies (having the main solvency criterion). The legal person has the right of recourse against the guilty person.

## **Law 287/2009 regarding the Civil code**

### **ART. 219 Liability for legal facts**

(1) The lawful or illicit acts committed by the bodies of the legal person obliges the legal person itself, but only if they are related to the attributions or purpose of the functions entrusted.

(2) The unlawful acts attract the personal and solidary responsibility of those who committed them, both to the legal person and to third parties.

### **ART. 221 Liability of legal persons under public law**

Unless otherwise provided by law, legal persons under public law are obliged for the lawful or unlawful acts of their bodies, under the same conditions as legal persons under private law.

## **Liability of the natural person**

### **ARTICLE 135ind7 Conditions of liability**

(1) The person who causes harm to another by an unlawful act, committed with guilt, is obliged to repair it.

(2) The perpetrator of the damage is responsible for the easiest guilt.

### **ARTICLE 135ind9 Compensation of the damage consisting of the injury of an interest**

The perpetrator of the unlawful act is obliged to repair the damage caused and when this is the consequence of the harm brought to an interest of another, if the interest is legitimate, serious and, by the way it is manifested, creates the appearance of a subjective right.

## **Chapter V - Q D**

1. In order to recover the material damage or to compensate for the moral or other damage suffered, the victim can become a civil part in the criminal proceedings and formulate civil claims (compensation, recovery in the previous situation, etc.).

If the civil party has not participated in the criminal proceedings as a civil party, he/she can bring to the civil court an action to repair the damage caused by the crime.

## **Law 135/2010 - Criminal procedure code**

### **ART. 19 Purpose and use of a civil action**

(1) A civil action initiated in criminal proceedings seeks to establish the civil liability in tort of the persons liable under the civil law for damages caused by having committed an act that is the subject matter of criminal action.

(2) A civil action is used by a victim or by their successors, who become a civil party against the defendant and, as applicable, against the party with civil liability.

(...)

### **ART. 27 Circumstances in which civil action are settled by civil courts**

(1) If it does not become a civil party in criminal proceeding, a victim or its successors may file an action for the remedy of damages caused by an offense with a civil court.

(2) A victim or its successors who became civil parties in criminal proceedings may file an action with a civil court if, through a final sentence, the criminal court left the civil action unsettled. Evidence produced during the course of criminal proceedings may be used before that civil court.

(3) A victim or its successors who became civil parties in criminal proceedings may file action with a civil court if the criminal trial was suspended. If criminal proceedings are resumed, the action filed with the civil court shall be suspended under the terms specified by par. (7).

(4) A victim or its successors who initiated an action before a civil court may leave this court and address the criminal investigation body, the judge or the court, if the criminal action was initiated subsequently or if criminal proceedings were resumed following suspension. A civil court may not be abandoned if it rendered a court decision, even a non-final one.

(5) In the event that civil action was initiated by the prosecutor, if from the evidence it results that damages were not fully covered through the final sentence of the criminal court, the difference may be claimed through action filed with a civil court.

(6) A victim or its successors may file an action with a civil court for the remedy of damages resulted or discovered after they became a civil party in criminal proceedings.

(7) In the situation specified by par. (1), the trial before the civil court shall be suspended after the initiation of criminal action and until settlement of the criminal case by the court of first instance, but no longer than a year.

(...)

## **CHAPTER V**

### **Civil parties and their rights**

#### **ART. 84 Civil party**

(1) A victim who initiates a civil action within criminal proceedings is party to the criminal proceedings and is called a civil party.

(2) The heirs of a victim also have the capacity of civil parties, if they initiate a civil action within criminal proceedings.

(...)

#### **ART. 255 Return of assets**

(1) If the prosecutor or the Judge for Rights and Liberties, during the criminal investigation, the Preliminary Chamber Judge, during preliminary chamber procedure or the Court, ascertain, upon request or ex officio, that the assets seized from a suspect or defendant or from any other person who received such assets for safekeeping are owned by the victim or by any other person or have been abusively taken from their holders or owners, they shall order the return of such assets. Art. 250 shall apply accordingly.

(...)

#### **ART. 256 Return to the previous condition**

During trial the Court can take steps to provide a return to the condition that prevailed before the commission of the criminal offense, wherever the change in that original condition was the result of the commission of the criminal offense and the return is feasible.

#### **ART. 397 Settling the civil action**

(1) The court shall decide in the same ruling on the civil action as well.

(...)

(3) At the same time, the court in its ruling shall also take a decision the restitution of things and the reinstatement of the previous condition, according to the provisions under Article 255 and 256.

(...)

(6) When, during the criminal investigation, the preliminary chamber procedure or the trial, the preventive measure of the judicial control on bail was taken against the defendant or the decision was taken to replace another preventive measure with the preventive measure of the judicial control on bail and the civil action is sustained, the court shall order such payment of damages to repair the consequences of the crime be taken from the bail, according to the provisions under Article 217.

2. If the victims of certain types of crime, especially violent crimes, cannot obtain compensation from the offender, they can obtain financial compensation from the state.

The financial compensation from the state can also be obtained by the spouse, the children and the persons in the care of the deceased persons by committing the above crimes.

Compensation is granted to the victim only if she/he has notified the criminal prosecution bodies within 60 days from the date of the offense or, if she was unable to notify the criminal prosecution bodies, within 60 days of on the date when the state of impossibility ceased.

**Law no. 211/2004 on some measures to ensure the information, support and protection of victims of crime**

## **CHAPTER V**

### **The granting by the state of the financial compensations to the victims of crimes**

#### **ART. 21**

(1) The financial compensation is granted, upon request, under the conditions of this chapter, to the following categories of victims:

a) the persons on whom an attempt was committed on the crimes of murder and qualified murder provided for in art. 188 and 189 of the Criminal Code, an offense of personal injury, provided in art. 194 of the Criminal Code, an intentional crime that resulted in the bodily injury of the victim, an offense of rape, sexual act with a minor and sexual aggression, provided in art. 218 - 220 of the Criminal Code, an offense of trafficking in persons and trafficking of minors, provided for in art. 210 and 211 of the Criminal Code, a crime of terrorism, as well as any other intentional crime committed with violence;

b) the husband, the children and the persons in the care of the deceased persons by committing the offenses mentioned in par. (1).

(2) The financial compensation is granted to the victims mentioned in par. (1) if the crime was committed in the territory of Romania and the victim is:

a) Romanian citizen;

b) foreign citizen or stateless person who resides legally in Romania;

c) a citizen of a member state of the European Union, legally on the territory of Romania at the time of the crime; or

d) a foreign citizen or stateless person residing on the territory of a member state of the European Union, legally on the territory of Romania at the time of the crime.

(3) In the case of victims who do not fall into the categories of persons referred to in par. (1) and (2), the financial compensation is granted on the basis of the international conventions to which Romania is a party.

(...)

#### **ART. 23**

(1) The financial compensation is granted to the victim only if it has notified the criminal investigation bodies within 60 days from the date of the crime.

(2) In the case of the victims provided for in art. 21 paragraph (1) lit. b), the term of 60 days is calculated from the date on which the victim became aware of the crime.

(3) If the victim was unable, whether physically or mentally, to notify the criminal investigation bodies, the term of 60 days shall be calculated from the date on which the state of impossibility ceased.

(4) Victims who have not attained the age of 18 years and those placed under the interdiction are not obliged to notify the criminal prosecution bodies regarding the crime. The legal representative of the juvenile or the person placed under the interdiction may notify the criminal prosecution bodies regarding the crime.

#### **ART. 24**

(1) If the perpetrator is known, financial compensation may be granted to the victim if the following conditions are met:

a) the victim made the request for financial compensation within one year, as appropriate:

1. from the date of the definitive stay of the decision by which the criminal court has pronounced the conviction or acquittal in the cases provided for in art. 16 paragraph (1) lit. b) - d) of the Code of criminal procedure and granted civil damages or termination of the criminal case in the cases provided for in art. 16 paragraph (1) lit. f) and h) of the Code of Criminal Procedure;

2. from the date on which the prosecutor ordered the classification, in the cases provided for in art. 16 paragraph (1) lit. b), c), d), f) and h) of the Code of Criminal Procedure;

b) the victim constituted a civil part in the criminal proceedings, unless the classification was ordered according to the provisions of art. 315 paragraph (1) lit. a) of the Code of Criminal Procedure;

c) the perpetrator is insolvent or missing;

d) the victim did not obtain the full compensation of the damage suffered by an insurance company.

(2) If the victim was unable to make the request for financial compensation, the one-year term provided in par. (1) lit. a) is calculated from the date on which the state of impossibility ceased.

(3) In case the court ordered the disjunction of the civil action by the criminal action, the term of one year provided in par. (1) lit. a) flows from the date of the definitive stay of the decision by which the civil action was admitted.

(4) Victims who have not attained the age of 18 years and those under interdiction do not have the obligation provided in par. (1) lit. b).

(...)

#### **ART. 27**

(1) The financial compensation is granted to the victim for the following categories of damages suffered by him by committing the crime:

a) in the case of the victims referred to in art. 21 paragraph (1) lit. a):

1. hospitalization expenses and other categories of medical expenses incurred by the victim;

2. the material damages resulting from the destruction, degradation or bringing into the state of non-use of the victim's goods or from their possession by committing the crime;

3. the earnings that the victim is deprived of as a result of the crime;

b) in the case of the victims referred to in art. 21 paragraph (1) lit. b)

1. funeral expenses;

2. the maintenance that the victim is deprived of because of the crime.

(2) The financial compensation for the material damages provided in par. (1) lit. a) point 2 is granted up to an amount equivalent to 10 minimum gross basic wages per country established for the year in which the victim made the request for financial compensation.

(3) The amounts of money paid by the perpetrator as civil damages and the compensation obtained by the victim from an insurance company for the damages caused by committing the crime are subtracted from the amount of financial compensation granted by the state to the victim.

### **Chapter V - Q E**

According to the Civil Code, parents jointly exercise parental authority. Therefore, as a general rule, the civil code enshrines the principle of equality between parents, which means that the exercise of parental authority rests with both parents equally. The rule of joint exercise of parental authority is applicable both during the period when the parents are married and after the divorce is pronounced.

Also, according to the provisions of art. 507 of the Civil Code, among the situations in which parental authority is exercised by one parent are those where the other parent is deprived of parental rights (the other assumptions described in the text are of an objective nature, such as death or interdiction).

Thus, the guardianship court, at the request of the public administration authorities with responsibilities in the field of child protection, can pronounce the decrease of the exercise of parental rights if the parent endangers the life, health or development of the child by the bad treatments applied to it, by the consumption of alcohol or drugs, by abusive behavior, through gross negligence in the fulfillment of parental obligations or through serious attainment of the best interests of the child.

The negative behavior of the parent must be exercised against or produce effects on the child for whom the decay is required. Serious facts are considered which, by their effect, endanger the life, health or development - physical or mental - of the child.

Regarding the effects of the divorce regarding the relations between parents and their minor children, we show that according to art. 396 paragraph (1) C. civ. The guardianship court decides, with the pronouncement of the divorce, on the relations between the divorced parents and their minor children, taking into account the best interests of the children, the conclusions of the psychosocial investigation report, as well as, if applicable, the send the parents, who he listens to

Also, according to art. 398 paragraph (1), if there are justified reasons, considering the best interests of the child, the court decides that the parental authority is exercised only by one of the parents.

Regarding the way of establishing the child's home after divorce, the provisions of art. 400 of the Civil code.

### **Law 287/2009 regarding the Civil code**

#### **ART. 398 The exercise of parental authority by a single parent**

(1) If there are justified reasons, taking into account the best interests of the child, the court decides that the parental authority is exercised only by one of the parents.

(2) The other parent retains the right to watch over the child's upbringing and education, as well as the right to consent to its adoption.

#### **ART. 400 The child's home after divorce**

(1) In the absence of the agreement between the parents or if this is contrary to the best interests of the child, the guardianship court establishes, with the pronouncement of the divorce, the residence of the minor child in the parent with whom he is living permanently.

(2) If until the child has lived with both parents until the divorce, the court establishes the residence of one of them, taking into account his best interest.

(3) Exceptionally, and only if it is in the best interests of the child, the court may establish its residence with grandparents or other relatives or persons, with their consent, or at a care institution. They exercise the supervision of the child and fulfill all the usual acts regarding his health, education and teaching.

#### **Art. 507 The exercise of parental authority by a single parent**

If one of the parents is deceased, declared dead by court decision, placed under interdiction, deceased from the exercise of parental rights or if, for whatever reason, he is unable to express his will, the other parent exercises parental authority alone.

## **Chapter V - Q F**

### **1. Law 286/2009 regarding the Criminal code**

#### **ART. 206 Threats**

(1) The act of threatening an individual with the commission of an offense or of a prejudicial act against them or other individual, if this is of nature to cause a state of fear, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine; however, the applied penalty may not exceed the penalty established by law for the offense that was the subject matter of the threat.

(2) Criminal action shall be initiated based on a prior complaint filed by the victim.

#### **ART. 207 Blackmail**

(1) Coercion of an individual to give, to do, not do, or suffer something for the purpose of unlawfully acquiring a non-financial benefit, for themselves or for another individual, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The same penalty shall apply to a threat to disclose a real or fictitious fact that is compromising for the threatened individual or for a member of their family, for the purpose set under par. (1).

(3) If the acts set by par. (1) and par. (2) were committed for the purpose of deriving a financial benefit, for themselves or for another individual, they shall be punishable by no less than 2 and no more than 7 years of imprisonment.

### **2. Law 286/2009 regarding the Criminal code**

#### **ART. 208 Harassment**

(1) The act of an individual who repeatedly, with or without a right or legitimate interest, pursues an individual or supervises their domicile, working place or other places attended by the latter, thus causing to them a state of fear, shall be punishable by no less than 3 and no more than 6 months of imprisonment or by a fine.

(2) Making of phone calls or communications through remote communication devices which, through their frequency or content, cause a state of fear to an individual, shall be punishable by no less than 1 and no more than 3 months of imprisonment or by a fine, unless such act represents a more serious offense.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.

### **3. Law 286/2009 regarding the Criminal code**

#### **CHAPTER II Offenses against bodily integrity or health**

#### **ART. 193 Battery and other acts of violence**

(1) Battery or any other acts of violence causing physical suffering shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) An act causing traumatic injuries or affecting the health of an individual, the seriousness of which is assessed based on medical-care days of maximum 90 days, shall be punishable by no less than 6 months and no more than 5 years of imprisonment or by a fine.

(3) The criminal action shall be initiated based on a prior complaint filed by the victim.

#### **ART. 194 Bodily harm**

(1) The act set by Art. 193, which caused any of the following consequences:

a) an impairment;

- b) traumatic injuries or health impairment of an individual the healing of which required more than 90 medical care days;
  - c) a serious and permanent aesthetic injury;
  - d) miscarriage;
  - e) endangering of an individual's life,
- shall be punishable by no less than 2 and no more than 7 years of imprisonment.
- (2) When such act was committed for the purpose of causing any of the consequences listed under par. (1) lett. a), lett. b) and lett. c), it shall be punishable by no less than 3 and no more than 10 years of imprisonment.
- (3) The attempt to commit the offense set under par. (2) shall be punishable.

#### **ART. 195 Battery and bodily harm causing death**

If any of the acts set by Art. 193 and Art. 194 result in the death of the victim, the penalty shall be no less than 6 and no more than 12 years of imprisonment.

(...)

#### **ART. 197 Ill treatments applied to underage persons**

Serious jeopardy, through measures or treatments of any kind, of the physical, intellectual or moral development of an underage person, by parents or by any person under whose care the underage person is, shall be punishable by no less than 3 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(...)

(4) An individual who was caught in a brawl against their will, or who tried to separate others shall not be punishable.

#### **ART. 199 Domestic violence**

(1) If the acts set by Art. 188, Art. 189 and Art. 193- 195 are committed against a family member, the special maximum term of the penalty set by law shall be increased by one-fourth.

(2) In case of offenses set by Art. 193 and Art. 196 committed against a family member, a criminal action may be initiated also ex officio. Reconciliation shall eliminate criminal liability.

4. The acts of rape or sexual assault are indicted regardless of whether they are committed against former or current spouses. These circumstances do not constitute grounds for reduction of penalties or non-punishment.

The age of sexual content is 15 years old for sexual acts with penetration and 13 years old for sexual acts without penetration. This means that a sexual act with a child below these ages is incriminated.

#### **ART. 218 Rape**

(1) Sexual intercourse, oral or anal intercourse with a person, committed through coercion, impossibility to defend himself or to express his or her will or benefit from this state shall be punished by imprisonment from 3 to 10 years, and prohibiting the exercise of certain rights.

(2) The same punishment shall be sanctioned by any other acts of vaginal or anal penetration committed under para. (1).

(3) The punishment shall be imprisonment from 5 to 12 years and the prohibition of the exercise of rights when:

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

b) the victim is a direct relative, brother or sister;

c) the victim is a minor;

d) the act was committed for the purpose of producing pornographic material;

e) the deed has resulted in bodily injury;

f) The act was committed by two or more people together.

(4) If the deed has resulted in the death of the victim, the punishment shall be imprisonment from 7 to 18 years and the prohibition of the exercise of certain rights.

(5) The criminal action for the deed stipulated in par. (1) and par. (2) moves to the prior complaint of the injured party.

(6) The attempt to the offenses provided in paragraph (1) - (3) shall be punished.

### **Article 219 Sexual aggression**

(1) The act of sexual nature, other than those stipulated in art. 218, with a person, committed through coercion, impossibility to defend himself or to express his will or to take advantage of this state, shall be punished by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2) The punishment shall be imprisonment of 3 to 10 years and the prohibition of the exercise of rights when:

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

b) the victim is a direct relative, brother or sister;

c) the victim is a minor;

d) the act was committed for the purpose of producing pornographic material;

e) the deed has resulted in bodily injury;

f) The act was committed by two or more people together.

(3) If the deed has resulted in the death of the victim, the punishment shall be imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.

(4) If acts of sexual assault were preceded or followed by the sexual acts referred to in art. 218 par. (1) and par. (2), deed constitutes rape.

(5) The criminal action for the deed stipulated in par. (1) moves to the prior complaint of the injured person.

(6) The attempt to the offenses provided in paragraph (1) and par. (2) is punishable.

5. Forced marriage is not criminalized as such, but concrete ways of committing it are incriminated: illegally deprived of liberty, rape (including in the form of incitement and complicity, so as to punish persons who force minors to enter forced marriages), trafficking of people.

## **Law 286/2009 regarding the Criminal code**

### **CHAPTER VI**

#### **Author and participants**

#### **ART. 46 Author and co-authors**

(1) An author is the person who personally commits an act stipulated by criminal law.

(2) Co-authors are persons who personally commit the same act stipulated by criminal law.

**ART. 47 Instigator**

An instigator is a person who, with direct intent, determines another to commit an act stipulated by criminal law.

**ART. 48 The accomplice**

(1) The accomplice is the person who deliberately facilitates or helps in any way with the commission of an act stipulated by criminal law.

(2) The accomplice is also the person who promises, before or during the commission of the act, that they will conceal the assets originating from it or that they will favor the perpetrator, even if, after the commission of the act, the promise is not fulfilled.

**ART. 49 Penalty in case of participants**

The coauthor, the instigator and the accomplice to a deliberately performed crime is punished with the penalty stipulated by law for the author of the act. When the penalty is established, the contribution of each person to the commission of the act shall be taken into account, as well as the stipulations stipulated in art. 74.

**ART. 52 Improper participation**

(1) The direct, deliberate commission by a person of an act stipulated by criminal law, to which, with basic intent or without guilt, another person contributes with acts of service, is punishable by the penalty stipulated by the law for the act committed with direct intent.

(2) The determining, facilitating or helping in any way, with intent, in the commission by another person with basic intent of an act stipulated by criminal law is punishable by the penalty stipulated by the law for the act committed with direct intent.

(3) The determining, facilitating or helping in any way, with intent, in the commission by another person who performs that act without guilt, is punishable by the penalty stipulated by the law for the respective crime.

(4) The stipulations in art. 50 and art. 51 shall apply accordingly.

**ART. 205 Illegal deprivation of freedom**

(1) Illegal deprivation of freedom of an individual shall be punishable by no less than 1 and no more than 7 years of imprisonment.

(2) The kidnapping of an individual unable to express their will or to defend themselves shall also constitute deprivation of freedom.

(3) If such act is committed:

a) by an armed person;

b) against a underage person;

c) by jeopardizing the victim's health or life, it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(4) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(5) The attempt to commit the offenses set under par. (1) - (3) shall be punishable.

**ART. 207 Blackmail**

(1) Coercion of an individual to give, to do, not do, or suffer something for the purpose of unlawfully acquiring a non-financial benefit, for themselves or for another individual, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The same penalty shall apply to a threat to disclose a real or fictitious fact that is compromising for the threatened individual or for a member of their family, for the purpose set under par. (1).

(3) If the acts set by par. (1) and par. (2) were committed for the purpose of deriving a financial benefit, for themselves or for another individual, they shall be punishable by no less than 2 and no more than 7 years of imprisonment.

#### **Article 211 Trafficking of minors**

(1) The recruitment, transportation, transfer, housing or reception of a minor for the purpose of exploitation shall be punished by imprisonment of 3 to 10 years and the prohibition of the exercise of certain rights.

(2) The punishment shall be imprisonment from 5 to 12 years and the prohibition of the exercise of rights when:

a) the deed was committed under the conditions of art. 210 para. (1);

b) the offense was committed by a civil servant in the performance of his / her duties;

c) the deed threatened the minor's life;

d) the deed was committed by a minor's family member;

e) the offense was committed by a person in whose care, protection, education, guard or treatment the minors are or a person who has abused his or her position of trust or authority over the minor.

(3) The consent of the trafficked person is not a justifiable cause.

#### **Article 218 Rape**

(1) Sexual intercourse, oral or anal intercourse with a person, committed through coercion, impossibility to defend himself or to express his or her will or benefit from this state shall be punished by imprisonment from 3 to 10 years, and prohibiting the exercise of certain rights.

(2) The same punishment shall be sanctioned by any other acts of vaginal or anal penetration committed under para. (1).

(3) The punishment shall be imprisonment from 5 to 12 years and the prohibition of the exercise of rights when:

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

b) the victim is a direct relative, brother or sister;

c) the victim is a minor;

d) the act was committed for the purpose of producing pornographic material;

e) the deed has resulted in bodily injury;

f) The act was committed by two or more people together.

(4) If the deed has resulted in the death of the victim, the punishment shall be imprisonment from 7 to 18 years and the prohibition of the exercise of certain rights.

(5) The criminal action for the deed stipulated in par. (1) and par. (2) moves to the prior complaint of the injured party.

(6) The attempt to the offenses provided in paragraph (1) - (3) shall be punished.

#### **Article 219 Sexual aggression**

(1) The act of sexual nature, other than those stipulated in art. 218, with a person, committed through coercion, impossibility to defend himself or to express his will or to take advantage of this state, shall be punished by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2) The punishment shall be imprisonment of 3 to 10 years and the prohibition of the exercise of rights when:

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

b) the victim is a direct relative, brother or sister;

c) the victim is a minor;

d) the act was committed for the purpose of producing pornographic material;

e) the deed has resulted in bodily injury;

f) The act was committed by two or more people together.

(3) If the deed has resulted in the death of the victim, the punishment shall be imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.

(4) If acts of sexual assault were preceded or followed by the sexual acts referred to in art. 218 par. (1) and par. (2), deed constitutes rape.

(5) The criminal action for the deed stipulated in par. (1) moves to the prior complaint of the injured person.

(6) The attempt to the offenses provided in paragraph (1) and par. (2) is punishable.

#### **Article 220 Sexual act with a minor**

(1) Sexual intercourse, oral or anal intercourse and any other vaginal or anal penalty committed with a minor between the ages of 13 and 15 shall be punishable by imprisonment from one to five years.

(2) The offense referred to in paragraph (1) committed against a minor who has not reached the age of 13 shall be punished by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

(3) The act provided for in paragraph (1) committed by a major with a minor between the ages of 15 and 18 shall be punished by imprisonment from 2 to 7 years and the prohibition of the exercise of rights if:

a) the minor is a family member of the major;

b) the minor is in the care, protection, education, guard or treatment of the perpetrator, or has abused his or her recognized trust or authority position on the minor or his particularly vulnerable situation as a result of psychological or physical disability, or due to a situation of addiction;

c) the deed threatened the minor's life;

d) was committed for the purpose of producing pornographic material.

(4) The offense referred to in paragraph (1) and (2) shall be punished by imprisonment from 3 to 10 years and the prohibition of the exercise of rights when:

a) the minor is a family member;

b) the minor is in the care, protection, education, guard or treatment of the perpetrator or has abused his or her position of trust or authority over the minor;

c) the deed threatened the minor's life;

d) was committed for the purpose of producing pornographic material.

(5) The facts provided in paragraph (1) and par. (2) shall not be sanctioned if the age difference does not exceed 3 years.

(6) The attempt to the offenses provided in paragraph (1) - (4) shall be punished.

#### **Article 221 Sexual abuse of minors**

(1) The commission of an act of a sexual nature, other than that stipulated in art. 220 against a minor who has not reached the age of 13 and the determination of the minor to bear or to perform such an act shall be punished by imprisonment from one to five years.

(2) The punishment shall be imprisonment from 2 to 7 years and the prohibition of the exercise of rights when:

- a) the minor is a relative in a direct line, brother or sister;
- b) the minor is in the care, protection, education, guard or treatment of the perpetrator;
- c) the act was committed for the purpose of producing pornographic material;
- d) the deed threatened the life of the minor.

(3) The sexual act of any kind committed by a major in the presence of a minor who has not reached the age of 13 shall be punished by imprisonment from 6 months to 2 years or by fine.

(4) The determination by a major of a minor who has not reached the age of thirteen is to assist in the commission of acts of exhibitionism or performances or performances in which sexual acts of any nature are committed and made available to him of pornographic material shall be punished by imprisonment from 3 months to one year or a fine.

(5) The facts provided in paragraph (1) shall not be sanctioned if the age difference does not exceed 3 years.

(6) The attempt to the offenses provided in paragraph (1) and (2) shall be punished.

## **6. Law 286/2009 regarding the Criminal code**

### **ART. 193 Battery and other acts of violence**

(1) Battery or any other acts of violence causing physical suffering shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) An act causing traumatic injuries or affecting the health of an individual, the seriousness of which is assessed based on medical-care days of maximum 90 days, shall be punishable by no less than 6 months and no more than 5 years of imprisonment or by a fine.

(3) The criminal action shall be initiated based on a prior complaint filed by the victim.

### **ART. 194 Bodily harm**

(1) The act set by Art. 193, which caused any of the following consequences:

- a) an impairment;
- b) traumatic injuries or health impairment of an individual the healing of which required more than 90 medical care days;
- c) a serious and permanent aesthetic injury;
- d) miscarriage;
- e) endangering of an individual's life,

shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) When such act was committed for the purpose of causing any of the consequences listed under par. (1) lett. a), lett. b) and lett. c), it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(3) The attempt to commit the offense set under par. (2) shall be punishable.

## **7. Law 286/2009 regarding the Criminal code**

### **ART. 193 Battery and other acts of violence**

(1) Battery or any other acts of violence causing physical suffering shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) An act causing traumatic injuries or affecting the health of an individual, the seriousness of which is assessed based on medical-care days of maximum 90 days, shall be punishable by no less than 6 months and no more than 5 years of imprisonment or by a fine.

(3) The criminal action shall be initiated based on a prior complaint filed by the victim.

#### **ART. 194 Bodily harm**

(1) The act set by Art. 193, which caused any of the following consequences:

a) an impairment;

b) traumatic injuries or health impairment of an individual the healing of which required more than 90 medical care days;

c) a serious and permanent aesthetic injury;

d) miscarriage;

e) endangering of an individual's life,

shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) When such act was committed for the purpose of causing any of the consequences listed under par. (1) lett. a), lett. b) and lett. c), it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(3) The attempt to commit the offense set under par. (2) shall be punishable.

#### **ART. 201 Termination of pregnancy**

(1) Termination of pregnancy committed under any of the following circumstances:

a) outside medical facilities or offices authorized for this purpose;

b) by a person who does not have the capacity as physician specialized in obstetrics and gynecology and a license for medical practice in this specialty;

c) if the length of pregnancy exceeded fourteen weeks, the punishment shall be of no less than 6 months and no more than 3 years of imprisonment or a fine and a ban on the exercise of certain rights.

(2) Termination of pregnancy, committed under any circumstances, without the consent of the pregnant woman, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(3) If the acts set under par. (1) and par. (2) caused bodily harm to a pregnant woman, the penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, and if such acts resulted in a pregnant woman's death, the penalty shall be no less than 6 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.

(4) When such acts were committed by a physician, in addition to the imprisonment penalty, a prohibition to practice their profession shall apply.

(5) The attempt to commit the offenses set under par. (1) and par. (2) shall be punishable.

(6) Termination of pregnancy for therapeutic purposes performed by a physician specialized in obstetrics and gynecology, up to the pregnancy length of twenty four weeks, or subsequent termination of pregnancy for therapeutic purposes, in the interest of the mother or of the fetus, shall not constitute an offense.

(7) A pregnant woman who terminates her own pregnancy shall not be punishable.

## **8. Law 286/2009 regarding the Criminal code**

### **ART. 194 Bodily harm**

(1) The act set by Art. 193, which caused any of the following consequences:

- a) an impairment;
- b) traumatic injuries or health impairment of an individual the healing of which required more than 90 medical care days;
- c) a serious and permanent aesthetic injury;
- d) miscarriage;
- e) endangering of an individual's life,

shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) When such act was committed for the purpose of causing any of the consequences listed under par. (1) lett. a), lett. b) and lett. c), it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(3) The attempt to commit the offense set under par. (2) shall be punishable.

## **Chapter V - Q G**

### **Criminal Code**

#### **Art. 206 Threats**

(1) The act of threatening an individual with the commission of an offense or of a prejudicial act against them or other individual, if this is of nature to cause a state of fear, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine; however, the applied penalty may not exceed the penalty established by law for the offense that was the subject matter of the threat.

(2) Criminal action shall be initiated based on a prior complaint filed by the victim.

#### **Art. 208 Harassment**

(1) The act of an individual who repeatedly, with or without a right or legitimate interest, pursues an individual or supervises their domicile, working place or other places attended by the latter, thus causing to them a state of fear, shall be punishable by no less than 3 and no more than 6 months of imprisonment or by a fine.

(2) Making of phone calls or communications through remote communication devices which, through their frequency or content, cause a state of fear to an individual, shall be punishable by no less than 1 and no more than 3 months of imprisonment or by a fine, unless such act represents a more serious offense.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.

#### **Art 219 Sexual assault**

(1) An act that is sexual in nature, other than those set out under Art. 218, with a person, committed by constraint, by rendering the person in question unable to defend themselves or to express their will or by taking advantage of such state, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) The penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, when:

a) the victim is entrusted to the perpetrator for care, protection, education, guard or treatment;

b) the victim is a direct-line relative, a brother or sister;

c) the victim is a minor;

d) the act was committed for the production of pornographic material;

e) the act resulted in bodily harm;

f) the act was committed by two or more individuals, acting together.

(3) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(4) If the sexual assault acts were preceded or followed by the commission of the sexual intercourse set out in Art. 218 par. (1) and par. (2), such act shall constitute rape.

(5) Criminal action for the act set by par. (1) shall be initiated based on a prior complaint filed by the victim.

(6) The attempt to commit the offenses set out in par. (1) and par. (2) shall be punishable.

#### **Art. 223 Sexual harassment**

(1) Repeatedly soliciting sexual favours as part of an employment relationship or a similar relationship, if by so doing the victim was intimidated or placed in a humiliating situation, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) Criminal action shall be initiated based on a prior complaint filed by the victim.

## **Chapter V - Q H**

### **Criminal Code**

#### **ART. 47 Instigator**

An instigator is a person who, with direct intent, determines another to commit an act stipulated by criminal law.

#### **ART. 48 The accomplice**

(1) The accomplice is the person who deliberately facilitates or helps in any way with the commission of an act stipulated by criminal law.

(2) The accomplice is also the person who promises, before or during the commission of the act, that they will conceal the assets originating from it or that they will favor the perpetrator, even if, after the commission of the act, the promise is not fulfilled.

## **ART. 49 Penalty in case of participants**

The co-author, the instigator and the accomplice to a deliberately performed crime is punished with the penalty stipulated by law for the author of the act. When the penalty is established, the contribution of each person to the commission of the act shall be taken into account, as well as the stipulations stipulated in art. 74.

Please see above the sentences applied for each offence.

## **Chapter V - Q I**

### **Criminal Code**

#### **Art. 194 Bodily harm**

(1) The act set by Art. 193, which caused any of the following consequences:

- a) an impairment;
- b) traumatic injuries or health impairment of an individual the healing of which required more than 90 medical care days;
- c) a serious and permanent aesthetic injury;
- d) miscarriage;
- e) endangering of an individual's life,

shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) When such act was committed for the purpose of causing any of the consequences listed under par. (1) lett. a), lett. b) and lett. c), it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(3) The attempt to commit the offense set under par. (2) shall be punishable.

#### **Art. 201 Termination of pregnancy**

(1) Termination of pregnancy committed under any of the following circumstances:

....

(2) Termination of pregnancy, committed under any circumstances, without the consent of the pregnant woman, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

...

(5) The attempt to commit the offenses set under par. (1) and par. (2) shall be punishable.

#### **Art. 205 Illegal deprivation of freedom**

(1) Illegal deprivation of freedom of an individual shall be punishable by no less than 1 and no more than 7 years of imprisonment.

(2) The kidnapping of an individual unable to express their will or to defend themselves shall also constitute deprivation of freedom.

(3) If such act is committed:

a) by an armed person;

b) against a underage person;

c) by jeopardizing the victim's health or life, it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

....

(5) The attempt to commit the offenses set under par. (1) - (3) shall be punishable.

### **Art 210 Trafficking in persons**

(1) Recruitment, transportation, transfer, harboring or receipt of persons for exploitation purposes:

a) by means of coercion, abduction, deception, or abuse of authority;

b) by taking advantage of the inability of a person to defend themselves or to express their will or of their blatant state of vulnerability;

c) by offering, giving and receiving payments or other benefits in exchange for the consent of an individual having authority over such person,

shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

....

(3) The consent expressed by an individual who is a victim of trafficking does not represent an acceptable defense.

### **Art 211 Trafficking in underage persons**

(1) Recruitment, transportation, transfer, harboring or receipt of a juvenile for the purpose of their exploitation shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(2) The deeds shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights if such act:

a) was committed under the terms of Art. 210 par. (1);

b) was committed by a public servant while in the exercise of their professional duties and prerogatives;

c) endangered the life of a minor;

d) was committed by a member of the family of the minor;

e) was committed by a person in whose care, protection, education, guard or treatment the minor was or by another person who abused of his position, trust or authority over the minor.

(3) The consent expressed by an individual who is a victim of trafficking does not represent a acceptable defense.

### **Art. 217 Punishing the attempt**

The attempt to commit the offenses set forth by Art. 209-211 and Art. 213 par. (2) shall be punishable.

### **Art 218 Rape**

(1) Sexual intercourse, oral or anal intercourse with a person, perpetrated by constraint, by rendering the person in question unable to defend him/herself or to express his/her will or by taking advantage of such state, shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(2) The same penalty shall apply to any act of vaginal or anal penetration perpetrated under par. (1).

(3) It shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights, when:

- a) the victim is entrusted to the perpetrator for care, protection, education, safeguarding or treatment;
- b) the victim is a first degree relative, i.e. brother or sister;
- c) the victim is a minor;
- d) the act was perpetrated for the production of pornography;
- e) the act resulted in bodily injury;
- d) the act was perpetrated by two or more individuals, acting together.

.....

(6) An attempt to perpetrate the offenses set out in par. (1) - (3) shall be punished.

### **Art 219 Sexual assault**

(1) An act that is sexual in nature, other than those set out under Art. 218, with a person, committed by constraint, by rendering the person in question unable to defend themselves or to express their will or by taking advantage of such state, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) The penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, when:

- a) the victim is entrusted to the perpetrator for care, protection, education, guard or treatment;
- b) the victim is a direct-line relative, a brother or sister;
- c) the victim is a minor;
- d) the act was committed for the production of pornographic material;
- e) the act resulted in bodily harm;
- f) the act was committed by two or more individuals, acting together.

(3) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(4) If the sexual assault acts were preceded or followed by the commission of the sexual intercourse set out in Art. 218 par. (1) and par. (2), such act shall constitute rape.

....

(6) The attempt to commit the offenses set out in par. (1) and par. (2) shall be punishable.

#### **Art 220 Sexual intercourse with a minor**

(1) Sexual intercourse, oral or anal sex, as well as any act of vaginal or anal penetration committed with a juvenile aged 13 to 15 shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The act set by par. (1), committed on a juvenile who has not turned 13 years of age, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(3) The act set by par. (1), committed by a person of age with a juvenile aged 15 to 18 shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights if:

a) the minor is a member of the family of the adult

b) the minor is in the care, protection, education, guard or treatment of the perpetrator or the former abused his authority or influence over the victim or of the vulnerable situation of the minor caused by a mental or physical disability or as a result of a situation of dependence

c) the act endangered the life of the minor

d) the act was committed for producing pornographic materials

(4) The act set by par. (1) - (3) shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, when:

a) ) the minor is a member of the family

b) the juvenile is entrusted to the perpetrator for care, protection, education, guard or treatment or the former abused his authority or influence over the victim

c) the act endangered the life of the minor

d) the act was committed for the production of pornographic materials.

....

(6) The attempt to commit the offenses set out in par. (1) to par. (4) shall be punishable.

#### **Art. 221 Sexual corruption of minors**

(1) The commission of an act that is sexual in nature, other than the one set out in Art. 220, against a minor who has not turned 13 of age, as well as determining a minor to endure or carry out such an act shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The penalty shall be no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights, when:

- a) the juvenile is a direct-line relative, a brother or sister;
- b) the juvenile is entrusted to the perpetrator for care, protection, education, guard or treatment;
- c) the act was committed for the production of pornographic materials.
- d) the act endangered the life of the minor.

...

(6) The attempt to commit the offenses set out in par. (1) and par. (2) shall be punishable.

**Art. 439 Crimes against humanity** - Letter f) rape or sexual assault, compelling to engage in prostitution, forced sterilization or illegal detention of a woman who was forced to become pregnant, with a goal to change a population's ethnic composition;

**Art. 440 War crimes against individuals** - letter d) rape or sexual assault, compelling to engage in prostitution, forced sterilization or illegal detention of a woman who was forced to become pregnant, with a goal to change a population's ethnic composition.

#### **Art. 445 Punishing the attempt**

The attempt to commit the offenses stipulated in this Title shall be punishable.

The attempt to commit the offenses stipulated in this Title shall be punishable.

### **Chapter V - Q L**

1. The main sanction for all the offenses mentioned in letter. f) is the prison, within the limits provided for in the cited articles.

In addition, complementary punishments can be applied, such as: prohibition of parental rights, prohibition of the right to communicate with the victim or family members of the victim, prohibition of the right to approach the home, workplace, school or other places where the victim carries out social activities, under the conditions established by the court.

Also, during the criminal trial, preventive measures taken against the perpetrator can contain obligations that take into account the protection of the victim, such as the prohibition to return to the family home, to the injured person or to his family members to communicate, directly or indirectly, on any way, with them, the obligation to wear an electronic surveillance system, the obligation not to exceed a certain territorial limit;

Also, if the court pronounces either a sentence with the suspension of execution or the postponement of the application of the sentence, it may require the convicted person, within the trial term, to comply with several measures, such as the interdiction of

communicating with the victim or his/her family members, or the interdiction to be in certain places established by the court.

## **Law 286/2009 regarding the Criminal code**

### **SECTION 2 Ancillary penalties**

#### **ART. 66 Content of the ancillary penalty of receiving a ban on the exercise of a number of rights**

(1) The ancillary penalty of a ban on the exercise of a number of rights consists of a ban, for one to five years, on the exercise of one or several of the following rights:

(...)

e) parental rights;

f) right to be a legal guardian or curator;

(...)

m) the right to be in certain locations or attend certain sports events, cultural events or public gatherings, as established by the Court;

n) the right to communicate with the victim or the victim's family, with the persons together with whom they committed the offense or with other persons as established by the Court, or the right to go near such persons;

o) the right to go near the domicile, workplace, school or other locations where the victim carries social activities, in the conditions established by the Court.

(...)

(5) When the ban regards one of the rights stipulated at par. (1) lett. n) and lett. o), the Court shall specifically customize the content of that penalty so as to consider the circumstances of the case.

### **SECTION 4 Postponement of penalty enforcement**

(...)

#### **ART. 85 Probation measures and obligations**

(1) For the duration of the probation period, a defendant who has been granted postponement of penalty enforcement must comply with the following probation measures:

a) report to the Probation Service on the dates set by the latter;

b) receive visits by the probation officer appointed to supervise them;

c) give notice of changing domicile and of any travel longer than 5 days, as well as of their return date;

d) give notice of changing jobs;

e) provide information and documents of a nature that will make it possible to check into their livelihood.

(2) The Court can order a defendant who has been granted postponement of penalty enforcement to comply with one or several of the following obligations to:

a) take classes in school or a vocational training;

b) perform community service for a duration between 30 and 60 days, in the conditions ordered by the Court, except for the case where their health precludes them from performing that service. The daily number of hours to be performed shall be established as under the Law on the Service of Penalties;

c) attend one or more social reintegration programs operated by the Probation Service or given in cooperation with community entities;

d) comply with medical checkups, treatment or care;

e) not communicate with the victim or the victim's family, with the persons together with whom they committed the offense or with other persons as established by the Court, or to not go near such persons;

f) not be in certain locations or attend certain sports events, cultural events or public gatherings established by the Court;

g) not drive certain vehicles established by the Court;

h) not own, use and carry any category of weapons;

i) not leave Romanian territory without securing agreement from the Court;

j) not take or exercise the position, profession, occupation or activity they used in the commission of the offense.

(3) To order the obligation stipulated at par. (2) lett. b), the Court shall consult the information made available periodically by the Probation Service concerning the actual compliance possibilities the Probation Service and the community can provide.

(4) When ordering the obligation stipulated at par. (2) lett. e) -g), the Court is specifically customizing the contents of that obligation in consideration of the circumstances of the case.

(5) The defendant on probation must comply in full with their civil obligations as ordered in the Court judgment, no later than 3 months before expiry of the probation period.

## **SECTION 5\*)Suspension of service of a sentence under supervision**

(...)

### **ART. 93 Supervision measures and obligations**

(1) During the supervision period, a convict shall comply with the following supervision measures:

- a) report to the Probation Service on the dates set by the latter;
- b) receive visits by the probation officer appointed to supervise them;
- c) give notice of changing domicile and of any travel longer than 5 days, as well as of their return date;
- d) give notice of changing jobs;
- e) provide information and documents of a nature that will make it possible to check into their livelihood.

(2) The Court can order a defendant to comply with one or several of the following obligations to:

- a) take classes in school or a vocational training;
- b) attend one or more social reintegration programs operated by the Probation Service or given in cooperation with community entities;
- c) comply with medical checkups, treatment or care;
- d) not leave Romanian territory without securing agreement from the Court;

(3) During the supervision period, a convict shall perform community service for a period between 60 and 120 days, under the terms set out by Court, unless their health prevents them from performing such work. The daily number of hours shall be determined by the Law on the Service of Penalties.

(4) In determining the content of the obligation set out in par. (3), the Court shall consult the information provided periodically by the Probation Service on the existing concrete capacities to serve at the level of the Probation Service and the community institutions.

(5) The convict must comply in full with their civil obligations as ordered in the Court judgment, no later than 3 months before expiry of the probation period.

## **SECTION 6 Conditional Release**

### **ART. 101 Supervision measures and obligations**

(1) If the remaining part of an un-serviced penalty is, upon conditional release, of 2 years or more, a convict shall comply with the following supervision measures:

- a) report to the Probation Service on the dates set by the latter;
- b) receive visits by the probation officer appointed to supervise them;
- c) give notice of changing domicile and of any travel longer than 5 days, as well as of their return date;
- d) give notice of changing jobs;
- e) provide information and documents of a nature that will make it possible to check into their livelihood.

(2) In the case referred to in par. (1), the court may require a convict to perform one or more of the following obligations:

- a) take classes in school or a vocational training;
- b) attend one or more social reintegration programs operated by the Probation Service or given in cooperation with community entities;
- c) not leave Romanian territory
- d) not be in certain locations or attend certain sports events, cultural events or public gatherings established by the Court;
- e) not communicate with the victim or the victim's family, with the persons together with whom they committed the offense or with other persons as established by the Court, or to not go near such persons;
- f) not drive certain vehicles established by the Court;
- g) not own, use and carry any category of weapons.

(3) The obligations set out in par. (2) lett. c) - g) may be imposed to the extent they have not been enforced by the ancillary penalty prohibiting the exercise of certain rights.

(4) In determining the obligation set forth by par. (2) lett. d) - f), the Court practically customizes the content of such obligation, considering the circumstances of the case.

(5) The supervision measures and the obligations provided in par. (2) lett. a) and lett. b) shall be fulfilled as of the date of release, for a period equal to one-third of the supervision term, but no more than 2 years, and the obligations set out in par. (2) lett. c) - g) are to be performed throughout the entire supervision period.

## **Law 302/2004 on judicial cooperation in criminal matters**

### **SECTION 1 Conditions for requesting extradition**

#### **Art. 26**

Extradition is granted by Romania, for the purpose of criminal prosecution or trial, for acts whose offense attracts according to the law of the requesting state and the

Romanian law a sentence of deprivation of liberty of at least one year, and in view of the execution of a sentence, only if it is of at least 4 months.

## **CHAPTER II**

### **Active extradition**

#### **ARTICLE 61 Obligation to request extradition**

Extradition of a person against whom the competent Romanian judicial authorities have issued a preventive arrest warrant or a warrant for the execution of the prison sentence or to which a security measure has been applied will be requested to the foreign state in whose territory it was located in all cases in which it was located the conditions provided by this law are met.

#### **ARTICLE 61 Obligation to request extradition**

Extradition of a person against whom the competent Romanian judicial authorities have issued a preventive arrest warrant or a warrant for the execution of the prison sentence or to which a security measure has been applied will be requested to the foreign state in whose territory it was located in all cases in which it was located the conditions provided by this law are met.

#### **ARTICLE 62 Legal framework**

(1) The provisions of section 1 of chap. I of the present title applies accordingly if Romania has the status of requesting state.

(2) Apart from the condition regarding the gravity of the punishment provided in art. 26, an additional condition for Romania to be able to request the extradition of a person, in order to carry out the criminal prosecution, is that the criminal action against that person be initiated, under the conditions provided in the Criminal Procedure Code.

## **Chapter V- Q M**

### **Article 46 - Aggravating circumstances**

Parties shall take the necessary legislative or other measures to ensure that the following circumstances, insofar as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with this Convention:

a) the offence was committed against a former or current spouse or partner as recognised by internal law, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority;

Battery and other acts of violence are punished more severely when they are committed against a family member.

Rape and sexual assault are also under more severe punishment when committed against a minor, a direct relative, a person who is in the care, protection, education, guard or treatment of the perpetrator.

#### **Law 286/2009 regarding the Criminal code**

##### **ART. 199 Domestic violence**

(1) If the acts set by Art. 188, Art. 189 and Art. 193- 195 are committed against a family member, the special maximum term of the penalty set by law shall be increased by one-fourth.

(2) In case of offenses set by Art. 193 and Art. 196 committed against a family member, a criminal action may be initiated also ex officio. Reconciliation shall eliminate criminal liability.

Art. 193 - 195 are cited above.

(...)

#### **CHAPTER VIII**

##### **Offenses against sexual freedom and integrity**

##### **Article 218 Rape**

(1) Sexual intercourse, oral or anal intercourse with a person, committed through coercion, impossibility to defend himself or to express his or her will or benefit from this state shall be punished by imprisonment from 3 to 10 years, and prohibiting the exercise of certain rights.

(2) The same punishment shall be sanctioned by any other acts of vaginal or anal penetration committed under para. (1).

(3) The punishment shall be imprisonment from 5 to 12 years and the prohibition of the exercise of rights when:

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

b) the victim is a direct relative, brother or sister;

c) the victim is a minor;

(...)

##### **Article 219 Sexual aggression**

(1) The act of sexual nature, other than those stipulated in art. 218, with a person, committed through coercion, impossibility to defend himself or to express his will or to take advantage of this state, shall be punished by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2) The punishment shall be imprisonment of 3 to 10 years and the prohibition of the exercise of rights when:

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

b) the victim is a direct relative, brother or sister;

c) the victim is a minor;

(...)

**b) the offence, or related offences, were committed repeatedly;**

If the offenses are repeatedly committed, this is a cause of aggravation of the punishment, through the rules of multiple offences.

## **Law 286/2009 regarding the Criminal code**

### **ART. 38 Multiple offenses**

(1) There exist multiple offences when two or several violations have been committed by the same person, via various actions or inactions, before receiving a final conviction for any of them. There also exist actual multiple violations when one of those has been committed in order to commit or conceal another offense.

(2) There exist formal multiple violations when an action or inaction committed by a person, because of the circumstances under which it occurred and because of the consequences it produced, contains the elements of several violations.

### **ART. 39**

#### **Main penalty for multiple offenses**

(1) In case of multiple offenses, the penalty for each offense is established separately and the penalty is applied as follows:

a) when a penalty of life imprisonment and one or more penalties of imprisonment or fine have been established, the penalty of life imprisonment shall be applied;

b) when only penalties of imprisonment have been established, the heaviest penalty shall be applied, which can be increased by one-third of the total of all the other penalties handed down;

c) when only fines have been established, the heaviest penalty shall be applied, which can be increased by one-third of the total of all the other penalties handed down;

d) when a penalty of imprisonment and a penalty of fine have been established, the penalty of imprisonment shall be applied, to which the full fine can be added;

e) when several penalties of imprisonment and several penalties of fine have been established, the penalty of imprisonment shall be applied, according to letter b), to which the full fine can be added, according to letter c).

(2) When several penalties of imprisonment have been established, if, by adding to the heaviest penalty a third of the total of all other penalties of imprisonment, and for at least one of the multiple offenses the penalty provided by law is 20 years or more, the penalty of life imprisonment can be applied.

### **ART. 40 Merger of penalties for multiple offenses**

(1) If an offender that has been handed a final sentence is subsequently tried for one of the multiple offenses, Art. 39 shall apply.

(2) Art. 39 shall also apply in the case where, after a conviction judgment has remained final, it is found that the convicted individual had previously been convicted for one of the multiple offenses.

(3) If the offender has served their penalty as previously sentenced, in full or in part, the portion that has been served shall be deducted from the length of sentencing for the multiple offenses.

(4) Stipulations concerning sentencing in case of multiple offenses also apply to the case where life imprisonment was subject to commutation or replacement by simple imprisonment.

(5) In case of a merger of penalties as under paragraphs (1) - (4) consideration shall also be given to penalties enforced through a conviction that was returned abroad, for one of the multiple offenses, if the conviction is recognized under the law.

**c) the offence was committed against a person made vulnerable by particular circumstances;**

Law 286/2009 regarding the Criminal code

ART. 77

Aggravating circumstances

The following constitute aggravating circumstances:

(...)

e) the offense was committed by taking advantage of a clear state of vulnerability of the victim, caused by age, health, impairment or other reasons;

(...)

**d) the offence was committed against or in the presence of a child;**

The Criminal Code contains a general aggravating cause, when a illegal act is committed together with a minor.

Battery and other acts of violence are punished more severely when committed against a family member (including a minor).

Also, rape is more severe punished when committed against a child.

The act of ill-treatment of a minor constitutes a special case of more severe sanctioning of any acts of violence against a minor, in certain circumstances.

Law 286/2009 regarding the Criminal code

**ART. 77 Aggravating circumstances**

The following constitute aggravating circumstances:

(...)

d) the offense was committed by an offender who is of age, if they were joined by an underage person;

(...)

**ART. 197 Ill treatments applied to underage persons**

Serious jeopardy, through measures or treatments of any kind, of the physical, intellectual or moral development of an underage person, by parents or by any person under whose care the underage person is, shall be punishable by no less than 3 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

**CHAPTER III Offenses against a family member**

**ART. 199 Domestic violence**

(1) If the acts set by Art. 188, Art. 189 and Art. 193- 195 are committed against a family member, the special maximum term of the penalty set by law shall be increased by one-fourth.

(2) In case of offenses set by Art. 193 and Art. 196 committed against a family member, a criminal action may be initiated also ex officio. Reconciliation shall eliminate criminal liability.

(...)

## **CHAPTER VIII Offenses against sexual freedom and integrity**

### **Article 218 Rape**

(1) Sexual intercourse, oral or anal intercourse with a person, committed through coercion, impossibility to defend himself or to express his or her will or benefit from this state shall be punished by imprisonment from 3 to 10 years, and prohibiting the exercise of certain rights.

(2) The same punishment shall be sanctioned by any other acts of vaginal or anal penetration committed under para. (1).

(3) The punishment shall be imprisonment from 5 to 12 years and the prohibition of the exercise of rights when:

(...)

c) the victim is a minor;

(...)

### **Article 219 Sexual aggression**

(1) The act of sexual nature, other than those stipulated in art. 218, with a person, committed through coercion, impossibility to defend himself or to express his will or to take advantage of this state, shall be punished by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2) The punishment shall be imprisonment of 3 to 10 years and the prohibition of the exercise of rights when:

(...)

c) the victim is a minor;

(...)

**e) the offence was committed by two or more people acting together;**

### **Law 286/2009 regarding the Criminal code**

#### **ART. 77 Aggravating circumstances**

The following constitute aggravating circumstances:

a) the offense was committed by three or more persons together;

(...)

**f) the offence was preceded or accompanied by extreme levels of violence;**

### **Law 286/2009 regarding the Criminal code**

#### **ART. 77 Aggravating circumstances**

The following constitute aggravating circumstances:

(...)

b) the offense was committed with cruelty or subjecting the victim to degrading treatment;

c) the offense was committed by methods or means of a nature likely to endanger other persons or assets;

(...)

**g) the offence was committed with the use or threat of a weapon;**

In this case, the act will also constitute illegal use of a weapon and the criminal liability will be aggravated by applying the regime of multiple offences.

## **Law 286/2009 regarding the Criminal code**

### **ART. 38 Multiple offenses**

(1) There exist multiple violations when two or several violations have been committed by the same person, via various actions or inactions, before receiving a final conviction for any of them. There also exist actual multiple violations when one of those has been committed in order to commit or conceal another offense.

(2) There exist formal multiple violations when an action or inaction committed by a person, because of the circumstances under which it occurred and because of the consequences it produced, contains the elements of several violations.

### **ART. 39 Main penalty for multiple offenses**

(1) In case of multiple offenses, the penalty for each offense is established separately and the penalty is applied as follows:

a) when a penalty of life imprisonment and one or more penalties of imprisonment or fine have been established, the penalty of life imprisonment shall be applied;

b) when only penalties of imprisonment have been established, the heaviest penalty shall be applied, which can be increased by one-third of the total of all the other penalties handed down;

c) when only fines have been established, the heaviest penalty shall be applied, which can be increased by one-third of the total of all the other penalties handed down;

d) when a penalty of imprisonment and a penalty of fine have been established, the penalty of imprisonment shall be applied, to which the full fine can be added;

e) when several penalties of imprisonment and several penalties of fine have been established, the penalty of imprisonment shall be applied, according to letter b), to which the full fine can be added, according to letter c).

(2) When several penalties of imprisonment have been established, if, by adding to the heaviest penalty a third of the total of all other penalties of imprisonment, and for at least one of the multiple offenses the penalty provided by law is 20 years or more, the penalty of life imprisonment can be applied.

### **ART. 343 Unlawful use of a weapon**

(1) The unlawful use of a lethal or prohibited weapon shall be punishable by no less than 1 and no more than 3 years of imprisonment.

(2) The unlawful use of a non-lethal weapon included in the category of weapons for which a license is required shall be punishable by no less than 6 months and no more than 2 years of imprisonment.

**h) the offence resulted in severe physical or psychological harm for the victim;**

In this case, the fact will also constitute bodily harm and the criminal liability will be aggravated by the regime of multiple offences.

## **Law 286/2009 regarding the Criminal code**

### **ART. 38 Multiple offenses**

(1) There exist multiple violations when two or several violations have been committed by the same person, via various actions or inactions, before receiving a final conviction for any of them. There also exist actual multiple violations when one of those has been committed in order to commit or conceal another offense.

(2) There exist formal multiple violations when an action or inaction committed by a person, because of the circumstances under which it occurred and because of the consequences it produced, contains the elements of several violations.

#### **ART. 39 Main penalty for multiple offenses**

(1) In case of multiple offenses, the penalty for each offense is established separately and the penalty is applied as follows:

a) when a penalty of life imprisonment and one or more penalties of imprisonment or fine have been established, the penalty of life imprisonment shall be applied;

b) when only penalties of imprisonment have been established, the heaviest penalty shall be applied, which can be increased by one-third of the total of all the other penalties handed down;

c) when only fines have been established, the heaviest penalty shall be applied, which can be increased by one-third of the total of all the other penalties handed down;

d) when a penalty of imprisonment and a penalty of fine have been established, the penalty of imprisonment shall be applied, to which the full fine can be added;

e) when several penalties of imprisonment and several penalties of fine have been established, the penalty of imprisonment shall be applied, according to letter b), to which the full fine can be added, according to letter c).

(2) When several penalties of imprisonment have been established, if, by adding to the heaviest penalty a third of the total of all other penalties of imprisonment, and for at least one of the multiple offenses the penalty provided by law is 20 years or more, the penalty of life imprisonment can be applied.

#### **ART. 196 Bodily harm with basic intent**

(1) The act set by Art. 193 par. (2) committed with basic intent by a person under the influence of alcohol or of a psychoactive substance or during the performance of an activity that represents an offense in itself shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) The act set by Art. 194 par. (1) committed with basic intent shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.

(3) When the act set by par. (2) was committed as a result of failure to observe the legal stipulations or precautionary measures established for the practice of a profession or of a craft or for the performance of a specific activity, the penalty shall be no less than 6 months and no more than 3 years of imprisonment.

(4) If the consequences listed under par. (1) - (3) were caused against two or more individuals, the special limits of the penalty shall be increased by one-third.

(5) If failure to observe the legal stipulations or precautionary measures or the performance of an activity that resulted in the commission of the acts set by par. (1) and par. (3) represents an offense in itself, the rules on multiple offenses shall apply.

(6) Criminal action shall be initiated based on a prior complaint filed by the victim.

**i) the perpetrator had previously been convicted of offences of a similar nature.**

If the offenses are committed by a person who has previously been convicted (for the same crime or for another crime), this is a cause of aggravation of the punishment.

## **Law 286/2009 regarding the Criminal code**

### **ART. 41 Repeat offense**

(1) A repeat offense exists when, after a conviction and sentence of more than one year of imprisonment remains final, and before rehabilitation or completion of sentenced term, the convicted individual commits another violation with direct intent or oblique intent, for which the law mandates a term of more than one year of imprisonment.

(2) A repeat offense also exists in case one of the penalties under par. (1) is life imprisonment.

(3) To establish the existence of a repeat offense, consideration shall also be given to a conviction judgment returned in another country, for a violation that is also included in Romanian criminal law, if that conviction has been recognized under the law.

### **ART. 42 Convictions that do not cause existence of repeat offense**

In establishing the existence of repeat offense consideration shall not be given to convictions for:

- a) acts that are no longer stipulated in criminal law;
- b) violations that have been pardoned;
- c) violations committed with basic intent.

### **ART. 43 Penalties for repeat offense**

(1) If, before the previous sentence has been fully served or deemed as served, a new offense is committed and constitutes a repeat offense, the penalty attributed to it shall be added to the time of the previous sentence or the time not yet served from the previous sentence.

(2) If, before the previous sentence has been fully served or deemed as served, multiple offenses are committed, at least one of which is a repeat offense, penalties shall be merged as under the stipulations concerning multiple offenses and the resulting sentence shall be added to the time of the previous sentence or the time not yet served from the previous sentence.

(3) If the addition of sentences as under paragraphs (1) and (2) results in more than 10 years over the maximum imprisonment penalty allowed, and for at least one of the violations committed the penalty under the law is no less than 20 years, the terms of imprisonment can be replaced by life imprisonment.

(4) If the previous penalty or the penalty set for the violation committed as a repeat offense is life imprisonment, the sentence to be served is life imprisonment.

(5) If, after the previous sentence has been fully served or deemed as served, a new violation is committed as a repeat offense, the special thresholds for the penalty under the law for the new violation shall be increased by half.

(6) If, after the conviction for the new violation has remained final and before the previous sentence has been fully served or deemed as served, the convicted person is found to be in a state of repeat offense, the court shall use the stipulations in paragraphs (1) - (5).

(7) Paragraph (6) also applies in the case where life imprisonment has been subject to commutation or replacement by simple imprisonment.

### **ART. 44 Intermediate plurality**

(1) Intermediate multiple offenses exists when after a conviction remains final and before the date the sentence has been fully served or deemed as served, the convicted

person commits a new violation and the legal conditions are not met for the state of repeat offense to be declared.

(2) In case of intermediate plurality the penalty for the new violation and the one for the previous violation shall be merged according to the stipulations applicable to multiple offenses.

## **Chapter V - Q P**

**For more detailed answer, see also answer to Q I1.**

i) The criminal proceedings are governed by the principle of celerity.

The person who was injured as a result of an offence having been committed can take part into the criminal trial as a injured person and as a civil party, according to the conditions described further below. The injured person is considered to be „procedural subject” and the civil party is a party within the criminal trial.

The injured person has within the criminal trial the following procedural rights: the right to be informed about his rights, the right to propose the consideration of evidence by the judicial authorities, to invoke exceptions and pose conclusions, to file any other requests which have to do with clearing the criminal aspects of the case, the right to be informed within reasonable time about the course of the criminal procedure, upon his explicit request (indicating an address in Romania, an e-mail address or an electronic message address to which this information to be sent), the right to look at the file, according to applicable legal provisions, the right to be heard, the right to ask the defendant, the witnesses and experts questions, the right to an interpreter free of charge if he does not understand, cannot articulate himself properly or cannot communicate in Romanian, the right to be assisted or represented by a defender, the right to make use of a mediator in cases in which this is permitted by law, the right to make use of means of redress.

The testimonies of the injured person are means of evidence within the criminal trial, alongside the testimonies of the suspect or defendant, of the witnesses, civil party or of the person liable in civil law (art. 97 Code of criminal procedure).

The person who has suffered a physical, material or moral damage as a result of an offence for which the criminal investigation is initiated ex officio and who does not want to participate in the criminal trial has to inform the judicial body about this which, if necessary, will hear the injured person as a witness.

### **Law 135/2010 regarding Criminal procedure code**

#### **General provisions**

#### **ARTICLE 29 Participants to the penal trial**

The participants to the penal trial shall be: judiciary services, attorney, parties, main procedural subjects, as well as other procedural subjects.

#### **ARTICLE 32 Parties**

(1) The parties shall be the procedural subjects who exercise or against whom a court action is exercised.

(2) The parties in the penal trial shall be the defendant, the civil party and the civilly responsible party.

#### **ARTICLE 33 Main procedural subjects**

(1) The main procedural subjects shall be the suspect and the damaged person.

(2) The main procedural subjects shall have the same rights and obligations as the parties, save for the ones granted by law exclusively to the latter.

## **ARTICLE 81**

### **(1) Rights of the injured person**

In the penal proceedings, the damaged person shall have the following rights:

- a) the right to be informed in relation to their rights;
- b) the right to propose evidence to be taken by the judiciary services, to raise objections and to submit final pleadings;
- c) the right to submit any other requests relevant for the settlement of the penal side of the case;
- d) the right to be informed, within a reasonable period of time, in relation to the status of criminal prosecution, upon their express request, conditional upon the provision of an address in the territory of Romania, an e-mail address or electronic messaging address, where such information may be communicated to them;
- e) the right to review the file, in accordance with the law;
- f) the right to be heard;
- g ^ 1) the right to benefit free of charge of an interpreter when he / she does not understand, express himself / herself or cannot communicate in Romanian. In urgent cases, technical means of communication may be used, if it is considered necessary and does not impede the exercise of the rights of the injured person;
- g ^ 2) the right to be informed of the translation into a language that he understands of any solution of non-submission in court, when he does not understand the Romanian language;
- h) the right to be assisted by an attorney or represented;
- i) the right to address a mediator, in the cases allowed by law;
- j) other rights stipulated by law.

(2) The person having incurred a physical, material or moral prejudice as a result of a criminal act for which penal action is initiated ex officio and who does not wish to take part in the penal trial shall have to notify in this regard the judiciary authority, who, if it deems necessary, may hear such person as witness.

## **ARTICLE 93 Legal assistance provided to the damaged person, the civil party and the civilly responsible party**

(1) During criminal prosecution, the attorney of the damaged person, of the civil party or of the civilly responsible party shall have the right to be informed in accordance with the conditions of Article 92 paragraph (2), to assist to the performance of any criminal prosecution proceeding in accordance with the conditions of Article 92, the right to consult the documents of the file and to submit requests and memoranda. The provisions of Article 89 paragraph (1) shall apply accordingly.

(2) The attorney of the damaged person, of the civil party or of the civilly responsible party shall have the right stipulated in Article 92 paragraph (8).

(3) During the trial, the attorney of the damaged person, of the civil party or of the civilly responsible party shall exercise the rights of the assisted person, save for those which the latter exercises in person, and the right to consult the documents in the file.

(4) Legal assistance is mandatory when the damaged person or the civil party is a person without legal standing or having restricted legal standing.

(5) When the judiciary authority deems that, for certain reasons, the damaged person, the civil party or the civilly responsible party could not defend themselves, it shall take measure to have an attorney appointed ex officio.

(...)

#### **ARTICLE 94 Consulting the file**

(1) The attorney of the parties and of the main procedural subjects shall have the right to request to consult the file throughout the penal trial. This right can neither be exercised or restricted in an abusive manner.

(2) Consultation of the file implies the right to review its documents, the right to write down data or information from the file, as well as to obtain photocopies, at the client's expense.

(3) During criminal prosecution, the prosecutor shall determine the date and duration of consultation, within a reasonable time. This right may be delegated to the prosecution services.

(4) During criminal prosecution, the prosecutor may restrict, based on reasons, the consultation of the file, if this could prejudice the appropriate performance of criminal prosecution. After the penal action has been set in motion, any restriction may be ordered for no more than 10 days.

(5) During criminal prosecution, the attorney shall have the obligation to keep confidential or secret the data and documents of which he/she became aware further to the consultation of the file.

#### **ARTICLE 95 The right to submit complaints**

(1) The attorney shall have the right to submit complaints, in accordance with Articles 336 - 339.

(2) In the cases contemplated in Article 89 paragraph (2), Article 92 paragraph (2) and Article 94, the superior prosecutor shall have the obligation to settle the complaint and communicate the solution, as well as its reasoning, within no more than 48 hours.

### **TITLE IV Evidence, means of evidence and evidentiary procedures**

#### **CHAPTER I General rules**

#### **ARTICLE 97 Evidence and means of evidence**

(1) Evidence shall be any de facto element serving to ascertain the existence or inexistence of an offence, to identify the person who committed it and to become aware of the circumstances necessary for the fair settlement of the case and which contributes to finding the truth in the penal trial.

(2) Evidence shall be procured in the penal trial through the following means:

- a) statements of the suspect or defendant;
- b) statements of the damaged person;
- c) statements of the civil party or of the civilly responsible party;
- d) witness testimonies;

e) writs, expert appraisal or findings reports, minutes, photographs, material means of evidence;

f) any other means of evidence that is not prohibited by law.

(3) The evidentiary procedure shall be the legal manner of obtaining the means of evidence.

(...)

#### **ARTICLE 100 Taking evidence**

(...)

(2) During the trial, the court shall take evidence upon the request of the prosecutor, of the damaged person or of the parties and, secondarily, ex officio, when it is deemed necessary for it to reach a conclusion.

(...)

### **ARTICLE 336 The right to submit a complaint**

(1) Anyone may submit a complaint against the criminal prosecution measures and proceedings, if they caused prejudice to their lawful interests.

(2) The complaint shall be addressed to the prosecutor supervising the activity of the criminal investigation services and it shall be delivered either directly to it, or to the criminal investigation services.

(3) The complaint being submitted shall not suspend the enforcement of the measure or of the proceeding forming the object of the complaint.

### **ARTICLE 337 Obligation to forward the complaint**

When the complaint was submitted to the criminal investigation services, the latter shall have the obligation to forward it, together with its clarifications, whenever they are necessary, within no more than 48 hours after its receipt, to the prosecutor.

### **ARTICLE 338 Settlement period**

The prosecutor shall have the obligation to settle the complaint within no more than 20 days after receipt and immediately deliver to the person having submitted the complaint a copy of the ordinance.

### **ART. 339 The complaint against the prosecutor's acts**

(1) The complaint against the measures taken or the acts performed by the prosecutor or carried out on the basis of the provisions given by him shall be resolved, as the case may be, by the first prosecutor of the prosecutor's office, by the prosecutor general of the prosecutor's office near the court of appeal, by the chief prosecutor of the section of the Prosecutor's Office attached to the High Court of Cassation and Justice.

(...)

### **ARTICLE 340 Complaint against the solution not to initiate criminal prosecution or court proceedings**

(1) The person whose complaint against the classification solution, ordered by ordinance or indictment, was rejected according to art. 339 may file a complaint, within 20 days of the communication, to the preliminary chamber judge from the court to whom, according to the law, the power to judge the case in the first instance would be returned.

(...)

### **ARTICLE 356 Providing defence**

(1) The damaged person, the defendant, the other parties and their attorneys shall have the right to become informed of the documents in the file throughout the trial.

(2) When the damaged person or one of the parties are in custody, the president of the panel of judges shall take measures for them to be able to exercise the right provisioned for in paragraph (1) and to contact their attorney.

(3) During trial, the damaged person and the parties shall have the right to only one continuance in order to hire an attorney and prepare their defence.

(4) If the damaged person or one of the parties no longer benefits from legal assistance provided by their chosen counsel, the court may grant continuance in order for them to hire another attorney and prepare their defence.

(5) In the cases stipulated in paragraphs (1) - (4), granting the facilities necessary for the preparation of actual defence shall comply with the observance of a reasonable time of the penal trial.

#### **ARTICLE 374 Notification of the accusation, clarifications and requests**

(...)

(3) The president shall inform the civil party, the civilly responsible party and the damaged party in relation to the evidence taken during criminal prosecution that was excluded and that will not be taken into account in settling the case and inform the damaged person that they may become a civil party no later than the commencement of court investigation.

(...)

(5) The president shall ask the prosecutor, the parties and the damaged person whether they propose any other evidence to be taken.

(...)

#### **ARTICLE 390 Written concluding arguments**

(...)

(2) The prosecutor, the damaged person and the parties may submit written concluding arguments, even if not requested by the court.

#### **ARTICLE 409 Persons who may submit appeals**

(1) The following may submit appeals:

(...)

c) the civil party, as concerns the penal side or the civil side, and the civilly responsible party, as regards the civil side, and in relation to the penal side, insofar as the solution for this side influenced the civil side;

d) the damaged person, as concerns the penal side;

(...)

### **Chapter VI - Q F1**

**\* Romania has made a reservation on - Article 55 (1) regarding Article 35 on minor offenses;**

The criminal proceedings in relation to any offence can be initiated both as a result of a complaint filed by the injured person, as a result of a report from any person who has an information about an offence having been committed, and ex officio.

The exercise of the penal action against the defendant is a procedural stage distinct from the initiation of the criminal proceedings and it is also carried out, as a general rule, ex officio.

For some specific offences, the carrying out of the penal action can be subject to the victim's request to this effect (called previous complaint).

Regarding the acts concerned by this report, only battery and other acts of violence (ART. 193 of the Criminal Code, cited previously) and rape against a person over 18, in its basic form, are subject to prior complaint. However, even in these cases, if the victim is a person without capacity of exercise or with limited capacity of exercise, the criminal proceedings can also be initiated ex officio.

Moreover, in case the offender is the person who legally represents the victim or approves the documents of the victim, the previous complaint shall be necessarily done ex officio (art. 295 and art. 289 para. (8) of the Code of criminal procedure).

Also, even for acts of battery and other acts of violence, when these are committed against a family member, the criminal action is initiated ex officio for all offences.

Also, the judicial authorities may waive the exercise of the criminal action when its continuation is not considered to be of public interest:

#### **Law 135/2010 regarding the Criminal procedure code**

##### **ART. 7 Obligatory character of starting and exercising the criminal investigation**

(1) The prosecutor is under an obligation to start and exercise the criminal investigation ex officio when evidence exists that shows the commission of an offense and there are no legal grounds to prevent them other than those stipulated at par. (2) and (3).

(2) In the cases and conditions specifically stipulated by law, the prosecutor can waive the exercise of the criminal action if, considering the concrete elements of the case, there is no public interest in performing its object.

(3) In cases specifically stipulated by law, the prosecutor shall start and exercise criminal action after a prior complaint is filed by the victim or after securing authorization or referral from the jurisdictional body or after satisfying another condition required by law.

(...)

#### **CHAPTER II Notifying the prosecution services**

##### **SECTION 1 General provisions**

##### **ARTICLE 288 Notification types**

(1) The prosecution services are notified by complaint or denunciation, according to the documents drawn by other investigation authorities provisioned by the law or shall be notified ex officio.

(2) When, according to the law, the commencement of the penal action is made only upon the prior complaint of the injured party, upon the notification made by the person provisioned by the law or upon the authorization of the institution provisioned by the law, the penal action cannot be started in their absence.

(...)

##### **ARTICLE 295**

##### **Preliminary complaint**

(1) The penal action shall be set in motion only upon the submission of a preliminary complaint by the damaged person, in the case of the offences for which the law stipulates that such a complaint is necessary.

(2) The preliminary complaint shall be addressed to the prosecution services or the prosecutor, in accordance with the law.

(3) The provisions of Article 289 paragraphs (1) - (6) and (8) shall apply accordingly.

##### **Art. 318 Dropping of criminal prosecution**

(1) In the case of offenses for which the law stipulates the penalty of the fine or the sentence of imprisonment for a maximum of 7 years, the prosecutor may renounce the criminal prosecution when he finds that there is no public interest in the pursuit of the deed.

(2) The public interest is analyzed in relation to:

- a) the content of the deed and the concrete circumstances for committing the deed;
- b) the manner and means of committing the deed;
- c) the purpose pursued;
- d) the consequences produced or that could have occurred by committing the crime;
- e) the efforts of the criminal investigation bodies necessary for carrying out the criminal trial by reference to the gravity of the deed and to the time elapsed from the date of its commission;
- f) the procedural attitude of the injured person;
- g) the existence of a manifest disproportion between the expenses that would involve the carrying out of the criminal trial and the gravity of the consequences produced or that could have been produced by committing the crime.

(3) When the perpetrator is known, when assessing the public interest, the person of the suspect or the defendant is taken into account, the conduct taken before the crime was committed, the attitude of the suspect or the defendant after the crime was committed and the efforts made to remove or diminish the consequences of the crime.

(4) When the perpetrator of the deed is not identified, the waiver of the criminal prosecution may be ordered by reference only to the criteria provided in par. (2) lit. a), b), e) and g).

(5) It is not possible to order the renunciation of the criminal prosecution for the crimes that resulted in the death of the victim.

(6) The prosecutor may order, after consulting the suspect or the defendant, that he or she fulfills one or more of the following obligations:

- a) to remove the consequences of the criminal act or to repair the damage caused or to agree with the civil party a way to repair it;
- b) publicly apologize to the injured person;
- c) to perform unpaid work for the benefit of the community, for a period between 30 and 60 days, unless, because of the health status, the person cannot perform this work;
- d) to attend a counseling program.

(...)

(9) In case of non-fulfillment of bad faith obligations within the term provided in par. (7), the prosecutor revokes the order. The burden of proving the fulfillment of the obligations or presenting the reasons for their failure is the responsibility of the suspect or the defendant. (...)

## **Law 286/2009 regarding the criminal code**

### **ART. 157\*) Absence of prior complaint**

(1) In case of offenses requesting the victim to file a prior complaint for the initiation of the criminal process, absence of such complaint removes criminal liability.

(2) The act causing damages to several persons entails criminal liability even if a prior complaint is filed only by one of such persons.

(3) The act entails the criminal liability of all legal entities or individuals participating in the performance of such act, even if the prior complaint was filed only against one of them.

(4) If the victim enjoys no mental competence or only enjoys limited mental competence or, if the legal entity is represented by the perpetrator, the criminal lawsuit may be initiated ex officio.

(5) If the victim dies or, in case of legal entities, such legal person is dissolved before the expiry of the term provided by the law for the filing of the complaint, the criminal lawsuit may be initiated ex officio.

#### **ART. 158 Withdrawal of a prior complaint**

(1) Withdrawal of a prior complaint is possible before a final decision is returned, in case of offenses for which initiation of criminal action is conditioned on filing a prior complaint, ruled.

(2) Withdrawal of a prior complaint removes criminal liability from the person with respect to the person of the withdrawn complaint.

(3) In case of persons with no mental competence, the prior complaint may be withdrawn only by the legal representatives of the same. In case of persons with limited mental competence, the withdrawal shall be authorized by the persons provided by law.

(4) In case of offenses for which the criminal liability is conditioned on filing a prior complaint and the criminal action was initiated ex officio, according to law withdrawal of the complaint causes effects only if acknowledged by the prosecuting attorney.

#### **ART. 159 Reconciliation**

(1) Reconciliation may occur if the criminal action is initiated ex officio, if expressly provided by law.

(2) Reconciliation removes criminal liability and cancels the civil action.

(3) Reconciliation is effective only with respect to the persons who agree to such reconciliation and if it takes place before the legal action document is read.

(4) In case of persons with no mental competence, reconciliation may be agreed only by the legal representatives of the same, whereas in case of persons with limited mental competence, reconciliation is possible only if authorized by the persons provided by law.

(5) With respect to legal entities, reconciliation is reached by the legal or conventional representative of the same or by the person appointed to replace the representative. Reconciliation between the legal entity perpetrating the offense and the legal entity harmed by such offense has no impact on the individuals who participated in the commission of the same offense.

(6) If the offense is committed by the representative of the legal entity harmed by such offense, the stipulations under Art. 158 par. (4) shall apply accordingly.

#### **ART. 193 Battery and other acts of violence**

(1) Battery or any other acts of violence causing physical suffering shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) An act causing traumatic injuries or affecting the health of an individual, the seriousness of which is assessed based on medical-care days of maximum 90 days, shall be punishable by no less than 6 months and no more than 5 years of imprisonment or by a fine.

(3) The criminal action shall be initiated based on a prior complaint filed by the victim.

### **CHAPTER III**

#### **Offenses against a family member**

##### **ART. 199 Domestic violence**

(1) If the acts set by Art. 188, Art. 189 and Art. 193- 195 are committed against a family member, the special maximum term of the penalty set by law shall be increased by one-fourth.

(2) In case of offenses set by Art. 193 and Art. 196 committed against a family member, a criminal action may be initiated also ex officio. Reconciliation shall eliminate criminal liability.

#### **Article 218 Rape**

(1) Sexual intercourse, oral or anal intercourse with a person, committed through coercion, impossibility to defend himself or to express his or her will or benefit from this state shall be punished by imprisonment from 3 to 10 years, and prohibiting the exercise of certain rights.

(2) The same punishment shall be sanctioned by any other acts of vaginal or anal penetration committed under para. (1).

(3) The punishment shall be imprisonment from 5 to 12 years and the prohibition of the exercise of rights when:

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

b) the victim is a direct relative, brother or sister;

c) the victim is a minor;

d) the act was committed for the purpose of producing pornographic material;

e) the deed has resulted in bodily injury;

f) The act was committed by two or more people together.

(4) If the deed has resulted in the death of the victim, the punishment shall be imprisonment from 7 to 18 years and the prohibition of the exercise of certain rights.

(5) The criminal action for the deed stipulated in par. (1) and par. (2) moves to the prior complaint of the injured party.

(6) The attempt to the offenses provided in paragraph (1) - (3) shall be punished.

#### **Article 219 Sexual aggression**

(1) The act of sexual nature, other than those stipulated in art. 218, with a person, committed through coercion, impossibility to defend himself or to express his will or to take advantage of this state, shall be punished by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2) The punishment shall be imprisonment of 3 to 10 years and the prohibition of the exercise of rights when:

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

b) the victim is a direct relative, brother or sister;

c) the victim is a minor;

d) the act was committed for the purpose of producing pornographic material;

e) the deed has resulted in bodily injury;

f) The act was committed by two or more people together.

(3) If the deed has resulted in the death of the victim, the punishment shall be imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.

(4) If acts of sexual assault were preceded or followed by the sexual acts referred to in art. 218 par. (1) and par. (2), deed constitutes rape.

(5) The criminal action for the deed stipulated in par. (1) moves to the prior complaint of the injured person.

(6) The attempt to the offenses provided in paragraph (1) and par. (2) is punishable.

## **Chapter VI - Q 11**

### **a) 1. Protective measures during the criminal proceedings:**

During the criminal proceedings, the following preventive measures can be taken against the defendant:

- Custody (for 24 hours)
- judicial control;
- judicial control on bail;
- house arrest;
- preventive custody

If the preventive measure of judicial control is taken on the defendant during the criminal trial, he / she may be required not to return to the family home, not to approach the injured person or his family members and not to communicate, directly or indirectly, in any way, with them, to carry permanently an electronic surveillance system, not to exceed a certain territorial limit;

If the house arrest measure is taken against the defendant, he has the obligation not to communicate with the injured person or his family members during the measure.

### **ART. 215 Content of judicial control**

(...)

(2) Judicial bodies having ordered the measure may require that the defendant, during the judicial control, comply with one or more of the following obligations:

- a) not to exceed a specific territorial boundary, set by the judicial bodies, without their prior approval;
- b) not to travel to places set specifically by the judicial bodies or to travel only to places set by these;
- c) to permanently wear an electronic surveillance system;
- d) not to return to their family's dwelling, not to get close to the victim or the members of their family, to other participants in the committed offense, witnesses or experts or to other persons specified by the judicial bodies and not to communicate with these in any way, be it directly or indirectly;

(...)

### **ART. 221 Content of a house arrest measure**

(1) A house arrest measure consist of an obligation imposed on a defendant, for a determined time period, not to leave the building where they live, without permission from the judicial bodies having ordered such measure or with which the case is pending, and to observe certain restrictions imposed by those.

(2) During house arrest, a defendant has the following obligations:

- a) to appear before criminal investigation bodies, the Judge for Rights and Liberties, the Preliminary Chamber Judge or the court whenever they are called;
- b) not to communicate with the victim or with members of their family, with other participants in the commission of the offense, with witnesses or experts, as well as with other persons established by the judicial bodies.

(...)

## **2. Special protective measures during criminal proceedings**

The Code of Criminal Procedure provides for two categories of such protection measures: measures related to persons who are granted the quality of threatened

witness and measures related to persons who are granted the quality of vulnerable witness.

By way of assimilation, the victim of an offence can benefit during the criminal trial, no matter if he/she has the quality of injured party or witness, of the protection measures provided for any of the two categories of witnesses with special quality.

The threatened witness:

If there is some reasonable suspicion that the life, physical integrity, liberty, property or professional activity of the witness or of a family member of the witness could be jeopardized as a result of the information the witness provides to the judicial authorities or of his/her depositions, the competent judicial authority grants him/her the quality of threatened witness and orders one or more of the following protection measures:

During the criminal prosecution: - observation and guarding of the witness's accommodation or ensuring a temporary accommodation;

- escorting and ensuring the protection of the witness or of his/her family members when leaving the accommodation;

- protection of identity data by granting a pseudonym by which the witness shall sign his/her testimony;

- protection of identity data by granting a pseudonym by which the witness shall sign his/her testimony.

During trial:

- observation and guarding of the witness's accommodation or ensuring a temporary accommodation;

- escorting and ensuring the protection of the witness or of his/her family members when leaving the accommodation;

- non-publicity of the trial during the hearing of the witness;

- hearing of the witness without him/her being present with the help of audio-visual means of transmission, with voice and image blurred, when the other measures are not enough;

- protection of identity data of the witness and granting a pseudonym by which the witness shall make his/her testimony.

The vulnerable witness:

The following persons can be included in the category of vulnerable witnesses:

- the witness who suffered a trauma as a result of the offence or as a result of the subsequent behavior of the suspect or defendant;

- the underaged witness.

The protection measures for the vulnerable witness are the following:

- escorting and ensuring the protection of the witness or of his/her family members when leaving the accommodation;

- hearing of the witness without him/her being present with the help of audio-visual means of transmission, with voice and image blurred, when the other measures are not enough.

b) escorting and ensuring the protection of the witness or of his/her family members when leaving the accommodation;

- non-publicity of the trial during the hearing of the witness;

- hearing of the witness without him/her being present with the help of audio-visual means of transmission, with voice and image blurred, when the other measures are not enough;

- protection of identity data of the witness and granting a pseudonym by which the witness shall make his/her testimony.

Among the reasons for which the pre-trial custody can be ordered is also the act of the defendant of putting pressure on the injured party. (art. 223 Code of Criminal Procedure)

### **3. Inclusion in the witness protection program, according to the special legislation:**

To the extent in which the victim fulfills the legal conditions, he/she can benefit of the provisions of Law No. 682/2002 concerning the witness protection, by being included in a witness protection program.

In order for victim to fulfill the conditions necessary for the inclusion in this program, he/she has to have the quality of witness within the criminal trial or, without having a procedural quality in the file, to contribute by deciding information and data to finding the truth within files concerning serious offences or to the prevention of serious damages which could be caused by such offences or to their recovery.

The other legal conditions need also be fulfilled, for example, jeopardizing life, physical integrity or liberty of the person, family members or closed persons, as a result of the information and data provided or which the victim agreed to provide to the judicial authorities or as a result of his/her testimonies;

The protection measures which can be included, individually or cumulatively, in the protection program are the following:

a) protection of the identity data of the protected witness;

b) protection of his/her testimony;

c) hearing of the protected witness by the judicial authorities under another identity than his/her real identity with the help of special techniques for blurring image and voice;

d) protection of the witness who has been detained, is in pre-trial custody or serving a penalty of imprisonment, in cooperation with the administration of the place of detention;

e) increased measures of protection at the domicile, as well as measures of protection of the witness when going and coming back from the judicial authorities;

f) change of domicile;

g) change of identity;

h) change of the looks.

(3) The measures of assistance which can be ordered, as case may be, within the support scheme are as follows:

a) re-insertion into another social environment;

b) professional reorientation;

c) change or ensuring a job;

d) ensuring an income until finding a job.

## **Law 135/2010 regarding the criminal procedure code**

### **ART. 113 Protection of the injured person and the civil party**

(1) When the conditions stipulated by the law regarding the status of threatened or vulnerable witness or for the protection of privacy or dignity are fulfilled, the

criminal investigation body may dispose of the protection measures provided for in art. 124 - 130, which applies accordingly.

(2) Child victims, victims who are in a relationship of dependence on the perpetrator, victims of terrorism, organized crime, human trafficking, violence in close relations, sexual violence or exploitation, victims of crimes committed are presumed vulnerable. hatred and victims affected by a crime due to prejudice or for reasons of discrimination that may relate in particular to their personal characteristics, victims with disabilities, as well as victims who have suffered considerable harm as a result of the seriousness of the crime.

(3) If the injured person or the civil part is in any of the situations provided in par. (2), the criminal prosecution body informs them about the protective measures that can be taken, their content and the possibility of renouncing them. The renunciation of the injured person or of the civil party when taking the protective measures shall be recorded in writing and signed by it, in the presence of the legal representative, if applicable.

(4) The re-examination of the injured person shall be carried out only if this is strictly necessary for the criminal trial.

(5) At the hearing, the injured person may be accompanied, at his request, by his legal representative and by another person designated by the injured person, unless the judicial body decides motivated in the opposite direction.

(6) Whenever the judicial body cannot determine the age of the injured person and there are reasons to consider that it is a minor, the injured person will be presumed to be a minor.

## **SECTION 5**

### **Witness protection**

#### **& 1. Protection of threatened witnesses**

##### **ART. 125 Threatened witness**

If there is some reasonable suspicion that the life, physical integrity, liberty, property or professional activity of the witness or of a family member of the witness could be jeopardized as a result of the information the witness provides to the judicial authorities or of his/her depositions, the competent judicial authority shall grant him/her the quality of threatened witness and shall order one or more of the protection measures provided for in art. 126 or 127, as case may be.

##### **ART. 126 Protection measures ordered during the criminal prosecution**

(1) During criminal prosecution, at the same time with granting the quality of threatened witness, the prosecutor shall order the enforcement of one or more of the following measures:

a) observation and guarding of the witness's accommodation or ensuring a temporary accommodation;

b) escorting and ensuring the protection of the witness or of his/her family members when leaving the accommodation;

c) protection of identity data by granting a pseudonym by which the witness shall sign his/her testimony;

d) hearing of the witness without him/her being present with the help of audio-visual means of transmission, with voice and image blurred, when the other measures are not enough.

(2) The prosecutor shall order the enforcement of a protection measure ex officio or upon the request of the witness, of one of the parties or of a main subject involved in the trial.

(3) In case of the enforcement of the protection measures provided for in para. (1) letter c) and d), the testimony of the witness shall not contain the real address or his/her identity data, these being written in a special registry to which only the criminal prosecution body, the judge tasked with release/detention decisions or rulings, the preliminary chamber judge or the court shall have access, on conditions of confidentiality.

(4) The prosecutor shall order the granting of the quality of threatened witness and the enforcement of protection measures by motivated ordinance which shall be kept on conditions of confidentiality.

(5) The prosecutor shall verify, at reasonable time intervals, if the conditions which determined the ordering of the protection measures subsist and, if they do not, the prosecutor shall order by motivated ordinance their cessation.

(6) The measures provided for in para. (1) shall be kept during the entire criminal prosecution if the danger subsists.

(7) If the danger appeared during the preliminary chamber procedure, the preliminary chamber judge shall order, ex officio or upon the prosecutor's request, the protection measures provided for in art. 127. The provisions of art. 128 shall be applied accordingly.

(8) The protection measures provided for in la para. (1) letter a) and b) shall be communicated to the authority legally empowered with the enforcement of the measure.

#### **ART. 127 Protection measures ordered during the trial**

During the trial, at the same time with the granting of the quality of threatened witness, the court shall order the enforcement of one or more of the following measures:

a) observation and guarding of the witness's accomodation or ensuring a temporary accomodation;

b) escorting and ensuring the protection of the witness or of his/her family members when leaving the accomodation;

c) non-publicity of the trial during the hearing of the witness;

d) hearing of the witness without him/her being present with the help of audio-visual means of transmission, with voice and image blurred, when the other measures are not enough;

e) protection of identity data of the witness and granting a psedonym by which the witness shall make his/her testimony.

#### **ART. 128 Ordering the measure of witness protection during trial**

(1) The court shall order the enforcement of a protection measure ex officio, upon the request of the prosecutor, witness, parties or the injured party.

(2) The proposal submitted by the prosecutor shall contain:

a) name of the witness who shall be heard during the trial and in relation to whom the ordering of the protection measure is requested;

b) the concrete motivation of the seriousness of the danger and of the need for the respective measure.

(3) When the request is submitted by the other persons mentioned in para. (1), the court can order the prosecutor to check immediately the grounds of the request for protection.

(4) The request shall be decided in a non-public session, without the participation of the person who made the request.

(5) The participation of the prosecutor is mandatory.

(6) The court shall decide by means of a motivated protocol which is not subject to any means of redress.

(7) The protocol by which the protection measure is ordered shall be kept on conditions of confidentiality. If the protection of the witness is also needed after the court decision remains final, the provisions of the special law shall be applicable.

(8) The protection measures provided for in art. 127 letter a) and b) shall be communicated to the authority legally empowered with the enforcement of the measure.

#### **ART. 129 Hearing of the protected witness**

(1) In the situations provided for in art. 126 para. (1) letter d) and art. 127 letter d), the hearing of the witness can be performed with the help of audio-visual means, without the witness being physically present at the place where the judicial body is.

(2) \*\*\* Abrogated

(3) The main subjects involved in the trial, the parties and their lawyers can ask questions to the witness being heard according to the provisions of para. (1). The judicial body shall dismiss the questions which could lead to the identification of the witness.

(4) The testimony of the protected witness shall be recorded with the help of visual and audio means and shall be rendered in whole in written form.

(5) During the criminal prosecution the testimony shall be signed by the criminal prosecution authority or, as case may be, by the judge tasked with release/detention decisions or rulings and by the prosecutor who participated at the hearing of the witness and shall be submitted to the file. The testimony of the witness, transcribed, shall be also signed by the witness and shall be kept in the file with the prosecution office, at a special place, on conditions of confidentiality.

(6) During the trial the testimony of the witness shall be signed by the president of the panel.

(7) The medium on which the testimony of the witness was recorded shall be kept, in original, sealed with the seal of the prosecution office or of the court before which the testimony was made, on conditions of confidentiality. The medium which contains the recordings during the criminal prosecution shall be submitted after the criminal prosecution is finished to the competent authority, together with the file, and shall be kept on the same conditions of confidentiality.

#### **& 2. Protection of vulnerable witnesses**

##### **ART. 130 The vulnerable witness**

(1) The prosecutor or, as case may be, the court can decide the granting of the quality of vulnerable witness to the following categories of persons:

a) to the witness who suffered a trauma as a result of the offence or as a result of the subsequent behaviour of the suspect or defendant;

b) to the underaged witness.

(2) At the same time with granting the quality of vulnerable witness, the prosecutor and the court can order the protection measures provided for in art. 126

para. (1) letter b) and d) or, as case may be, art. 127 letter b) - e), which shall be applied accordingly. The blurring of the voice and image is not mandatory.

(3) The provisions of art. 126 and 128 shall be applied accordingly.

b) The Criminal Procedure Code provides the right of victims to be informed of the release, in any manner, of the perpetrator.

The victim shall be informed at the first hearing that if the defendant will be deprived of freedom, respectively sentenced to imprisonment, the victim has the right to be informed of the perpetrator's release in any way (art. 111).

If the perpetrator is subject to preventive arrest:

When the injured party has requested notification on the release of the arrested person in any manner, the judge will record the request in a separate report, together with the issuance of the warrant of arrest, which he handles to the police authority. Both the judgment and the minute noted above are communicated administration of the detention.

If the perpetrator is convicted:

The administration of the prison has the obligation to inform the victim about the release of the perpetrator, when the sentence has been fully executed.

If the release of the offender occurs before the deadline for penalty or custodial preventive measures, the judicial organ that decided the release will inform the victim.

If case of permission out of prison for the inmates that execute the imprisonment in open regime, in case of escape, the victim will be informed by the police authority notified by the administration.

#### **Law 135/2010 regarding the criminal procedure code**

##### **ART. 111 The way of hearing the injured person**

(...)

(5) The injured person shall be informed at the first hearing that, if the defendant is deprived of liberty, respectively sentenced to a sentence of deprivation of liberty, he may be informed of the release in any way. or its escape.

(...)

##### **ART. 230 Warrant for preventive arrest**

(...)

(5) If the injured person has requested his notification regarding the release in any way or the escape of the arrested person, the judge who issued the warrant shall record it in a report, which he shall hand over to the police.

(6) The police body shall deliver the original copy of the preventive arrest warrant and the report provided in par. (5) administration of the place of detention.

##### **ART. 404 Content of operational part**

(...)

(6) When the court has pronounced the prison sentence, and the injured person has requested the notification regarding the release in any way or the convict's escape, the court makes a mention in this respect in the decision device.

**Law 254/2013 regarding the execution of the punishments and of the deprivation of liberty measures ordered by the judicial bodies during the criminal proceedings**

**ART. 53 Release**

(...)

(2) The administration of the penitentiary has the obligation to communicate to the injured person the release of the prisoner on the date of the execution of the entire sentence, in accordance with the provisions of art. 404 para. (6) of the Code of Criminal Procedure, at the contact details provided by the injured person during the criminal process and transmitted separately by the executing court once the sentencing decision and the execution warrant have been transmitted. In case the release of the perpetrator takes place before the execution of the term of execution of the sentence or of preventive measures depriving of liberty, the judicial body that ordered the release, or, as the case may be, the executing court, informs the injured party. In the case of permission to leave the penitentiary, of the activities carried out by the prisoners of open regime, who move unaccompanied outside the place of detention, as well as in the event of an escape, the information of the injured party is realized by the police body notified by the administration of the place. ownership.

(2 ^1) When, once the conditional release is granted, the court requires the convicted person to execute the obligation provided in art. 101 paragraph (2) lit. e) of Law no. 286/2009 regarding the Criminal Code, with the subsequent amendments and completions, informing the injured person according to par. (2) this obligation will be made, as well as its duration.

(...).

c) In order to ensure the protection of crime victims, Law 211/2004 on some measures to ensure the information, support and protection of victims of crime establishes a number of measures for the information of crime victims concerning their rights.

According with art. 4 of the legal act mentioned, judicial bodies have the obligation to inform the victims of crimes the right they have during the criminal proceedings and outside of these proceedings.

This kind of information is made available to the victim by the first judicial body seized by the victim, in a language which the victim understands.

The victim is given a standard form containing this kind of information and has to sign for having received it. If the victim cannot or refuses to sign, a protocol shall be drafted for this purpose.

The right to information of the victims is also established in the Criminal procedure code.

According with art. 81 of the Code of criminal procedure, the injured person has a number of procedural rights, among them the right to be informed about his rights, the right to be informed within a reasonable time frame about the status of the criminal prosecution, upon his explicit request, indicating an address in Romania, an e-mail address or an electronic message address to which this information to be sent, the right to look at the file, according with applicable legal provisions. This information is provided in the language which the victim understands. The injured person has the right to an interpreter free of charge if he does not understand, cannot articulate himself properly or cannot communicate in Romanian;

At the beginning of the first hearing, the injured person is informed about the following rights and obligations:

- the right to be assisted by a defender and in cases in which the legal assistance is mandatory to have a defender appointed ex officio;
- the right to make use of a mediator in case in which this is permitted by law;
- the right to propose the consideration of evidence, to invoke exceptions and pose conclusions, according with applicable legal provisions;
- the right to be informed about the course of the procedure, the right to file a complaint meant to initiate the criminal investigation, as well as the right to become a civil party;
- the obligation to react to the call of the judicial bodies;
- the obligation to communicate any change of address.
- the fact that, in case the defendant is going to be deprived of his liberty or convicted to imprisonment, the injured person can be informed about the defendant's release in any way (art. 111 of the Code of criminal procedure).

Furthermore, the injured person is communicated the ordinance for classification or the ordinance by which the criminal prosecution was suspended (when the injured person seized the criminal investigation bodies or when the prosecutor finds the injured person to be interested) the court decision and the summoning of the injured person to the court is mandatory.

#### **Law 211/2004 on some measures to ensure the information, support and protection of victims of crime**

##### **ART. 4**

(1) The judicial bodies have the obligation to inform the victims of the crimes regarding:

- a) the type of support that victims can receive and from whom, including, where relevant, basic information on access to health care, any kind of specialized assistance, including psychological assistance and alternative accommodation;
- b) the criminal investigation body to which they can make a complaint;
- c) the right to legal assistance and the institution where they can be addressed to exercise this right;
- d) the conditions and the procedure for granting free legal assistance;
- e) the procedural rights of the injured person and the civil party;
- f) the conditions and the procedure to benefit from the provisions of art. 113 of the Code of Criminal Procedure, as well as the provisions of Law no. 682/2002 regarding witness protection, as subsequently amended;
- g) the conditions and the procedure for granting financial compensations by the state;
- h) the right to be informed, in case the defendant will be deprived of liberty, respectively sentenced to a sentence deprived of liberty, regarding his release in any way, according to the Code of criminal procedure;
- i) the right to call a mediator in cases permitted by law;
- j) the judicial authority to which they may be addressed in the future in order to obtain information on the status of the case, as well as its contact details, if the victim understands to file a complaint;
- k) if the victim has his / her permanent residence or residence in the territory of another EU Member State, information on the possibility of filing a criminal complaint or request for financial compensation from the State on the territory of that State, as well as the fact that the possibility, according to the law on international judicial cooperation, to be heard by the Romanian judicial authorities without being present on the Romanian territory.

(2) The information provided in par. (1) are notified to the victim by the first judicial body to which it is presented, in a simple and accessible language.

(3) The victim shall be informed of the information provided in par. (1) in a language he understands. The victim is given a signature with a form containing the information provided in par. (1). In case he cannot or does not refuse to sign, a report on it will be concluded.

(4) If the victim is a Romanian citizen belonging to a national minority, the information provided in par. (1) in his native language.

(5) The fulfillment of the obligations stipulated in par. (1) - (3) shall be recorded in a report, which shall be registered with the institution of which the judicial body is a member.

(6) During the first contact with the authorities, the victim may be accompanied by a person chosen by her for the purpose of facilitating communication with them.

(7) When submitting the complaint according to art. 289 of Law no. 135/2010 on the Criminal Procedure Code, with subsequent amendments and completions, the victim will receive a written confirmation of it. The confirmation will include the registration number of the complaint, as well as data regarding the fact for which the complaint was filed.

(8) If the victim does not speak or understand the Romanian language, the latter may request to receive, subsequently, the translation of the written confirmation provided in par. (7).

#### **Law 135/2010 regarding The Criminal procedure code**

##### **ARTICLE 12 Official language and the right to an interpreter**

(1) The official language of the penal proceedings shall be Romanian.

(2) Romanian citizens pertaining to national minorities shall be entitled to talk in their mother tongue before the courts of law; however, the procedural acts shall be drawn up in Romanian.

(3) In relation to the parties and procedural subjects who do not speak and do not understand Romanian or cannot talk an interpreter shall be provided free of charge, in order to allow them to acknowledge the documents in the file, to talk, but also to submit concluding arguments before the court. Where legal assistance is mandatory, the suspect or the defendant shall be provided free of charge with the possibility to communicate, through an interpreter, with their attorney, in order to prepare the hearing, submitting means of challenge or any other request relevant for the settlement of the case.

(4) Certified interpreters, in accordance with the law, shall be used during court proceedings. Translators certified in accordance with the law shall also be included in the category of interpreters.

##### **ARTICLE 81**

###### **(1) Rights of the damaged person**

In the penal proceedings, the damaged person shall have the following rights:

- a) the right to be informed in relation to their rights;
- b) the right to propose evidence to be taken by the judiciary services, to raise objections and to submit final pleadings;
- c) the right to submit any other requests relevant for the settlement of the penal side of the case;
- d) the right to be informed, within a reasonable period of time, in relation to the status of criminal prosecution, upon their express request, conditional upon the

provision of an address in the territory of Romania, an e-mail address or electronic messaging address, where such information may be communicated to them;

e) the right to review the file, in accordance with the law;

f) the right to be heard;

g ^ 1) the right to benefit free of charge of an interpreter when he / she does not understand, express himself / herself or cannot communicate in Romanian. In urgent cases, technical means of communication may be used, if it is considered necessary and does not impede the exercise of the rights of the injured person;

g ^ 2) the right to be informed of the translation into a language that he understands of any solution of non-submission in court, when he does not understand the Romanian language;

h) the right to be assisted by an attorney or represented;

i) the right to address a mediator, in the cases allowed by law;

j) other rights stipulated by law.

(2) The person having incurred a physical, material or moral prejudice as a result of a criminal act for which penal action is initiated ex officio and who does not wish to take part in the penal trial shall have to notify in this regard the judiciary authority, who, if it deems necessary, may hear such person as witness.

#### **ARTICLE 94 Consultation of the file**

(1) The attorney of the parties and of the main procedural subjects shall have the right to request to review the file throughout the criminal trial. This right can neither be exercised, nor restricted in an abusive manner.

(2) Consultation of the file implies the right to review its documents, the right to write down data or information from the file, as well as to obtain photocopies, at the client's expense.

(3) During criminal prosecution, the prosecutor shall determine the date and duration of consultation, within a reasonable time. This right may be delegated to the prosecution services.

(4) During criminal prosecution, the prosecutor may restrict, based on reasons, the consultation of the file, if this could prejudice the appropriate performance of criminal prosecution. After the penal action has been set in motion, any restriction may be ordered for no more than 10 days.

(5) During criminal prosecution, the attorney shall have the obligation to keep confidential or secret the data and documents of which he/she became aware further to the consultation of the file.

(6) In all cases, the attorney's right to consult the statements of the party or of the main procedural subject whom he/she assists or represents cannot be restricted.

(7) In view of preparing the defence, the attorney of the defendant shall have the right to be informed in relation to the entire material in the criminal prosecution file in the procedures conducted before the rights and freedoms judge in relation to measures depriving of or restricting rights, which the attorney attends.

(8) The provisions of this article shall be appropriately applied in relation to the right of the parties and of the main procedural subjects to consult the file.

### **SECTION 3 Dismissal and waiver of criminal prosecution**

#### **ARTICLE 314 The solutions not to initiate prosecution or proceedings before the court**

(1) After reviewing the request to initiate proceedings, when it is ascertained that the necessary evidence was gathered in accordance with the provisions of Article 285, the

prosecutor, upon the proposal of the prosecution services or ex officio, shall settle the case by ordinance, ruling as follows:

a) to dismiss the case, when the penal action is not initiated or, as the case may be, continued, because there is one of the cases stipulated in Article 16 paragraph (1);

b) to waive criminal prosecution, when there is no public interest in prosecuting the defendant.

(...)

#### **ARTICLE 316 Notification on the dismissal of the case**

(1) The dismissal notification shall be served in copy to the person having submitted the request initiating proceedings, the suspect, the defendant or, as the case may be, to other stakeholders. If the ordinance does not contain the de facto and de jure reasons, a copy of the report prepared by the prosecution services shall also be delivered.

(...)

#### **ARTICLE 318 Waiver of criminal prosecution**

(...)

(12) The ordinance ordering the renunciation of the criminal prosecution, verified according to par. (10), shall be communicated in copy, as the case may be, to the person who made the notification, the parties, the suspect, the injured person and other interested persons and shall be sent, for confirmation, within 10 days from the date on which it was issued, to the judge of preliminary chamber from the court to which, according to the law, the power to judge the case in the first instance would be returned.

(...)

#### **ARTICLE 353 Subpoena to appear before the court**

(1) Judgment may only take place if the damaged person and the parties are duly summoned and the procedure has been duly fulfilled. The defendant, the civil party, the civilly responsible party and, as the case may be, the legal representatives thereof shall be summoned ex officio by the court. The court may order that other procedural subjects be summoned when their attendance is necessary in settling the case. Appearance by the damaged person or the party before the court, either personally or by means of their representative or chosen attorney or attorney appointed ex officio, if the latter contacted the represented person, shall cover any illegality occurred during the summoning procedure.

(...)

(3) For the first court hearing session, the damaged person shall be summoned specifying that it may become a civil party no later than the commencement of court investigation.

(4) Failure to appear by the damaged person or the summoned parties does not preclude the case from being tried. Where the court deems that it is necessary for any of the missing parties to attend, it may take measures for it to be present, and the trial shall be adjourned accordingly.

(...)

(8) Upon the request of the persons who take note of the court session date, the court shall hand down subpoenas, to serve as justification at their work places, in view of appearing before the court on the new court session date.

(...)

## **ARTICLE 407 Service of judgment**

(1) After the ruling, a copy of the minute of the decision shall be communicated to the prosecutor, to the parties, to the injured person and, in case the defendant is arrested, to the administration of the place of detention, in order to exercise the appeal. If the defendant, the civil party or the injured person does not understand the Romanian language, a copy of the decision's minute shall be communicated to it in a language that he understands. After the decision has been drafted, they are notified of the decision in its entirety.

(2) If the court ordered to defer the enforcement of the sentence or to suspend the service of the sentence on probation, the judgment shall be delivered to the probation services and, as the case may be, to the body or authority competent to supervise compliance with the obligations ordered by the court.

d)The person who was injured as a result of an offence having been committed can take part into the criminal trial as a injured person and as a civil party, according to the conditions described further below. The injured person is considered to be „procedural subject” and the civil party is a party within the criminal trial.

The injured person has within the criminal trial a series of procedural rights: the right to be informed about his rights, the right to propose the consideration of evidence by the judicial authorities, to invoke exceptions and pose conclusions, to file any other requests which have to do with clearing the criminal aspects of the case, the right to be informed within reasonable time about the course of the criminal procedure, upon his explicit request (indicating an address in Romania, an e-mail address or an electronic message address to which this information to be sent), the right to look at the file, according to applicable legal provisions, the right to be heard, the right to ask the defendant, the witnesses and experts questions, the right to an interpreter free of charge if he does not understand, cannot articulate himself properly or cannot communicate in Romanian, the right to be assisted or represented by a defender, the right to make use of a mediator in cases in which this is permitted by law, the right to make use of means of redress.

The testimonies of the injured person are means of evidence within the criminal trial, alongside the testimonies of the suspect or defendant, of the witnesses, civil party or of the person liable in civil law (art. 97 Code of criminal procedure).

The person who has suffered a physical, material or moral damage as a result of an offence for which the criminal investigation is initiated ex officio and who does not want to participate in the criminal trial has to inform the judicial body about this which, if necessary, will hear the injured person as a witness.

## **Law 135/2010 regarding Criminal procedure code**

### **General provisions**

#### **ARTICLE 29 Participants to the penal trial**

The participants to the penal trial shall be: judiciary services, attorney, parties, main procedural subjects, as well as other procedural subjects.

#### **ARTICLE 32 Parties**

(1) The parties shall be the procedural subjects who exercise or against whom a court action is exercised.

(2) The parties in the penal trial shall be the defendant, the civil party and the civilly responsible party.

### **ARTICLE 33 Main procedural subjects**

(1) The main procedural subjects shall be the suspect and the damaged person.

(2) The main procedural subjects shall have the same rights and obligations as the parties, save for the ones granted by law exclusively to the latter.

### **ARTICLE 81 (1) Rights of the injured person**

In the penal proceedings, the damaged person shall have the following rights:

a) the right to be informed in relation to their rights;

b) the right to propose evidence to be taken by the judiciary services, to raise objections and to submit final pleadings;

c) the right to submit any other requests relevant for the settlement of the penal side of the case;

d) the right to be informed, within a reasonable period of time, in relation to the status of criminal prosecution, upon their express request, conditional upon the provision of an address in the territory of Romania, an e-mail address or electronic messaging address, where such information may be communicated to them;

e) the right to review the file, in accordance with the law;

f) the right to be heard;

g ^ 1) the right to benefit free of charge of an interpreter when he / she does not understand, express himself / herself or cannot communicate in Romanian. In urgent cases, technical means of communication may be used, if it is considered necessary and does not impede the exercise of the rights of the injured person;

g ^ 2) the right to be informed of the translation into a language that he understands of any solution of non-submission in court, when he does not understand the Romanian language;

h) the right to be assisted by an attorney or represented;

i) the right to address a mediator, in the cases allowed by law;

j) other rights stipulated by law.

(2) The person having incurred a physical, material or moral prejudice as a result of a criminal act for which penal action is initiated ex officio and who does not wish to take part in the penal trial shall have to notify in this regard the judiciary authority, who, if it deems necessary, may hear such person as witness.

### **ARTICLE 93 Legal assistance provided to the damaged person, the civil party and the civilly responsible party**

(1) During criminal prosecution, the attorney of the damaged person, of the civil party or of the civilly responsible party shall have the right to be informed in accordance with the conditions of Article 92 paragraph (2), to assist to the performance of any criminal prosecution proceeding in accordance with the conditions of Article 92, the right to consult the documents of the file and to submit requests and memoranda. The provisions of Article 89 paragraph (1) shall apply accordingly.

(2) The attorney of the damaged person, of the civil party or of the civilly responsible party shall have the right stipulated in Article 92 paragraph (8).

(3) During the trial, the attorney of the damaged person, of the civil party or of the civilly responsible party shall exercise the rights of the assisted person, save for those which the latter exercises in person, and the right to consult the documents in the file.

(4) Legal assistance is mandatory when the damaged person or the civil party is a person without legal standing or having restricted legal standing.

(5) When the judiciary authority deems that, for certain reasons, the damaged person, the civil party or the civilly responsible party could not defend themselves, it shall take measure to have an attorney appointed ex officio.

(...)

#### **ARTICLE 94 Consulting the file**

(1) The attorney of the parties and of the main procedural subjects shall have the right to request to consult the file throughout the penal trial. This right can neither be exercised or restricted in an abusive manner.

(2) Consultation of the file implies the right to review its documents, the right to write down data or information from the file, as well as to obtain photocopies, at the client's expense.

(3) During criminal prosecution, the prosecutor shall determine the date and duration of consultation, within a reasonable time. This right may be delegated to the prosecution services.

(4) During criminal prosecution, the prosecutor may restrict, based on reasons, the consultation of the file, if this could prejudice the appropriate performance of criminal prosecution. After the penal action has been set in motion, any restriction may be ordered for no more than 10 days.

(5) During criminal prosecution, the attorney shall have the obligation to keep confidential or secret the data and documents of which he/she became aware further to the consultation of the file.

#### **ARTICLE 95**

The right to submit complaints

(1) The attorney shall have the right to submit complaints, in accordance with Articles 336 - 339.

(2) In the cases contemplated in Article 89 paragraph (2), Article 92 paragraph (2) and Article 94, the superior prosecutor shall have the obligation to settle the complaint and communicate the solution, as well as its reasoning, within no more than 48 hours.

### **TITLE IV Evidence, means of evidence and evidentiary procedures**

#### **CHAPTER I General rules**

#### **ARTICLE 97 Evidence and means of evidence**

(1) Evidence shall be any de facto element serving to ascertain the existence or inexistence of an offence, to identify the person who committed it and to become aware of the circumstances necessary for the fair settlement of the case and which contributes to finding the truth in the penal trial.

(2) Evidence shall be procured in the penal trial through the following means:

a) statements of the suspect or defendant;

b) statements of the damaged person;

c) statements of the civil party or of the civilly responsible party;

d) witness testimonies;

e) writs, expert appraisal or findings reports, minutes, photographs, material means of evidence;

f) any other means of evidence that is not prohibited by law.

(3) The evidentiary procedure shall be the legal manner of obtaining the means of evidence.

(...)

#### **ARTICLE 100 Taking evidence**

(...)

(2) During the trial, the court shall take evidence upon the request of the prosecutor, of the damaged person or of the parties and, secondarily, ex officio, when it is deemed necessary for it to reach a conclusion.

(...)

#### **ARTICLE 336 The right to submit a complaint**

(1) Anyone may submit a complaint against the criminal prosecution measures and proceedings, if they caused prejudice to their lawful interests.

(2) The complaint shall be addressed to the prosecutor supervising the activity of the criminal investigation services and it shall be delivered either directly to it, or to the criminal investigation services.

(3) The complaint being submitted shall not suspend the enforcement of the measure or of the proceeding forming the object of the complaint.

#### **ARTICLE 337 Obligation to forward the complaint**

When the complaint was submitted to the criminal investigation services, the latter shall have the obligation to forward it, together with its clarifications, whenever they are necessary, within no more than 48 hours after its receipt, to the prosecutor.

#### **ARTICLE 338 Settlement period**

The prosecutor shall have the obligation to settle the complaint within no more than 20 days after receipt and immediately deliver to the person having submitted the complaint a copy of the ordinance.

#### **ART. 339 The complaint against the prosecutor's acts**

(1) The complaint against the measures taken or the acts performed by the prosecutor or carried out on the basis of the provisions given by him shall be resolved, as the case may be, by the first prosecutor of the prosecutor's office, by the prosecutor general of the prosecutor's office near the court of appeal, by the chief prosecutor of the section of the Prosecutor's Office attached to the High Court of Cassation and Justice.

(...)

#### **ARTICLE 340 Complaint against the solution not to initiate criminal prosecution or court proceedings**

(1) The person whose complaint against the classification solution, ordered by ordinance or indictment, was rejected according to art. 339 may file a complaint, within 20 days of the communication, to the preliminary chamber judge from the court to whom, according to the law, the power to judge the case in the first instance would be returned.

(...)

#### **ARTICLE 356 Providing defence**

(1) The damaged person, the defendant, the other parties and their attorneys shall have the right to become informed of the documents in the file throughout the trial.

(2) When the damaged person or one of the parties are in custody, the president of the panel of judges shall take measures for them to be able to exercise the right provisioned for in paragraph (1) and to contact their attorney.

(3) During trial, the damaged person and the parties shall have the right to only one continuance in order to hire an attorney and prepare their defence.

(4) If the damaged person or one of the parties no longer benefits from legal assistance provided by their chosen counsel, the court may grant continuance in order for them to hire another attorney and prepare their defence.

(5) In the cases stipulated in paragraphs (1) - (4), granting the facilities necessary for the preparation of actual defence shall comply with the observance of a reasonable time of the penal trial.

#### **ARTICLE 374 Notification of the accusation, clarifications and requests**

(...)

(3) The president shall inform the civil party, the civilly responsible party and the damaged party in relation to the evidence taken during criminal prosecution that was excluded and that will not be taken into account in settling the case and inform the damaged person that they may become a civil party no later than the commencement of court investigation.

(...)

(5) The president shall ask the prosecutor, the parties and the damaged person whether they propose any other evidence to be taken.

(...)

#### **ARTICLE 390 Written concluding arguments**

(...)

(2) The prosecutor, the damaged person and the parties may submit written concluding arguments, even if not requested by the court.

#### **ARTICLE 409 Persons who may submit appeals**

(1) The following may submit appeals:

(...)

c) the civil party, as concerns the penal side or the civil side, and the civilly responsible party, as regards the civil side, and in relation to the penal side, insofar as the solution for this side influenced the civil side;

d) the damaged person, as concerns the penal side;

(...)

e) The legal assistance and representation are the main means available for the rights and interests of the injured person to be presented and considered appropriately.

According with art. 93 para. (4) of the Code of criminal procedure, legal assistance is mandatory if the injured person or the civil party is a person without capacity of exercise or with restricted capacity of exercise.

Also in other cases in which the judicial authority considers that out of certain reasons the injured person could not defend itself, it will order measures for the appointment of an ex officio defender (art. 93 para. (5) of the Code of criminal procedure).

#### **Other measures provided for in Law No. 211/2004 concerning some measures for ensuring the protection of victims of crime:**

(...)

f) The Code of criminal procedure enshrines as a principle of the criminal trial the respect of the human dignity and private life. Any person who is subject to criminal investigation or tried has to be treated with respect to human dignity. The respect of private life, inviolability of domicile and secrecy of correspondence are guaranteed. The limitation of the exercise of these rights is only permitted according with applicable legislation and if it is necessary in a democratic society. (art. 11)

The criminal prosecution stage is not public (art. 285 para. (2) Code of criminal procedure), so that the criminal prosecution bodies take measures for the protection of private life, victim's identity and image and keep the confidentiality of personal data which they process.

During the criminal prosecution, the defender has the obligation to keep the confidentiality or secrecy of the data and documents he got access to while looking at the file (art. 94 para. (5)).

Persons who are called to technically assist within the enforcement of surveillance measures have the obligation to keep the secrecy of the operation performed, in all other cases they may be held criminally liable (art. 142 para. (3)).

As regards the trial (which is a public stage as a general rule), it is provided that if the public trial could affect the moral, dignity or private life of a person or the interests of children, the court can, upon request of the prosecutor, parties or ex officio, declare the hearing not-public for its entire duration or just for a certain part of the trial.

The court can also declare the hearing not public upon request of a witness, if through the hearing of that witness within a public hearing the safety or dignity or private life of the witness or of his family would be affected, or upon request of the prosecutor, injured person or parties in case a public hearing could jeopardize the confidentiality of some information.

The president of the panel has the obligation to inform the parties who are involved in the non-public hearing about the obligation to keep the confidentiality of the information they get during the trial.

During the trial, the court can forbid the publication and dissemination, by any written or audiovisual means, of texts, photographs or images which can reveal the identity of the victim, civil party, person liable in civil law or of the witnesses, if the hearing was declared non-public.

- According with art. 59 of Law No. 254/2013 concerning the enforcement of penalties and measures involving deprivation of liberty ordered by judicial bodies during the criminal trial, convicted persons can communicate with the media only if there are no grounded reasons to forbid this, with a view to protecting the victim.

- The unauthorized release of information concerning the private life of persons, as well as the unauthorized release of confidential information from criminal cases are considered offences and sanctioned by the Criminal code.

#### **Extract of law:**

#### **Law 135/2010 regarding the criminal procedure code:**

#### **ARTICLE 352 of the Code of Penal Procedures:**

##### **Publicity of the court session**

(1) The court session shall be public, save where otherwise provided by law. The session taking place behind closed doors shall not be public.

(2) The court session may not be attended by minors under the age of 18, save where they have the capacity of parties or witnesses, as well as armed persons, save for the personnel in charge with security and order.

(3) If the proceedings held in public session could prejudice State interests, moral, the dignity or privacy of a person, the interests of minor children or justice, the court, upon the demand of the prosecutor, of the parties or ex officio, may declare that the session is not public for all its course or only for a part of the proceedings.

(4) The court may also declare the session not public upon the demand of a witness, if their public hearing would prejudice the safety or dignity or privacy thereof or their

family members, or upon the demand of the prosecutor, of the damaged person or the parties, where a public hearing would jeopardise the confidentiality of certain information.

(5) The session shall be declared not public in public session, after hearing the attending parties, the damaged person and the prosecutor. The order of the court shall be enforceable.

(6) While the session is not public, only the parties, the damaged person, their representatives, attorneys and other persons whose attendance is authorised by the court shall be admitted to the court room.

(7) The parties, the damaged person, their representatives, attorneys and experts appointed in the case shall be entitled to take note of the documents and content of the file.

(8) The presiding judge shall have the duty to inform the persons attending the session held behind closed doors on the obligation to keep the information received during the trial confidential.

(9) Throughout the proceedings, the court may prohibit the publication and dissemination, by written or audiovisual means, texts, drawings, photographs or images able to disclose the identity of the damaged person, of the civil party, of the civilly responsible party or of the witnesses, in observance of the conditions provisioned for in paragraphs (3) or (4).

(10) Public interest information in the file shall be communicated in observance of the legal provisions.

(11) Where classified information is essential for the settlement of the case, the court shall request, as a matter of emergency, if appropriate, full declassification, partial declassification or the transfer into another classification degree of or that access be allowed to the information classified for the defendant's attorney.

(12) If the issuing authority does not allow access for the defendant's attorney to classified information, such information may not serve in rendering a sentencing decision, a decision to waive the enforcement of the sentence or to defer the enforcement of the sentence.

## **Law 286/2009 regarding the Criminal code**

### **ARTICLE 227 Disclosure of professional information**

(1) Unrightfully disclosure of data or information concerning a person's private life, of a nature to produce damages to such person by the one who was informed to this aimed, in the virtue of the profession or position held and who has the obligation to keep such information confidential shall be punished with 3 months to 3 years imprisonment or a fine.

(2) The penal action shall start upon the prior complaint of the injured person.

(...)

### **ARTICLE 277 Compromise of the interest of justice**

(1) The unlawful disclosure of confidential information referring to the date, time, venue, manner or methods whereby evidence is to be taken, by a magistrate or another public officer who became aware of the above by virtue of their office, where this could hinder or preclude criminal prosecution, shall be punished with 3 months to 2 years imprisonment or fine.

(2) The unlawful disclosure of means of evidence or official documents in a penal case, prior to the rendition of a decision not to initiate court proceedings or the final

settlement of the case, by a public officer who became aware of the above by virtue of their office, shall be punished with one month to one year imprisonment or fine.

(3) The unlawful disclosure of information in a penal case, by a witness, expert or interpreter, when such interdiction is imposed by the penal procedural law, shall be punished with one month to one year imprisonment or fine.

(4) The acts of disclosing or divulging overtly illegal actions or activities committed by authorities in a penal case shall not constitute offences.

g) See lit. a) regarding protection measures.

h) Law 135/2010 regarding the Criminal procedure code

#### **Art. 81**

In criminal proceedings, a victim has the following rights:

(...)

g1) The victim has the right to benefit free of charge of an interpreter when he / she does not understand, express himself / herself or cannot communicate in Romanian. In urgent cases, technical means of communication may be used, if it is considered necessary and does not impede the exercise of the rights of the injured person;

g2) the right to be informed of the translation into a language that he understands of any solution of non-submission in court, when he does not understand the Romanian language;

(...)

i) See letter a) above.

2. See answer above at lit. a), taking into consideration that a child victim is automatically considered a vulnerable victim.

#### **Extract of law:**

##### **Law 135/2010 regarding the Criminal procedure code**

##### **ART. 113 Protection of the injured person and the civil party**

(1) When the conditions stipulated by the law regarding the status of threatened or vulnerable witness or for the protection of privacy or dignity are fulfilled, the criminal investigation body may dispose of the protection measures provided for in art. 124 - 130, which applies accordingly.

(2) Child victims, victims who are in a relationship of dependence on the perpetrator, victims of terrorism, organized crime, human trafficking, violence in close relations, sexual violence or exploitation, victims of crimes committed are presumed vulnerable. hatred and victims affected by a crime due to prejudice or for reasons of discrimination that may relate in particular to their personal characteristics, victims with disabilities, as well as victims who have suffered considerable harm as a result of the seriousness of the crime.

(3) If the injured person or the civil part is in any of the situations provided in par. (2), the criminal prosecution body informs them about the protective measures that can be taken, their content and the possibility of renouncing them. The renunciation of the injured person or of the civil party when taking the protective measures shall be recorded in writing and signed by it, in the presence of the legal representative, if applicable.

(4) The re-examination of the injured person shall be carried out only if this is strictly necessary for the criminal trial.

(5) At the hearing, the injured person may be accompanied, at his request, by his legal representative and by another person designated by the injured person, unless the judicial body decides motivated in the opposite direction.

(6) Whenever the judicial body cannot determine the age of the injured person and there are reasons to consider that it is a minor, the injured person will be presumed to be a minor.