



## REPORT

### IMPLEMENTATION OF THE LAW “ON MEASURES AGAINST VIOLENCE IN FAMILY RELATIONS”

*(Law no.9669, date 18.12.2006)*

*The monitoring of the decisions of the Court of the Juridical District of Tirana for issuing warrants for protection /the immediate warrants of protection as well as of the cases of the victims of violence in family relations supported by free legal assistance from the Centre for Legal Civic Initiatives (LCI).*

*Monitoring period: 01.06.2009-01.06.2010*

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## **I. The aim and the methodology of the study**

The study is based on monitoring the Court decisions of the Juridical District of Tirana on issuing warrants of protection and immediate warrants of protection during the period of time from the 1- st of June 2009 till the 1-st of June 2010. Its aim is to highlight, through court decisions and juridical precedings being monitored by the advocates of the Centre fur Legal Ciciv Initiatives, the access of dv victims to court and other authorities, as settled in the Law “ On measures against violence in family relations”, for protection from domestic violence. Thus, in this way, we should like to point out some important aspects which have to do with the implementation of the law.

Under such circumstances, we considered the monitoring of the decisions of the Court of First Instance of Tirana on issuing warrants of protection and immediate warrants of protection as rather essencial, and our aim is to draw conclutions, which can serve to highlight the role of the actors respossible for the identification of cases of family violence und its prevention, as well as to be acquainted with the dynamics of the implementation of the law against family violence from the actors responsible for it. This monitoring shed light even into a series of other important aspects, by the way, it enable us to understand the way the implemrentation of law hepls for the protection of the family members; to be acquainted with the forms and the ways of exercising family violence and the reasons of this violence; to be acquainted with the way the institutional network against domestic violence has functioned, etc.

The monitoring was organized in two main directions:

1. On juridical decisions for issuing warranties of protection and immediate warrants of protection, given by the Court of the Juridical District of Tirana
2. On the practices followed by the advocates of the Centre for Legal Civic Initiatives, during the free legal assistance, offered for the victims of violence in family relations, especially, for women and children.

In this way, we have monitored 406 juridical decisions, on the basis of questionnaires prepared by the experts of the Centre for Legal Civic Initiatives. The questionnaires are compiled on the basis of two dimensions: social and technical-juridical. This enabled us to gather and draw, during the monitoring, a series of data and conclusions on the social issues and problems, identified by the court decisions as well to make a series of observations on the way and the technique used by the courts for the implementation of the law for the protection of the victims of family violence through the warrants of protection.

The questionnaires became enriched with new elements, in comparison with previous monitoring studies, such as: the organs the decision has referred to for implementation, the forms of direct or by phone denunciations, “ the reasons” of violence, the organs the violence has been denounced to, the police escort of the victim during the trial, and if the denunciation has been made from the victim of violence in family relations or from the community, where the court has based itself on by issuing the immediate warrant of protection or the warrant of protection, the procedure time limit implemented for issuing the warrant of protection as well as if the subjects being legitimated for the presentation of a claim for immediate warrant of protection or warrant of protection have exercised this right.

The comparative method with the data highlighted during the monitoring of the same object in the period of time from the 1-st of June 2007 till the 30-th of April 2008, helped us to draw some important conclusions. For example, it is noticed that there is an obvious growth of claims to the court for warrants of protection during this period of time, in comparison with the period previously monitored by the Centre of Legal Civic Initiatives.<sup>1</sup>

The execution of a constant monitoring on the implementation of the Law no. 9669, date 18.12.2006 “On measures against violence in family relations” helps to constantly review the actual effectiveness of the precautions and to make modifications if necessary. The review of the existing national laws and of the all-around studies is necessary. The issues identified during the monitoring outline the needs for interference.

An important contribution for the preparation of the monitoring report was offered by six members of the *pro-bono* teams, who have been trained by the Centre for Legal Civic Initiatives through elementary and on-going trainings on the implementation of the Law no.9669, date 18.12.2006 “ On measures against violence in family relations”. The students have made a voluminous work to highlight the data resulting from the court decisions, filling in the questionnaires that the experts of the Centre had previously worked out. These data were presented in such a way that enabled their comparison with the data of the monitoring of a year before. Some data were newly gathered, based on the problems that the Centre coped with during its activity of affording juridical assistance. The comparison of the data and the highlighting of new data helped us to draw useful conclusions and make useful suggestions.

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<sup>1</sup> See report” The implementation of Law”On measures against violence in family relations”, for the period of time from 01.06.2007 till 31.04.2008, Tirana 2008.

## CHAPTER II. THE ROLE OF THE ACTORS RESPONSIBLE IN CIVIC PROCESS FOR THE PREVENTION OF FAMILY VIOLENCE

Since the 1<sup>st</sup> of June 2007, when the Law “On measures against violence in family relations” (no. 9669, date 18.12.2006) came into force till now, the juridical practice on issuing warrants of protection and immediate warrants of protection has proved that the actors responsible for the implementation of law represent an important factor for the prevention of domestic violence. The protective means ratified in this law, due to its public- civic nature, include closely a series of obligations for state institutions and non-profitable organizations offering services in this field. Anyhow, the role of the judge is prominent as a key actor in the framework of the institutional cooperation for the fulfillment of the goals of law. From the juridical point of view, the implementation of law from the civic judge has enabled the realization of the goal of the Family Code, which foresees precautions against domestic violence (articles 61,62), but for some years in sequence, it has not been implemented by the courts.

Preliminary, we would like to point out that from the monitoring of juridical decisions<sup>2</sup> it results that the phenomenon of family violence remains an widespread phenomenon, a conclusion which has been drawn even from the statistical data presented by Institute of Statistics after this law came into power.<sup>3</sup>

1. **The access of the victims of violence in civic juridical process and the role of the judge in preventing family violence.** One of the juridical means offered by the Law “On measures against violence in family relations” is the access that the victims of domestic violence have in civil process to claim the warrant of protection and the immediate warrant of protection. In any case, the presentation of an issue at civil process does not prevent the parties to attend even the penal process for actions or inactions as regards the family violence, representing criminal offences. It must be stressed that the Albanian Penal Legislation does not foresee any special provision, condemning the domestic violence and it submits in general a very low penal punishment as regards the everyday

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<sup>2</sup> See report “The Implementation of the Law” On measures against violence in family relations”, prepared by the Centre for Legal Civic Initiatives, Tirana 2009, published in website: <http://www.qag-al.org>

<sup>3</sup> Referring to National Survey of the Albanian Institute of Statistics “Family violence in Albania”, 2009, it results that, at least, 56% of the inquired women have experienced one of the forms of family violence observed in the monitoring. According to the same observation it results that from 997 inquired children, 57.7% of them have attested to have been physically beaten from one of the parents.

family violence.<sup>4</sup> For this reason, the family violence is perused and condemned according to general provisions, which do not take into consideration the family relations between the victim and the violator. Under such circumstances, the access of the victims to a civil process to claim for a civic warrant of protection is a useful mean to prevent violence.

Only during a one-year period of time, from June 2009 till June 2010, 406 claims for warrants of protection and immediate warrants of protection have been presented at the Court of First Instance of Tirana. A year before (from May 2008 till May 2009) the number of such claims presented was 448. Anyhow, from the 406 cases, the Court of Tirana has given a final decision for only 128 cases, it had admitted the claims for only 23, 89 % of the cases, it had partly admitted the claims for only 3, 44% of the cases, it had rejected the claims for only 0.24% of the cases, it had overruled the claims for only 3.44% of the cases and annulled the claims for only 0.49 of the cases as regards the immediate warrants of protection.

<b>Court decisions</b>						
<b>Decisions in total</b>	<b>Admission of claims</b>	<b>Partial acceptance</b>	<b>Cessation of judgment</b>	<b>Annuling of immediate warrants of protection</b>	<b>Rejection of claim</b>	<b>Overruling of claim</b>
406	97	14	278	2	1	14
In %	23.89 %	3.44 %	68.47 %	0.49 %	0.24%	3.44%

**Table no.1**

The Court of First Instance of Tirana has decided to cease the judgment of further 278 cases. From the 278 decisions on cessation of judgment, 162 have been ceased because of the non-appearance of the victim at courts, as claimant, and in 116 other cases, because the suitor has withdrawn from the judgment. In the decisions on cessation of judgment, judging from the decision, it results that in 32 cases the immediate warrants of protection has been issued, but in the confirmation of the immediate warrants of protection, the victim has withdrawn the complaint, and this has led to the cessation of judgment.

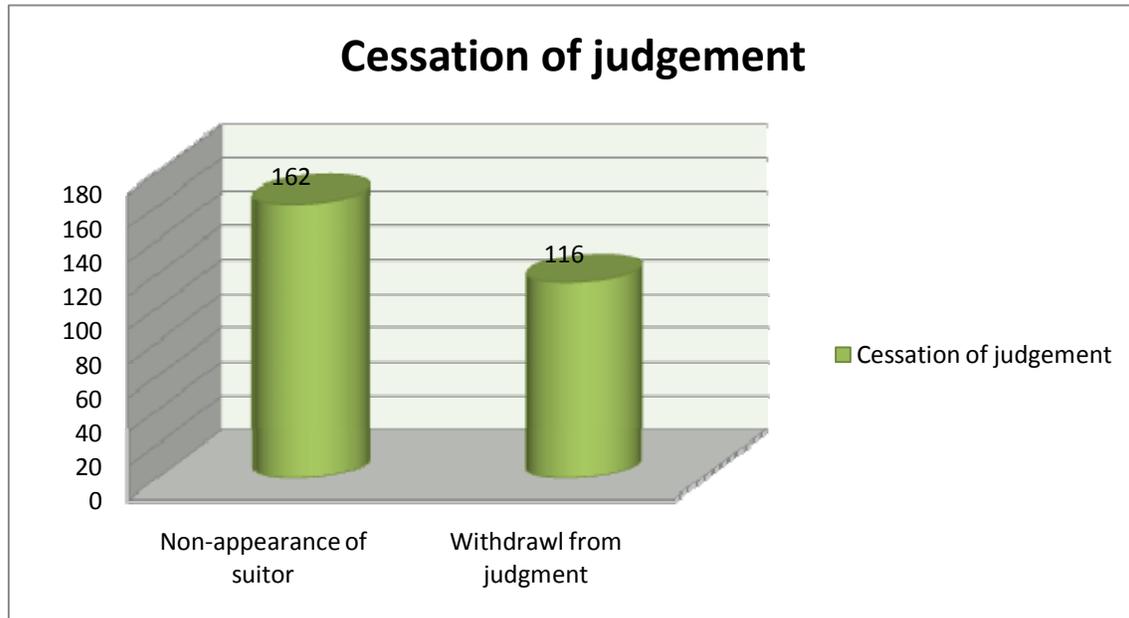
**Cessation of judgment**

<sup>4</sup> See further on “Analysis of the criminal justice system of Albania” (report of the program for undertaking a correct judgment), OSCE, 2006, page 120-123.

Decisions in total	Non-appearance of the suitor	The suitor has withdrawn
278	162	116
in %	58.27 %	41.72 %

**Table no.2**

**Data about the cessation of decisions on the warrants of protection/immediate warrants of protection are presented in the following diagram.**



**Diagram no.1**

The reason for the cessation of judgment. As *shown in the above mentioned figures, in spite of the fact that there is a tendency of a greater number of claims addressed to the court in civil process, at the same time, it is noticed a great number of cessation of judgments.* It's true that there is a decline of this number in comparison with a year before, the period object of our monitoring,<sup>5</sup> nevertheless, the number of the cessation of judgments remains great. The cessation of judgment means, in simply terms, that the examination of the issue

<sup>5</sup> LCI, Report "The implementation of the law "On measures against violence in family relations", for the period, object of our monitoring from 30.04.2008 till 01.06.2009. From this monitoring results that in 329 cases the judgment has been ceased ( of 448 decisions object of monitoring) or 73.43 % of the total cases. In 46.20 % of the cases the judgment has been ceased because of the non- appearance of the suitor and in 27.23 % of the cases the judgment has been ceased on demand of the suitor.

remains halfway and there is no final court decision. As regards the reasons for the cessation of judgment, we can draw some conclusions, based only on the experiences of the advocates of the Centre for Legal Civic Initiatives as well as, far as we can understand from the examination of court decisions. As a rule, the judges present in the decision, the reasons for the cessation of judgment, which are especially connected with the non- appearance of the suitor or his/her withdrawal from judgment.

Nevertheless, in some cases, the judge has expressed himself/ herself shortly, referring for further details to the claim of the suitor in files. We think that it is necessary to present in details the reasons for cessation of judgment while providing arguments on the decision. This helps us to draw correct conclusions about them while monitoring the decisions, with the aim of taking the required measures<sup>6</sup>.

*Firstly*, the great number of the cessation of judgments has to do with the impact that the use of the legal means brings about to violator. The presentation of a claim for warrant of protection to the court can represent a means for the prevention of violence in family relations, making the violator reflect upon or it can “intimidate” the defendant or constrain him not to exercise violence, or to reduce the level of the exercised violence towards the victim. This can make the victim believe that the situation is becoming better and thus she withdraws the denunciation or does not appear before the court hearing, where her statement of claim is going to be examined.

Anyhow, the experience of the Centre for Legal Civic Initiatives in support of the victims of violence has shown that the violence has its own cycles through which it goes and which make room for each other. Often, it happens that the victim of family violence withdraws because of her reconciliation with the violator, but she returns (comes back) when the violence is being repeated at intervals. For example, the advocates of the Centre have several times supported with free juridical assistance the same case because the victim has withdrawn herself from the legal litigation of the case three times in succession. *Thus, the Court of the Juridical District of Tirana has given three decisions on cessation of judgment as regards the case related to the parties M P and P.P, with the object of issuing a warrant of protection, at the 24- the of December, respectively at 28-th of April 20010 and at 19-th of May 2010. This simple fact makes us think of the fact that we must be more attentive towards the situation of reconciliation, because they result often to be false.*

In some cases it is noticed that a reason for the cessation of judgment has been the reconciliation between the parties. Thus, for example, the Court hat ceased the judgment because the victim has declared that she has extra judicially been reconciled. At the same time, in some cases the Court has decided to solve the civil matter with the reconciliation

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<sup>6</sup> Notice: All the decisions referred to in this study, are given by the Court of First Instance of Tirana.

between the parties, in conformity with the article no. 158/b, point 4 of the Code of Civil Procedure.<sup>7</sup> There are also cases, as underlined in the decision, that in conformity with the Code of Civil Procedure, the Court has done its utmost for reconciliation but the suitor has claimed the issue of a warrant of protection<sup>8</sup>. As far as what we said above is concerned, we should like to point out that the civil warrant of protection as regards the family violence, are issued on the basis and in the framework of the implementation of the Law no. 9669 “ On measures against violence in family relations”, which foresees a special procedure (ius singularis). This law has never forced the efforts for reconciliation between the parties, as a means for the judge. And this is not a neglectfulness of it; it is obvious that the lawmaker does not want to sanction in this law the principle of the reconciliation between the parties as a legal principle, but the principle of the legal protection. In the experience of various states this tendency has been criticized, because the reconciliation can make the spouse turn back to the abusive relationship.<sup>9</sup> That’s why; we do think that, ***while issuing warrants of protection the Court has not to do with the case of the implementation of the Civil Procedure for reconciliation between the parties.***

***Secondly***, these data make us think that the victims of violence in family relations could have taken the decision to withdraw the complaint even because of the fear of a more extreme violence exercised by the defendant and because of her insecurity of being offered the proper protection during this period of time. The insecurity and the fear of the victim for a more extreme violence is linked with the fact of how much effective the reference mechanism is and how much protection does it offer to the victims of violence in family relations.

***Thirdly***, we are of the opinion that this figure shows that there is a need for a better psycho-social and legal support for the violated family members, before they decide to present before the court the claim for a warrant of protection as well as during its examination process. Only if a victim of violence in family relations is professionally advised before she decides to address herself to the court, she can become conscious of her situation as well as of the use of the legal means as envisaged in the Law “On measures against violence in family relations” and of the impact of these means for the prevention and protection from violence.

In spite of the great number of the cessation of judgments on issuing warrants of protection, we can still uphold the conclusion that ***there is an increase in the sensibilisation of the citizens to denounce the family violence.***

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<sup>7</sup> Decision no. 3977, date 15.5.2010 of the Court of First Instance of Tirana

<sup>8</sup> Decision no. 2416, date 26.03.2010, decision no.3977, date 15.05.2010 of the Court of First Instance of Tirana.

<sup>9</sup> See for further information “ Analysis of the criminal justice system of Albania”, page 118

At the same time, we can accept the advantage of this law, giving the family members the possibility to address themselves to the court at civil process in order to take measures against domestic violence. We can also accept that the inter-institutional cooperation has influenced on the growth of the number of claims presented before the court, based on the fact that the majority of the claims are addressed from the police organs and other actors of the institutional network.

**2. The support of victims to denounce the violence.** The data of the monitoring show that the police remain the main actor to whom the violence has been denounced. In 21.67 % of the 406 decisions, object of our monitoring, the victims of violence in family relations have addressed themselves to the police to denounce the violence, considering it at the same time as an important organ for the protection of the life of the victims and their families during the process. Thus, in 4 (four) cases we do find data from the decision, according to which the police has escorted the victims to the court taking into account the fact that their lives are at risk. The 406 decisions issued by the Court of First Instance are an evidence of the fact that the faith of the target group of the violated family members in judicial bodies has increased.

In this framework, it remains to analyze the question of why in these three years of implementation of this law the public prosecutor has not present any claim for a warrant of warranty to the Court of First Instance. At the first glance, we do think that this is linked with the fact that the violence is, first of all, denounced to the police, which in its turn, and presents the claim to the court. Nevertheless, during the investigation of a criminal offence of domestic violence, it remains still to be monitored if the public prosecutor needs to ask at the same time for the warrant of protection or not. In such cases, the public prosecutor does not need to hesitate to present the claim and the court should not refuse it, because the matter is under criminal persecution (article 17, point 2 of the law).

**3. The precautions given by court.** The dynamics of the implementation of the article no 10 of the Law “On measures against violence in family relations”, which envisages preventive measures against violence, shows clearly the increase of the flexibility of the judges in selecting the preventive measures and their alternation, with the aim of strengthening the effectiveness of the warrant. In the beginning, when the law began to be implemented, the first decisions on issuing warrants of protection contained mainly the alternation of the measures a and b, as envisaged in article 10, which foresee to order the defendant not to exercise any violence at home and not to threaten to commit any offence of violence in family.<sup>10</sup> But, during the period of time from 2009 till 2010, we have noticed that in its

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<sup>10</sup> See Report “The implementation of the law “On measures against violence in family relations”, (monitoring period 01.06.2007-31.04.2008, prepared by the Centre for Legal Civic Initiatives, Tirana, 2008

decisions, the Court of Tirana has ordered a series of logically alternated measures, on behalf of the protection of the spouse and the children, including even measures for the removal of one of the spouses from the house.

The selection of the precautions and their alternation in the most useful way for protection from violence is a faculty for the judge, in spite of the fact that the suitor has concretely asked for measures in the respective legal action. That's why, when we observed during the monitoring that the judge had included in the warrant of protection even other measures to be alternated with the measures claimed by the victim<sup>11</sup>, we thought that we had, not at all, to do with any violation of the Code of Civil Procedure, because of an increase of the object of the legal action. *In case of the legal action for issuing the warrant of protection/ immediate warrant of protection, we should make a clear distinction between the object of the statement of claim and the required protective measure.* We are of the opinion that the object of the legal action in such cases include the claim for the warrant of protection (article 16 of the law) or for immediate warrant of protection (article 18 of the law) or for the amendment, interruption and continuation of the warrant of protection (article 22 of the law). The precautions claimed in the legal action must be treated by the court as an opinion of the applicant and not as an object of the statement of claim, in order to give the judge of the matter the necessary freedom to select and alternate the most effective measures for the protection of victims, taking even other measures besides those required by the claiming party.

In case, in the claim for warrant of protection it is required even the protection of the children, the court must pay a special attention to the selection of protective measures and their alternation in order to guarantee an effective protection of the children from violence. In some cases, the court has decided to include in the decision on issuing the warrant of protection, among the urgent measures of the article 10 of the Law no.9669, from the 18-th of December 2006 "On measures against violence in family relations", the measure which obliges the violator to stay at a distance of 500 meter away from the children and this warrant is valid for a whole year. We think that this measure must be alternated by the court and accompanied by other useful measures for the protection of the children such as the prohibition or reduction of the meetings of the violator with the children or by giving the victim the right of a temporary tutorship of the children.

**4. The juridical procedures for issuing the warrants of protection and the immediate warrants of protection.** Taking into consideration the specific feature of these procedures, which are clearly distinguished from the general procedures, as envisaged by the Code of Civil Procedure, we should like to dwell on some issues, which have to do with the process

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<sup>11</sup> Decision no.8696, date 27.10.2009 of the Court of First Instance of Tirana.

of testimony (article 15 of the law). Interpreting the article 15 of the law grammatically, we can draw the conclusion that the presentation of the written evidences in the juridical process for issuing warrants of protection and immediate warrants of protection is not a legal obligation, but a better possibility to persuade the judge. It's typical that in this procedure, it is foreseen that the judge can decide to issue the warrant of protection based on the description of the circumstances, facts and his world outlook even if he does not possess written evidences, as envisaged by this law (article 15.3 of the law). But, from the monitoring of all the judicial decisions of the Court of First Instance of Tirana, it was observed that the Court has already gained its practice of judgment on the basis of written evidences and that it has in no case implemented the legal possibility to make a decision based only on the internal conviction of the judge. The data on the evidences upon which the court has been based on, while taking decisions, are shown in the following table. There are in total 128 decisions (and the court has decided to accept/ to partly accept / to refuse/ to annul / or to overrule them).

<b>Where the Court has based itself on by taking decisions</b>		
	<b>No. of decisions</b>	<b>In %</b>
Internal conviction / Law/ written evidences administered during the judgment	44	34.37 %
Internal conviction / Law	44	34.37 %
Internal conviction / Law /Testimony of witnesses	13	10.15 %
Internal conviction / Law /legal-medical act	11	8.59 %
Internal conviction / Law /Minutes, declarations	9	7.03 %
Internal conviction / Law /Report of psychological assessment	1	0.78 %
Internal conviction / Law /Circumstances/ Facts/ Legal-Medical Act / Minutes, police declaration	6	4.68 %
Total ( Acceptance/ Partly/ Refusal/Annulment/ Overruling)	128	100 %

**Table no.3**

In some cases, too, the court has based its decision for the overruling of the claim for warrant of protection/ immediate warrant of protection on the non-presentation of any written evidence from the suitor to prove the pretensions during the judgment. We think that the non-presentation of written evidences during the judgment, does not present in itself a reason for overruling of the claim.

In this framework, a greater attention should be paid to the application of the protective measure from the court, which foresees the immediate removal of the violator from the house for a certain period of time (article no.10, point c). The judges are often skeptical as regards the implementation of such a measure because of their impossibility to constrain the violator to be accommodated in a temporary dwelling and attend rehabilitation programs. But, we think that they are making a mistake when they try to condition the overruling of such a measure on the lack of the document of house ownership. The measures against violence are urgent und temporary; they are implemented for a certain period of time with the aim of protection from violence and its prevention. The judge can ask for explanations and evidences linked with the exercised violence and it is, by no means, necessary to prove during this process, the existence of the ownership of the house. And even more, the fate of such judgments should not be defined by the fact that the house is a registered property or a property built up without any permission. Such matters should not be solved through judgments on issuing warrants of protection. There are some cases, where the court has asked for the certificate of ownership, and this has happened in those cases when the victim has claimed the removal of the defendant from the house.<sup>12</sup> It has overruled the claim of the complainant for the removal of the defendant from the house because the plaintiff has not proved with written evidences that she owns a house of her own, although the court has given her time to prove such a fact.

**5 The speed of judgment.** One of the main features of this process is the speed of judgment. Thus, for the immediate warrant of protection the court decides within 48 hours from the presentation of the claim and for the warrant of protection the court decides within 15 days from the presentation of the claim. But, from the monitoring, we have noticed cases which have been prolonged above the judgment time limit as envisaged in law and we have even noticed processes which have continued from three till four months<sup>13</sup>. In 7 decisions among the decisions object of our monitoring it results that there are data on the presentation of the statement of claim beyond the procedure time limits. The delay has been caused especially as a result of the confrontation of the juridical proceedings as envisaged in the law against violence with the juridical proceedings as foreseen in the Code of Civil Procedure. Thus, for example there are noticed some cases, for which the court has decided to inform the parties by publishing an announcement, according to article 133 of the Code of Civil Procedure, which has led to considerable delays in the judgment of the matter. In other cases, the court has postponed the court hearings for different reasons, especially for the non- notification of the defendant or to give time to the suitor to present written evidences.

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<sup>12</sup> Decision no.2565, date 30.03.2010 of the Court of First Instance of Tirana.

<sup>13</sup> Decision no 7465,date 23.09.2009 of the Court of First Instance of Tirana

With reference to what is mentioned above, we should like to underline that *the speed and the respect of deadlines, represents a fundamental element of judgment on the warrant of protection, and the non-respect of them leads to the loss of its sense.* Especially the postpone of the court hearing on an immediate warrant of protection is completely unnecessary, because the judge can decide on the basis of what the suitor has related, although the verification of the warrant of protection ought to take place within 20 days from the day the immediate warrant of protection has been issued. At the same time, in all the cases of issuing the warrants of protection and the immediate warrants of protection there is place for judgments in a single court hearing and there is no sense to drag the judgment out at several court hearings, which should not realize even the aim of the law.

**6. The rights of the victim of family violence at civil trial.** The Law “On measures against violence in family relations” is the first law in the civil field, which foresees the obligation of state to guarantee free legal representation for the victims of violence. Nevertheless, from the day the law has entered into power till today, we do not have a list of the advocates who are going to offer this assistance. This has led to the lack of the representation of the victims from advocates at the juridical process. Only in 32 cases of the matters, object of our monitoring, it results that the suitor has been defended by advocates, but it is not clear if they are mainly private advocates or advocates of the services giving free legal assistance. The statistics in this direction are very necessary, that’s why it is essential for the judge of the matter to expressly present in the decision the representation of the victim by the advocate, because according to some data it results that the legal protection is not at all presented in the final court decision.

In rare cases, the judge has of his own free will summoned to court advocates from the list of the advocates, mainly in criminal process, which seemed to us to be rather reasonable for a direct respect of the provisions of the law. Actually, the organization of such an assistance must be realized as regard the implementation of the Law “On juridical assistance”<sup>14</sup> which, although it has come into power in April 2009, it has not yet found any implementation. *The lack of the free legal assistance, we think, represents one of the main obstacles for a good progress of an effective juridical process for the victims of violence, who are left alone and without any legal protection.* We are of the opinion that the free defense with advocates should have a considerable impact on the reduction of the cases of the cessation of judgments, on taking effective measures as well as on respecting the rapid deadline of this judgment.

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<sup>14</sup> Law no. 100039, date 22.12.2008, “On juridical assistance”

Today, the non-profitable organizations which offer free legal services for victims have played an important role in this direction. The Centre for Legal Civic Initiatives has, for the period object of our monitoring, supported 67 victims of violence in family relations.

27 acts on the victims of domestic violence have been prepared and 17 victims have been represented in court. 40 of the victims of violence have received juridical consultations.

The Court has seriously assessed the risk the victim is coped with and foresees a reasonable deadline for the warrant of protection, in conformity with the risk. The following table gives data on the deadline of the warrant of protection during the period, object of our monitoring. There are in total 111 cases, and the Court of First Instance of Tirana has decided to accept or partly accept the claim.

<b>The deadline of the warrant of protection</b>		
	<b>Number</b>	<b>In %</b>
3 months	2	1.8 %
4 months	4	3.6 %
5 months	3	2.7 %
6 months	13	11.71 %
7 months	1	0.9 %
8 months	1	0.9 %
9 months	2	1.8 %
10 months	2	1.8 %
12 months	64	57.65 %
Acceptance of the claim from the court without determining any deadline	19	17.11 %
The total number of immediate warrants of protection & warrants of protection	111	100 %

**Table no 4**

As it results from the table, in 57.65 % of the cases, the court has issued the warrant of protection for a year, which is the maximal deadline as envisaged in law “On measures against violence in family relations”.

**7. Issues on the implementation of the warrants of protection.** The implementation of the warrants of protection remains one of the main problems for a good progress of the juridical process. The issue of the warrants of protection and the immediate warrant of protection from

the court represents a very important moment, but its implementation remains the key problem for an effective implementation of the law. Of course, an important role in this aspect play the state organs, responsible for the following up of the implementation of the warrants of protection, more concretely, the respective bailiff's office, the police station of the respective district as well as the offices of social services at respective local organs. Nevertheless, I would like to dwell here on some aspects of the role of the civil court for a good implementation of the immediate warrants of protection. For this purpose, the court must pay attention to make it clear in the decision on issuing the immediate warrant of protection that this warrant, from the very moment it has been declared or the parties have been acquainted with, represents an executive title and should be immediately executed by the bailiff's office ( article 23 of the law). We think that the warrant of performance is issued in the part of the deposition of immediate warrant of protection and it doesn't mean any other process or decision in this framework. Besides, the court decision containing the warrant of protection represents an executive title after coming into effect and it is executed immediately by the bailiff, the police stations as well as by the units of local governance (article 23 of the law). Thus, the pretensions of the Bailiff's Office in Tirana can not be justified, which several times, has asked the suitor to take even the warrant of performance from the court, after the later has issued the warrant of protection .<sup>15</sup>

Under such circumstances, ***in the disposition of the decision the court should express itself clearly, by ordering the responsible institutions to execute the warrant of protection or the immediate warrant of protection.*** We should like to point out this fact, because we have identified decisions on just conveying the warrants of protection to these subjects“for the sake of communication”<sup>16</sup>. It is necessary that the language used in a decision should be clear as regards the execution of the warrant according to the provision issued by the court decision.

In 5 decisions on issuing the warrants of protection, object of our monitoring, the court decision has not been referred to institutions responsible for the implementation of law.

At the same time, it should be paid attention to providing the parties with copies of the decision on the warrant of protection or immediate warrant of protection. It represents an executive title, despite of the fact that it has been appealed or not from any of the parties. Under such circumstances, the court administration can not obstruct the provision of the parties with copies of the decision, just because the decision has been appealed.

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<sup>15</sup> The execution warranty has been required for the decision of the Court of First Instance in Tirana, no. 3618, date 03.05.2010.

<sup>16</sup> Decision no.1089, date 17.02.2010 of the Court of First Instance of Tirana.

## **8. The social profile of the victim and of the violator**

**In the highest percentage of the cases, in 20.93% of them, it results that the suitor has a middle school education;** in 19.21% of cases the suitor has an 8 years school education and in 8.37% of cases the suitor has an university education. Only in 0.73% of the cases, the victim has got no education at all. Thus, from the decisions monitored it results that in a high percentage of the cases, 48.27 % for the suitor and 62.56 % for the defendant there are no information on the education level of the litigant parties in court decisions. Thus, we should draw the conclusion that, in general, the violated / the suitor is an educated woman.

An educated suitor means a suitor who denounces the violence, who is informed on the legal means she can use for protection, who is acquainted with the existing services, who is aware of the fact that the violence and a healthy family does not have anything in common with each other.

The percentage of 8.37 % of the suitors with higher education shows that the violence in family relations is present, despite of the education level.

The victims of violence in family relations with less than an 8 years school education represent a lower percentage. Thus, only in 2.46 % of cases the victim of violence in family relations has attended only 4 school classes. This is a clear indicator of the fact that an uneducated woman has less possibility to be employed and she demonstrates an economic dependence from her husband and the other family members. This dependence makes her vulnerable and forces her to keep silent and to denounce in a lower percentage the violence with which she becomes confronted with in family relations. From the monitoring it results that in 17.98% of the cases the suitor is a worker.

In the highest percentage of the cases, in 14.53 % the suitor has an 8 years school education and in 13.55% a middle school education. The fact that it results to be only one defendant with 8 years school education shows an element of the social profile of the violator, who has a lower consciousness on the fact that the family and the violence has nothing in common with each other, he is confronted with the problems of employment, has a lower knowledge on law and the obligations as envisaged in it . Thus, if we refer to the information from the monitoring as regards the profession of the defendant it results that in 18,72 % of the cases the defendant is a worker.

As regards the employment of the victims of domestic violence, from the monitoring it results that in 55, 17 % of cases, there is no data if the suitor is employed or not. In 21.67 % of the cases the suitor is employed and in 18,72 % of the cases the suitor is unemployed.( See table no.5) In comparison with the previous monitoring it results that there is a greater responsibility from the court to reflect the data on the employment status of the litigant parties.

55.17 % of the cases have no information as regards the employment of the parties and this has had its impact on the findings of the monitoring report.

Nevertheless, the fact that the employers have the highest percentage of claims for the warrants of protection can be linked with their independence in using legal means. This group has the greatest consciousness to denounce the violence because of the collective life they live but it can also be

linked with the insecurity of many employees to keep the working place, to save themselves from a greater stress which increases the level of violence and the aggressive behavior in relations with the family members

**Data on the employment of the parties.**

<b>Employment</b>				
	<b>Plaintiff</b>	<b>In %</b>	<b>The defendant</b>	<b>In %</b>
Employees	88	21.67 %	79	19.45 %
The unemployed	76	18.72%	70	17.24 %
Pensioners	18	4.43 %	7	1.72 %
No information available	224	55.17 %	250	61.58 %
Total	406	100 %	406	100 %

*Tabele no.5*

**The high percentage refers to victims of family violence with two children. (23.39 %)** (See the table no. 6). 13.54 % of the cases the victim results to have one child; in 12.80 % of cases the victims have three children; in 2.70 % of the cases the victims have four children, in 0.25% of the cases the victims have five children; in 0.49% of the cases the victims have 6 children and in 0.25% of the cases the victims have seven children. (See table no. 6). The number of the cases with one child makes 13.54% of the total cases, thus it represents a considerable percentage.

The highest percentage of the cases with two children and one child shows that the first years of marriage are accompanied with the antinomy between the ideal expectations from the husband/wife –to be and the reality they offer.

This antinomy urges on disagreements between the spouses, divergences which can be accompanied with different forms of violence.

	<b>Suitor</b>	<b>In %</b>

Without children	10	2.46 %
1 child	55	13.54 %
2 children	95	23.39 %
3 children	52	12.80 %
4 children	11	2.70 %
5 children	1	0.25 %
6 children	2	0.49 %
7 children	1	0.25 %
9 children	-	-
10 children	-	-
They do have children ( no number of children given)	7	1.72 %
No information available	172	42.36 %
Total	406	100 %

**Table no.6**

The age-group of the complainant, more confronted with domestic violence, is the age-group from 31 till 40 years old. This age- group makes 28.81 % of the cases. 25.86 % of the cases represents the age- group from 18 till 30 years old und 20.44 % of the cases the age – group from 41 till 50 years old ( See the table no.7)

Referring to the table it results that with the growth of the age- group the level of violence falls.

Thus, 11.08 % of the suitors belongs to the age-group from 51 till 60 years old, 2.95% of the suitors belongs to the age group from 61 till 70 years old , 3.45% of suitors belongs to age-group from 71 till 80 years old and 0.98 % belongs to age- group from 81 till 90 years old.

Although in low percentage, in these age-groups there are data which show how much the violence towards the old people, in a direct form or in a witnessing form is present in our society.

**Data on the age- group of the parties**

Age				
	Plaintiff	In %	Defendant	In %
Under 18 years old	5	1.23 %	2	0.49 %
18-30 years old	105	25.86 %	35	8.62 %
31-40 years old	117	28.81 %	120	29.56 %
41-50 years old	83	20.44 %	109	23.85 %
51-60 years old	45	11.08 %	51	12.56 %
61-70 years old	12	2.95 %	11	2.71 %
71-80 years old	14	3.45 %	6	1.48 %
81-90 years old	4	0.98 %	-	-
No information available	21	5.17 %	72	17.73 %
Total	406	100 %	406	100 %

**Table no.7**

From the monitoring it results that in 66.99 % of the cases the complainant lives in the city and in 24.41 % of the cases the complainant lives in the countryside. In 10.59 % of the cases there is no information available as regards the residence of the complainant .

**Forms of exercising violence from the family members. The peculiarities of the protection of minors.** In general, the decisions give information on the forms of exercising violence. Some of them even present their reasons. Nevertheless, there are many decisions, which do not describe the situation of violence well. In some cases , during the exposition of the decision, the judge does not present this situation, pointing out that he /she has referred himself / herself to the episodes related in police station.<sup>17</sup> We think that the presentation of the forms and the episodes of violence is a key point for the exposition of a decision on issuing the warrant of protection, as well as for the correctness of this decision based on real facts.

From the decisions it has been highlighted that the physical violence is present in a high percentage of the cases. But, it is often exercised in combination with the psychological violence. Thus, in 80.4% of the cases it results to have been exercised a combined physical

<sup>17</sup> Decision no. 1244, date 22.02.2010 of the Court of First Instance of Tirana.

and psychological violence. Besides, present is even the economical violence, the witnessing violence as well as the combined violence of two or three above mentioned forms. Data on the spread of various forms of violence in already judged matters (for which the court has decided to accept, to partly accept, to annul or to overrule the claim) are given in the following table.

The forms of violence		
	Number	In %
Physical/ psychological violence	103	80.4 %
Psychological violence	22	17.18 %
Psycho- economic violence	3	2.34 %
The total number of the judged matters Acceptance/ Partly acceptance/ Refusal/ Overruling	128	100 %

**Table no. 8**

In comparison with the monitoring in previous years, in this monitoring, the exercise of violence through the prosecution and tracking of the victim from the violator results to be problematic, a violence which represents a combination of the physical violence with the psychological one and which brings forth fear and insecurity to the victims. This form has been highlighted from the judges of the Court of Juridical District of Tirana, in 5 court decisions during the period, object of our monitoring.<sup>18</sup> This tendency in the forms of violence needs the approval of specific laws against persecution and tracking, an obligation deriving from international standards (Resolution 1997).

Some of the forms of violation identified in the decisions, object of our monitoring are:

- pummeling in the face or in other parts of the body;
- insulting” animal”,
- threatening the victim and the members of the origin family of the victim by phone;
- breaking into the door of the room;
- threatening by shouting out” I’ll kill you, I’ll liquidate you’,
- hitting in a state of drunkenness ,

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<sup>18</sup> The victim A H has declared that the defendant exercises psychological violence on her by dogging her footsteps from the job to the house, to the school where she studies as well as to the house of her parents where she lives since the moment of the dissolution of the marriage.

- threatening as “ you are not going to meet the children any more’, ”the children do not love you”,
- threatening the children by saying to them “ you are not going to meet your mother , you are not going to talk to her by phone, you are not going to answer to her when she calls you up and by using other insulting words in address to the victim”,
- forcing her to leave home;
- not giving the contribution for the upbringing of the children,
- pressing with hands the throat of his wife by threatening her with life,
- spending all the incomes gained at work by gambling;
- threatening that he is going to send the son outside Albania so the victim should not see him any more,
- causing physical damages which have result to the lack of the temporary ability to work for more than 9 days,
- causing problems with his wife at her working place after the dissolution of the marriage;
- taking the children without permission and holding them beyond the period of time as defined in the court decision;
- threatening “ I am going to sell the common house”;
- exercising of violence from the husband every day;
- violence against old people in the form of threatening from the daughter- in- law that she is going to put them in a mental home,
- hitting and breaking the toe;
- clashing of the victim from the husband leaving her fainting;
- psychological violence against the old woman from the son and the daughter- in- law,
- taking the key of the house;
- putting obstacles on the way the old woman has to go in order to make her fall down;
- persecuting and tracking the ex- wife from the job to the house, to the school where she studies and to the house of her parents where she lives since the moment of the dissolution of the marriage;
- uncontrolled actions against the family members under the effect of drugs;

- a state of nightmare and insecurity towards the family members;
- hitting the pregnant wife;
- insulting as regards the moral and the dignity of the wife,
- breaking and destroying house utensils such as stove, grill, toaster, chairs,
- not allowing her to use the common premises,
- threatening her at the school attended by her son,
- extreme violence till the walls were stained with blood in the presence of the children,
- insulting” garbage”, ‘mental sick”,
- caning, kicking, blowing and hitting her with solid objects in the presence of the children,
- and threatening her by putting the pistol to her head.

#### **The reasons of the violence in family relations**

<b>The reasons of violence</b>	<b>Number</b>
Alcohol	26
Drugs	1
Gambling	2
Jealousy	3
The violent nature	12
Unemployment	2
Economic situation	6
Wealth/Property matters	30
Disagreement/Family conflicts	42
The dissolution of a marriage	12
Extra-marital relations	8
Conflicts about the tuition of the children	4

No information has been given in decision	26
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### Table no.9

#### The main reasons of domestic violence result to be:

- The unemployment,
- The economic problems,
- Jealousy,
- Conflicts and disagreements after the divorce as regards
  - a- wealth and property matters as well as
  - b- the tuition of children and the payment of alimony,
- the extra-marital relations, as well as the fact that
- The violator is violent in his core because he has grown up in a violent family environment.

In 20 cases, the violators are regular consumers of alcohol and in two cases they have spent their incomes in gambling and in three cases the violators suffer from mental disorders.

*The clear presentation of the forms of violence and its reasons during the argumentation of the decision represents an important standard, not only as regards the need for an argumentation of the decision but also for the selection of the effective precautions, that's why it can not be skipped.*

#### *Who is the most violated person in the family ?*

In 93.34 % of the monitored decisions during the period of time from 01.06.2009 till 01.06.2010, the suitors are women and in 6.6% of the cases the suitors are men (see table no.1). The data show that the woman remains still the most violated person in family relations, demonstrating at the same time that the violence against women is an expression of the power of men above them and the other family members.

#### **The connections between the plaintiff and the defendant**

From the 406 decisions object of our monitoring it results that in 43.34 % of the cases, the violator and the victim has been spouses; in 8.89 % of the cases the subjects have been ex-spouses, in 6.17 % of the cases the subjects are parents and children, in 1.72 % of the cases they are daughters-in-law and mothers-in law and in 0.74% of the cases the subjects results to be children and parents. There have been also cases of violence among family members such as: sisters-in-law, children/ parents, cohabitants, ex- cohabitants and brothers.

It is obvious that the most violated person is the wife, followed by the ex- wife. This is also confirmed in the previous monitoring reports of the Centre for Legal Civic Initiatives during the period object of monitoring from 01.06.2007 till 30.04.2008 respectively from 30.04.2008 till 01.06.2009.

The dissolution of marriages is accompanied by disagreements related with wealth/property matters as well as with the tuition of the children and the payment for alimony. For the victims of domestic violence, the implementation of modalities for exercising the parental liability as decided by the court means often a new cycle of abuse between the violator and the victim.

The social problems which accompany the dissolution of a marriage are also linked with the fact that the ex- spouses continue to live at the same house.

From the 406 decisions object of our monitoring it results that in 24 cases, the parties are under the process of dissolution of their marriage and in 4 cases they have addressed themselves to the court for property matters.

Another important issue has been highlighted because of the different attitudes the courts have taken for the protection, through the warrant of protection, of the subjects having a love affair or being engaged. In such a case, because of the lack of an explicit expression by the law of these categories, we have identified for quite similar subjects the issue of the warrant of protection from the Court of the Juridical District of Tirana and the non-issue of such a warrant from the court of the Juridical District of Fieri<sup>19</sup>. We think that the subjects who are in similar affective relations with those protected by law, such as co-habitants, ex-cohabitants, must be interpreted by the court as subjects who must enjoy an equal protection. For this purpose it is required to interfere even in the law with an annex which should considerer the fiancée / the fiancé or the ex- fiancée/ ex-fiancé and the lover/ the ex-lovers as family subjects.

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<sup>19</sup> The court of first Instance of Tirana has issued the protection warranty no. 5917, date 15.07.2010 as regards the case of the parties A.B respectively A. Gj. The court of First instance of Fier has overruled the claim on protection warranty as regards the case of the parties E.S respective E.T.

## **The violence against children in family relations**

In the data on the relations between the victim and the violator we should take into consideration the fact that the number of claims for warrant of protection in the name of children for a direct violence exercised against them is very low. We are of the opinion that the violence against the children is slightly denounced. Meanwhile, the children result to be the persons who have suffered more from the witnessing violence in comparison with the adult family members. More concretely, from the 406 court decisions being monitored, in 93.34 % of the cases the suitors are women and in 6.65 % of the cases the suitors are men. From the 111 cases, for which the Court of First Instance of Tirana has already decided to accept the claim or to partly accept the claim in 45.94 % of the cases, the children are the third persons harmed by the violence.

From the argumentation of the decisions it results that physical violence has been exercised even against children or in their presence, making them violated subjects not only through the witnessing violence but even directly. The most extreme forms of violation exercised against children are:

- forcing of the wife and the children to leave home,
- hitting them with chair,
- threatening them by using the phrases “ I’ll kill you, I’ll liquidate you”, ”you are not going to see the children any more”, “the children do not love you”,
- hitting the child with umbrella by hurting his head,
- not allowing them to use the common premises,
- hitting the wife with solid objects in the presence of children etc.

“The studies show that the children- witnesses, on average, are more aggressive and dreadful and they suffer often from nightmare, depression and other trauma symptoms compared with children who have not been witness of abuse or who have not been abused with . Children raised up in violated families often feel themselves responsible for the abuse and even guilty, because they think that they have caused it or because they are not capable of stopping it. They live with the constant nightmare of another misfortunate or that they are going to be abandoned. They can feel themselves guilty or confused as regards their love for the abusing parent or as regard treating the victim as a mental sick person. The children can be at great risk from alcohol or misuse of drugs, they can experience problems of recognition

or illness linked with stress (such as headaches, etc) and they can have difficulties at school.  
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Thus, in decision no.6965, date.13.08.2009, on issuing the warrant of protection, the Court of the Juridical District of Tirana has accepted that a reason of domestic violence are the bad results of the child at school.

The consequences of domestic violence against the children, when the children are directly violated as well as when they are present in scenes of violence, needs to be acquainted with, assessed and in focus of the attention of professionals, in order to address them professionally.

These cases make us think that the circle of the subjects who can claim warrants of protection or immediate warrant of protection in favor of a minor must be strengthened. Until now, the claims the police has already sent to the court are presented in the name of mother, who has claimed protection even for her children. Meanwhile, we observe that the public action, as envisaged by the law, has not yet found any implementation, according to which the claim in name of the victim should be presented by the police or by the public persecutor's office. This should be implemented especially in the name of a minor. The peculiarity of a public action in the name of the victim has to do with the fact that after being presented by the police or the public persecutor's office, the withdrawal of the victim or of the tutor of the child from the suit, does not bring about the cessation of judgment. Thus, a more reliable protection should be guaranteed for the children, and it shouldn't depend any more on the will of their mother to protect them through the warrant of protection. In both cases during the period object of our monitoring, it results that the victim has withdrawn from the process to put her children under protection, and this has been accepted by the Court<sup>21</sup>. The aim of the new Law "On some annexes and amendments in Law no. 9669, date 18.12.2006 " On measures against violence in family relations", as amended", is to strengthen the subjects who can claim a warrant of protection for the children, adding the Police, the Public Persecutor's Office as well as other persons legally responsible for<sup>22</sup>.

Law no. 9669, date 18.12.2006 "On measures against violence in family relations" acknowledges the right of the offices of social services at municipalities and communes as well as the centers and the services for the rehabilitation of the victims of violence to present their claims for an immediate warrant of protection and a warrant of protection for minors

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<sup>20</sup> [www.stopvaw.org/Effec\\_of\\_Domestic\\_Violence\\_on\\_Children.html](http://www.stopvaw.org/Effec_of_Domestic_Violence_on_Children.html)

<sup>21</sup> Decision no. 8696, date 27.10.2009 of the Court of First Instance of Tirana

<sup>22</sup> Law no. 10 329, date 30.9.2010 " On some annexes and amendments in the Law no. 9660, date 18.12.2006 "On measures against violence in family relations" "amended", article 5.

(article 13 of the law), but it results that there is no case in which these subjects have exercised this right showing thus hesitation in implementing the law.

As a conclusion we should like to point out the fact *that the protection of children by denouncing the cases of exercising violence against them and through civil warrant of protection needs to be strengthened, especially by strengthening the public action (suit) of the police and the public prosecutor, and even through the representation of the centers and services, of the relatives, and persons legally responsible for (school) etc.*

Third persons being hurt from the exercise of domestic violence are the wife in 3.6 % of the cases, the parents in 1.8 % of the cases, the relatives in 3.6 % of the cases of the total 111 cases judged by the court, for which it has been already decided to accept the claim or to partially accept it.

The victims of family violence have directly denounced the violence by presenting themselves personally before police organs or at court.

The community can play an active role in the denunciation of the family violence to respective organs. From the monitoring it results that the community remains passive as regard the denunciation of the family violence, pointing out the historical feature of violence, according to which the violence is a personal matter belonging only to the family members and should be handled within the walls of the house. Thus, in 125 cases of the decisions, object of our monitoring, the victim has denounced the violence, she has experienced, and to respective organs but in no case we find any information about the denunciation of violence from the community.

**9. Suggestions.** Looking carefully some of the conclusions we have drawn during the monitoring process of the decisions of the Court of First Instance of Tirana, we can highlight even some suggestions, with the help of which we aim to give our contribution in increasing the effectiveness of the civil warrant of protection preventing the family violence.

*Firstly*, as regards the role of the judicial authority, it is important for the judge to identify in the process of a civil process the situations of violence, its forms and the reasons it has derived from. These must be presented in the argumentation part of the decision, as a good premise to make a correct and an effective court decision. The presentation of the pretensions of the suitor, which are often not presented in the decision, should serve this aim.

The compromise solution of the family violence conflict can not serve as a principle while implementing the Law “On measures against violence in family relations”. In such a case, we are not faced with the implementation of the Code of Civil Procedure, to try for the reconciliation of the parties at court hearing.

The Court evaluates the most effective precautions of the warrant of protection and of the immediate warrant of protection as well as a better alternation of them. The precautions claimed in suit should be treated from the court as an opinion of the applicant and not as an object of the statement of claim, so that the judge of the matter should enjoy the necessity freedom to select and alternate the most effective precautions for the protection of the victims.

A special attention needs to be paid to the protection of children from family violence. The judge has no reason to hesitate to include even the children who have experienced witnessing violence in the warrant of protection. The public suit and the claim for warrant of protection for children need to be strengthened, in case any of the family members exercises direct violence. We think, that the Law no 10329, date 30.09.2010 “ On some annexes and amendments in the Law no. 9669, date 18.12.2006,”On measures against violence in family relations”, ( as amended), which foresees that the police and the attorney’s office are subjects legitimated to submit the warrant of protection for minors, creates more possibilities in this direction.

The evaluation of evidences during the judgment for issuing the warrant of protection is the faculty of the judge, nevertheless the non- presentation of the written evidences during the judgment, should not be treated as a reason for the overruling of the claim. The law acknowledges the possibility to issue the warrant, based on the description of the circumstances and on the conviction of the judge himself.

The decision of the civil judge for the representation of the victim of violence during the judicial process for issuing the warrant of protection, mainly from free advocates, represents an effective implementation of the law “On measures against violence in family relations” , as long as, three years since the law has entered into power, there is no sublegal enactment or any list of advocates trained mainly for representing the victims of violence.

During the confirmation of the warrant of protection, the civil court cannot decide to issue or not the warrant of protection, based only on the situation created after the submission of the immediate warrant of protection. This is not the real aim of the law. The Court can not take decisions, based only on the fact that the defendant has violated or not the immediate warrant of protection but on the basis of the whole history of circumstances examined during the judgment of the matter.

**Secondly**, as regards the role of attorney’s office

The role of the public prosecutor in the implementation of the Law no. 9669, data 18.12.2006”On measures against violence in family relations” should be strengthened. It is necessary that he should address claims in the name of the violated persons, or better to say

in the name of the attorney's office itself. This is pointed out especially in case of the protection of the children from the violence.

**Thirdly**, as regards the role of the local authorities and the social services.

The offices of social services at municipalities and communes as well as the centers and services for the rehabilitation of the victims of violence must fulfill better their responsibilities deriving from the law, which are linked not only with the information, supporting and referring of the cases to other actors but also with the presentation of claims for warrants of protection, as envisaged by law and with the implementation of the court decisions for issuing warrants of protection.

It is also recommended to foresee the overseeing visits, which are essential in case the violence of the parents against the child is proved directly or not. It is also recommended that in case the violating parent enjoys the right of meetings, visits, the decision should be accompanied by a security plan, offering the protection of the victim and her children and protecting them from being confronted with a more extreme violence.

It is also recommended to improve the organization of psychologists and social workers, and to solve the question of their status, with the aim of increasing their capacities, offering standards and controlling their professionalism while exercising their job duty.

**Fourthly**, as regards the central authorities of the network against violence,(especially the Ministry of Work, Social Affairs and Equal Chances and the Ministry of Justice).

It is recommended to take all the measures in order to implement the Law no. 10329, date 30.09.2010, "On some annexes and amendments in the Law no. 9660", date 18.12.2006 "On measures against violence in family relations, (as amended).

It is recommended to speed up the preparation and the approval of sublegal enactments, especially of the National Referring Mechanism for the protection and rehabilitation of the victims of family violence.

It is recommended to take all the necessary measures for the organization of the qualified free legal services for the victims of domestic violence.

It is recommended to implement the effective politics and services for persons who have problems as result of consuming drugs and alcohol.

It is also recommended to implement effective policies and laws for persons with mental problems. The careful treatment of these persons and the measures for preventing violence in family relations, exercised by persons with problems in their mental health are an immediate necessity.

Studies on the costs of the family violence in general and especially, when it is exercised by persons suffering from mental problems are recommended.

In cooperation with the civil society have been taken legal initiatives in order to strengthen the institutional mechanism and the measures for the punishment of the authors who do not respect the warrant of protection and violate it.

***Fifthly, as regards the role of the police***

The role and the effectiveness of the specialized police organs for monitoring and respecting the warrants of protection as well as for the implementation of the sanctions of the law for all those who have violated the warrant of protection issued by the court should be raised.

The cooperation of the police with the organs of respective local authorities as well as with the bailiff's offices, in order to prevent the violation and any violation of the warrant of protection issued by the court should be strengthened.

***Sixty, as regards the role of the civil society***

The cooperation of the civil society with the organs of central and local authorities in order to prevent the domestic violence and to support the victims of violence should be strengthened.

**Literature:**

**Laws:**

1. Law no. 10 329, date 30.9.2010 “ On some annexes and amendments in the Law no. 9669, date 18.12.2006 “On measures against violence in family relations”, ”as amended”
2. Law no. 10039, date 22.12.2008 “On juridical assistance”
3. Law no. 10329, date 30.09.2010 “On some annexes and amendments in the Law no. 9669, date 18.12.2006 “On measures against violence in family relations”, ”as amended.

**Reports:**

1. “An analysis of the criminal justice system of Albania’ ( report of the program on undertaking a correct judgment) , OSCE, 2006
2. Report.” The implementation of the Law “ On measures against violence in family relations”, ( the monitoring period 01.06.2007- 31.04.2008, prepared by the Centre for Legal Civic Initiatives, Tirana , 2008

3. Report “ The implementation of the Law “ On measures against violence in family relations”, prepared by the Centre for Legal Civic Initiatives, Tirana, 2009
4. National Survey of Statistics Institute “ Family violence in Albania”, 2009  
Decisions of the Court of the Juridical District of Tirana, 2008-2010