

National University of Political and Administrative Studies
Multidisciplinary Doctoral School
Doctoral Field Administrative Sciences

**SUMMARY
DOCTORAL THESIS**

Scientific leader:
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Doctoral student:
BĂDULESCU MADALINA Raluca (SARCHISIAN)

Bucharest, 2025

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The role of public administration in guaranteeing the rights of child victim of domestic violence

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Introduction

The field chosen for the doctoral research is a sensitive one, due to its specificity, targeting aspects related to the family and intimate life of the subjects. In a dual capacity, both as a practicing lawyer, with over 15 years of experience in the field of *Minors and families with a violent component*, and as an associate university assistant, we have noticed aspects related to the practical dimension of the way in which individual rights and freedoms are defended, respectively the way in which the public administration, by virtue of its role of enforcing the norm, understands to implement mandatory provisions, regardless of their source - legal norm or court order.

Studying this area therefore involves both an exploration of human rights and public administration, because the way in which the rights of child victims of domestic violence are respected is, in practice, influenced by public administration.

Thus, the public administration, through its bodies - whether it is social services, the education system, police or courts, intervenes or should intervene both in terms of early detection of possible manifestations of domestic violence and their prevention, through specific means, or in terms of helping victims and sanctioning aggressors, through coordinated activities and actions.

Domestic violence can only be addressed from a human rights perspective, given that human rights begin with the emergence of the human being, and domestic violence represents one of the most serious violations of these rights.

Although this phenomenon, in itself, is a large one, the bibliographic sources have a general character, the subject that concerns us not being treated specifically, because it presupposes, due to its specificity, both theoretical and practical knowledge in the field. Only in recent decades, has a concern for researching these aspects been noted.

Most cases of domestic violence do not reach the attention of the authorities. Thus, the statistical data that can be obtained for research are, most of the time, of an indicative nature, representing only the reflection of those cases that have been brought to the attention of the authorities.

Violence represents that reprehensible human behavior of imposition and domination by force. Violent manifestations have existed in human society since ancient times and still exist today, despite sustained efforts worldwide to combat it. Although attempts are being made to stop this behavior, there are many who continue to resort to violence, for various reasons and/or pursuing different goals.

One of the most insidious forms of violence is domestic violence, that form of violence directed against one or more members of one's own family, and the victims of intra-family violence are, most often, women and minor children. It currently represents one of the most serious phenomena that contemporary society is facing. This phenomenon is found at the level of all human communities, it is due to complex causes and appears in all social environments, regardless of the

economic situation or social status of those involved (victim and aggressor), constituting not only a social problem, but also a public health problem and, more than that, a serious disregard and violation of fundamental human rights and freedoms.

Due to the special type of relationship between the aggressor and the victim, domestic violence has different characteristics from other types of violence. At the same time, research shows that it has its own, gradual dynamics, starting from less visible forms, such as psychological, economic and social violence, reaching extreme and visible forms, including verbal, physical and sexual violence, and as a way of manifestation, it can take on one, more or all of the forms of violence shown, separately or simultaneously.

Studies conducted in recent decades have shown that most cases of domestic violence do not reach the authorities. The reasons why these cases do not reach the authorities and, implicitly, no action can be taken against them vary, depending on several factors, both demographic and social (and here the level of culture and the background of both the aggressors and the victims are taken into account), as well as psychological, with a certain mentality, associated with strong feelings of fear and shame, felt by the victims of this phenomenon, who prefer to hide their drama rather than submit to public opprobrium if they dare to report the acts of violence inflicted on them. In these situations, the authorities find it very difficult to intervene and correctly manage cases of domestic violence.

Of the few situations that reach the attention of the authorities, in the practical sphere a series of impediments are encountered, which make it impossible to complete the procedures, in order to obtain the expected result, either due to lacunae in legal provisions or due to the defective way of their management by the public administration. The present research takes into account this dimension of the phenomenon of domestic violence, namely where it interacts with the administration, aiming at the way in which the execution is organized and the provisions relating to the guarantee and protection of the rights and freedoms of victims, minors, of domestic violence are concretely executed.

1. The importance of research

In the situation where domestic violence has children as victims, the importance is due, first of all, to the existence of a substantial difference between minors and adults, differences that are felt both in terms of the normative provisions applicable to children, and in terms of the instruments and procedures intended to guarantee their rights. The scope of application is extended, in the current understanding, minors being considered victims of domestic violence even when no violent acts take place against them, but are simple witnesses. Therefore, from the perspective of the phenomenon, the presence of minors, even without being involved in any way, gives them the status of victims of domestic violence, benefiting, at least theoretically, from all the instruments and procedures intended to guarantee their protection.

Thus, it appears necessary to have an integrated system, with a multidisciplinary composition, that would allow the authorities not only to promptly intervene in specific cases of domestic violence, but also to be able to guarantee the individual rights and freedoms of the beneficiary subjects, which, over time, would lead, if not to the eradication of the phenomenon, at least to a significant reduction in its incidence at the level of the entire society.

In the current universal context, in which, after humanity went through two world wars during the last century, and at the beginning of this century, through serious armed unrest, health and environmental crises, poverty and social unrest, there is an increasingly strong emphasis on awareness and appreciation of human values and life, conflict amelioration and the eradication of violence, aspects taken into account when the United Nations General Assembly adopted, in 2015, the 2030 Agenda for Sustainable Development, which represents a recognition, among other things, of the fact that sustainable development cannot be achieved in the absence of personal security, equitable access to justice and governments that respect the rule of law, having, among the declared targets, the significant reduction of all forms of violence, combating abuse against children, eliminating exploitation, human trafficking and torture.

Crucially, Sustainable Development Goal (SDG) 16 of the 2030 Agenda labels violence not just as a security issue, but as a genuine barrier to human development. Violence, in all its forms, has a profound impact on society: it weakens social cohesion, fuels cycles of poverty and traumatizes entire generations. The goal we have referred to requires a holistic approach to combating violence, promoting interventions that take into account the structural causes that determine its occurrence. Reducing violence is not only a matter of immediate intervention, but also of profound transformation, promoting transparency, public accountability and free access to information, defining elements for combating cases of violence, and protecting children from all forms of abuse and exploitation, through legislative, institutional and educational measures that ensure a safe environment for their development, as well as by changing the cultural norms that perpetuate violence, by positioning the goal of reducing violence as a condition for future development, global priorities are reconfigured, encouraging states to adopt coherent and integrated policies.

The 2025 Sustainable Development Report was presented at the 4th International Conference on Financing for Development in Seville, Spain, from 30 June to 3 July 2025, highlighting that, globally, none of the 17 goals set out in the 2030 Agenda is currently on track to be achieved. Conflicts, structural vulnerabilities and limited fiscal space are hindering progress on the SDGs in many parts of the world, with an estimated 17% of the goals on track to be achieved globally.

At the same time, we consider it important to highlight in this context the conclusions of the Fundamental Rights Report 2025, recently published by the European Union Agency for Fundamental Rights (FRA), which shows that domestic violence "*remains a widespread reality in Europe, and victims continue to face obstacles in their attempts to obtain protection and access to*

justice ", identifying, following the surveys carried out, an under-reporting of cases of domestic violence. The FRA shows in the content of the document entitled "Overview and opinions of the FRA on the Fundamental Rights Report 2025" that a series of reasons have been identified to justify under-reporting, which leads to the impossibility for victims to benefit from support and protection.

In view of these considerations, *the relevance and importance of the research topic is justified* , violence against children representing a central point of the Sustainable Development Goals, which requires the development and implementation of programs and procedures aimed at protecting and assisting victims and sanctioning aggressors, in a concerted effort to eradicate this form of violence, to provide support and protection to victims and to restore their dignity and confidence. As we have shown, the 2030 Agenda proposes directions of action that, in order to be effective, must take into account the structural causes that determine the occurrence of domestic violence against children, which implies the identification of the triggering factors and the mechanisms of manifestation, so that the response can be as effective as possible.

Researching this phenomenon requires a broad approach, with particular emphasis on normative aspects, but with an incursion into the sphere of human behavioral psychology, and in order to answer the research question, approaching the phenomenon of domestic violence against children requires analyzing it in correlation with public administration and human rights.

The theoretical importance of the research also results from the scope of the phenomenon and its presence in all spheres of social life, which requires a multidisciplinary approach, the analysis being carried out both through the lens of the norm and the public administration response, without neglecting the psychological context and social condition of the subjects. All of these represent essential and indissoluble parts, and may be causes that influence the formation of the internal mechanism of violence, but also the behavior of aggressors and victims of domestic violence, with emphasis on the particularities regarding minor victims.

Understanding the phenomenon of domestic violence against children is essential for the development by the public administration of directions and programs, in the application of the goals and objectives of the decision-makers, adopted both at national and regional levels. Public administration is not a rigid structure. It can be assimilated to a living organism, like society, with which it is in a relationship of interdependence. The object of activity of public administration is to permanently manage the needs of society, in order to ensure the growth of social well-being. The broader the understanding of the mechanisms that generate social needs, the more appropriate the response that comes from the public administration, through its bodies.

The phenomenon of domestic violence is a real and continuous manifestation in society, with a well-defined mechanism and multiple causes. That is why multidisciplinary theoretical research of this broad phenomenon is so important, in order to be able to collect as much relevant information as possible regarding all the component aspects - causes, mode of manifestation, effects - information

that will be taken into account by decision-makers when adopting normative provisions aimed at managing the effects, while guaranteeing, at the same time, fundamental human rights and freedoms.

From a practical point of view, we must start from the premise that society is a dynamic entity, which evolves according to its own rules, being strongly influenced by economic factors, but also by the relationships established between individuals, depending on the degree of education and the level of culture, and the phenomenon studied is found at all levels and in all spheres of society, our research aiming to identify the ways in which the public administration, through its bodies, comes to restore, towards child victims, the balance affected by the phenomenon of domestic violence.

All relevant information obtained from the research can be taken into account by decision-makers in taking the most appropriate measures, both legislative and administrative, in terms of ensuring the protection of minor victims of domestic violence to which they have been directly or indirectly subjected.

In support of victims of domestic violence, but also to prevent and combat this general phenomenon, a series of instruments have already been adopted, both globally, regionally and nationally, the states of the world being aware of the need to adopt concrete measures, through which, on the one hand, aggressors are held accountable and prevented from adopting such behavior again, and on the other hand, victims of domestic violence cases are provided with help and counseling. Due to the complexity of this phenomenon, it is imperative to protect the physical and psychological integrity of victims, as well as to defend their fundamental rights.

The size of this phenomenon, both due to its proportions, geographical spread and social coverage, reflects a flagrant violation of the right to life, physical and psychological integrity of the victims, a right enshrined in art. 3 of the Universal Declaration of Human Rights, in art. 5 and art. 6 paragraph 1 of the International Covenant on Civil and Political Rights, in art. 2 and 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and enshrined domestically by art. 11, 20, 22 and 23 of the Romanian Constitution. This phenomenon is the vivid expression of the continuous violation of fundamental human rights, of discrimination and the perpetuation of inequality between women and men, of the domination and control exercised by the aggressor against his victim or victims.

In 2023, a number of 13,351 provisional protection orders were issued in Romania by the police for domestic violence, 13,009 regarding female victims and 947 of the victims being minors, of which 11,347 were confirmed by the judicial bodies, the proportion being 84.98%, with prosecutors confirming the provisional protection orders and notifying the courts to issue protection orders for a number of 802 child victims and 11,083 female victims, as shown in the Report of May 16, 2025 submitted by Romania to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO). For the year 2024, 13,974 provisional protection orders were

issued by the police and 11,729 confirmed by prosecutors, the percentage being 83.93%. It is also shown in the Report to GREVIO that of these provisional protection orders, 906 concerned child victims, while 13,289 concerned female victims, of which 754 child victims and 11,077 female victims were confirmed and notified to the courts. At the same time, as shown by the non-governmental organization Save the Children Romania, 38% of parents and 63% of children recognize physical violence in intra-family relationships. In this regard, we consider the statistics in Fig. 1 below, which expresses, in percentage terms, the types of violence to which children are subjected by their own parents, to be exemplary.

Tip de abuz - răspunsurile copiilor despre părinți	Incidență 2001	Incidență 2013	Incidență 2021
abuz verbal	22%	16%	12%
abuz fizic			
- bătaie cu mâna fără a-i produce copilului urme	84%	62%	46%
- bătaie cu diverse obiecte	29%	18%	20%
- copilului îi rămân urme	10%	5%	5%
abuz emoțional	21%	3-5%	1-5%
amenințări		33,5%	24%
neglijare	7-17%	8-18%	4-26%
exploatarea copilului	9%	2-8%	4%

Fig. 1 - comparative table on the incidence of types of violence for the years 2001, 2013 and 2021 .

Representing one of the most frequent and serious violations of human rights and having women and children as its victims, both internationally and domestically, legal instruments have been developed to protect their rights and reduce cases of domestic violence. All these instruments require state governments to adopt measures aimed at preventing violence against women and children, protecting and assisting victims and punishing perpetrators.

The study of cases that have come to the attention of the authorities reveals a cycle of domestic violence – the aggressor gradually subjecting the victim(s) initially to psychological and economic violence, most often verbal and physical violence manifesting itself much later, when the aggressor is convinced that the victim(s) are fully in his power. GREVIO has argued that an understanding of domestic violence can only be achieved if national authorities responsible for preventing it and protecting victims assess and recognise its gender-specific nature and specific dynamics, through consecutive cycles with an increase in frequency and intensity from one cycle to the next, increasing its dangerousness.

Moreover, due to the intimate setting of the family home where the acts of violence take place, the victim or victims are in permanent contact with the aggressor, without having the possibility of finding any refuge or any safe area where they can feel safe. This unfortunate situation makes the psychological connection between the victim and the aggressor even deeper,

implementing in the victim's consciousness the conviction that there is no way out of this situation. And because of these aspects, cases of domestic violence hardly reach the attention of the authorities, the victims finding themselves, most of the time, in a state of total psychological dependence on the aggressor, a state generated by the long period of time during which they were subjected to acts of violence, but also due to the lack of a safe area (in its psychological sense) in which they can take refuge from the violent manifestation.

The public administration, by virtue of its role in managing the needs of the population, is the one in charge of which the attributions of concrete execution of all normative provisions adopted in order to prevent and combat the phenomenon of domestic violence have been established.

Thus, the public administration, through its bodies - whether it is social services, the education system, police or courts, intervenes or should intervene both in terms of the early detection of possible manifestations of domestic violence and their prevention, through specific means, or in terms of helping victims and punishing aggressors, through coordinated activities and actions.

2. The state of the research field, the timeliness and originality of the research approach

Respect for human rights has become a fundamental principle of international relations, and the European construction was based on this principle. Even if in the last 30 years some of the Eastern European states have recorded human rights violations, international regulations, as well as the decisions of European courts in the field of respect for human rights, accept the imposed requirements.

Regarding minor children who fall victim to the phenomenon of domestic violence, for a long time, the exercise of acts of violence by parents or other adults in the family towards them, regardless of the form of manifestation, was not considered domestic violence, but educational methods, it being well known that physical violence was used, until the end of the 20th century, as the main method of educating children, with the popular belief that "beating children is like a medicinal weed", a situation that has been perpetuated, as shown by statistical data, which attests that 20% of parents still use physical violence for educational purposes, corrections such as *pulling the ears* or *slapping* not even being perceived as falling within the scope of acts of violence. According to the United Nations Children's Fund (UNICEF), 1.6 billion children worldwide are regularly punished by their parents or caregivers, of whom 1.2 billion are subjected to corporal punishment. For the age group up to 5 years, UNICEF shows that almost 400 million children are subjected to psychological violence as an educational method, while 330 million of them are also disciplined through physical violence.

Starting from the idea that the vulnerability of children is the main reason why the need for minors to benefit from a special protection system from states materialized, in order to respect their rights, a series of instruments were adopted, including the Declaration of the Rights of the Child, proclaimed by resolution 1386 (XIV) of the UN General Assembly of November 20, 1959, the

Convention adopted by the UN General Assembly on November 20, 1989, on the Rights of the Child, ratified by Romania by Law no. 18/1990, together with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, of 6 September 2000, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, of 25 May 2000 and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, of 2011, the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community (OJ C 306, 17.12.2007), which entered into force on 1 December 2009, the Charter of Fundamental Rights of the European Union, Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), ratified by Romania in 1994, as well as the protocols to this Convention, as interpreted by the case law of the European Court of Human Rights (ECtHR), the Convention on Personal Relations concerning Children, 2003, ratified by Romania in 2007, the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, 2007, ratified by Romania in 2010, and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No.210/2011), also known as the Istanbul Convention, being the most important. The rights and best interests of minors differ qualitatively from those of adults and are the subject of numerous documents, both universal and regional in nature, which establish the set of rights recognized for children and the principles and norms that states must apply in order to respect these rights, through specific bodies.

Looking at *the current state* of the research approach, it should be emphasized that understanding and awareness of the phenomenon of domestic violence against minor children is particularly important, both for the state and for members of society. Studies undertaken in this field attest to the fact that the traumas experienced by victims of domestic violence present a range of abnormal manifestations that require involvement and treatment. From this point of view, domestic violence represents a triggering factor for a whole series of potentially dangerous situations for society as a whole, the conclusions of specialists showing that a significant part of adults convicted of violent crimes were victims of domestic violence in childhood. As stated in the ECtHR case law and highlighted by GREVIO, both children subjected to direct types of violence and those who have only witnessed domestic violence need protection, being subject to risks, studies and statistical data highlighting the fact that aggressors were often violent towards children with whom they lived, even after the abusive relationship with the victim ended. The role of the state, through its instruments and bodies, to establish measures to prevent, protect and combat the phenomenon of domestic violence, in general and against children, in particular, appears to be very important. In this situation, an important role falls to the public administration, which is called upon to provide the protection

established by primary legislation, appropriate to each individual case. As follows from the regulations in force, the activity of public administration plays a determining role in the protection mechanism for child victims of domestic violence and the most efficient management of instruments and resources by public administration authorities results in the most adequate fulfillment of their role.

Hence *the importance of the research undertaken* , derived from the concern of specialists, both theoreticians and practitioners, to identify the impediments and problems that exist regarding the way in which the effective protection of child victims of domestic violence is achieved and to identify effective solutions for the public administration to fulfill its role, so that victims are protected, both from abuses and from possible shortcomings in regulation.

Regarding *the originality of the research approach* , this emerges, first of all, from the approach and the practical dimension it aims at, this research proposing to serve both researchers and practitioners, both those who work within public administration authorities and professionals working in liberal professions - lawyers, notaries and bailiffs, in order to improve procedures for providing the most efficient protection possible for children, victims of domestic violence.

Seen through the lens of *the Motivation for choosing* the research topic, it is bidirectional, with a personal interest, through the lens of professional experience, resulting in a *personal motivation*, and on the other side, *scientific motivation* .

The personal motivation is justified by the experience gained in managing specific cases of domestic violence against children, in my work as a lawyer, on which occasion I came into direct and immediate contact with both child victims and representatives of public administration authorities, while *the scientific motivation* has its source in the ambiguity and lack of coordination of legislative and procedural provisions adapted to the diversity and complexity of manifestations found in cases of domestic violence against children, which require an integrated approach and efficient inter-institutional cooperation, in an emergency regime, to guarantee the protection of this category of victims.

3. Research design

Regarding the way to develop the doctoral research, we started from the factual reality of the existence of the phenomenon of domestic violence directed against children .

Starting from this factual reality and studying both the solutions adopted domestically and at the international, universal and regional European levels, reflected at the UN level by the 2030 Agenda, at the Council of Europe level through the Gender Equality Strategy (2018-2023) and the New Strategy for the Rights of the Child (2022-2027) and at the European Union level by the 2021 Strategy on the Rights of the Child, followed at the national level by the National Strategy of December 19, 2022 on promoting equal opportunities and treatment between women and men and preventing and combating domestic violence for the period 2022-2027 and also seeing the provisions

contained in Recommendation 1238/2024 of the European Union Commission, there is a constant concern for identifying the best solutions and approaches to domestic violence, with sustained efforts being made by states in this regard, with a view to efficient management.

Given the proportions of the phenomenon and the multitude of its causes and effects, the present research will focus only on certain special situations concerning minor victims, more precisely, those situations in which the child maintains personal ties with the aggressive parent, a context in which domestic violence does not fall under the incidence of criminal provisions, nor does it target special protection measures. It is relevant to establish the limits of the research from the beginning, the complexity of the phenomenon requiring such an approach, in order to allow for a more detailed analysis of the specific characteristics of the proposed theme.

In this context, the research questions to be answered as a result of this approach are:

- *Does the state provide effective protection in situations where the child maintains personal ties with the aggressive parent ?*
- *Does the public administration provide real and effective protection in situations where the child maintains personal ties with the aggressive parent ?*

These research questions are fully justified by the importance and necessity of the established protection measure. A child victim of domestic violence develops a traumatic response. This response, depending on criteria such as the child's age, the intensity of the acts of violence to which he was subjected or their duration, can manifest itself in various ways, from forms of anxiety to serious behavioral disorders or even, through somatization, the minor can generate mental illnesses or disorders of various systems, such as the digestive or pulmonary. Moreover, some of the studies conducted link certain criminal behaviors of adults to traumas experienced in childhood, as a result of intrafamilial violence. Thus, we consider that such a premise situation, capable of generating medical and adaptation problems for the child and subsequently for the adult, represents a public health situation, which goes beyond the boundaries of an individual problem. At the same time, given that, following a thorough analysis carried out by the judiciary and in compliance with the principle of the best interests of the child, protective measures are adopted, through court decisions, whether they refer to monitoring personal ties with the aggressor parent or to the psychological counseling procedure, the rationale for these measures is to create additional guarantees for the protection of the child during interactions with the aggressor parent. Therefore, the protective measures that the norm makes available to the courts are very important, precisely because of the guarantees they imply for the child, which aim to discourage violent behavior by the parent with whom the child continues to have personal ties, after the parent's previous domestic violence against the child has been established. Moreover, the life, physical and mental integrity of the child and his/her right not to be separated from his/her parents are protected values, both at a universal and regional level, and in

domestic law the state is the guarantor of their respect, thus the importance of researching, also from this perspective, the way in which protected values are respected in the rule of law.

Considering that a research approach carried out in the field of social sciences must lead to "*solving public conflicts of the social structure*" and having this purpose as the aim of the research, in order to be able to answer the questions raised, the primary answer to the following secondary questions is required:

1. What are the causes of the phenomenon of domestic violence, in general and against minors in particular?
2. What are the instruments and mechanisms that relate to the protection of the rights of child victims of domestic violence?
3. Which institutions have responsibilities regarding the protection of minors, victims of domestic violence, and what are their limits?

The general objective of the research is to identify those situations in which the response received from national authorities fails to provide adequate protection in situations where the child maintains personal ties with the aggressive parent.

Starting from the main objective, a series of specific objectives were established, namely:

1. Analysis of how the public administration manages cases of domestic violence against children, in the situations mentioned.
2. Identifying the difficulties encountered by the public administration in guaranteeing protection for victims of domestic violence, for situations of maintaining ties with the aggressor parent.
3. Identifying the advantages of implementing simplified and rapid response procedures in guaranteeing the protection of child victims of domestic violence who continue to have personal ties with the violent parent.

In order to achieve the proposed objectives, it is helpful for the researcher to establish specific operational objectives, which consist of:

- Studying and using relevant literature regarding the definition of concepts used during the research;
- Using the analytical method in presenting the research field of interest;
- Validation of the established objectives, through the research methods used, such as empirical research, case study, statistical data analysis and questionnaire.

Given the complexity of the phenomenon of domestic violence, in order to achieve the proposed objective, the research will analyze, along with the components of the phenomenon, the instruments and mechanisms specific to the field studied, their evolution over time, as well as the outline of future perspectives, the role of public administration, all of which are closely correlated and interdependent with fundamental rights. At the same time, it will highlight how the principles and recommendations of the Conventions and other documents find their applicability in public

administration and their flexibility. Part of the research will be dedicated to the population's perception of the object under research and the presentation of the necessary conclusions.

The hypothesis from which the research starts is that the state does not provide adequate protection in situations where the child maintains personal ties with the aggressive parent, and the tools made available to its bodies are not sufficient to be effective, while the secondary research hypotheses consider aspects such as:

- the jurisdictional power cannot, per se, provide an effective means of protection in situations where the child maintains personal ties with the aggressive parent;
- the public administration, through its bodies and in the exercise of its main duties, offers a limited means of protection in situations where the child maintains personal ties with the aggressive parent;
- whether the public administration, in executing the provisions of the judiciary, offers an effective means of protection in situations where the child has maintained a personal contact schedule with the aggressive parent;

Structurally, the work is divided into three chapters:

In the first chapter, the concepts used in the research are defined and explained, aiming to provide the most comprehensive explanation possible, in order to facilitate understanding. Also here, the study focuses on the analysis of the phenomenon of domestic violence, through the prism of theories expressed over time. The characteristics of all these approaches will be analyzed and structured, emphasizing violence against minor children in the family.

The second chapter of the paper analyzes, chronologically, the main international and regional legal instruments adopted regarding the phenomenon of domestic violence against children, as well as the mechanisms through which they were implemented. Essential for the present research is highlighting the evolution over time of the concepts and the role of public administration, as a technical component of the rule of law.

The third chapter focuses on the study of the protection of minors in situations of domestic violence, who have established a program of personal contact with the aggressor parent, the exposition of the criteria underlying the adoption of measures regarding children and how they should be implemented . Also within this part are case studies, as well as the analysis of statistical data and the degree of perception of beneficiaries on the phenomenon under research.

4. Research methodology

The chosen research methodology takes into account both the specificity of the field of study, namely administrative sciences, and the research topic " *The role of public administration in guaranteeing the rights of children who are victims of domestic violence* ", which led to a mixed methodological approach, in which *documentary and empirical research were combined, with qualitative and quantitative methods* . Qualitative research presents a general, exploratory approach, allowing for an in-depth understanding of the subject addressed, while quantitative research is

characterized by the collection and analysis of numerical data in order to test hypotheses, identify patterns and make predictions.

The qualitative analysis aimed to synthesize the theories, opinions, research and existing jurisprudence in the field, obtained from the documentation, so that the meaning and relevance of the data acquired and their evaluation in the context of the relationship with the public administration would be of a nature to help formulate conclusions. The empirical research carried out refers to the method of obtaining data through direct observation and measurement, systematically, within the professional and academic activity. Direct observation of the behavior of those involved, in the controlled environment of the determined situations, allowed the analysis of the data obtained in order to extract the relevant conclusions.

The qualitative methods used in this research include *the analysis of normative acts* , *the historical documentation method* and *the analysis* of specialized literature and relevant jurisprudence, which highlight the directions of thought in the research field, likely to generate consistent information necessary for a thorough understanding of the phenomenon studied , document *analysis* and *the comparative method* used for case studies. Regarding the consultation of specialized literature, this represents a primary component of the methodological approach. Thus, in the undertaken approach, we identified the relevant resources, by preparing reading lists, querying academic databases , studying specialized journals and national and international conference proceedings considered relevant, critically evaluating each resource in particular, from the point of view of relevance and contribution to achieving the expected results. As for the documentary analysis, it is carried out by studying the specialized legislation, the reports prepared by the competent authorities in the field of study and the relevant jurisprudence, which was materialized by collecting and analyzing the data available in the transparency system. The case study method was also used in the research, in order to follow up and analyze the phenomenon and the measures adopted, on the one hand, and the way in which those measures are implemented, on the other hand. The use of this method is justified, first of all, due to the specificity of the chosen field, but also in terms of the objective of the research, as a whole, this method being able to contribute to a complex analysis of the object of study, being able, at the same time, to offer the possibility of obtaining results with a high degree of generalization, given the area of applicability, an analysis following which it is desired to extract directions and effective programs in managing the phenomenon of domestic violence against children, thus being able to lay the foundations of good practices in the field.

The quantitative methods used in this research approach involve statistical data analysis. and questionnaire on perception. The questionnaire-type research instrument allowed the analysis of the degree of public opinion perception regarding domestic violence, the instruments available and the way in which the public administration ensures the protection of victims.

The study undertaken is based on a deductive approach, from the particular to the general, systematization and generalization being part of the analysis approach, using theoretical and jurisprudential research, in order to develop directions for achieving the proposed goal, and the substance of the research approach is the practical dimension of the phenomenon studied and its interaction with administrative sciences, emphasized on legal grounds, highlighting, where appropriate, elements related to the field of other sciences, such as sociology, psychology, etc. The presumed contributions that the research aims to make are given, on the one hand, by the importance, extent and magnitude of the subject addressed, and on the other hand, by the identification, if applicable, of those situations that render the appropriate response of the authority ineffective in the practical and *de lege ferenda* dimension, the need to adopt firm directions and strategies regarding the protection of minors victims of domestic violence.

5. Summary of doctoral research

5.1. Chapter I - The phenomenon of domestic violence

Historically, the evolution of humanity has been marked by violence. Violence, in its broadest sense, is understood as the type of behavior in which force is used to achieve certain goals or objectives.

This chapter presents violence as a type of human behavior, the phenomenon of domestic violence, theories regarding it, characteristics, types of domestic violence and ways of manifestation, as well as the actors involved, namely the aggressor and the victim.

Since ancient times, since the crystallization of human societies, violence has been omnipresent, being the way in which both the food needs of the community and the defense of individuals against the dangers represented by hostile communities were ensured. And last but not least, violence was most often used to exercise the control of leaders over their own companions, the fear generated by violent manifestations being the way in which submission was ensured. Several dimensions of violent manifestations can be observed: violent manifestations of imposition, used by the ruling classes over others, as a way of exercising political control, violent manifestations generated by the needs for food and defense, which are encountered mainly at the individual level and violent manifestations of a ritual or religious nature - the practices that imposed human sacrifices in invoking the benevolence of the gods are known.

To understand violence, it is necessary to understand human behavior and thus to discern the differences between innate aggression and learned violence, where innate aggression represents the instinct that the human person manifests when he feels threatened, as a method of defense, while learned violence represents that manifestation of force that is acquired and used, through external factors, such as the social, educational, cultural environment, without, however, excluding the

genetic or psychological background, which can be determinants in the dissemination of such behavior. The World Health Organization (WHO) has conceptualized violence as "an intentional use of physical force or power, direct or by threat, against oneself, another person, or a group or community, of such a nature as to cause physical or psychological injury, developmental disorders, deprivation or even death".

The conceptualization of violence has been approached on a large scale, its study being the subject of multiple investigations in different fields such as sociology, psychiatry, psychology, philosophy, etc. In the field of psychological research, violence is considered a force or condition that prevents, limits or distorts the activity of an organism in order to satisfy certain needs, while in a sociological sense it is considered that violent behavior is the result of the interaction of physiological aggression and learned cultural behavior, respectively a complex social behavior acquired and internalized as a result of social interactions, a relationship of power and not just force, of variable dimensions, developed by at least two people, where one gives up other ways of maintaining relationships and resorts to a series of aggressive or repressive behaviors (threat, intimidation, insult, humiliation, hitting) to directly or indirectly force the other to act against his will and to execute the aggressor's wishes, behavior capable of harming the physical or moral integrity of the other, his material goods or moral precepts, and may even lead to total annihilation, in case of fierce or persistent resistance. From a criminological perspective, violence is understood as the direct, indirect or hidden use of force, with the aim of obtaining from a person or a group of people what is not freely consented, these being just some examples of how violence is broadly defined within various sciences.

For a better understanding of the phenomenon that is the subject of this study, an overview is necessary, from the perspective of several sciences or disciplines, highlighting the factors that determine or relate to violence, emphasizing at the same time that, with regard to this research, any of the theories presented have the same theoretical value, and the specific weight of one or more of the factors presented may have practical relevance only within the framework of a specific analysis of a concrete case.

There are different theories about the origin of violence, and to facilitate understanding, in the work they have been grouped according to the factors considered to be determinants in explaining violent behaviors, namely, factors related to human nature, these being genetic factors and psychological factors and environmental factors, respectively social and cultural factors. Depending on these factors, we can group theories about the origin of violence into theories regarding genetic origin, in which violent behavior is generated by genetic information, another category attributes the emergence of violence to the development of human personality, while one approach denies the factors related to human nature and associates the origin of violence to the cultural situation in accordance with the evolution of the conditions in which the human being is formed, while another

type of approach aims at the concept of social violence, the cause of the emergence of violence being determined by the social environment.

Historically, the family, as an institution, was viewed as part of the private sphere of life, within which the behavior of its members was beyond social control. Since time immemorial, the idea has been instilled in people's mentality, through beliefs and culture, that family life was of interest only to its members, what happened in the family environment being an absolute secret for those inside it, and a taboo for society.

The family is the basic unit of society, formed on the basis of marriage, filiation or kinship relationships, and its social and psychological foundation is given by the community of life, interests and mutual assistance. Protecting and supporting the family is an objective of national interest, and preventing and combating domestic violence against children is an important issue, including public health.

However, case law proves that aggressions can occur in this family microuniverse, among which, in terms of recorded severity, those actions that are limited to physical violence, as well as those against personal freedom, including sexual freedom, generically called, along with other forms of manifestation, *domestic violence* , *stand out* .

There is no consensus in the literature regarding the name, just as there is no clear determination regarding the origins and causes of violence that occurs between family members. The term *family violence* is often used as a synonym for *mistreatment* , *gender violence* , *domestic abuse* , etc., although, as we will see, it is neither identified nor, in our opinion, synonymous with these. When referring to this phenomenon, the term *violence* is used among American authors to refer to physical, sexual or psychological aggression directed against women in a couple, while, to refer to violence against children, whether physical, sexual or psychological, the term *abuse* is much more commonly used. Another theoretical distinction to consider is the use of the terms *family violence*, *intrafamilial violence* and *domestic violence* .

Although in American literature there are authors who seem to make a distinction between these names, from the point of view of the Romanian language, all these words refer to one and the same phenomenon. Currently, the name *domestic violence* is enshrined in law , but, in previous forms of regulation, this phenomenon was called *family violence*, interchangeable with *intrafamilial violence*. For the purposes of Law no. 217/2003, art. 3, domestic violence means " *any intentional inaction or action of physical, sexual, psychological, economic, social or spiritual violence that 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 or has lived with the victim* ."

And regarding domestic violence, over time, a series of theories have been advanced, intended to explain the generating causes of this phenomenon, within the work these being grouped

into theories centered on the socio-cultural environment and theories centered on the individual, for greater accuracy of the exposition.

All these theories attempt to explain the violent behavior of individuals, but without directly explaining the causes of domestic violence. It was only after 1970 that theories emerged that could explain domestic violence from a socio-cultural point of view, including: the resource and exchange theory, the social learning theory, the control theory, and the patriarchy theory, which were joined by other feminist theories from the same period.

One of the best-known theories is the social learning theory developed by Albert Bandura, which states that violence is a behavior learned through direct experience and imitation, observing the behaviors of those around them. Another theory embraced by both theorists and practitioners is the conflict and control theory, which attempts to explain violent impulses through a model of dominance and control, highlighting the rules imposed by the powerful. The theory of patriarchy emerged in the seventies of the twentieth century, when the feminist movement was at its peak and addresses the social problem of the place and role of women in society. According to this theory, *violence* is viewed as male coercion over women, and domestic violence occurs due to unequal power relations between men and women in society and in the family, domestic violence being fundamentally linked to existing preconceptions and which can only be understood by understanding and analyzing circumstances related to gender aspects.

Another theory focuses on the biological nature of the human being, based on genetic structure and its evolution, to explain violent male behavior. This theory also emphasizes the way the brain is structured, but also on hormonal factors, such as testosterone, explaining through chemical and/or dietary imbalances, the acts of violence committed by men. Based on these theories, genetic and hormonal factors explain the reasons for the greater predisposition to violence in men than in women, as we have shown in the section dedicated to theories on violence.

Psychopathological theories are based on the personality characteristics of both perpetrators and victims in an attempt to define domestic violence, including analyses that link acts of violence to individual phenomena such as mental illness or alcohol. According to this theory, the causes of domestic violence could be due to psychological problems of the perpetrator, such as uncontrolled emotions, impulsivity or depression, but, at the same time, the causes of domestic violence can be directly related to certain psychological circumstances of the victim. In this context, the perpetrator is characterized as a person with low self-esteem, who faces insecurity about his masculinity, thus generating pathological jealousy.

The cycle of violence theory and the psychosocial theory of learned helplessness are theories promoted by American researcher Lenore Walker. The cycle of violence theory defines three distinct stages of domestic violence, which are repeated over and over again, Walker explaining through this theory both the ways in which women become victims of domestic violence, but also the reasons

why women victims of domestic violence lack the courage to break away from such a relationship and accept their situation.

Another theory, interactionist deviance, tends to explain domestic violence through gender roles. Proponents of this theory believe that there are certain differentiated expectations towards men and women regarding the behaviors, values, and attitudes that each of these two genders should have within the family.

Although all these theories are undoubtedly useful for understanding the causes of domestic violence, none of them is all-encompassing, each of them presenting, in our opinion, only one side, one facet, of this phenomenon. We believe that an exhaustive theory regarding the causes of domestic violence should include both the psychological and socio-cultural aspects captured by the theories presented, and understanding this phenomenon requires a multidimensional approach, able to cover the psychological, socio-cultural, economic, ethical and moral factors that influence both the behavior of aggressors and that of victims of domestic violence.

In light of the theories shown, we can therefore state that domestic violence is understood as behavior that occurs between members of the same family, namely abuse of the father and/or mother and/or minor children of the family, and if we refer to the extended family, we can include in this category any of the existing family members. Thus, we can conclude that domestic violence :

represents any action or omission that takes place within the family, exercised by a family member, that threatens the life, physical or mental integrity or freedom of another member of the same family, or that seriously threatens the development of the personality; refers to physical, psychological, sexual or other attacks, carried out repeatedly by a family member and that cause physical and/or mental harm and violate the freedom of the person; is a form of structural violence, requiring a certain level of social acceptance and tolerance for its occurrence.

We can classify the different types of domestic violence according to how the acts of violence are carried out, identifying: indirect violence, physical, psychological and emotional violence, social, sexual, economic violence, child neglect, cyber violence or spiritual violence.

When discussing domestic violence against children, we must necessarily start from the definition given to domestic violence, to which we must add the provisions of art. 19 of the United Nations Convention on the Rights of the Child, which establishes *that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of violence, injury or abuse, whether physical or mental, neglect or negligent, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child* , but also taking into account the meaning given by UNICEF regarding violence against children, indicating that girls, boys and adolescents under 18 years of age who habitually or occasionally suffer acts of physical, sexual or emotional violence, whether within

the family group or in social institutions, are victims of this form of violence, without neglecting the situation of indirect victims – namely situations in which acts of explicit domestic violence take place in the presence of the minor, a situation in which this minor acquires the status of victim of domestic violence, due to the psychological implications.

In light of the above, it follows that any action or inaction directed against children under 18 years of age, likely to cause them harm, in the ways expressly listed in art. 19 of the United Nations Convention on the Rights of the Child, represents violence directed against the child. In this line of thought, it follows that corporal punishment, still practiced as an educational method in many parts of the world, is included in the phenomenon of domestic violence.

Corporal punishment is represented as any form of physical punishment that aims to cause pain or discomfort. Often, it is carried out by hitting the hands or palms of children or other areas of their body with the hand or with an object. The use of this type of educational method stems from the erroneous perception that the memory of the humiliation and pain felt by the child will determine him not to repeat the mistake for which he was punished, thus fulfilling the educational purpose. This educational method has been used for a long time throughout the history of humanity and even if, currently, the values of 21st century society are completely different, there are still states and human communities that consider corporal punishment as the only one that guarantees the child's obedience to the rules, such as the situation in Romania, as we have already shown, from the data provided by the organization Save the Children Romania, 38% of parents and 63% of children recognize the use of physical violence for educational purposes.

Corporal punishment is based on the belief that pain and humiliation educate. In this context, even if it does not represent true corporal punishment, threats of corporal punishment and verbal humiliation have been, and in some cases continue to be, educational methods. From the perspective of our current values, as can be seen from the cited texts, this type of education, through humiliation and pain, is considered violence against minors.

The forms of manifestation of domestic violence against minors are varied, and their consequences, especially directed against young children, can lead, according to researchers, to situations that have come to the attention of doctors, with studies currently being conducted on *battered child syndrome*, *shaken baby syndrome*, and *Munchhausen syndrome by transference*.

Not all children who are victims of domestic violence are affected in the same way. Just as each organism is unique, it responds in its own way to factors such as the type of abuse, severity and/or frequency, the response also varying in light of circumstances such as the child's age, his or her degree of vulnerability, the existence of support mechanisms, etc. In cases where behavioral disorders, psychological disorders, health problems or certain disabilities were recorded, following clinical and medical research, a higher incidence was revealed in the case of individuals with a history of domestic violence during the minor period.

Parental alienation, a notion better known as parental alienation, is a widespread phenomenon in contemporary society, a current topic that has been the subject of extensive research and debate, entering the sphere of concern of both psychiatry and psychologists, sociologists and lawyers and other specialists from various other fields of the humanities. First appearing in the attention of American psychiatrists in the last quarter of the 20th century, this notion has undergone constant evolution, continuing to concern both scientists and practitioners, including those in the legal and administrative fields.

parental alienation is increasingly being used in Romania . Initially encountered on a small scale, following divorces between parents, it has come to be used on a large scale, in most cases involving minor children. Although it has entered current language, in reality it is easy to see that many people do not know exactly what this notion entails.

Parental alienation covers under its umbrella a whole series of human manifestations, which in the past had no name, neither from a legal point of view nor in everyday speech . Through the name given to these behaviors, one tends to define those human manifestations, observed over time, as occurring under certain conditions and which, until the introduction of this phrase into current language, had no other way of referring to them.

Understanding the phenomenon of parental alienation is essential for the development of directions and programs by the public administration, in the application of the goals and objectives of the decision-makers, adopted both at national and international levels. Researching this manifestation primarily involves an incursion into the sphere of human behavioral psychology and its analysis, in correlation with public administration and human rights. The science of human rights has as its object of research human behaviors, both at the individual and societal levels, but also the relationships and manifestations between people, a science interconnected with other social sciences "because the areas considered have been and are in contact with other areas belonging to other disciplines", taking into account the fact that "rights are not made just to exist", but must also be recognized and protected through public administration. As we have already shown, public administration, in accordance with its field of activity, of permanent management of society's needs, is dynamic, constantly adapting, in order to obtain reasonable and equitable results in any situation, based on in-depth knowledge of the mechanisms that generate social needs.

The term *parental alienation* was first used by Dr. Richard Alan Gardner, a renowned American pediatric psychiatrist, recognized for his contribution to psychotherapy, especially in child psychotherapy. As a result of his vast practical experience in pediatric and family psychotherapy and following the case studies conducted, Richard Gardner introduced the term *parental alienation syndrome into psychotherapy* , being the first scientist to try to name a whole series of phenomena and manifestations, which he studies closely, through the lens of his professional training. In Gardner's opinion, *parental alienation* refers to *that mental disorder in which children are obsessed*

with the depreciation and criticism of one parent, manifested by unjustified and/or exaggerated denigration, due to the conscious and sustained policy of "brainwashing" the child by the other parent .

This is how parental alienation syndrome is defined – as a psychological disorder, due to a campaign of indoctrination of the child, by a parent, in order to imprint in the child's psyche the idea that the other parent is bad and as a consequence, the child must distance himself and remove that parent from his life. Etymologically, the concept of parental alienation is formed by joining two words – *alienare* , a word of Latin origin, meaning *alienation* , and *parentesque* , meaning *relating to parents* . Therefore, the term that Richard Gardner chose to name that clinical disorder observed in children involved in divorce and custody proceedings is the syndrome of " *parental alienation* ".

Parental alienation represents a collection of manipulative behaviors directed against the child, with the aim of distancing him from the other parent, further concretizing the conclusion that this type of behavior essentially represents a psychological and emotional abuse of the child.

However, this phenomenon has only been enshrined in legislation in a few countries around the world, and at the European regional level, although the Council of Europe and especially the European Court of Human Rights, in application of the provisions of the European Convention, have recognized the existence of parental alienation in a number of cases ¹, for which countries have been convicted, currently, there are no specific laws regulating the parental alienation syndrome in European countries. Recently ², the Strasbourg Court ruled in the case of LD v. Poland ³, an innovative case regarding parental alienation and violation of the right to family life, in which a mother was repeatedly denied contact with her child, even though she had court-established visitation rights, the Court finding that the father's repeated obstruction led to complete parental alienation and the breakdown of the mother-child relationship.

In the UK, parental alienation is not legally transposed either, although the Children and Family Court Advice and Support Service ⁴, in its Child Impact Assessment Framework, defines *parental alienation as a child's unjustified resistance or hostility towards one parent, as a result of psychological manipulation by the other parent.*⁵ and At the same time, it represents the government body that advocates for the interests of children before the courts.

¹ https://ro.wikibooks.org/wiki/Categorie:Jurispruden%C8%9Ba_CEDO_privitoare_la_alienarea_parental%C4%83 , accessed June 16, 2024.

²On February 13, 2025.

³See in this regard: ECtHR: LD v. Poland, No. 12119/14, judgment of 13 February 2025, final on 13 May 2025. [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-241741%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-241741%22]}) , accessed 25 June 2025.

⁴Children and Family Court Advisory and Support Service (CAFCASS)/ Children and Family Court Advisory and Support Service, which operates under the law established by Parliament - the Criminal Justice and Court Services Act 2000, in the United Kingdom;

⁵Official website of the CAFCASS Service; <https://www.cafcass.gov.uk/2021/01/14/cafcass-reissues-position-on-parental-alienation/?highlight=PARENTAL%20ALIENATION> , accessed February 4, 2022;

Other states with a tradition of defending fundamental rights and freedoms, such as France ⁶, Spain ⁷ and Italy, ⁸ are in the same situation of non-legislation, although both civil society and the jurisprudence of these states are actively campaigning for the legislation of parental alienation, so that state bodies can protect the best interests of minors.

Romania, a member of the Council of Europe and the European Union, is the first country in the European Union to adapt its legislation to this reality, establishing a set of measures that the authorities have at their disposal when parental alienation occurs. On May 7, 2024, ⁹ Law no. 123 of April 30, 2024 was published, amending and supplementing Law no. 272/2004 on the protection and promotion of the rights of the child, which, along with other amendments aimed at better responding to the best interests of the minor and the defense of his or her rights, amends art. 4 of Law 272/2004, recognizing in paragraph h of this article *parental alienation* as a form of

" psychological violence by which one of the parents or the persons provided for in letters c) and d), intentionally, intentionally or assumed and appropriated, generates, accepts or uses a situation in which the child ends up manifesting unjustified or disproportionate restraint or hostility towards either parent".¹⁰

This legislative recognition of parental alienation, called *parental alienation by the Romanian legislator*, as psychological violence directed at the minor is particularly important, because it creates the premises for the competent bodies of public administration, in exercising their powers of concrete enforcement of the law, to be able to develop adequate procedures to effectively protect the fundamental rights of minors to a healthy mental life, free from abuse, which could not be achieved without the legislative consecration of the respective phenomenon.

The impact of domestic violence on the effects on minor children, both in terms of the legal implications of this phenomenon and in terms of the varied and complicated physical and psychological consequences that it can generate on developing organisms, has been and continues to be of concern to both scientists and practitioners. The studies conducted focus on capturing the effects that occur in children who are victims of domestic violence, depending on variables such as the child's age, gender, stage of development, frequency of acts of violence and the type of support

⁶ https://www.courdecassation.fr/jurisprudence_2/premiere_chambre_civile_568/660_26_26933.html); accessed February 4, 2022;

⁷ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27935&LangID=E> ; accessed 04 February 2022;

⁸ See in this sense: Mariachiara Feresin, "Parental Alienation (Syndrome) in Child Custody Cases: Survivors' Experiences and the Logic of Psychosocial and Legal Services in Italy," *Journal of Social Welfare and Family Law* 42, no. 1 (2020): 56–67.

⁹ Official Gazette of Romania, Part I no. 414 of May 7, 2024.

¹⁰ Art. 4, paragraph h of Law no. 272/2004, as amended by Law no. 123/2024.

that adults offer to their children in this situation ¹¹. If physical violence leaves marks on the body, the same cannot be said about the effects of other types of domestic violence.

Indirect violence can lead to the child developing aggressive behavior in adulthood ¹² or can generate other types of changes in the child's personality in development. The trauma and the tense state of life felt by the minor exposed, directly or indirectly, to domestic violence, even if no types of violence were exercised against him, can alter the structure, but also the functioning of the brain, the negative, emotional and environmental influences to which the child is exposed during the formation period can, the earlier they are, remodel aspects regarding the intellectual, emotional and/or social development of the child ¹³, due to the excess production of hormones such as cortisol, as well as neurotransmitters ¹⁴, which, over time, can lead to states of anxiety, depression, or aggression, due to chemical imbalances. At the same time, studies have also highlighted that the adult individual's inability to sustain interpersonal relationships, the inability to regulate their emotions, or a poor response to stressful stimuli occur especially in those who suffered from exposure to violence during early childhood ¹⁵.

In conclusion, over time, the mentality has often normalized violent behaviors in domestic spaces, with many cultures considering such acts as private matters, being closely linked to deep-rooted patriarchal prejudices and power dynamics that perpetuate inequality and abuse. Socio-cultural beliefs often normalize male dominance and female subordination, leading to an environment in which violence is not only tolerated, but also expected. At the same time, studies indicate that, along with inequalities between men and women, economic dependence significantly contributes to the persistence of domestic violence, as victims feel trapped in abusive contexts due to their lack of autonomy. It is also worth noting that the interaction between social attitudes and cultural influences significantly shapes perceptions of domestic violence, often dictating community responses to this issue, with complex social situations influencing perceptions of violence against children in different societies.

Addressing the phenomenon of domestic violence must also consider these variables to encourage meaningful change and promote healthier relationship dynamics. The deep-rooted cultural stigma surrounding domestic violence often inhibits full disclosure and reporting among victims,

¹¹See in this regard: *Children and the Law: An Introduction*, in James G. Dwyer, ed., *The Oxford Handbook of Children and the Law*, Oxford Handbooks (2020; online edn, Oxford Academic, November 7, 2018), <https://doi.org/10.1093/oxfordhb/9780190694395.002.0007>, accessed July 19 2025.

¹²See in this regard the theories on domestic violence, discussed above, especially Albert Bandura's theories on social learning.

¹³See in this sense: S. Ituarte, "Neurological and Physiological Impact of Abuse," in *Encyclopedia of Domestic Violence*, ed. Nicky Ali Jackson (New York: Routledge, Taylor and Francis Group, 2007), 519–522.

¹⁴See in this regard: Ituarte, "Neurological and Physiological Impact of Abuse," 521.

¹⁵See in this regard: William T. Greenough and Janet E. Black, "Induction of Brain Structure by Experience: Substrates for Cognitive Development," in *Developmental Behavioral Neuroscience*, ed. M. R. Gunnar and C. A. Nelson (Boston: Springer, 1992), 155–200. Martin H. Teicher, Natalie L. Dumont, Yoko Ito, Christina Vaituzis, Jay N. Giedd, and Susan L. Andersen, "Childhood Neglect Is Associated with Reduced Corpus Callosum Area," *Biological Psychiatry* 56, no. 2 (2004): 80–85, <https://doi.org/10.1016/j.biopsych.2004.03.016>, accesat 20 februarie 2025.

especially in marginalized communities. As research continues to unfold, it is imperative that researchers and practitioners collaborate, as only through a joint effort can we hope to reduce the incidence rates of this phenomenon and provide lasting solutions for affected individuals and families.

5.2 Chapter II. Applicable legal provisions and authorized institutions

Domestic violence against children represents, as we have shown, one of the most serious forms of violation of the fundamental rights of the child, with significant consequences on his/her physical, psychological, emotional or social development. In this context, the existence of normative provisions and competent institutions that intervene effectively to prevent and protect child victims appears essential. Minors in the situations described, in addition to those shown in the previous chapter, are also at risk in terms of re-traumatization and marginalization, therefore an approach focused on the best interests of the child and coordinated interventions are required, which aim not only at immediate protection, but also at long-term support of the child victim of domestic violence, for his/her post-traumatic recovery and reintegration into the normal dynamics of society.

This chapter will present all these aspects, both those related to the regulatory method, as well as the competent authorities and the mechanisms they have at their disposal, to guarantee the rights of the child and the protection of these rights, in accordance with the principles of the rule of law.

In the legal context, a child is increasingly recognized as a subject of law, meaning that he or she has rights and obligations, which he or she can also exercise through legal means, although his or her capacity may be limited due to age and stage of development. This current view represents a change from the historical views up to the First World War, in which children were seen primarily as objects of law, in need of protection but without rights. Historically, children were often considered the property of their parents or guardians, with limited legal capacity, and their legal status was often linked to family status, with few independent rights or protections. This perspective is changing, with increasing recognition of the inherent rights and individuality of children ¹⁶. The United Nations Convention on the Rights of the Child is the basic document that enshrines children's rights and emphasizes their status as active participants in society.

At the European regional level, we must distinguish between the normative provisions issued by the European Union and those drafted in the Council of Europe system. As regards the normative acts adopted under Council of Europe law, they follow the line drawn by the Convention on the Rights of the Child, the same interpretation of the notion of child being adopted by the European Court of Human Rights in its jurisprudence ¹⁷. The Convention represents the first instrument that

¹⁶ See in this regard: Jef Willems, "Children as Subjects of Rights: Three Waves of Emancipation from Past and Present Cruelty to Future Creativity?" (2018), <https://doi.org/10.13140/RG.2.2.30939.21289>, accesat 10 decembrie 2024.

¹⁷ See in this regard: European Court of Human Rights, *Güveç v. Turkey*, no. 70337/01, 20 January 2009 and European Court of Human Rights, *Çoşelav v. Turkey*, no. 1413/07, 9 October 2012. In Council of Europe (Strasbourg) and

gave binding character to the rights provided for in the Universal Declaration of Human Rights, and its scope of applicability is open to both adults and children. It establishes absolute rights, which under no circumstances can be violated by states, but also a series of fundamental rights and freedoms, the exercise of which can only be limited in exceptional cases. The member states of the Council of Europe have amended their domestic legislation in order to integrate the Convention into domestic law, with the direct consequence of the mandatory application of its provisions. In order to ensure compliance by states with the obligations established by the Convention, by art. 19 a legal mechanism was created – the European Court of Human Rights (ECtHR), which has among its responsibilities the examination of possible violations of the Convention and the issuance of advisory opinions on issues concerning the interpretation or application of the rights and freedoms established by the Convention or by the additional protocols thereto ¹⁸.

The ECHR and the ECtHR case law are the main instruments in the Council of Europe system that legislate children's rights, but they are not the only ones. Another important instrument to mention in this context is the European Social Charter, including the Revised Social Charter of 1996, which contain provisions on ensuring the protection of social rights, but also clear provisions on children's rights ¹⁹.

European law in the Council of Europe system is not limited to instruments and case law, but is also reflected at the policy level, such as the 2006 action plan called "Building a Europe with and for children" or the Gender Equality Strategy (2018-2023) and the New Strategy for the Rights of the Child (2022-2027), which involves a number of six priority areas, namely: "protection against violence, equal opportunities and social inclusion, access to technologies and their safe use for all children, justice in the interest of the child, listening to every child and children's rights in crisis and emergency situations" ²⁰.

However, in the legal system of the European Union, legislative provisions have been adopted that derogate from the understanding of the notion of child, as outlined in the Convention on the Rights of the Child, even though most instruments refer to the meaning that a child refers to a person under the age of 18. The rights of the child are protected and promoted through primary legislation, but also through secondary legislation, with provisions relating to them being found in areas such as cooperation in civil and criminal matters, data protection, consumer protection or asylum and migration. For example, in provisions concerning the rights to free movement for Union citizens and their family members, a child is understood to be those direct descendants up to the age

European Union Agency for Fundamental Rights. *Handbook of European Law on the Rights of the Child* : 2022 Edition: (Publications Office, 2025), <https://data.europa.eu/doi/10.2811/11276>., accessed 18 July 2025.

¹⁸See in this regard: Moroianu Zlătescu, *Dreptul Internațional al Drepturilor Omului*, 139-151.

¹⁹See in this regard: Moroianu Zlătescu, *Dreptul Internațional al Drepturilor Omului*, 151-163.

²⁰See in this regard: Manual de drept european privind drepturile copilului: Ediția 2022.

of 21 or who are still dependent.²¹ It can be observed, from the given example, how the European Union understood to use the supplementary norm allowed by the Convention on the Rights of the Child, extending it beyond the concept of majority and linking it, in the exemplified context, to the idea of biological connection, from which the maintenance obligation derives.

The Charter of Fundamental Rights of the European Union²² contains specific provisions relating to the rights of the child in the European Union, expressly provided for in Article 14, Article 21, Article 24 or Article 32 or implicitly, such as the right to private and family life, contained in Article 7. According to Article 6 of the Treaty, the Charter acquires the same legal force as the Union Treaties, which has as a direct consequence the obligation to protect the rights enshrined in the Charter, both by the European Union, through its institutions, but also by all Member States, and according to Article 3 of the Treaty, the EU promotes the protection of the rights of the child. Additionally, the Treaty on the Functioning of the European Union (TFEU) contains more precise references to children's rights, allowing the Union to legislate in this area, such as the Directive on combating the sexual abuse of children, the sexual exploitation of children and child pornography, the Directive on preventing and combating trafficking in human beings and protecting its victims, the Directive establishing minimum standards on the rights, support and protection of victims of crime or the Directive on combating violence against women and domestic violence²³ of 2024, in the content of which express provisions are found regarding child victims. Also with regard to children's rights, in 2021 the European Union adopted the Strategy on the Rights of the Child²⁴, within which one of the six priority areas of action is "combating violence against children and ensuring the protection of children"²⁵.

Romania, as a signatory to the Conventions of the Council of Europe system and at the same time a member of the European Union, has had to constantly modify and update its domestic legislation, so that it can have at hand the necessary instruments to exercise the obligations assumed. For this reason, there are currently several normative provisions in force, both in primary and secondary and even tertiary legislation, which include norms with incidence on the subject studied, practically finding ourselves faced with a dispersion of regulations applicable to situations of domestic violence against children. We consider, like other authors²⁶, that the Romanian legislator should bring together in a single normative act all these provisions, for better management and in

²¹See in this regard: Consiliul Europei (Strasbourg) și Agenția pentru Drepturi Fundamentale a Uniunii Europene. Manual de drept european privind drepturile copilului: Ediția 2022: (Publications Office, 2025), <https://data.europa.eu/doi/10.2811/11276>., accessed 18 July 2025.

²²Proclaimed at the Nice European Council on 7 December 2000, by the European Commission, the European Parliament and the Council of the European Union and by its inclusion in a consolidated version in 2012 in the Treaty of Lisbon, the Union institutions and the Member States are obliged to respect these rights when implementing EU law.

²³Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024.

²⁴<https://digital-strategy.ec.europa.eu/en/policies/strategy-better-internet-kids>., accessed July 21, 2025.

²⁵See in this regard: Manual de drept european privind drepturile copilului: Ediția 2022.

²⁶See in this regard: Mugur, Andrei Bogdan. *Protecția alternativă a copilului prin tutelă în reglementarea actualului cod civil român*. București: Editura Universul Juridic, 2025, 17.

accordance with the norms of legislative technique established by Law no. 24/2000 ²⁷ on the norms of legislative technique for the elaboration of normative acts.

The Civil Code, which represents the general framework of the rules governing civil relations within society, contains, as far as minors are concerned, only general provisions regarding the status of the minor in the family, the name, the domicile, the right to maintenance of the minor or the right to have personal ties with the parent or relatives with whom he does not live, etc. As for the concrete way of protecting and promoting the rights of the child, these are achieved through the rules of a special law, Law no. 272/2004 ²⁸, with subsequent amendments and updates and which represents in Romanian legislation the framework law regarding ensuring respect for the best interests of the child, his rights and freedoms and which also contains procedural rules regarding the promotion and protection of these rights.

The Law on the Protection and Promotion of Children's Rights does not, however, respond to the issues raised by the phenomenon of domestic violence, therefore, for the purpose of this research, it is necessary to show that, from a normative point of view, several legal provisions find their applicability in this matter, being within the competence of the bodies empowered to decide, following specific analyses, the applicability of the norm, for each individual case.

Thus, with relevance to the present study, from the point of view of domestic legislation, we also find other normative provisions, such as those contained in Law no. 217/2003 on preventing and combating domestic violence ²⁹, Law no. 211/2004 on some measures to ensure the protection of victims of crimes, with subsequent amendments and completions, which regulate, among others, some measures to inform victims about their rights, psychological counseling or free legal assistance ³⁰, the Criminal Code, the Civil Procedure Code, the Criminal Procedure Code, the Social Assistance Law no. 292/2011, with subsequent amendments and completions ³¹, Law no. 30/2016 on the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence ³², Government Decision no. 592/2021 ³³ on the approval of the National Strategy for the prevention and combating of sexual violence "SINERGIE" 2021-2030 and the Action Plan for the implementation of the National Strategy for the prevention and combating of sexual violence "SINERGIE" 2021-2030 or Government Decision no. 1,547/2022 on the approval of the National Strategy for the promotion of equal opportunities and treatment between women and

²⁷Law no. 24 of 27 March 2000, republished, on the legislative technique norms for the drafting of normative acts, Official Gazette of Romania, Part I, no. 260, 21 April 2010.

²⁸Law on the Protection and Promotion of the Rights of the Child, Official Gazette of Romania, Part I no. 159, March 5, 2014.

²⁹Official Gazette of Romania, Part I no. 948 of October 15, 2020.

³⁰Official Gazette of Romania, Part I no. 505 of June 4, 2004, as amended by Point 1, Article I of Emergency Ordinance no. 24 of April 3, 2019, published in the Official Gazette of Romania, Part I no. 274 of April 10, 2019.

³¹Official Gazette of Romania, Part I no. 905 of 20 December 2011, as amended by Law no. 100 of 16 April 2024, published in the Official Gazette of Romania, Part I no. 369 of 18 April 2024.

³²Official Gazette of Romania, Part I no. 224 of March 25, 2016.

³³Official Gazette of Romania, Part I no. 608 of June 18, 2021.

men and the prevention and combating of domestic violence for the period 2022-2027³⁴ and the National Strategy of December 19, 2022 on the promotion of equal opportunities and treatment between women and men and the prevention and combating of domestic violence for the period 2022-2027³⁵, provisions to which are added a series of Orders issued by the relevant ministries, such as Order no. 20840/2022 for the approval of the Minimum Mandatory Standards on the application of case management within social services for victims of domestic violence³⁶ and the Minimum Mandatory Standard of September 21, 2022 on the application of case management within social services for victims of domestic violence³⁷.

As can be easily observed, the Romanian legislative system abounds with normative provisions regarding children's rights, domestic violence, but also regarding the authorities and instruments that the state has at its disposal.

From the analysis of the legislative framework, as it results from the provisions of art. 1, paragraph 1 of Government Ordinance no. 68/2003, "the complex set of measures and actions carried out to meet individual, family or group social needs, in order to overcome situations of difficulty, to preserve the autonomy and protection of the person, to prevent marginalization and social exclusion and to promote social inclusion" is represented by social services, which, according to art. 2 of the same normative act "are provided by local public administration authorities, as well as by natural persons or public or private legal entities", and according to art. 16, 17 and 18 of Law no. 272/2004, the specialized bodies belonging to the public administration are also responsible for the obligations outlined by the normative act.

Therefore, it is up to the public administration to implement, through a set of specific actions and measures, through its bodies, the rules regarding the prevention, protection and combating of domestic violence against children.

The rule of law represents a universal and ideal aspiration, being a guarantor of respect for fundamental rights, legality and democracy. Public administration operates strictly in accordance with the law, and public administration officials and elected officials aim to constantly serve citizens, in order to satisfy the common good, so that the key state institutions in a democratic system of governance have an essential role to play in promoting democracy and good governance.

Public administration represents both the technical component and the practical expression of the executive power, which has as its central objective the implementation of the regulatory framework in order to protect the fundamental rights and freedoms of the individual, performing an activity "closely linked to the executive power"³⁸, through "public power procedures"³⁹. Within the

³⁴Official Gazette of Romania, Part I no. 1239 of December 22, 2022.

³⁵Official Gazette of Romania, Part I no. 1.239 bis of December 22, 2022.

³⁶Official Gazette of Romania, Part I no. 973 of October 6, 2022.

³⁷Official Gazette of Romania, Part I no. 973 bis of October 6, 2022.

³⁸See in this regard: Bălan. Instituții administrative, 17-30.

³⁹See in this regard: Bălan. Instituții administrative, 17-30.

framework of the separation of powers in the state, the management and supervision of the entire public administration system is the responsibility of the executive power, thus ensuring the exercise of state power, while the ability to administer is considered a power derived from that of the state, the purpose of public administration and the very importance of its existence being to implement legal provisions, serving the public interest, by providing quality services to the community and its inhabitants ⁴⁰. In a formal-organic sense, public administration means all the structures belonging to a state, which carry out activities aimed at satisfying general public interests, based on the law and in order to execute it, and in a material-functional sense, public administration means the concrete, specific activity of the respective organizational structures ⁴¹.

The concept of administration can be approached in both a material and a formal sense, given that it organizes the execution of the law, while at the same time being responsible for the concrete execution of the law ⁴², its actions being able to have both a dispositional and a performance character ⁴³. The formal perspective of approaching administration involves defining it as a system or a set of bodies, comprising various administrative structures ⁴⁴, through which the law is implemented and, at the same time, "within the limits of the law, it provides public services" ⁴⁵, resulting in a double responsibility - both in the development of the application of legislation and in its effective implementation, while, from a material perspective, public administration is defined in terms of the powers and responsibilities it has, through its specific structures, for the implementation and enforcement of legal regulations, resource management, provision of services, development of public policies and their transposition into concrete actions, etc.

The activity of public administration has its source in constitutional and legal provisions and is exercised in the public interest ⁴⁶, respectively promoting the well-being and development of society and protecting fundamental human rights and freedoms. Through its organizational system (institutions, authorities, organizations, entities, etc.) and exercising specific powers and competencies, public administration is the one that ensures the provision of the necessary regulations and appropriate public services for the efficient functioning of society, respectively providing quality public services, efficient management of public resources, promoting transparency, accountability and citizen participation in the decision-making process, ensuring efficient and responsible implementation of public policies, monitoring and evaluating results, etc., forming a coherent

⁴⁰See in this regard: Călin Emilian Hînțea, *Management public* (Cluj-Napoca: Accent, 2008), 8.

⁴¹See in this regard: Hînțea, *Management public*, 8.

⁴²See in this regard: Emil Bălan, „Funcție de utilitate publică. Funcționar public asimilat. Situația notarului public,” în *Funcția publică: Statut, Integritate, Administrare*, coord. Emil Bălan, Corneliu Iftene, Mihaela Văcărelu și Doru Troanță (București: Wolters Kluwer România, 2017), 120.

⁴³See in this regard: Emil Bălan, *Domeniul administrativ* (București: Lumina Lex, 1998), 12–27.

⁴⁴See in this regard: Bălan, *Domeniul administrativ*, 12–27.

⁴⁵See in this regard: Dan Constantin Măță, *Drept administrativ* (București: Universul Juridic, 2016), 10.

⁴⁶See in this regard: Dana Apostol Tofan, „Drept administrativ,” *Revista de Drept Public*, 2014, 19.

system, in which the activities of provision, organization, coordination and control are interconnected⁴⁷.

The action of the administration is legitimized by legal provisions⁴⁸, and its activities are based on norms and procedures, with the aim of ensuring that all citizens, regardless of their origin, are treated fairly and equally, discrimination in the provision of public services leading to social unrest and diminishing trust in state institutions⁴⁹. The public administration, through its actions, aligns itself with the principles of the rule of law, has powers both in the sphere of organizing execution and in that of executing the legal norm, therefore having a dual responsibility, in order to provide quality services, efficient and effective management of resources, in promoting transparency, accountability and citizen participation in the decision-making process, thus contributing to the necessary regulation and adequate provision of public services for the sustainable development of society.

In the context of organizing the enforcement and execution of the law, public administration is guided by a series of principles⁵⁰ enunciated at the legislative level. This, as an expression of the way in which the rule of law acts, needs its own principles, as the foundation of all its activities⁵¹, the application of these principles leading to the guarantee of transparency, accountability, efficiency and fairness, both in decision-making and in the implementation of public policies, all of which are, in themselves, principles of administrative law.

Good administration, as a notion, can be understood as the framework through which public administration, through its institutions, has the opportunity to create that environment of general well-being that best meets the interests of the citizen, promptly and efficiently.

Good administration can be defined as the efficient, transparent and equitable functioning of government bodies in implementing public policies and providing public services, being concerned with the way in which state institutions exercise their powers in relation to the public, ensuring that actions are carried out correctly, promptly and in accordance with established rules and procedures, which refers not only to technical efficiency, but also to building trust through accountability and the fair treatment of individuals, all of which are based on fundamental principles of public administration⁵².

The State, in its capacity as guarantor of respect for human rights, must take numerous legislative, economic, administrative, educational, etc. measures, in order to respect these rights,

⁴⁷See in this regard: Bălan, 3-27.

⁴⁸See in this regard: von Danwitz, 11–12.

⁴⁹See in this regard: Irina Moroianu Zlătescu, „Spre o codificare a procedurii administrative,” în *Codificarea administrativă. Abordări doctrinare și cerințe practice; Administrative codification. Theoretical approaches and requirements of the practice*, ed. Emil Bălan, Cristi Iftene, Dragoș Troanță, și Marius Văcărelu (București: Wolters Kluwer, 2018), 72.

⁵⁰See in this regard: Măță, 10.

⁵¹See in this regard: Artem G. Solomakha, “Current Status and Prospects of Implementation of European Public Administration Principles in Ukraine,” 2018, 458–59, <https://www.um.edu.mt/library/oar/handle/123456789/37708>., accessed on April 9, 2025.

⁵²See in this regard: Bălan, *Instituții administrative*, 17-30.

through its institutions, and public administration represents both the technical component and the practical expression of executive power, having as its central objective the implementation of the normative framework in order to protect the fundamental rights and freedoms of the individual. Good administration, as a concept, is frequently used as a synonym for good governance, although the latter refers to a system of principles aimed at the exercise of power in a society, the relationship between good administration and good governance, being, in fact, a part-whole relationship, where good administration represents a basic element of good governance ⁵³.

While good administration technically expresses the functions and powers of public administration, emphasizing the principle of impartiality, objectivity in decision-making, ensuring transparency and accountability in the activity of public administration, in order to guarantee an impartial, transparent administrative process and free from unjustified interference, the meaning of good governance is broader, targeting the system of principles on which the exercise of power is based ⁵⁴, although the values with which it operates, such as transparency, accountability, public participation, respect for the rule of law and the promotion of individual rights, ⁵⁵are identical.

Another main element of the rule of law is the principle of legal certainty, which presupposes the regulatory power of the state, the quality and clarity of regulation and, last but not least, the appropriate interpretation of regulation. The principle of legal certainty is seen as a structural element of the rule of law, necessary for the stabilization of legal relations and systems in which the administration plays an important role ⁵⁶.

This principle represents, in the understanding of many, the foundation of the rule of law, the quality of legislation, which gives expression to legal certainty, being the one that radiates norms, composing their spirit and serving as a criterion for their precise understanding and reason, precisely because it determines the logic and rationality of the normative system, by giving it a harmonious meaning.

The principles of equality and justice result in the requirement of certainty, clarity and unambiguousness of the legal norm. In the absence of these essential requirements, the uniform application of the legal provision and its appropriate interpretation cannot be ensured, which inevitably leads to arbitrariness. Legal certainty is therefore an increasingly significant factor in the processes of drafting and applying the law, designating the clarity, certainty and accessibility of the legal standard. It is even more important to highlight this principle in the light of today's society, due

⁵³See in this regard: Irina Moroianu Zlătescu și Elena Claudia Marinică, „Securitatea juridică și calitatea reglementării – impact asupra bunei guvernări,” în *Securitatea juridică și calitatea reglementării: standarde europene și naționale*, ed. Gabriela Varia și Ionuț Bogdan Berceanu (București: Editura Universul Juridic, 2024), 15–31.

⁵⁴See in this regard: Rachel M. Gisselquist, *Good Governance as a Concept, and Why This Matters for Development Policy* (WIDER Working Paper, 2012), 3.

⁵⁵See in this regard: Rachel M. Gisselquist, *Good Governance as a Concept, and Why This Matters for Development Policy*, 3.

⁵⁶See in this regard: Irina Moroianu Zlătescu, „Evoluția relațiilor dintre cetățeni și administrație - cetățenia administrativă,” în *Spațiul administrativ în secolul XXI – Administrative Space in the 21st Century*, ed. Emil Bălan, Marius Văcărelu, Gabriela Varia, and Dragoș Troanță (București: Wolters Kluwer România, 2021), 25–26.

to the complexity of the relationships that prevail, with uncertainty and unpredictability, especially in the political, social and economic spheres and whose reflexes in law are even more evident. By respecting this principle, it is ensured that laws and regulations are clear, consistent and predictable, which allows citizens and institutions to plan their actions with confidence. In this context, we assert that legal certainty supports both good administration and good governance, providing the legal framework within which the administration carries out its activities and the government implements its governance program ⁵⁷.

Legal certainty facilitates good faith in the legal circuit, ensuring stability and certainty, trust in the predictability of the law and in normative predictability. Otherwise, the rule of law ends up losing its consistency, and democracies, even the most solid ones, begin to have problems of legitimacy and credibility in front of their own citizens. Moreover, the principle of legality, the separation of powers in the state and the recognition and protection of the fundamental rights of the person constitute the democratic rule of law. The principle of legal certainty requires that legislation be clear, accessible, predictable and provide legal certainty for citizens and institutions. Respecting legal certainty involves guaranteeing the protection of individual rights, preventing arbitrariness and strengthening trust in the justice system and the rule of law as a whole ⁵⁸.

Therefore, the rule of law represents a universal and ideal aspiration, being a guarantor of respect for fundamental rights, legality and democracy. Public administration operates strictly in accordance with the law, and public administration officials and elected officials aim to constantly serve citizens, in order to satisfy the common good. For public administration, it is therefore necessary to prioritize the interests of citizens, administrative efficiency and good governance, which are implicitly responsibilities of the rule of law, which ensure legal certainty, freedom and equal treatment ⁵⁹.

In this context, respecting and protecting individual rights and freedoms leads to ensuring a community that is satisfied with its needs, while respecting the public interest is important for ensuring the well-being and sustainable development of society at the macro level.

Public administration aims to achieve the following objectives: responsibility, integrity, effectiveness, accountability, political neutrality, honesty and dynamism, which is achieved through a professional body of civil servants, capable of developing strategies regarding the management of the civil service, able to streamline the administrative system and improve relations between the administrative apparatus and society ⁶⁰.

⁵⁷See in this sense: Pekka Kettunen, "Good Governance and Its Determinants," in *Legal Culture and Legal Systems*, ed. ATLG Blankenburg (Oxford: Hart Publishing, 2011).

⁵⁸See in this regard: Ion Predescu and Marieta Safta, „Principiul securității juridice, fundament al statului de drept – repere jurisprudențiale,” <https://www.ccr.ro/wp-content/uploads/2021/01/predescu.pdf>, accessed January 30, 2025.

⁵⁹See in this regard: Bălan, *Instituții administrative*, 17.

⁶⁰See in this regard: Alina Raluca Cucu, „Drepturile conferite funcționarilor publici de Codul Administrativ, expresie a armonizării legislației interne cu cea a uniunii europene,” *Punctul Critic* 4 (38), 2021 (București: Ideea Europeană), 261.

To ensure good governance, through good administration and implicitly in order to increase the population's trust in state institutions, public administration must carry out its specific activities responsibly, neutrally and with accountability, respecting these concepts being essential in a functional democracy.

From what has been shown, it is very clear that public administration is an indissoluble component of the rule of law, which connects, through its bodies, the state and the beneficiaries of state protection, namely the citizens. At the same time, the transparency of decision-making within public institutions represents an important element of the proper functioning of the administration ⁶¹, being necessary, at the same time, to respect the values and principles, on the one hand, and on the other hand, to have a coherent and predictable legislative infrastructure, capable of representing the binder both between the state and the citizens, but also between the various authorities, in order to fulfill the specific duties given by law within its competence.

One of the central objectives of the European Union is the protection of children against all forms of violence, including domestic violence, meaning that at the Union level, in line with the provisions contained in international legal instruments, such as the United Nations Convention on the Rights of the Child, the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as other legally binding documents, the need to adopt regulations was felt to ensure increased protection for children who are victims of domestic violence.

The most recent European Union document in this regard is Commission Recommendation (EU) 2024/1238 of 23 April 2024, adopted as part of the Union's commitment to implement the 2021 Strategy on the Rights of the Child. This recommendation responds to the requests of the European Parliament, the Council and the Committee of the Regions to strengthen integrated national and transnational child protection systems, based on the conclusions of the consultations carried out through the Children's Participation Platform and the information provided by the Fundamental Rights Agency. The European Union's Human Rights Strategy underlines the particular importance it attaches to their respect, in which sense the Commission has undertaken to present an initiative to support, develop and strengthen integrated child protection systems, according to the 2021 European Parliament Resolution, which stipulated the need to develop integrated national and transnational systems, and in 2022, the Council encouraged Member States to adopt an integrated approach to child protection, and, on the other hand, the Committee of the Regions highlighted the role of local and regional authorities within these integrated systems.

The diversity of national child protection systems is due to specific needs, unique social, cultural and historical factors, as well as allocated resources. However, a common element is, for example, the insufficiency of policies for the prevention and early identification of cases of domestic

⁶¹See in this regard: Claudia Simona Timofte și Constantin Țoca, „Dezbaterea în România secolului XXI,” În *Spațiul administrativ în secolul XXI / Administrative Space in the 21st Century*, coord. Emil Bălan, Gabriela Varia, Marius Văcărelu, Dragoș Troanță (București: Wolters Kluwer, 2021), 282–90.

violence, which leads to many situations in which there is a lack of prompt support from the competent public administration authorities, while in many situations multidisciplinary approaches do not have the expected efficiency. Communication between institutions can certainly be improved and it is evident that much more complex and efficient child protection systems are required, in the context of a declared zero tolerance towards violence against children, and this requires political commitments and firm actions at international level, as well as the mobilization of all relevant actors throughout society, to combat all forms of violence, physical or mental, sexual, domestic violence, child marriages ⁶², etc. National child protection systems must be able to respond to the current context, which means that the involvement of local, regional and national authorities, private actors, institutions, bodies and agencies at the European Union level is necessary to ensure easy and equitable access to child protection services, even if there are different levels of competence within the sectors and obviously, each institution and entity has specific responsibilities.

One of the important tools for preventing domestic violence against children is the promotion of equality and inclusion, in this context it is essential to build integrated child protection systems that do not discriminate, always treat children equally, in accordance with the Commission's 5 strategies on equality ⁶³.

Any form of violence against children must be combated by appropriate, effective and proportionate measures within integrated child protection systems. In this regard, the best interests of the child must always be the primary consideration, which must first be recognised, then respected and protected, as the child is a person with rights and the right to protection is not negotiable. National, regional and local mechanisms must allow children to express their views freely on matters that directly concern them, taking into account, of course, their age and level of maturity. The involvement of children in child protection strategies, programmes and policies is considered by the Union to be beneficial and necessary, and it is therefore important for society as a whole to be made aware of the rights and needs of children and of the measures available. The public needs access to information, children, parents and caregivers of children, or other people who can help, also need support in understanding the importance of the phenomenon represented by domestic violence against children and regarding the mechanisms and steps that need to be adopted in such situations.

Coordination and cooperation of all relevant institutions and sectors at local, regional and national levels is also recommended. Member States need to establish mechanisms for reporting acts of violence and to make them known. 24-hour helplines are needed. An important aspect is the recommendation to clearly define the rules for reporting cases of violence against children, and when

⁶²See in this regard: High Time to End Violence against Children/Special Representative of the UN Secretary-General on Violence against Children.

⁶³See in this regard: Communication on the Gender Equality Strategy 2020-2025 [COM(2020) 152 final], Communication on the EU Strategic Framework on Roma Equality, Inclusion and Participation [COM(2020) 620 final], Council Recommendation on Roma Equality, Inclusion and Participation (OJ C 93, 19.3.2021), Communication on the LGBTIQ Equality Strategy 2020-2025 [COM(2020) 698 final], Strategy on the Rights of Persons with Disabilities [COM(2021) 101 final] and Communication on the EU Action Plan against Racism 2020-2025 [COM(2020) 565 final].

the holder of parental responsibility is involved or when there may be a conflict of interest between child victims and the holders of parental responsibility, it is emphasized that the best interests of the child must be taken into account.

Coordination with social services is clearly necessary to provide support to child victims and their families, and the importance of creating special early intervention programs for children who have committed or are at risk of committing crimes for reasons related to their family or life situation is emphasized. In cases where children are placed in alternative care, it is recommended that states take all possible measures to provide care in the family and in the community, respecting the best interests of the child, in accordance with the needs of each child. In this regard, there is a need to invest in quality services, including affordable housing, to support families facing special social situations, in order to prevent the separation of the child from the family, while also recommending the modification of national strategies and programs for institutionalization and the promotion of family care services as an alternative means of protection.

The implementation of this Recommendation at Member State level therefore aims to support them in developing and strengthening integrated child protection systems, adapted to individual needs and ensuring the effective implementation of EU and national legislation in the field, by providing a general framework that allows Member State governments to develop national plans against violence against children, to strengthen coordination structures and to improve data collection. A central element targeted is the emphasis placed on improving cooperation between sectors, education, health, justice, social assistance, migration, etc., from local to central level, insisting on the continuous professional training of specialized civil servants. This approach has, in the vision of the Recommendation, the role of ensuring rapid and well-coordinated responses in complex child protection situations by public administration. Moreover, coordinated measures are foreseen, covering both prevention and early identification and interdisciplinary intervention, specifying the importance of protecting children from physical, psychological, sexual or neglect violence, through interventions adapted to the national and individual context of each child. Emphasis is also placed on children's mental health, suggesting the development of national strategies for preventing and combating bullying, including cyberbullying. Recognizing the importance of an adequate response to online risks, it insists on promoting digital literacy for children and support for families and caregivers. Member States are encouraged to make the most of the tools available at European level, such as legislation, funding, policies, awareness-raising campaigns, training, exchange of good practices and monitoring mechanisms, and the Annex and the working document accompanying the Recommendation provide explicit details on these tools and how to use them. This initiative extends the ambition of the European Union beyond its borders, recommending the integration of child protection into foreign policy through strategies and actions on the fight against child labour, the protection of minors in armed conflicts and against climate

change or environmental risks. Through the Recommendation of 23 April 2024, the European Commission offers a systemic, child-centred model based on intersectoral cooperation, prevention and a comprehensive response to domestic violence, thus creating more effective strategies at the administration level, which better respond to the challenges, thus laying a solid foundation for the development of effective national child protection systems, with broad societal involvement and the coherent use of European Union mechanisms.

From the above it follows that the public administration has an essential role in ensuring the protection of children who are victims of domestic violence. Through its specialized institutions, the state has the responsibility to intervene promptly and efficiently to prevent, identify and manage situations of abuse, neglect, exploitation, etc. The analysis of the provisions of the legislation presented in the previous section attests to the fact that the protection of children who are victims of domestic violence requires a multidisciplinary approach and an active involvement of public administration bodies, which have the obligation to act promptly and professionally, in accordance with the best interests of the minor, the efficiency of the response depending on the capacity of the institutions to collaborate, on the available resources and on the will to involve and implement policies focused on the real needs of children who are victims of domestic violence.

At the national level, the legal provisions listed above establish a series of state authorities with competences in the field of study, such as the Public Social Assistance Service (SPAS), the police, certain ministries, the General Directorates of Social Assistance and Child Protection (DGASPC), but also the courts.

The magnitude of the phenomenon of domestic violence requires its analysis, from identifying the triggering factors to developing and implementing programs and procedures aimed at preventing domestic violence, protecting and assisting victims, and sanctioning aggressors, in a multilateral effort to stop this form of violence and restore victims' dignity and trust.

The State has a positive obligation to adopt instruments for the protection of children victims of domestic violence, and through its specialized bodies, to exercise effective protection for this category of victims. As shown in the doctrine, public administration is realized systemically, through bodies "with specific links between them, whose main task is to carry it out, as an activity of organization and concrete execution of the law"⁶⁴, through administrative activities, which are found in all state systems, which makes the scope of applicability of administrative activities exceed the scope of the executive⁶⁵. The content of public administration activities also includes provision activities, made available to the public in the form of public services, both in order to satisfy the needs of citizens, but also to ensure compliance with the rules established in legal regulations⁶⁶ and for the safety of the civil circuit.

⁶⁴See in this regard: : Emil Bălan, „Funcție de utilitate publică”, 120.

⁶⁵See in this regard: Bălan, „Funcție de utilitate publică, 120 120.

⁶⁶See in this regard: Bălan, „Funcție de utilitate publică”, 119.

The amendment to Law No. 217/2003 in 2018, which allowed police bodies to intervene through the provisional protection order, created an effective and rapid instrument, through which victims are separated from the aggressor, thus removing the state of danger. In addition to the provisional protection order, the courts have the power to issue the protection order, for a period of up to one year and within which, in addition to removing the state of danger by separating the aggressor from the victim, measures can be adopted that target the causes of the violent behavior, by requiring the aggressor to undergo treatment or counseling.

These two instruments – the protection order and the provisional protection order – have binding legal force, unlike the acts of other entities involved in this field and provide a rapid, prompt response to the felt need. Even if these instruments do not solve the problem identified, their intervention allows the victim to benefit from support, once her separation from the aggressor has occurred, thus breaking the cycle of domestic violence.

The main public administration structures responsible for implementing child protection policies are the General Directorates of Social Assistance and Child Protection, subordinated to the county councils or sectors of the Bucharest municipality, or the Public Social Assistance Services, subordinated to the local public administration authorities, which have competence in terms of intervention services, psychological counseling, placement and monitoring of the situation of children in situations of vulnerability or risk. Regarding the instruments made available to these entities responsible for protecting victims of domestic violence, we note that they have the competence to adopt certain measures, with a low degree of protection and without legal force. From the perspective of this research, it is noted that the steps taken by these public administration authorities do not have the power to guarantee protection to victims, their involvement being, in our opinion, to deter the aggressor, given the limitations presented.

Real protection is, however, offered by the police, in the exercise of their duties to enforce the protection order issued by the court, especially in the event that the aggressor is required to wear electronic tracking devices or control measures permitted by the legal text.

5.3 Chapter III Protection of minors in the relationship with the aggressor parent

The research undertaken targeted those situations in which the typology of domestic violence was detected or is an incident, but not detected, with a reduced but existing degree of danger, which requires the establishment of temporary protection measures for child victims of domestic violence, namely those measures that are limited to situations that occur in cases of parental separation and in which domestic violence against minors is claimed, both indirectly and directly.

In these situations, the courts are faced with exceptional circumstances, in which they must analyze the specifics of each case. For all the decisions it will take regarding the minor, namely the establishment of his/her residence, parental authority and the right to maintain personal ties with the non-resident parent, the court has certain criteria at its disposal, which are analyzed in detail in the

work, in accordance with the jurisprudence of the European Court of Justice and the international documents to which Romania is a party.

In each case, following the analysis of the stated criteria, the court will issue a decision, respecting the best interests of the child.

This chapter analyzed case studies that focused on how court decisions regarding minors were enforced, in cases where acts of domestic violence against the child were detected .

Thus, in one case, noting the existence of a violent incident present in the presence and in relation to the child, the court considers that the mother demonstrated non-compliant behavior ⁶⁷, which is why, although it did not prohibit her contact with the child, it limited them to 4 days a month, one weekend every two weeks, with hosting and daily telephone calls or through platforms that allow this type of communication, considering also the girl's age of 3 and a half that such a program has the potential to maintain the emotional bond and family climate of the mother with the minor. The court that ruled in the enforcement procedure, by requiring psychological counseling, had as evidence for the decision both the report drawn up by the bailiff, and the reports drawn up by the DGASPC, the monitoring service and the Intervention Service in Situations of Abuse, Neglect, Trafficking, Migration and Repatriation, which both attested to abnormal behavior of the minor towards the mother, but also the fact that the father had fully fulfilled his obligations, not to oppose the implementation of the personal contact program and to make every effort to ensure that the program was carried out, the report drawn up by the Intervention Service in Situations of Abuse, Neglect, Trafficking, Migration and Repatriation expressly showing that they had not identified any indications of parental alienation/parental alienation of the child by the father . Under these conditions, the court legally ordered the minor to undergo psychological counseling, as it was in her interest that the relationship with her mother could be resumed, this being the criterion according to which the court can resolve a request at this procedural stage, based on the provisions of art. 913 of the Civil Procedure Code.

Regarding the involvement of the public administration through DGASPC, it results that it was actively involved, in order to carry out the personal contact program of the minor PCA with her mother, UHM, as established by the Court's decision.

Thus, the DGASPC ordered the monitoring procedure, according to the provisions of art. 18 of Law 272/2004, when it was notified by the mother that she could not have personal contact with the minor, it presented itself in the team together with the mother, on the days when the child was to be picked up, held discussions with all parties involved and tried to determine the minor to accept contact with her mother. Moreover, it requested the Intervention Service in Situations of Abuse, Neglect, Trafficking, Migration and Repatriation to verify whether there were indications that the

⁶⁷See in this regard: ECtHR: Case Petrov and X v. Russia - [23608/16](https://hudoc.echr.coe.int/#%22itemid%22:%22001-187196%22) , judgment of 2018, <https://hudoc.echr.coe.int/#%22itemid%22:%22001-187196%22> }.

minor had been subjected to acts of domestic violence by the father or paternal grandmother, in the form of psychological or other violence and which resulted in the minor's vehement refusal to interact with her mother, an intervention resulting in a report drawn up by this service.

Following the psychological counseling procedure ordered by the court, the psychologist designated within the DGASPC requests, as we have shown, again the specialized opinion of the Intervention Service in Situations of Abuse, Neglect, Trafficking, Migration and Repatriation, which again carries out checks and draws up a report, the conclusions of which are corroborated with the report drawn up by the psychologist upon completion of the psychological counseling procedure.

From all these steps taken by the DGASPC, it results that the public administration, through the authorized body, has made every effort to carry out the court decision, as required by the legal requirements. Therefore, from this point of view, the administration's objective of organizing the execution has been achieved.

However, the case analysis identified some problems that remained unresolved.

The special procedure established by the Code of Civil Procedure shows that, upon completion of the psychological counseling report, it is communicated to the court and the bailiff.

From a procedural point of view, the bailiff, upon receiving the report, will resume the forced execution, issuing a new summons, setting the date, time and place at which the mother will appear to begin the personal contact program, as provided for in the enforceable title represented by the court decision, and if the child's refusal is again found, he may request the court to apply penalties per day of delay.

Therefore, from the bailiff's point of view, the psychological counseling report is only a document attesting to the completion of a procedure expressly established by the legal provision, without having any other role in the enforcement procedure. The bailiff has no jurisdiction, according to the applicable norm, over the conclusions of the respective psychological counseling report, from a procedural point of view, this representing, as we have shown, only a procedural stage that must be carried out in the enforcement procedure, if the minor's firm refusal to have personal ties with his/her parent is established.

The second authority to which the psychological counseling report carried out according to this procedure is communicated is the court, according to art. 913, paragraph 3 of the Code of Civil Procedure.

However, the indicated legal text does not further specify what the court should do or what legal steps should be followed in this situation. According to the express provisions of art. 492 C. pr. Civ., once the court issues a decision, it is disinvested, meaning that from that moment it is no longer competent, according to the law, to take any measure with regard to the respective file in which it issued a decision. From a procedural and court point of view, it is disinvested at the time it issued the

decision by which it obliged the minor to carry out the counseling program, so that, upon receipt of the report, it appears as disinvested.

Moreover, the report drawn up according to the special procedure established by art. 913 of the Civil Procedure Code requires the authority to, upon completion, send it to the court, without indicating how or in what form it is transmitted. In general, as in the case under study, the respective report is transmitted as a document to the file in which the decision to oblige the minor to psychological counseling was pronounced, but there is no procedural provision in this regard in the Code of Civil Procedure, the norm that establishes this obligation, in the responsibility of the authority. From the fact that it ends up being transmitted to the court after its disinvestment, as a result of the pronouncement of the decision, this report does not even have the legal nature of a means of evidence, as the counseling reports made by the DGASPC ex officio or at the request of an interested party may have, although in this regard too, the legal opinion is not unanimous.

Corroborating the above, it results that, regardless of the manner in which the authority transmits the report to the court, the latter is disinvested with regard to the respective litigious situation, so that it will neither be able to analyze nor take any action, with respect to the conclusions formulated by the designated psychologist. The respective report does not represent a court document, but only proof of the enforcement of the decision by which the child was obliged to undergo psychological counseling, this document entering the court's premises through a forwarding address and not as a result of a request following which the court should adopt any solution.

The text of the Code of Civil Procedure was adopted by the legislator before the introduction of *parental alienation* as a form of domestic violence into national legislation and, in view of the constant jurisprudence of the Strasbourg Court ⁶⁸, which found that states had not fulfilled their positive obligation of diligence to take all measures so that the resident parent does not intervene in the conduct of personal relations between the non-resident parent and the child, it provided, within the special procedure regulating the execution of enforceable titles regarding children, this procedure of psychological counseling of the child, through which it is intended to resume, through the intervention of a psychologist, the personal relations program established by the court or in other cases ⁶⁹.

The text was not modified after the adoption of the amendments to Law 272/2004 and the introduction of parental alienation as a form of psychological violence against the child, so we continue to believe that the legislator's vision when adopting the analyzed text was to thwart the

⁶⁸See in this regard: ECtHR: Case RI and Others v. Romania, published in the Official Gazette no. 577 of 15 July 2019, Case [Andělová v. Czech Republic](#) - no. 995/06, judgment of 2008, Case [Elsholz v. Germany](#) - No. [25735/94](#), judgment of 2000, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-58763%22%7D>, among others.

⁶⁹The measures taken regarding minor children, through the notarial deed ordering the dissolution of the marriage between the parents.

practices of parental alienation ⁷⁰, but it must be mentioned that the current regulation of the Civil Procedure Code establishes an imperfect procedure, through which, in certain situations, such as the analyzed case, no finality is reached, following the approach taken.

Therefore, the factual situation is not resolved, although all the steps established by the legislation in force have been taken, with the involvement of both the court, the bailiff, and the competent public administration bodies.

Another case analyzed highlighted the fact that the premise situation also did not find a solution, the court decisions pronounced were not enforced, the fault for non-enforcement was not the debtor parent, other being the causes for which the minor's vehement refusal was found. And no measures were taken, within the procedures shown, with respect to the minor and for the treatment of the trauma or traumas that were the basis for the refusal.

Analyzing the cases from the perspective of the principle of legal certainty, it is found that, although with incidence in cases regarding domestic violence against minors, the national legislation appears even excessive, as we have shown, being reinforced by the case law provisions that we have discussed, this principle is not respected, there being no normative provision capable of resolving situations such as those exposed in the case studies presented.

As the case studies show, all activities and procedures permitted by law were exhausted within the same judicial procedure - the enforcement of enforceable titles regarding minors, but despite the involvement of public administration authorities, the bailiff and the court, the state of affairs remained unchanged. Without referring to the aspects related to the failure to comply with a court decision, which translates into a failure to comply with the state's obligation to assume the positive obligations derived from the Convention, according to the case law of the ECtHR, in light of the object of the present research - guaranteeing the protection of child victims of domestic violence, we consider that this obligation was not respected either.

We do not believe that the solution of obliging the resident parent to pay penalties per day of delay, because the personal contact program cannot be carried out with the child, due to the latter's refusal, is viable either. On the contrary, this legislative provision has the potential to generate other disputes, but also raises issues related to equity. It is true that, as regards the correlative obligation of the right to have personal contact with the minor, this does not fall on the minor, but on the resident parent and manifests itself in the form of a positive obligation to allow the carrying out of said personal contact or in the form of a negative obligation not to take any action that would prevent the carrying out of personal contact with the minor. However, as follows from the legal provision, the only satisfaction that the creditor parent has of the right to have personal ties with the minor following the special procedure regarding enforceable titles regarding minors is to benefit from

⁷⁰ See in this regard Evelina Oprina și Ioan Gârbuleț, *Tratat teoretic și practic de executare silită*, vol. I, *Teoria generală și procedurile execuționale* (București: Editura Universul Juridic), 926 and the opinion expressed in the Romanian Report submitted to GREVIO, previously cited.

monetary compensation, the legal nature of which is not that of a penalty, as the court correctly found, in the case analyzed, but of a guarantee, with a view to forced execution.

Except for the fact that this solution does not solve in any way the existing problem and which, obviously, from our point of view, is related to the reason why the minor vehemently refuses personal ties with the non-resident parent ⁷¹, the legal measure ordered by the Code of Civil Procedure may even generate behaviors that contradict the provisions of art. 911, paragraph 4, which states that *no person is allowed to harass the minor or exert pressure on him to carry out the execution*, because the resident parent, put in the situation of paying sums of money *sine die*, may end up exerting pressure on the minor, thus violating the law.

Regarding these aspects, it is worth emphasizing that over time, two exceptions of unconstitutionality have been raised against art. 913 of the Civil Procedure Code, both of which were rejected ⁷², and currently there is a proposal for amendment registered on the Parliament's agenda ⁷³, which is under debate in the Chamber, but we cannot give an opinion until the legislator expresses himself, but this existing situation confirms the conclusions regarding the non-compliance with the principle of legal certainty, as we have shown.

Analyzing the behavior of the public administration, through its bodies (DGASPC), it results that they fulfilled their duties of enforcing the regulation, carrying out all the steps and procedures that they had at their disposal in the given situations, but they failed in their obligation to guarantee the protection of the victims. In this regard, we believe that the respective entities belonging to the public administration did not respect their obligations to take steps to guarantee adequate protection for the children found in the situations resulting from the case studies. These authorities, by virtue of the proactive role that the public administration has in relation to citizens, should have used the instruments made available by Law no. 272/2004 and requested the court, within a parallel procedure, to adopt measures to guarantee the protection of victims of domestic violence, not to limit themselves to executing the steps that the civil procedure provides for, in cases of forced execution.

From this point of view, we consider that the public administration was unable to achieve its objective of guaranteeing protection, through the passivity it demonstrated.

⁷¹In this regard, the opinion expressed by the Constitutional Court in Decision No. 18 of January 15, 2019 regarding the exception of unconstitutionality of the provisions of art. 913 of the Code of Civil Procedure, which, in paragraph 24, states that " *however, the child cannot be forced to have personal relations with the divorced parent, which is precisely why it is necessary to undergo a stage of psychological counseling through which the child's real option is clearly revealed. In the Judgment of 8 July 2003, delivered in the Case of S. v. Germany, it was held that a 13-year-old minor of the applicant had expressed a clear desire not to see him, a desire that he had maintained for several years. The national courts considered that forcing the minor to see the applicant could seriously affect his emotional and psychological balance. The Strasbourg Court accepted that the decision-making process sufficiently protected the applicant's interests* ".

⁷²See in this regard: Constitutional Court of Romania, Decision no. 710 of 9 November 2017 on the exception of unconstitutionality of the provisions of art. 913 of the Code of Civil Procedure, published in the Official Gazette of Romania, Part I, Part I, no. 278 of 29 March 2018 and Constitutional Court of Romania, Decision no. 18 of 15 January 2019 on the exception of unconstitutionality of the provisions of art. 913 of the Code of Civil Procedure, published in the Official Gazette of Romania, Part I, Part I, no. 685 of 20 August 2019.

⁷³See in this regard: Senate of Romania, "List of Legislation", code 22330, accessed on July 23, 2025, <https://www.senat.ro/Legis/Lista.aspx?cod=22330>.

From the point of view of the state's obligation to guarantee protection for child victims of domestic violence, the presented case studies show a failure to comply with the principle of legal certainty, which leads to the impossibility for minor victims of domestic violence to benefit from the protection recognized by law.

All the steps that the forced execution procedure involves, analyzed from the perspective of the best interests of minors, only traumatize the child, who is forced to go through stressful situations - police, bailiff, monitoring, etc., which are likely to deepen the trauma and perpetuate the state of tension. The psychological counseling procedure, as it is understood in the context presented, has the role not of guaranteeing protection for the child, but of facilitating, through persuasive methods applied by the designated psychologist, compliance with the court decision, that is, the resumption of ties between the child and the parent who caused the trauma. Counseling is not therapy, but a procedure that aims at relational mediation. Such a situation completely contradicts the superior principle of the minor and, at the same time, not only does the child lack protection, but it also has the role of, by going through it, taking all due care so that the child consents to resuming ties with the aggressor parent.

Regarding the conclusions of the reports prepared by psychologists assigned to carry out the counseling procedure, they detected types of violence by the non-resident parent, which produced a series of traumas for the children, traumas that generated the vehement refusal to interact with the respective parent. However, in order to be able to analyze the respective conclusions and to ascertain domestic violence, another litigious approach is necessary, which may involve, along with the time-consuming procedures inherent in such cases, and subjecting the minors to additional traumas, by forcing them to undergo other expert examinations, with the consequence of delaying the adoption of adequate protection measures, by changing the way of establishing ties with the aggressor parent, post-traumatic therapy or of another nature.

Therefore, we believe that, in these situations, a paradigm shift is required, so that the emphasis of both judicial and especially administrative actions is centered on the child, not on requirements to comply with a court decision.

In another case, by the judgment rendered and in compliance with the superior principle of the child and the provisions of Law no. 272/2004, the court instituted a child protection measure, valid for the entire duration of personal contact with the aggressor parent, of a nature to thwart any type of domestic violence against the child, through the presence of representatives of the competent authority. The authority responsible for guaranteeing the protection established by the court was SPAS Ploiești, a local public administration entity within the Ploiești Municipality.

Verifying through the prism of the mandatory provisions that this authority has, in order to organize the execution and concrete enforcement of the law, it results that it failed in its mission,

namely it could not guarantee the protection established by the court decision pronounced by the District Court of Bucharest, Sector 2.

Regarding the activity of enforcing the norm, the public administration entity was obliged, through the internal management system, to ensure that it was able to provide the services assigned to it by virtue of the legal provisions, and according to the stated principles according to which public administration operates, the authority's response must be prompt and able to satisfy the needs of society.

From the case study presented, it results that the public administration entity demonstrated poor management, which had the effect of depriving the minor victim of domestic violence of the protection established by the court decision.

The reasons invoked by SPAS Ploiești regarding the understaffing of specialized personnel, which did not allow the designation of a monitoring team for the personal contact program, as ordered by the court, or the lack of planning in its own budget of amounts intended for the management of situations such as the one shown in the case study, relate to the way in which the public administration entity manages its resources, which is a component of its organizational structure. In this situation, in our opinion, the blame for the failure to comply with the court decision lies with the public administration, through its subordinate entity, with the direct consequence of the impossibility of guaranteeing protection to the minor victim of domestic violence.

Studying the case from the perspective of the father's refusal to cooperate with the representatives of SPAS Ploiești, his interest must be analyzed. The father, proven to be an aggressor, according to the court's conclusions, had every reason not to want the interference of the authorities' representatives during the personal contact program, so his actions were limited only to ensuring that he would be able to take the child from the mother. From this perspective, the father's actions at SPAS Ploiești are justified in order to ensure the presence of its representatives at the time of taking the child, without worrying about what happens after that, his goal having been achieved. It was the father who requested the presence of police officers each time, when the mother refused to allow the minor to be taken over in the absence of SPAS Ploiești representatives and he did not have any objections to their absence when the child was returned to the mother's home, nor did he deny that he had refused them access to him in the house during the period of hosting.

From this point of view and in conjunction with the provisions of the criminal law regarding the inviolability of the domicile, we believe that the authority cannot be held at fault for the impossibility of carrying out the monitoring procedure. But only on these aspects.

Analyzing the given situation from the perspective of the minor's best interest, it emerges that, although she benefited from a protection measure, through the monitoring procedure, established by the court decision, this could not be guaranteed to her, both due to the fault of the authority which, due to the poor management shown, was unable to execute the given decision, thus

failing to fulfill its obligations established in its charge, and due to the court's failure to oblige the father to take all steps to allow the representatives of SPAS Ploiești to carry out the monitoring, in order to guarantee, in this way, the protection of the minor.

It follows from the above that, as far as the public administration is concerned, it failed to respect the principle of responsibility, so that it was unable to provide protection to the victim of domestic violence, due to inefficient management of resources, the consequence of this conduct of the authority being the continued exposure of the minor to the types of psychological and social violence practiced by the father against her, as a result of the impossibility of guaranteeing protection, established through the monitoring measure, by the court.

By comparatively analyzing the case studies, from the point of view of institutional management, it emerges that there are problems at the level of these entities related to an undersizing of qualified human resources, but also from a financial point of view, likely to negatively influence the operability of the public administration's activity, in terms of guaranteeing the protection granted to victims, in situations such as those presented.

As we have shown, by virtue of the principle of decentralization, local communities benefit from a certain degree of independence in managing certain activities related to administration, including ensuring the provision of the necessary regulations and adequate public services in terms of guaranteeing protection for minors who are victims of domestic violence. From the comparative analysis of the case studies presented, it is observed that there is a differentiation in the behavior of each entity with responsibilities in the field that is the subject of this approach, which is noticeable both in terms of the way in which each case is approached, but also in terms of the types of response provided, which may reside in the fact that each of the entities with responsibilities in the case studies presented were subordinated to distinct local public authorities.

From the research carried out, both through direct observation and seeing the constant practice of the Strasbourg Court, as results from the cases cited in the work, situations such as those presented in the case studies reported have a frequent incidence, especially in rural areas, where, in the administrative apparatus there are only one or two people with specific social assistance responsibilities, but also in large cities and even at the level of the DGASPCs in Bucharest, where all these institutions operate according to a strict weekly schedule for all employees, and financial resources are insufficient. Even those employees who have field work in their job description, this is carried out during the institution's working hours, after the end of those hours, the employee no longer being able to be determined by the institution's management to carry out activities specific to the job description, due to the requirements on the one hand, of labor legislation and on the other hand, of the non-counting and non-remuneration of overtime worked by the respective employees.

In such cases, such as those presented, when the factual situation requires the presence of representatives of the SPAS or DGASPC, in a multidisciplinary team, with the participation of the

psychologist, and this team does not show up, the legitimate question arises: are *the rights of the minor child still defended by the state, through its authorized bodies?* The answer to this question is obviously negative, the refusal of the authority, through its representatives or its non-involvement, obviously leading to a lack of protection of the victim by the authority.

Even if, from a legal point of view, adequate instruments have been established to protect the rights of minor victims of domestic violence, the way these instruments are used is flawed.

The problem of the lack of personnel currently facing the social protection system, as well as the limited nature of the budget allocated to these types of services, represents a managerial problem that, from a practical point of view and for the present research, is of vital importance, since both the lack of personnel and the non-remuneration of overtime hours worked are elements that lead to a lack of efficiency in terms of protecting minor victims of domestic violence on the part of the entities authorized to provide the respective protection. The lack of protection granted to minor victims, in the circumstances of the case studies presented with regard to the second component of the research, allows the aggressor parent to continue aggressive behavior towards his minor child, a situation that has the potential to generate, in the long term, damage to the child's protected values, and may even endanger his life, through acts of violence directly exercised against him.

Without specifically indicating them, some of the entities subject to the study showed involvement and a proactive attitude, having an approach centered on the child and his/her needs and not only in relation to the ongoing procedure, while, at the diametrically opposite pole, there is an entity that showed minimal involvement and chose to divest and no longer get involved. At the same time, also regarding the management of the cases presented, it is noted that, at the level of certain entities, there are some deficiencies related to the management of resources, with major influences on the way in which the respective entities fulfill their obligations established by law or as a result of a court decision.

This situation means that, in terms of predictability and quality, the response of the public administration to guarantee the protection of minors who are victims of domestic violence is neither uniform nor balanced. As we have mentioned, according to the principle of legality, there can be no administrative activity outside the legislative framework, on the one hand, and on the other hand, by virtue of the principle of equality of all before the administration, any citizen must benefit, in the rule of law, from fair treatment, through actions carried out promptly and according to pre-established rules and procedures⁷⁴. Trust in the efficiency and effectiveness of public administration is also built through the responsibility with which specific duties are carried out, more precisely, through the compliance of the behavior of public officials with existing regulations and ethical principles.

In this context, a differentiation of treatment applied in the cases of domestic violence under study is noted, with public administration representatives showing a different degree of involvement

⁷⁴See in this regard: Bălan, *Instituții administrative*, 17-30.

and professionalism. From this point of view, we consider that the autonomy enjoyed by all these entities, each of which is subordinated to a different Administrative-Territorial Unit (ATU), contravenes the principles stated above, and with regard to the object of the research, fails to guarantee protection for child victims of domestic violence.

From the point of view of the powers that all these entities have, according to Law no. 272/2004, the analysis carried out shows that, in terms of the effective protection offered, this cannot be withheld. As we have shown, in the situations that fall within the analyzed situations, the protection measures that the DGASPC or SPAS entities can adopt are not mandatory, but represent a guarantee of children's rights through the presence of the authority's representative in the monitoring procedure and the psychologist's interventions within the counseling procedure.

Regarding the positive obligation of the authorities to take all necessary measures to respect the guaranteed rights, respecting the best interests of the minor, but also the balance that must exist in situations where there is a conflict between the latter and the rights of one of the parents, the analysis of the cases studied shows that, although the respective obligations, according to the ECtHR jurisprudence, are of diligence and not of result, they have not been respected. Without going into legal details, from the perspective of the rights protected by the European Convention on Human Rights and expressed in the texts of the UN Convention on the Rights of the Child, we are of the opinion that with regard to guaranteeing the protection of victims of domestic violence, these obligations of the national authorities have not been respected, the means adopted being ineffective. Moreover, as results from the analysis carried out, the means adopted by the national authorities involved a series of procedures, which were time-consuming and resource-consuming, without, from the perspective of the protected rights of the child victim, any result being foreseen after completing them.

In relation to these conclusions, in relation to the established research hypotheses, we consider that they are validated, in the sense that the state does not offer adequate protection in situations in which the child maintains personal ties with the aggressive parent, and the instruments made available to its bodies are not sufficient to be effective. At the same time, it emerges that neither the jurisdictional power can, by itself, offer an effective means of protection in situations in which the child maintains personal ties with the aggressive parent, nor does the public administration, through its bodies and in executing the provisions of the judiciary, offer an effective means of protection in situations in which the child has maintained a program of personal ties with the aggressive parent, even if, in the exercise of its specific attributions, it can guarantee limited protection to the minor victim, under the conditions shown, a situation in which the established secondary research hypotheses are also validated.

As it results from the above, domestic violence is a social problem that transcends cultural, economic or geographical borders and is understood, in a broad sense, as the type of behavior

exercised by one partner in an intimate relationship to obtain or maintain control over the other. As it results from Recommendation 1238/2024, it is necessary for national authorities to emphasize the clear definition of the rules aimed at reporting cases of violence against children and the way to resolve them, while also insisting on the need for the general public to have access to clear and complete information in order to understand the importance of the phenomenon represented by domestic violence against children and on the mechanisms and steps that need to be adopted in such situations.

In accordance with the Commission's recommendations, as part of the research effort, to validate the hypotheses, comparative analyses of statistical data made available, transparently and free of charge, by the Prosecutor's Office attached to the High Court of Cassation and Justice and by the National Institute of Statistics were also carried out.

Without claiming to be a sociological research, due to the lack of specialized training in this field, the analysis carried out on the statistical information provides the researcher with indications on the directions of the approach taken, regarding the management component by the authorities involved of the details that concern the research object. Thus, the purpose for which the comparative analysis was carried out was to conclude, within the limits shown, the measurement of both the response provided by the competent authorities, but also regarding the degree of perception and information of citizens, regarding the issue that interests us, in accordance with the general directions contained in Commission Recommendation 1238/2024.

In this regard, only data available in a transparent system and without the involvement of specific costs or research activities were used in the research. At the same time, in order to meet the objective of measuring the degree of information and perception, an online questionnaire was also conducted, the combined results of all the information collected being analyzed in the work.

Regarding the statistical data subject to analysis, they were selected from the website of the Prosecutor's Office attached to the High Court of Cassation and Justice, choosing the statistics on victims of domestic violence for the years 2022, 2023 and 2024, as shown in Fig. 2 - 4, as well as the data provided by Romania in the Report for GREVIO, and regarding the work carried out by the National Institute of Statistics, the information obtained by querying the database made available by this institution was used, according to certain indicators, which we will detail at the time of the analysis. From a procedural point of view, we faced limitations, which were due to the impossibility of accessing statistics produced by the National Institute of Statistics for the years 2024 and 2025, because the last update of the digital platform was made on 09.09.2024, so the information obtained for comparison, in this case, is valid only until 2023.

6. Research conclusions

The analyses carried out in this chapter have highlighted, on the one hand, the criteria against which risk assessments must be carried out, in situations where types of domestic violence are identified and the measures that are required, respecting the best interests of the child, by referring to both the applicable legal provisions and in accordance with the ECtHR jurisprudence. On the other hand, the way in which the protection measures adopted for child victims of domestic violence are found in practice was analyzed, through case studies, the situation that emerges being in the sense that, from the point of view of victim protection, this has not been achieved, either due to circumstances related to a lack of harmonization of the existing norm, or to a faulty management of the competent public administration entities, corroborated with a passivity in terms of identifying optimal solutions in order to guarantee the necessary protection for the respective victims of domestic violence, as I have detailed in the conclusions of the analysis of each case in particular, but also comparatively for all the cases subject to this study.

Regarding the second dimension of the research undertaken, which aimed to capture the way in which data is communicated regarding the incidence of the phenomenon of domestic violence against children and the degree of citizens' perception of it, from the analysis of the data collected in a transparent manner, a clear and comprehensive picture could not be drawn, the only pertinent conclusion being in terms of the existence of the phenomenon, its fluctuating dynamics and the relatively large number of registered cases.

To determine the population's perception of the phenomenon studied, a questionnaire was applied, the analysis of the responses outlining a relatively high level of knowledge about what domestic violence against children represents and involves, but also a low level of trust in the capacity of the authorities regarding the field studied.

Corroborating the results of the questionnaire conducted, with the statistical data analysis presented in the previous sections and for the purpose of the research undertaken, the following conclusions are drawn:

- the existence of a relatively small number of cases of domestic violence that end up being analyzed by the competent authorities;
- of all victims of domestic violence, a significant percentage are children;
- there are no punctual, transparent and free statistical data that would provide a clear picture of the phenomenon studied;
- there is no database, transparent and free of charge, that reflects institutional cooperation nor the degree of resolution of cases brought to the attention of the authorities;
- the population's awareness of the seriousness of the phenomenon is high, but there is a reluctance on the part of the victims to commit to combating the phenomenon;

- a high incidence of domestic violence of the psychological and physical types is noted, compared to other types of violence relevant to the present study;
- the degree of perception of the population regarding the speed of reaction in the immediate intervention of the competent authorities is high;
- the degree of perception regarding the effectiveness of the aid offered by the competent authorities is low;
- trust in the ability of the state, through its bodies, to provide adequate protection to child victims of domestic violence is also low;
- there is an inefficiency of effective protection measures, which results from the low degree of trust of the population, but also from the analysis of statistical data regarding the services provided by administrative authorities.

Comparing both the results obtained from the analysis of the case studies with the results regarding the analysis of statistical data and the degree of perception, the conclusion is drawn that in certain cases, which are not related to situations of domestic violence that fall under the incidence of criminal legislation and are not subject to special protection measures, it was not possible to guarantee protection for the minor victim of domestic violence. Cases such as those that were the subject of the analyzed case studies could not be identified in the statistical information transmitted by the authorities, in a transparency system, so that a coherent link could not be established for the research approach. In the absence of the impossibility of correlating the results of the analysis with the statistical data published by the authorities, we cannot establish a causal link with regard to the responses to the questionnaire carried out, so the results will be interpreted independently, as we have shown.

In conclusion, a dysfunctional picture emerges of the relations between national authorities with competences in guaranteeing the protection of child victims of domestic violence, with direct consequences on them, either through the child's continued exposure to violence, or through the failure to take timely measures to counteract the negative effects felt by the minor as a result of the domestic violence exercised against them.

The same violent tendencies are manifested within the family, as at a general social level. This phenomenon is perfectly understandable, considering that the family is the basic cell of society. Therefore, a society founded on force and violence manifests itself as such in all aspects, including family life. It represents one of the explanations for the widespread phenomenon of domestic violence on a universal scale, namely that violent manifestation directed by the aggressor against one or more members of one's own family. Domestic violence against children, as a phenomenon, represents an important problem at the state level, with a varied typology and a diversity of manifestations, the implications of which are profound. Child victims of domestic violence may develop, as a traumatic response, certain deviant behaviors. If they are of a medical nature, they

confer on this phenomenon the status of a public health problem. From a legislative point of view, Romania benefits from a multitude of normative acts, which are related to the issue under study. Several public administration institutions have been created that have responsibilities in preventing and combating the phenomenon of domestic violence. In practice, inter-institutional cooperation is not fully achieved. The case studies presented in the thesis demonstrate that due to poor management of some institutions or due to regulations not adapted to the new realities, it is not always possible to provide the child victim of domestic violence with adequate protection, according to his or her needs.

The complexity of the phenomenon means that it is not studied in depth. Domestic violence situations are largely due to the psychological constitution of the aggressor and/or the victim. The response to trauma differs depending on each victim, and the individual's psychological life is the field of study of psychology. At the same time, the extreme effects of trauma resulting from domestic violence can generate diseases, the object of study of medicine, while cases with a high social danger fall under the scope of criminal law. The involvement of public administration, through actions, programs and activities related to prevention, on the one hand, and the adoption of protective and intervention measures, in specific cases, on the other hand, belong to the field of administrative sciences. The social implications of this phenomenon belong to the field of sociology. Interdisciplinary collaboration between all these sciences also encounters difficulties because the phenomenon of domestic violence against children is deeply rooted in society, in mentality and in everyday life.

The immediate reaction of the authorities is seen through the specific instruments used. We refer to the provisional protection order, an administrative act of an individual nature that the police authorities can issue in an emergency, and to the protection order, a judicial act, that the court issues. The latter is enforced by the police authorities and/or other structures within the public administration, as the case may be. Both instruments are intended to, in an emergency, order measures to remove the state of danger, by temporarily separating the victim from the aggressor. However, immediate and emergency intervention under the effect of these instruments only offers temporary and apparent protection to the victims, without going into the depth of the phenomenon and without having any influence on the reasons that generated it. Treating the effects will not lead to the non-existence of the cause, and in the absence of adapted instruments, designed to target and defuse the conflict situation, it will only perpetuate both the phenomenon and the state of uncertainty regarding it.

As the research undertaken shows, we believe that both the primary and secondary normative basis should be synthesized and adapted. The case studies presented attest to the non-adaptation of the means adopted by the national authorities, in order to fulfill the positive obligations arising from the international legal instruments to which Romania is a party, a situation that translates into practical expression through the lack of efficiency of an entire procedural chain, in which several

state authorities are involved, but without any positive final result in terms of guaranteeing the necessary protection for the child victim of domestic violence, who, at a theoretical and normative level, is recognized by all the national and international regulations indicated in the content of this paper.

The cases presented are not isolated, as is evident from the analyzed and cited ECtHR jurisprudence, through which Romania was sanctioned, so that, at the perception level, the population feels a low level of trust in the state's ability to provide adequate protection to minor victims of domestic violence.

7. Proposals and recommendations

De lege ferenda, the research undertaken highlights the need for change, both in terms of public administration, by implementing more efficient management models, in terms of the flexibility of the work schedule of representatives of entities with responsibilities in providing protection to children victims of domestic violence, in allocating additional funds to these entities, so that there is no risk of not being able to execute a court decision due to the lack of financial resources necessary for field trips, but also in terms of harmonizing and making regulatory norms coherent, so that the purpose of a procedure is achieved upon completion of the respective procedure, without requiring additional steps to provide protection to child victims. This can be achieved either by granting additional powers to public administration entities, so that the authority's response is prompt and adequate, or by adopting special procedures, which, in a short time, are able to provide the necessary protection to each child victim of domestic violence, depending on the perceived need.

We believe that the proposals made in the thesis are, in our opinion, pertinent, given the perceived dynamics of domestic violence and the increasing incidence of children falling victim to this phenomenon.

The research conducted focused on analyzing the issues raised by domestic violence against children, and the research results allow for generalization, thus validating the conclusions regarding how the state, its authorities and the adopted regulations manage this type of domestic violence.

We believe that the answer to both research questions set is partially negative, with neither the state nor the public administration being able to guarantee real and effective protection in all cases where children are victims of domestic violence and who maintain personal relationships with the aggressive parent.

As for the limitations of the research undertaken, these were largely due to the lack of transparency of the authorities regarding the obligation to report and provide information on the phenomenon of domestic violence against children, both in terms of the number of cases and the way in which they are resolved. The data that exist in a transparent regime do not allow their correlation, so that it makes impossible any attempt to outline an overall picture of the phenomenon under study. At the same time, during the process, it was felt that there is an insufficiently clarified doctrine at the

national level. Even if aspects regarding forced execution, the principle of the best interests of the minor or the powers of the public administration in cases concerning minors who are victims of domestic violence have been treated over time in the specialized literature, this treatment was carried out punctually or sectorally, strictly on the issues of the respective field in which that approach was carried out. These aspects, related to the way of correlating the information provided by the doctrine, imposed the need to use, within the research, the relevant data available in foreign literature and the analysis and interpretation of the case law of the European Court of Human Rights.

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