

**Mapping the legislation and assessing the  
impact of Protection Orders in the European  
Member States (POEMS)**

**National report Greece**

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# 1. General overview of the assignment for the national experts

## 1.1. Main objective

Victims of crimes that are characterized by their repetitive nature, such as stalking and intimate partner violence (IPV), show an additional need for protection against recidivism by their offender in comparison to other victims. But also victims of instantaneous crimes (e.g., rape victims) may require extra protection, or perhaps simply wish to keep confrontations with their offender to an absolute minimum. Criminal, civil and administrative protection orders may provide such protection. The problem is that, so far there is no clear view of how victim protection is constructed within the EU Member States. The European Member States seem to harbour a plethora of protection order schemes, but they have never been the subject of a comprehensive study.

Another feature of protection order schemes in Europe which has largely remained in the dark is how these protection orders function in practice. Even though protection orders have been in existence for quite some time now, and even though some of them are imposed on a regular basis, their effectiveness is contested and discussions on the application procedure for protection orders are dominated by assumptions and hypotheses instead of actual data.

Recently, the attention for protection orders in the European Member States has been given a new impetus thanks to the European Protection Order (EPO) and the agreement on mutual recognition of protection measures in civil matters.<sup>1</sup> Once implemented, the EPO will provide a legal basis for EU Member States to recognize a victim protection order that was granted in another Member State. The available data - however marginal - nevertheless suggests that there are enormous discrepancies amongst protection order legislation and levels of protection across the EU (Van der Aa, 2011; Feasibility Study, 2010). The question of whether the EPO is still able to function well in those circumstances then becomes relevant.

The current research project wishes to address these voids and to give an accurate, in-depth, and up to date overview on what legal protection measures are currently in force in the European Member States. It intends to:

- gather in-depth information about the conditions, procedures and settings that allow for protection orders in all European Member States.
- develop a comparative and analytical perspective on the current state of protection order legislation within the EU Member States (e.g., by grouping the Member States according to a 'protection order typology' which reflects the different approaches to protection)
- learn more about the actual functioning of the different protection order regimes in Europe
- identify promising practices and possible gaps in protection
- assess whether the EPO would be able to function well if the levels of protection differ across the EU.

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<sup>1</sup> Council of the European Union, *EU-wide protection for victims: agreement on mutual recognition of protection measures in civil matters*, Brussels, 5 March 2013, 7285/13.

The research team (University of Tilburg, University of Helsinki, Portuguese Association for Victim Support and the University of Naples) will try to attain these objectives with the help of a literature review, 27 national reports on protection order legislation written by national legal experts, and 60 semi-structured interviews with female victims of IPV and stalking whose (former) partner had a protection order imposed against him.

This guideline focuses on the national reports. With the help of the national reports we will try to accurately map protection order legislation in the EU Member States in order to present a comprehensive report to the European Commission. The ultimate goal is to make recommendations to enhance the protection provided to victims.

## 1.2. Definition of protection order

Legal categories or concepts are not consistent between jurisdictions and states. The concept protection order may in some countries refer to a specific criminal provision, whereas other states may only use this concept to refer to the so-called 'barring order' (an order that prohibits the offender of domestic violence to enter the family home for a specified amount of time). Another problem is that there are many synonyms or close relatives for the term 'protection order' in circulation, such as 'protective order', 'injunction order', and 'restraining order'.

In this report we will use the term 'protection order' as an umbrella concept. In order to guarantee that all national experts have a similar understanding of the concept protection order we have defined the concept as follows:

*A protection order is a decision, provisional or final, adopted as part of a civil, criminal, administrative, or other type of legal procedure, imposing rules of conduct (prohibitions, obligations or limitations) on an adult person with the aim of protecting another person against an act which may endanger his/her life, physical or psychological integrity, dignity, personal liberty or sexual integrity.*

This definition is partly based on the one used in the Directive on the EPO. It aims to be as inclusive as possible: we are interested in all legal measures by which rules of conduct can be imposed upon a person with the aim of protecting another person, regardless of the type of procedure by which the decision came about. We are not only covering protection orders issued by judges, but also decisions issued by magistrates, public prosecutors or other public servants.

Excluded from the current study are witness protection programs, or decisions that physically incapacitate an offender to contact a victim (e.g., unconditional prison sentence or pre-trial detention or separate waiting rooms in court premises).

It is a working definition, which aims to be applicable to the situation in all 27 Member States. Since we lack thorough knowledge on protection order legislation in all these jurisdictions, it may very well be that, in your opinion, the definition is not inclusive enough. If you think this is the case, do not hesitate to contact the research team and to include the information in the national report anyway.

Throughout the document we will use legal terms, which may give rise to certain definitional questions as well. The annex contains a glossary with a brief definition of those legal terms.

### **1.3. Tasks and delivery deadlines**

There are two tasks which national experts must complete:

- 1) Write a national report (first draft)
- 2) Clarify sections of the report which are unclear and adjust the report accordingly (final version)

Ad 1) You are asked to write an analytical report on protection order legislation in your own Member State. A template containing detailed instructions on how to write the report is provided later in this document. Next to (substantive and procedural) legislation and policy guidelines, the template also inquires after current debates about victim protection legislation and procedure, proposals for reforms, and research which has assessed the effectiveness of national protection order provisions, both on paper and in practice. Also, you are asked to assess whether some of the national approaches to victim protection can be defined as promising or negative practices.

The first draft of this report must be submitted to the research team by **31 August 2013**.

Ad 2) The first draft of the report will be subject to quality control by one of the research members. In case certain sections of the report are unclear, you may be asked to clarify these sections and to provide supplementary information. You will receive this feedback no later than 30 September 2013. Based on this feedback, you are asked to adjust the national report and send in a final version of the report.

The final version of your national report, with a 1 page executive summary, must be submitted to the research team by **17 November 2013**.

### **1.4. Reference period for the study**

The national reports should present information on protection order legislation in force on **31 August 2013**. Case law, jurisprudence, and statistics on protection order effectiveness may originate from previous years, as long as they are still relevant.

### **1.5. Template, language and size**

We will provide you a template in which you can write the report. The template will provide you with a format and structure for the report. The size of the report should be between 12-17 A4 pages (excluding annexes) as a guideline, font: Arial 10.5, spacing: 14 pt. Statistical and other data (e.g., case law) should be included in the annexes.

Furthermore, in order to standardize the national reports, we kindly ask you to use the OSCOLA referencing format (<http://www.law.ox.ac.uk/publications/oscola.php>) for literature references.

We will also provide you with an example of a national report that has already been written (the Netherlands) to give an idea of the type of information we are looking for.

The national reports should be written in a neutral, objective language, containing no unsubstantiated opinions. All sources of information included should be fully referenced. Whenever possible, refer to the original source and preferably to official sources. References to

media sources must be kept to a minimum. If information is available online, please refer to the internet address (preferably to an English version, if available).

## 2. National reports: content and structure

### 2.1. Introduction

In the national reports we would like you to give a brief overview of which legislation/laws are relevant for victim protection purposes. Questions such as: 'Can you provide the key provisions which enable the imposition of protective orders?', 'What are the procedures by which these protection orders are imposed?', 'How can protection orders be enforced?' and 'Are there any recent reforms in protection order legislation?'

Next to the above questions – which all refer to the law in the books – we are also interested in how the law is implemented in practice. It is of vital importance to see how the laws work out in practice and if there are any impediments to their effective implementation. You are also asked to comment on the workings of protection orders in practice.

In many Member States protection orders can be obtained through multiple areas of law, so not only through criminal law, but also via a civil (summary) procedure, through administrative law or other areas of law. If this is the case in your Member State, please distinguish these areas of law when you answer the questions below.

What follows is the structure which the national legal reports should take with further guidance for each section. In case you are not able to answer a certain question, please state this specifically and include the reason why the question cannot be answered (e.g., 'no information available' or 'not applicable to domestic situation').

### 2.2. Overview of the structure of the national reports

#### 2.2.1. Imposition of protection orders

- 1) We would like to know about the different forms of protection orders in your country
  - a. Identify the laws in which protection orders are regulated. Through which areas of law (criminal, civil, administrative, other) can protection orders be imposed?

In Greek law there the term 'protection orders' (hereafter PO). However, following the definition of PO - as given by POEM team- the POs in Greece include both the restrictions orders (RO) and interim injunction orders (IO), imposed in civil and criminal law. The RO and IO are two broad categories and include various measures, as cited below.

- A. In Criminal Law and more specific in the Procedural Criminal Law, it is the article 296, which defines certain BO-RO for the accused.
  - The BO-RO aim at 1) avoiding the commitment of new offences by the accused against the same or other possible victim, and 2) reassuring that the accused will be present in the all stages of criminal procedure (and in the court) and consequently that the sentence will be imposed.
  - The duration of the BO-RO go along with the duration of the pretrial procedure (Code of Criminal Procedure, article 282, paragraph 1) .

- The kinds of BO-RO imposed in the accused are (Code of Criminal Procedure, article 282, paragraph 2): 1. The Bail (financial guarantee), 2. The obligation to present in the judicial or other legal authority in certain time schedule (e.g. every fifteen days), 3. The Travel ban (TBO) and 4. The barring orders to meet certain persons (BO).
  - In case that BO-RO are violated by the accused, they are replaced by the sanction of temporally detention (CPL, article 282, paragraph 4).
  - In certain cases, instead of BO-RO, the sanction of temporally detention is imposed to the accused (legal provisions in detail in the CPL article 282, paragraph 1).
  - There are also certain and specific BO-RO for the protection of juveniles victims of abuse and trafficking, and the victims of domestic violence (see below, Ab)
- B. In Civil Law and in the Code of Civil Procedure the Injunction Orders (IOs) are legally provided. Due to the POEM definition, they are mentioned as BO-PO
- The article 57 (part 1) defines that 'if someone's personality is violated, he/she has the right to demand to stop that violation and not to be repeated in the future'. This is a generic law, which protects the individual from any violation of the personality, protecting the substantive right, but without defining certain measures of protection (PO). *Can be applied also to barr perpetrator from home.*
  - The courts may impose Temporary Orders (TO) and Injunction Orders (IO) in cases of emergency and in order a danger/ risk to be avoided, aiming either at the protection of a certain right or the regulation of a certain situation (article 682, paragraph 1). *Can be applied also to barr perpetrator from home.*
  - There are specific legal provisions (DV-PO) on the protection of family violence victims (article 735, part b, which was added by the article 15 of the Law on Confronting Family Violence, law 3500/2006). These DV-POs are: 1. the removal of the accused from the family residence, 2. the resettlement of the accused, 3. The Band Order to the accused to approximate certain spaces as the residence, the workplace, other relatives' residences, school places of the children and the host houses (shelters for victims).
  - The *special* IPV-PO (IOs imposed by the Civil Courts) on the protection of stalking and other similar offences victims are diverse and depend on the certain case and the estimation of the dangerous situation. The most common IPV-POs are: 1. the stop of threading the complaint, 2. The band of every kind of communication between the accused and the victim, and 3. The band of approaching the victim in terms of a certain distance, no-contact order.

b. Are protection orders regulated in generic law or in specific laws on forms of (interpersonal) violence (e.g., domestic violence act)?

POs are regulated in generic law, but there are also specific laws on forms of Intimate Partner Violence (IPV), stalking, and Domestic Violence (DV).

- a) Generic law: The BO-RO (Restriction and barring orders) are imposed in the accused for crimes and misdemeanors, in which a prison sentence of at least of three month is imposed, independently by the type of offence committed (Code of Criminal Procedure, article 296)
- b) Specific laws: IPV-PO and DV-POs are found in specific laws on IPV, DV, stalking and minors' protection.



1. In Greece, there is a specific law on confrontation of domestic violence (law 3500/2006). In the article 18, certain DV-POs are provided for victims protection. This article defines that under certain circumstances and for the protection of the victim's physical and mental health, specific POs are imposed to the accused by the court, or the competent investigating Magistrate, or the Judicial Council, which last as long as needed.

These DV-POs are: 1. the removal of the accused from the family residence, 2. the change of residence of the accused, 3. The Band Order to the accused to approach certain spaces as the victim's residence, the workplace, other residences of relatives to the victim, school places of the children and the host/ crisis houses (shelters for victims).

The imposition of DV-PO stop, only if a successful result of Penal Mediation (victim offender mediation in cases of misdemeanors forms of DV) achieved and the case drops out.

In the same law on Confrontation of Family Violence (3500/2006) there is another article for the victim's protection, also. It is the article 21, in which the victims support is provided. Police is obliged to inform and support the victim, if the last seeks for any kind of protection and support. In any case, the first step for victims' protection is the reference to the Prosecutor and to explain why a DV-PO needed and then, the relative authorities warn the accused to stop the violent event or prevent it from happening.

2. The law on the protection of juveniles who are victims of crimes against the sexual freedom and trafficking. It is the article 352A, paragraph 4 of the Penal Code, in which RO are imposed to the accused by the prosecutor, or the competent investigator Magistrate, or the court and if it is necessary for the victim's protection. These BO-RO are: a) the remove of the accused from the environment of the victim, b) the remove of the victim and the temporary settlement in a safe environment (place), and c) the band of any communication between the accused and the victim (BO).

c. Are these laws (or the text on the protection orders) available on the internet in English or in your local language? If so, could you provide us with a link?

All these laws are available in greek in official websites, as the Ministry of Justice (<http://www.ministryofjustice.gr/site/Default.aspx?alias=www.ministryofjustice.gr/site/kodik es>) and all Bar Associations websites.

Furthermore, there are numerous websites in greek language, to inform the victims of IPV and DV, where all legal provisions on PO and victims' rights are exposed analytically (Law 3500/2006 on DV)

<http://www.isotita.gr/var/uploads/NOMOTHESIA/VIOLENCE/N%20%203500-2006.pdf>

[http://lexop.org/normative\\_eng.asp](http://lexop.org/normative_eng.asp)

Even if a lot of references and national reports on DV are published in internet, no one includes the law text and legal provisions exactly translated in English.

- 2) a. Within the different areas of law (criminal, civil, administrative, other), you can also have different legal provisions through which protection orders can be imposed (e.g., a condition to a suspended trial, a condition to a suspended sentence, a condition to a

conditional release from prison or as a condition to a suspension from pre-trial detention). Which different ways of imposing protection orders can be distinguished in the different areas of law? (please, be as exhaustive as possible).b. When it comes to criminal law: can protection orders be imposed in all stages of the criminal procedure?

## 1. Pretrial phase

### 1.1.Criminal Law -Criminal Procedure

First of all, it is the Greek Constitution to define clearly the right to personal freedom (article 5, paragraph 3 and article 6).

In the article 24 of the Law N 3811/2009 is legally provided that BO-RO have to be imposed in priority comparing to the pretrial detention. The last one is imposed exceptionally and only in certain conditions and under certain circumstances.

In more detail:

#### a. Pretrial detention.

Instead of imposing BO-RO and under certain conditions, the pretrial detention of the accused is legally provided, is optional and if BO-RO are not sufficient or effective. According to the article 282, paragraph 1 of the Code of Criminal Procedure the pretrial detention is imposed if the accused: a. is prosecuted for a serious crime (felony) and is of unknown residence in the country, b. has done preparatory activities to escape from the country, c. escaped from justice in the past or was convicted for escape or violation of RO in the past and e. is justified to commit other crimes if released.

Furthermore, pretrial detention is imposed if the accused committed a crime, which is banished by life sentence, or prison sentence for no more than twenty years, or is a repeated (by continuing) crime, or it is committed in the context of a terrorist or other criminal organization. Pretrial detention aims at preventing the commitment of new crimes by the accused, if released. In very exceptional cases and if justified that RO are not sufficient, the pretrial detention is legally provided for the repeated crime of manslaughter (homicide without purpose) and if the accused aim at escaping from the country.

In order a pretrial detention to be imposed, there must be the apology of the accused and a consensus of opinion (assents) both by the investigator Magistrate and the Prosecutor.

#### b. BO- RO imposed instead of pretrial detention.

If any of the conditions of imposing the pretrial detention ceases to apply, the pretrial detention may be replaced by RO (article 286 of Code of Criminal Procedure). The kinds of BO-RO often imposed are the financial guarantee, the obligation of the accused to present in police or other authority in a regular basis and the travel band abroad.

The replacement of pretrial detention with BO-RO comes from the right of the accused to apply for that in the Judicial Council, by the own initiative of the investigator Magistrate, or the suggestion of the Prosecutor.

### 1.2.Civil law- Code of Civil Procedure (BO-PO)

The article 682 of the Code of Civil Procedure there is a generic law provision for BO-PO (namely as Injunction Orders (IO)), imposed as in the pretrial phase, as during the trial (paragraph 2).

The preconditions of imposing BO-PO refer only to urgent situations and for avoiding a certain danger/risk and aim either at the reassurance of a certain right, or the regulation of a situation.

The content of BO-PO varies and includes measures as finance guarantee, registry of mortgage, garnishment, sequestration order, temporally judgment on demands, temporally regulation of a situation, sealing, unsealing, inventory and deposit, and injunction on distribution.

*Q: Can this include the prohibition to return to his own home? Or removal from his own home?*

*A: Yes, they may include prohibition to return to his own home or removal from his own home. Furthermore, the Law 3500/2006 on DV specifies the types of victims protection.*

Furthermore, specific provisions for the protection of victims of IPV, DV and juveniles (see above 1b/b)

## 2. The trial phase

BO-PO are imposed and during the trial, if it so decided. However the concept of BO-POs is to protect the victim until the final court decision and it has a temporal character. *IPV-PO and/or DV-PO are included.*

## 3. The post trial phase BO-RO

### 3.1. Conditional suspension of the sentence (all the provisions in the law 3904/2010, and more concrete the articles 2 and 3).

Instead of prison sentence which is not exceeded more than a year, the convicted may commute it with monetary sentence or fine or community service

In sentences that exceed the three years, certain BO-RO are imposed along with probation. These are:

- a. The restoration of the harm done to the victim of crime,
- b. The obligation of the convicted to present in police or other authorities in a regular basis,
- c. The remove of drive license for a year maximum, if the crime was about the violation of driving rules,
- d. The travel band under certain preconditions suggested by the probation officer,
- e. The remove of passport or any other relevant travel document and the travel band abroad, unless if there is a license to travel abroad for one month duration maximum,
- f. The no conduct order or band of any communication with certain persons, *The no conduct order or band of any communication with certain persons may applied in cases of IPV and DV.*
- g. The obligation of the convicted to pay for alimony or care of other persons,
- h. The (special) treatment of the convicted and the placement in an institution, and
- i. The sponsorship by the convicted of maximum 10.000 euro in a charity.

If any of these BO-RO is violated, and after the suggestion of the prosecutor, the court justifies and decides if the conditional suspension will be cancelled and/or the BO-RO's content will change.

3.2. Conditional release- execution phase. The articles 105-110 of the Criminal Code refer to the conditions of release (*please let me know if further analysis needed*)

*If protection orders can be imposed through multiple areas of law, please make a distinction between these areas of law in answering the following questions. In other words, make sure that the following questions are filled in separately for each category of protection order. For instance, if a protection order can be imposed in both criminal and civil law, make sure that you answer for both areas of law which persons can apply for a protection order (question 3).*

- 3) a. Who can apply for such an order (victims/complainants or only the police/the public prosecution service)?

In specific laws and acknowledging the protection of the victim, the complainants of DV-PO and IPV-PO are the victim, the Public Prosecutor, the investigator Magistrate, the court and the police. So,

- a) In the Law 3500/2006 on Confronting Family Violence, both civil and penal courts may impose the DV-PO (article 15 -civil courts and 18- penal courts).
- b) In the article 352, paragraph 4 of the Criminal Code, on victimization of children and juveniles; it is the Public Prosecutor, the investigator Magistrate or the court to decide the IPV -PO for the victims protection.

In all stages of the criminal procedure the victim is represented by the civil claimant/plaintiff. The civil claimant represents the person who has suffered damage (property and/or psychological and/or physical) as a result of a crime and participates in the criminal proceedings claiming financial compensation including compensation for moral harm or pain and suffering from the offender (Civil Law, articles 914 and 932).. Victims of crime can become a civil claimant by submitting a declaration during the investigation or during the trial. During the investigation victim presents the claim to the prosecutor or the police officer in charge of the case. During the trial, victims can submit their declaration and present the claim directly to the court

Crime victims can also claim compensation from the offender by starting a separate case in a civil court. If such a case start and the court have not decided on it yet, victims can submit the same claim in the criminal proceedings. The consequence is that the case before the civil court will be closed.

The juveniles are legally represented.

In Civil Law the complainant is any person whose personality is violated (generic law, article 57, part a). The complainant has the right to demand the end of violation.

In any case, the crime victims have the right to refer at the Prosecutor and demand PO (generic law).

- b. Which organizations or authorities are involved in applying for and issuing protection orders? (Do, for instance, probation services play a role in the issuing of criminal protection orders?)

It is the police, the Prosecutor, the investigator Magistrate, the Judicial Council and the relevant court the legal authorities for issuing BO-PO and RO-PO. *These are the authorities to decide on IPV and DV POs.*

Probation services involve only in the post trial phase and more concrete in the conditional suspension of the sentence and conditional release (see above 2.3.)

In the specific law 3500/2006 on Confronting the Family Violence, certain organizations or authorities which ad hoc aim at supporting the victims may support the victim and apply for DV-PO (article 21). These organizations are public or private institutions, which operate for the victims' support; they are also supervised by the Ministry of Health and Social Solidarity and by the local social services (regions and municipalities).

c. Can protection orders be issued on an *ex parte* basis (without hearing the offender)?

The offender is legally called and heard by the court, when a claim on PO is discussed. If both parties are present the claim is discussed immediately (Code of Civil Procedure, article 687, paragraph 2)

Only in very exceptional and urgent cases, and if a serious danger/risk is present, the court may decide on the BO-PO claim, without calling and hearing the offender (Code of Civil Procedure, article 687, paragraph 1) *The same applies for the IPV- and/or DV-POs.*

- 4) a. Are protection orders available for all types of victims or crimes, or only for a certain subset of victims or crimes (e.g., only victims of domestic violence, stalking, female victims)? In other words, can all victims receive protection?

In Greece PO are available for all types of victims or crimes (generic law). There are also specific laws on the protection of juvenile victims, victims of IPV, DV, stalking, in which PO are legally provided (see above 1.a.)

b. Can protection orders be issued independent from other legal proceedings (e.g., independent from criminal proceedings if the victim does not wish to press charges or independent from divorce proceedings)?

PO have temporarily character and imposed during the criminal procedure and/or during the trial and until the final court decision imposed. BO-RO and BO-PO aim both at preventing from commitment of other crimes and at reassuring that the accused will be present in the court, as well. BO-PO are imposed independently on the other legal proceedings (article 695 of the Code of Civil Procedure) *IPV and DV POs are included.*

BO-PO can't implement or imposed if a positive result of any forms of Alternative Dispute Resolution, such as the penal victim offender mediation and/or arbitration, came up.

The court has the right to impose any appropriate BO-PO on the regulation of the relations between spouses or between parents and children. PO types are: the change of residence of one of the spouses, which furniture and other belongings to carry on in the new residence, any matter of temporally custody of the children, and the contact details on communication with children (article 735 of the Code of Civil Procedure). These BO-PO are also independent from divorce proceedings.

- 5) a. What procedures have to be followed in order to obtain a protection order? (please explain the different steps that need to be taken)
1. For replacement of the pretrial detention with BO-RO the steps are:
    - a. During the stage of investigation, the investigator Magistrate either by his/her own initiative or after the Prosecutor's suggestion may change or stop BO-RO (article 286, part 1). The accused may claim against that decision in the Judicial Council in ten days and ask for more lenient BO-RO.
    - b. The accused may claim for the replacement of pretrial detention with BO-RO, or the change of BO-RO with other measures (paragraph 2).
  2. In specific laws and for the in victims protection (IPV, DV, juvenile victims, see 1a), it is the victim and/or civil pitfall who claims on certain PO in the police, the Prosecutor, the investigator Magistrate and the court. *Police is obliged to help the victims of DV and IPV by informing them on the social and psychological services provided. Police also can't impose POs, only to follow the POs if any violation of the POs is reported to the police by the victim.*
  3. Public prosecutors can impose a criminal BO-PO by themselves or they can request from the Judicial Council to.

The steps of obtaining BO-PO and Short term Barring Orders, are (*This is the procedure as described in the Code of Civil Procedure. It is referring to the Temporary Orders and the Imposition Orders. They are the civil POs. In cases of DV and IPV the victim may ask for civil POs*):

- a. Claim in the secretary of the court (which has the jurisdiction). In the district courts the claim may be oral and a report is prepared (article 686, paragraph 1),
- b. The claim is directly submitted to the judge by the secretary of the court. The judge defines certain place, date and time for the discussion of the claim. He/she also orders the summons of the persons who the claim is referring to and arranges as the ways of sending the summons, as the discussion held in time (paragraph 2)
- c. The place of discussion may be the most appropriate –even the house of the judge in the district courts- for the accelerated trial. The discussion may also be defined in Sunday or a holiday day (paragraph 3)
- d. In the summons the exact details of the discussion in the court are written (place, day, time) and the secretary of the court deals with all matters of notification (paragraph 4)
- e. During the main hearing process in the court, the claim on BO-PO may be oral, depending of the kind of court (paragraph 5 and 6).
- f. The claim for BO-PO must include certain types of injunction orders, which are to be justified by the real facts of the case and indicate that a danger/risk is present and the situation is urgent. In financial cases, the amount of money or the price of the object must be referred precisely.
- g. In the claim for changing or recalling the BO-PO imposed, the reasons of claiming must be justified.

c. Could you give an indication of the length of the proceedings?

*(The answer refers to the case of Civil IOs, if the victim has asked for them. Kindly remind that the victim of DV and IPV may ask for IOs in order to be protected from any further victimization)*

The discussion for imposing BO-PO is notified in two days (working days) after the submission of the claim. If the judge decides that the accused must be present, the last one is notified by any mean (Code of Civil Procedure, article 691, paragraph 2). The court notifies the decision on BO –PO after the hearing process and no more than 48 hours (of the hearing process) (Law 4055/2012, article 110, paragraph 20). Only in exceptional cases and due to special reasons, the court may decide later on, but in a strict deadline of 30 days. During these 30 days, the judge is obliged to write, put the date, and sign all relative documents and decisions on the case.

Depending on the urgency of the case, hearing for BO-RO can be scheduled on every day and hour. In general, the whole process is short and immediate, depending on the assessment of risk and the need for the protection of the victim.

c. Does the protection order come into effect as soon as the decision on a protection order is made or are there any additional requirements before the orders really come into effect (e.g., in civil proceedings the notification/service of the verdict to the defendant)? In other words, is the victim immediately protected or can there be a lapse of time before the actual protection begins?

Civil BO-PO are immediately imposed, unless the court differently decides. BO-PO are also come into effect after the notification of the defendant and after 24 hours of the notification in some cases (Law of Civil Procedure, articles 728 and 731-735)

d. Is there a regulation for interim protection that can be given immediately upon request or very quickly? For how long? What steps have to be taken in order to finalize the protection after the interim order?

See above 5b.

6) a. What are the application requirements in order to (successfully) apply for a protection order? In other words, under what conditions will a protection order be imposed?

- There are two major reasons for BO-RO imposed in the accused: a. for avoiding the commitment of new crimes against the same or other victim(s) and b) for reassurance that the accused will be present in the court and a sentence will be imposed (this is a general provision, Code of Criminal Procedure, article 296). The precondition is that the crimes committed by the accused are punished by a prison sentence of at least three months, independently of the type of crime (e.g. crimes against life, sexual dignity, etc).

*Q: Is it the same for IPV- and/or DV-PO?*

*A: It is the protection of the victim, the avoidance of any further victimization, and the reassurance that the accused will be present in the court.*

- In the civil procedure, for BO-POs to be imposed there are two preconditions: a. an extremely urgent situation in order to avoid a certain danger/risk and b. the

need of reassurance of a certain right or of the regulation of a situation (Code of Civil Procedure, article 682).

- In Penal Code there are further preconditions on imposing BO-RO in specific crimes.

For the protection of juvenile victims of crimes against the sexual dignity and sexual trafficking, BO-RO may be imposed on the accused if the victim needs treatment and further examination of his/her physical or mental situation. The victim's treatment is ordered by the Prosecutor or the investigator Magistrate in the stage of pretrial and/or during the main trial, by the court (Penal Code, article 352A, paragraph 3). The juvenile victim's protection is the only precondition for BO-RO to be imposed on the accused, by the Prosecutor, the investigator Magistrate or the court (article 352A, paragraph 4).

The need for protecting the physical and mental health of the victim of DV is the precondition also in the family violence crimes. According to the law on Confronting Family Violence, the court, or the investigator Magistrate or the Judicial Council may impose DV PO on the accused and as long as needed (Law 3500/2006, article 18).

- For BO RO imposed instead of pretrial detention and conditional release please see above 2a, responses 1,2, and 3.

#### b. Is legal representation/advice of victims required by law or in practice?

To refer a crime to the police, there is no need for legal representation. However, in the Greek legal system the victim has an active role and participates in all stages of criminal procedure, through the civil claimant/ pitfall (Code of Criminal Procedure, article 63)

By becoming a civil claimant, victims are allowed to use the criminal proceedings to claim compensation from the offender for the damages they have suffered as a result of the crime. The victim becomes a civil claimant by submitting a declaration to the prosecutor or police officer in charge of the case. This is usually done either after reporting the crime or later at any time until the end of the investigation. Just a declaration is needed to the public prosecutor or police officer in charge of the case or simply this is declared when the victim is interviewed as a witness.

The declaration requires a few elements, such as a short description of what happened, why the victim wishes to become a civil claimant and the appointment of a lawyer if the victim's residence is in a place different from the location of the court which will examine the case. If this piece of information is not included, the claim will not be examined.

As a civil claimant, the victim can:

- be present at all investigative actions on the case (apart from during the questioning of the defendant and of the witnesses who will be heard again during the trial);
- ask questions and make remarks during the investigative actions;
- be heard before any decision is made on the case, e.g. a decision to issue an arrest warrant;
- have access to the entire documentation of the case;
- make copies of the documents at his/her own expense.

#### c. Is free legal representation/advice available?



During the investigation the assistance of a lawyer needed who is paid for his/her services. It is allowed to use a maximum of two lawyers.

Legal aid is free of cost and provided for victims and offenders of low income. Legal aid for victims is free of charge depending on the income and the crime (a serious violent crime as torture, discrimination, physical injury, sexual offence, etc.). On the income there is a calculation: the yearly family income to be less than two-thirds of the minimum annual wage rate defined by the National General Collective Labour Agreement.

However, legal aid free of charge irrespective of the income only if:

- is a victim of human trafficking or domestic violence; or
- a victim of a sexual offence under 18 years of age.

The lawyer appointed will help the preparation and submitting all the necessary documents to become a civil claimant and will assist the victim throughout the proceedings thereafter.

In the law 3500/2006 (article 22) is clearly provided legal aid for the victims of DV, if they ask for BO PO (DV PO) for their protection. The only conditions are the evidence of the violent incidence and if they cannot afford to pay –even temporally-for the legal expenses.

For IPV and DV cases, there are also many NGO's in all over the country for the protection of victims, which provide legal advice free of charge, and independently of the victim's income level. Legal aid is also provided by the Bars Associations in Greece.

If the offender of a felon has no legal representation, the court by its own motion defines a lawyer (Code of Criminal Procedure, article 376).

- 7) a. What types of protection can be provided for in the orders (e.g., 'no contact' orders, orders prohibiting someone to enter a certain area, orders prohibiting someone to follow another person around, etcetera)?

There are multiple types of PO, depending on the situation to be regulated and the urgent risk that the crime victim faces. The Prosecutor, the investigator Magistrate, the Judicial Council may impose PO according to their judgment.

The kinds of BO -RO imposed in the accused are (Code of Criminal Procedure, article 282, paragraph 2): 1. The Bail (financial guarantee), 2. The obligation of the accused to present in the judicial or other authority in a regular basis, 3. The Travel ban (TBO) and 4. The barring orders to meet certain persons (BO).

DV PO and IPV POs are found in the specific laws of IPV and DV and they usually are: 1. The removal of the accused from the family residence, 2. the change of residence of the accused, 3. The Band Order to the accused to approach certain spaces as the victim's residence, the workplace, other residences of relatives to the victim, school places of the children and the host/ crisis houses (shelters for victims).

The types of BO PO vary and include injunction measures as finance guarantee, registry of mortgage, garnishment, sequestration order, temporally judgment on demands, temporally regulation of a situation, sealing, unsealing, inventory and deposit, and injunction on distribution.

b. Is there an order that has the effect of moving/barring a violent (or threatening) person from the common or family home (eviction or barring order)? For how long can the violent/threatening person be barred? During the barring period, is help provided to the victims? And to the offender?

Yes, there is (see above). The accused is barred until the final court sentence. Help to the victims of IPV, DV is provided by public and private institutions and NGO's, as in other forms of abuse as well. Concerning these types of victimization, there is a clear gender perspective in social and psychological support of the female victims. This gender perspective is reflected not only in the multiple organizations which exist in all over the country to support victims of these crimes, but in the professionals' tools and guidelines. For offenders -comparing to the victims -there is no such kind of help/support.

c. Which of these types of protection are imposed most often in practice?

In Greece, there are not total statistics and qualitative data on PO for the whole country. However, there are statistics on the total cases and sentences imposed in the places of first instance courts and in certain regions (Athens, Peraias, Thessaloniki). Only the BO-PO and namely the injunction measures are included in a certain category in court statistics.

d. Can the different types of protection orders also be imposed in combination with each other (e.g., a no contact order and a prohibition to enter a street)?

Yes, usually there is a combination of POs imposed to the accused, in all areas of law.

e. If so, which combinations are most often imposed in general?

The kind and the combination of PO are depending on the crime, the situation and risk assessment by the Prosecutor, the investigator Magistrate and the court.

- 8) a. Are there any formal legal requirements for the formulation of protection orders? In other words, are there certain elements that always need to be included in the decision or does it, for instance, suffice if the restrained person is told 'not to contact' another person?  
b. How does this work in practice? How elaborate are these protection order decisions in general?

Yes there are legal requirements for the formulation of PO. For impose any kind of POs, justification needed; it is referring to the two major reasons of imposing RO: the prevention of any other offence to be committed by the accused against the same or other victim, and the reassurance that the accused will be present in the main court procedure (Code of Criminal Procedure, article 296)

- 9) a. Are there any legal limitations to the scope of these protection orders – e.g., only a couple of streets – or are the legal authorities free to decide the scope of protection orders any way they see fit?

There are no legal limitations to the scope of these PO. The Prosecutor, the investigator Magistrate, the Judicial Council and the court have the freedom of judgment and decide the scope of the protection, depending on the crime and the situation. Furthermore, they are free to judge and decide from any request done by the victim.

b. If there are limitations, which factors do the legal authorities have to take into account when deciding on the scope of protection orders?

See above 9a.

c. Which factors do they take into account in practice?

Legal authorities examine the case and they decide ad hoc, estimating the urgent and danger situation and the seriousness of the crime committed in the given legal framework of imposing the PO.

10) a. How are prohibitions to enter a certain area mostly delineated? For instance, are these areas indicated on a map or are they indicated by naming the surrounding streets? Or do legal authorities use radiuses (“person A is no longer allowed to be within 200 meters of the victim’s house”)?

Prohibitions to enter a certain area are usually delineated by indicating the distance in meters and certain places (e.g the schools of the children). All the addresses and areas are named clearly and the persons –if there is a no-contact order- are namely referred.

In general, POs are very detailed; each measure imposed is clearly defined, as to the places, as to the persons.

A map can be used, radiuses no, as far as I know.

b. What is the average scope of an order that prohibits someone to enter a certain area (one street, multiple streets, a village)?

There isn’t an average scope, because it depends on the region, if a big city, or a village in the countryside. However, case law indicates -very often- the distance of 500 meters in the cities.

11) a. Are there any legal limitations to the duration of protection orders? Do the orders always have to be issued for a specified or a determined period? And is there a maximum or minimum duration attached to the orders?

Given the aims of the POs, there is no certain duration and they last until the final court decision. In cases that penal mediation is legally provided and an effective/successful result is achieved, the file is drop off and POs cease to apply.

The same legal authority which defined the PO can change the content and type(s) of PO, while reconsidering the whole situation (e.g. new facts) and after the claim of the accused (for IO, Code of Civil Procedure, and article 697).

*Q: Is it the same for IPV- and/or DV-POs?*

*A: Yes, DV and IPV included.*

BO PO applied immediately.. They cease to apply if: a. a final court decision comes against the person who claimed the BO PO, b. a final court decision comes and supports the claim of the BO-PO imposition, c. a reconciliation is achieved between the opposite parties, d.

a period of 30 days expires after the end of the court trial (Code of Civil Procedure, article 698, paragraph 1), and e. in case that BO-PO duration is exactly defined.

*Q: Is this the same for DV-PO?*

*A: Yes.*

b. Which factors do legal authorities generally take into account when deciding on the duration of a protection order?

*See 8a.*

c. What is the average duration of the different protection orders (half a year, one year, two years)?

*Due to the lack of statistics on POs in Greece, I haven't any clear answer on the average duration of PO.*

12) a. To what extent (if any) do the wishes of the victims influence the imposition of protection orders? Can victims, for instance, request the cessation of protection orders?

*Victims who claim for BO-POs have to describe in details the demands and the measures of his/her protection. The legal authority is free to decide on certain PO. Often the wishes of the victims of specific crimes are the same in the content -more or less- with the legal authority's decision.*

*If any of the preconditions of imposing the BO -PO cease to apply, then the legal authority re examines if the BO PO change or cease to apply.*

*In BO-RO and TBO the legal authority decides, irrespectively of the victim.*

b. In cases where a protection order is not directly requested by the victims, is there always an assessment of the victims' need for a protection order or do victims have to bring this up themselves?

*Hearing of opposite parties and an assessment of the whole case is done by the legal authorities before BO-PO imposed. During that procedure the legal authority forms the opinion and judges which are the most effective measures for victim's protection. So, there is an assessment of the victim's needs and a risk assessment as well.*

c. Can victims influence the type/scope/duration of protection orders? Are they, for instance, involved in deciding on the type of protection order or the scope of protection orders?

*Yes, victims and civil claimants request certain types of BO-PO. However, the legal authorities which impose the PO can deviate from this request and they are free to judge and decide on the appropriate types of PO.*

13) a. Can offenders formally challenge/appeal the imposition of protection orders?

Yes, offenders have the right to appeal the imposition of BO-PO, under certain conditions and during certain deadlines. (Please *let me know* if all the conditions and details of appeal needed).

b. To what extent (if any) do the wishes of the offender influence the imposition of protection orders? Are, for instance, (disproportionate) disadvantageous consequences for the offender taken into account?

During the hearing and before any decision on BO-PO, the offender's wishes are expressed. I have no research data on the impact and influence of the parties in the hearing process. Legal authorities decide on BO-PO ad hoc and after assessing the whole situation.

c. Can offenders influence the type/scope/duration of protection orders? Are they, for instance, involved in deciding on the type of protection order or the scope of protection orders?

Offenders are not deciding themselves on the type and/or the scope of BO-PO. It is the legal authority to decide. They are present in the legal procedure and they express their wishes.

14) To what extent (if any), do practical impediments (such as shortage of police personnel, lack of available resources in certain (rural) areas) to the enforcement of protection orders play a role in the decision to impose a protection order? Do legal authorities, for instance, refuse to impose certain protection orders, because they know their enforcement in practice is problematic or do they impose these protection orders anyway (e.g., for reasons of 'sending a message' to the offender)?

Legal authorities act under the Constitution and laws of the country. They don't take into account any problems of different institutions and other authorities, out of their obligations and duties. **See question 36.**

15) Can previous protection orders be taken into account in other ensuing legal proceedings against the same perpetrator (e.g., as evidence of a pattern of violence)?

In general, each legal procedure on BO-POs is independent. However, the criminal record of the accused is provided officially during the crime investigation procedure and re offending is taken into account on the kind of BO PO imposed by the legal authority.

16) a. When a protection order is issued in a case of domestic violence, are the children automatically included in the protection?

Only if the claim of the victim includes the protection of children, DV POs are imposed for the children. However, the law 3500 (article 15) on Confronting Family Violence foresees the protection of children, by the removal of the accused from the residence and the no contact order.

Usually in that legal framework, any other issues related to the child custody are addressed in the content of BO POs, imposed.

b. How is the order granted/implemented if the violent partner has visitation rights?

see above (a)

c. Are there any problems with protection orders and custody/visitation decisions by the courts?

Both DV POs and IPV POs usually include and regulate visitation decisions and review any previous custody/visitation rights.

a. Are so-called 'mutual protection orders' (i.e., protection orders that restrain both the victim and the offender) allowed in your country?

b. If not, in which cases are mutual protection orders prohibited and what is the rationale behind this prohibition?

POs are imposed to protect the victim and usually they come from the victim's claimant. BO POs are applied in person separately.

Only in cases of children' custody and if the behavior of both parents is judged as inappropriate, then mutual PO may imposed.

17) a. Are protection orders provided free of charge?

POs are free of charge as judicial procedure per se. The part that loses the trial pays any legal costs for BO-PO.

BO POs are notified to the accused by the court bailiffs and a medium cost is about 250 euro<sup>2</sup>.

Q: Is the same for IPV-PO or DV-PO

A: Yes.

b. If not, who has to pay for the legal costs/court fees? See a.

c. Can these costs/fees constitute an undue financial burden for the victim (and bar him/her from applying for a protection order)?

The victim is civil claimant and under certain conditions he/she may apply for legal aid (on legal aid preconditions, see above 6c).

### 2.2.2. Enforcement of protection orders

*If protection orders can be imposed through multiple areas of law, please make a distinction between these areas of law in answering the following questions. For instance, if a protection order can be imposed in both criminal and civil law, make sure that you answer for both areas of law where and how protection orders are registered (question 1).*

18) Where and how are protection orders registered?

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<sup>2</sup> [https://e-justice.europa.eu/content\\_interim\\_and\\_precautionary\\_measures-78-el-el.do?member=1](https://e-justice.europa.eu/content_interim_and_precautionary_measures-78-el-el.do?member=1)

The enforcement of POs in general is part of the judicial system in Greece.

The Barring Travel Orders (BTO) are registered in a central electronic system of the Ministry of Public Order.

The BO PO's enforcement is done with a copy of verdict or an extract from the decision. The Short term Barring Orders are registered in the Records of the Proceedings, with the claim and the notes of the judge (Code of Civil Procedure, article 691, paragraph 20).

BO POs have a certain number of reference and the parts receive a copy of the verdict.

19) a. Is the victim always informed of the imposition of a protection order and of the conditions that the offender has to comply with?

b. In what way is the victim informed? Does this happen automatically? By mail or letter?

Yes, the victim is always informed on the imposition and the content of PO. Usually the victim is present in the proceedings and hears the decision. A copy of the decision is sent the victim by the court bailiffs. Emails are not widely used by the legal authorities for the information of victims.

20) Who is or which authorities are responsible for monitoring the compliance with protection orders? In other words, who checks whether these orders are violated or not?

The police is the authority responsible, where the violations of POs reported.

With BO POs, it is the claimant who is responsible for monitoring compliance with the PO. If a violation of PO happens, he/she reports the violation to the police.

21) a. Which activities can the monitoring authorities undertake to check the compliance with protection orders? (e.g., GPS, extra surveillance, house visits, etcetera)

In Greece there are no measures of electronic surveillance of the accused or the offender. No GPS or other electronic ways of surveillance, such as electronic bracelet are allowed. Only recently, the Ministry of Justice opened the dialogue on the electronic bracelet, in cases of conditional release.

Probation services undertake the cases of prisons conditional release.

b. Which of these activities do they generally undertake in practice?

No research findings available.

c. If protection orders can be monitored with the help of technical devices (e.g., GPS), how often is this used in practice?

See a.

d. Are protection orders actively monitored or is it generally left up to the victim to report violations?

It is generally left to the victim to report violations.

In cases that the accused has to present in the police department in regular basis, it is the police to monitor the compliance of the accused with the BO RO imposed.

e. How do the monitoring authorities generally become aware of a violation of a protection order: through the victim or through pro-active monitoring activities?

As above d.

22) a. Is contact with the offender initiated by the victim considered a breach to the protection order?

The no contact orders are imposed to protect the victim. Any violation by the victim is taken into account while a change in BO PO is demanding by the accused.

b. What (if any) role does contact initiated by the victim him/herself play in establishing or proving a protection order violation?

This question is a bit confusing, as the victim has asked for the imposition of POs and the aims of PO are to protect the victim from any further victimization. Maybe a thoroughly research in case law could gave answers this question.

c. What (if any) role does contact initiated by the victim him/herself play in the official reaction to protection order violation? Are the authorities, for instance, less inclined to impose a sanction on the offender if the victim initiated contact him/herself?

As above, (b)

23) a. Which evidentiary requirements have to be met before a violation of a protection order can be established?

The evidentiary requirements for the violation of POs are the same as for any other crime and in BO POs a report in the police is required.

b. Which procedure(s) has to be followed in order for the protection order to be enforced after a violation?

Once the victim becomes aware of a violation, (s)he has to report that in the police, which decide on further steps, as provided in the legal decision by which the BO POs were imposed (arrest, monetary payment, etc)

24) a. What are possible reactions/sanctions if a protection order is violated?

In the article 282 of the Code of Criminal Procedure, where the Restriction Orders (BO RO) defined (paragraph 2), a certain paragraph defines that in case of violation by the accused, a short prison sentence is imposed.

Q: Is it the same for IPV- and/or DV-PO?

A: If the crime is felony or misdemeanor

In general, in each PO decision by legal authority, all the sanctions of any violation of the conditions are clearly mentioned. The violation sanctions are multiple –depending on the conditions and more severe than the conditions of the POs. From case law, we found that a few months prison sentence is frequently used as a threat to the accused, if violates the PO. *This is the most common provision.*



If criminal BO ROs on conditional release -which have been imposed either by the court or judicial decision- are violated, then a prison sentence of 1-3 years imposed to the offender. The law specifies certain crimes as precondition, such as felonies for criminal organizations, terrorism, child pornography, and money laundering. That prison sentence cannot change or be replaced by other measures and if appealed, it has no suspensive effect (Law 4139/2013, by which a new article added in the Penal Code 182A).

b. Are there only formal reactions/sanctions available, or are there also informal reactions possible to the breach of a protection order (e.g., a change of the conditions, a warning)?

Any change in the content/ conditions of POs is done by the legal authority which imposed the POs and in the legal context of revision. No informal reactions allowed. Warnings done by the police to the accused is the first step of victim's protection and after the Prosecutor's intervention.

c. Which (official or unofficial) reaction usually follows on a protection order violation?

See a

d. In your opinion, are the sanctions/reactions to protection order violations 'effective, proportionate and dissuasive'?

There are no relative research findings on that issue. However, POs are temporal and aim at the protection of victim. If the victim's protection is achieved –until the final court decision- the aims of POs are fulfilled.

e. Are reports of PO violations, such as emergency calls by the victims, automatically given priority (e.g., with the police)?

There are no research data available on that.

25) a. Is the violation of civil, administrative or other protection orders criminalized?  
In other words, is the violation of any protection order an offense in itself?

Yes, recently a new article added in the Penal Code, to criminalize the violation of BO RO (Restriction Orders) under certain preconditions. More concretely, it is article 182A of the Penal Law, added by the law 4139/2013, by which a prison sentence of 1-3 years imposed in the accused if he/she violates the BO RO to have been imposed by court decision or by other judicial decision and referred to the freedom of residence and other obligations; the felonies committed are those of criminal organization, terrorism, child pornography, money laundering and funding of terrorist activities. *It is only these kinds of crime. For IPV and DV see the general provision, as referred in comment 50.* This prison sentence is imposed if the case has proceeded in the hearing court, but not ended. The sentence does not change or suspended and a possible appeal has no suspense effect. *A few months prison sentence is frequently used as a threat to the accused, if violates the PO*

b. If so, what is the range of sanctions (minimum and maximum penalty) attached to a violation?

As above (a), a prison sentence of 1-3 years.

c. If so, how do the police generally react to a violation of a civil, administrative or other protection order?

The police go on with arresting the accused.

d. If not, can the victim still call in the help of the police and how do the police react?

If the victim calls the police after a BO PO has been violated, the police is obliged to intervene and protect the victim. In DV PO cases, there is a certain legal provision for the victim's assistance and support by police.

Police is obliged to react in any violation report. In certain cases, police arrest the accused (legal provision). *Police is obliged to give any information to the victim of DV on social and psychological support centers, on counseling services and shelters for abused women.*

26) a. Is the monitoring authority capable of issuing a sanction following the breach of the order or does the authority have to report the violation to another authority in order for the sanction to be issued?

Police may arrest the accused who violated the POs and to report the violation in the Prosecutor.

b. If so, are they obliged to report all violations or do they have a discretionary power not to report violations?

Police is obliged to write down any violation of POs in the registration book of incidents. They have no discretionary power not to report violations in that official book.

c. If so, how is this discretionary power used in practice?

See above, b.

27) Do monitoring authorities receive training in how to monitor and enforce protection orders?

No special education on monitoring of PO by police is included in the curriculum of Police Academy, or any other training courses.

### 2.2.3. Types and incidence of protection orders

*This section inquires after the presence of (empirical) studies into the **nature and incidence** of protection orders in your country. If such studies have been conducted, please refer to these studies and give a brief (English) summary of the research design, methods and most important outcomes of the studies in an appendix.*

28) Is there any (empirical) information available on the number of protection orders imposed on a yearly basis in your country? How often are protection orders imposed on a yearly basis? Please distinguish per area of law

There isn't a central electronic base for reporting POs in the whole country; so, there isn't any piece of electronic information on a yearly basis in the country. Due to the administrative organization of the judicial and court system in Greece, it is the headquarters of courts where the registration books are kept and statistics on a yearly basis are available.

We have electronic bases and on line statistics on BO PO (mainly for injunction measures and short term barring orders) on a yearly basis the big cities courts (Athens, Piraeus, Thessaloniki, etc)

29) a. Which types of protection orders (no contact, prohibitions to enter an area, eviction from the family home, other) are imposed most often?  
b. Which combinations of protection orders are most often imposed?

Only qualitative data based on case law are available. No statistics for the whole country, as explained above.

DV POs as provided by law are imposed in combination (no contact order, prohibition to reach at the schools where the children attend, residence change for the accused).

30) For which types of crimes are protection orders generally imposed (IPV, stalking, rape, other)?

POs are generally imposed in DV, IPV, stalking, trafficking and in crimes against children and juveniles.

31) Is there any (empirical) information available on specific victim and offender characteristics?

a. Are protection orders generally imposed against male offenders on behalf of female victims?

From social research findings<sup>3</sup> and data coming from the victims support structures, BO POs are imposed to male offenders on behalf of female victims. However, no certain percentages are available for the whole country.

b. Which percentage of the restraints already had a prior police record?

No data available

c. Which percentage of the restraints already had a previous protection order imposed against him/her?

No data available

#### 2.2.4. Protection order effectiveness

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<sup>3</sup> Artinopoulou, V. *Women's Abuse in the Family*, Nomiki Bibliothiki, 2006, Athens, Greece (in greek)

*This section inquires after the presence of (empirical) studies into protection order **effectiveness** and the reaction to the violation of protection orders. If any such studies have been conducted in your country, please refer to these studies and give a brief (English) summary of the research design, methods and most important outcomes of the studies in an appendix.*

- 32) a. Is there any empirical information available on the effectiveness of protection orders in your country? Do protection orders stop or reduce the unwanted contact? Or do they have another effect (e.g. improve the well-being of the victims, change in the nature of the violence)?
- b. Which percentage of the imposed protection orders are violated?
- c. If protection orders are still violated, are there any changes in the nature of the violence (e.g., violent incidents are less serious)?
- d. Is there any empirical information on the role that victims play in protection order violations (e.g., percentage of cases in which the victims themselves initiated contact)?

Victims of DV and IPV are more relieved when POs imposed, because they feel protected. Given that victims of DV seek help, when there is serious danger for their physical or mental health (and of their children also), POs usually stop the violent incidents effectively. Imposing the POs is the first step of victims' protection in a violent crisis environment. Of course, additional structures and strategies for victims' support needed.

Even if the literature on DV and IPV studies is rich in Greece, these special data and findings requested in this part, are not available.

- 33) Is there any empirical information available on factors which significantly influence the effectiveness of protection orders, either in a positive or a negative way?

From victims' narratives and interviews done by professionals, victims feel safer when POs imposed and the case goes on in the criminal justice system.

- 34) Is there any empirical information available on the formal and informal reaction of the enforcing authorities to violations?
- a. How often (what percentage) do violations lead to a formal reaction?
- b. How often (what percentage) do violations lead to an informal reaction?
- c. How often (what percentage) do violations lead to no reaction?

There is no empirical information available on these matters.

#### 2.2.5. Impediments to protection order legislation, enforcement and effectiveness

- 35) Which impediments are present in your country when it comes to:

- a. Problems with protection order legislation

There aren't research findings in that field, namely to address the problems and impediments in protection order legislation.

However, in terms of the European judicial collaboration, the judicial short term protection is very well documented in EU member states. There are many theoretical legal studies on IOs, BOs, ROs and even more concrete on pretrial detention, which address the issues of Human Rights and analyze the whole context of legal provisions. Authors of these studies are usually professors in the Law Schools (National and Kapodistrian

University of Athens, Aristotle University of Thessaloniki and University of Thrace) and distinguished Judges from the High Courts in Greece.

**b. Problems with protection order imposition/issuing/procedure**

As mentioned, there is lack of research findings in that issue. Nevertheless, the fragmentation of the criminal justice system is well documented and is obvious in the everyday reality. There is lack of cohesion and collaboration in the different stages of CJS. Police, justice and correction are different systems as in their internal legal organization rules, as in 'professional attitudes and ideologies'. Possible problems with PO imposition/issuing/procedure and effects reflect these fragmentations in the CJS and the distance which exists between legal provision and implementation, in general.

**c. Problems with protection order monitoring**

Victims are usually monitoring the POs imposed. Police has no central registration data base, except for TBO in the official control points of the country. So, there isn't a system of monitoring the POs in Greece, to address the possible problems of monitoring and effectiveness.

**d. Problems with protection order enforcement**

After the special law on DV in Greece, police is obliged to pay attention and support the victims of violence. Training programs implemented on treatment of victims of DV and IPV by the police officers and concrete guidelines on the victims' treatment have been published, adopted a more victimological/ gender perspective.

The result of these interventions is that police is paying special attention for the victims of DV, IPV, and stalking, trafficking, sexual abuse and juveniles victimization also. We do the hypothesis that POs enforcement is more effective in those kinds of crime, but no research evidence is available on that.

**e. Problems with protection order effectiveness?**

As above c and d.

**36) In your opinion, what is/are the biggest problem(s) when it comes to protection orders?**

The biggest problem is the system overloading in all stages of CJS. Police files and records are too many and the personnel/ human resources are few. In Greece, criminality rates are raising during last decade; and the problems of safety and policing are multiple and serious, given the fiscal policies in public sector, caused by the finance crisis. Delays in criminal justice system are due to overloading and the punitive character of the judicial system, as inherent and founding problem of the system itself. Prisons are also overcrowded and attempts of imposing alternative to prison sentences made, recently. These systems' inefficiencies are reflected in the law and POs implementation deficiencies, consequently.

### 2.2.6. Promising/ good practices

37) Which factors facilitate the:

a. imposition

Imposition of POs is facilitated as by the law provisions, which are clear, as by the freedom of judgment which the judge holds ex officio. The victim's willingness to report DV and IPV incidents is also a facilitating factor for imposing POs, given the high dark number in these types of crimes. A general/ theoretical facilitation factor is the citizens' trust in the CJS. However, in practice there is a gap in citizens' trust in the CJS, as found in the research data (Euro Barometer research)

b. monitoring, and

The collaboration between legal authorities is a facilitator factor in monitoring POs. Certain steps and practical issues have to be addressed in strengthening collaboration between probation services, police and Prosecutor. Any technical monitoring measures have to be balanced with the protection of HR and the rights of the accused/offender.

c. enforcement of protection orders?

The sentences imposed to any violation of POs, in general. The recent law on criminalizing the violation of ROs in cases of conditional suspension of the sentence and the conditional release from prison is also a facilitating factor for the enforcement of POs.

38) Which factors increase the effectiveness of protection orders? In your opinion, which factor(s) contribute most to the success of protection orders?

- the consent of the accused to comply with the measures
- the victim's real protection from any further victimization by the accused
- the fairness of the content of POs; the rights of offender and the victims are to be balanced fairly.
- the citizens' trust in the CJS

39) What would you consider promising practices in your country when it comes to protection orders? Why?

BO PO are promising as to the time consume and the effectiveness. They are an effective solution in a problematic situation and in a crisis situation where the justice intervention needed.

As for victims' protection, the law 3500/2006 on Confronting Domestic Violence is a good example of how laws can address both a social phenomenon and a crime; and how laws can regulate the private life in a discrete way, by safeguarding the human and victims' rights.

40) Do you have any recommendations to improve protection order legislation, imposition, supervision, enforcement and effectiveness?

Legislation on POs is satisfactory, in general. Any recommendations refer to the levels of:  
- Registration: a credible registration system to be formulated,  
-Supervision: a close collaboration between legal authorities, responsible for POs supervision (probation officers, police, prosecutor, judges)

- Accessing the impact and effect of POs, through developing the research in offenders' recidivism, repeated POs violations, and the victims' feeling of safety.
- Improving the citizens' trust in the CJS and criminal justice policies.

### 2.2.7. Future developments

- 41) Do protection orders feature at the moment in current discussions (in politics) on the protection of victims?

Financial crisis in Greece is the dominant debate, for almost four years now. Current discussion in politics is running on finances and the facets of crisis, such as unemployment, social problems, and budget cutting down in public policies.

Victims of crime and POs are not included in the agenda of current discussions in politics. However, the protection of victims is in the core of a dialogue on Restorative Justice and the current harmonization process with the EU directive on safeguarding the victims' rights in legal circles. *(Please let me know if you need any further information on Restorative Justice in Greece)*

- 42) a. Will the legislation/practice on protection orders change in the nearby future? Are there, for instance, any bills proposing changes to the current practice?

It was just a few months ago, when the violation of ROs imposed for conditional release and instead of pretrial sentence, was criminalized. For the moment, I'm not informed on any further proposing changes to the current practice.

- b. If so, what will change?

See above, a.

- c. Are there at the moment any pilots in your country with a new approach to victim protection orders.

Although a lot of victims' protection pilots have been implemented, not certain for POs is running yet.

- 43) Which (if any) developments in protection order legislation or enforcement do you foresee in the nearby future?

A law preparatory committee is established by the Ministry of Justice for the harmonization with the 2012 EU Directive on safeguarding victims' rights in Greece.

- 44) You have probably heard about the introduction of the European Protection Order (EPO). From now on, criminal protection orders issued in one Member State have to be recognized in another Member State. What is your opinion on the EPO? Which problems/possibilities (if any) do you foresee in the implementation of the EPO in your Member State?

EPO is a step in strengthening the judicial cooperation between EU member states. However, a clear framework has to be established in the internal of judicial systems of member states. Clarity of definitions and legal procedures will facilitate the EPO implementation. There is also need for legal authorities' awareness on EPO.

## **Glossary**

### *1. General Legal Terminology:<sup>4</sup>*

#### **Crime**

An act usually deemed socially harmful or dangerous and specifically defined, prohibited, and punishable under criminal law.

#### **Instantaneous crime**

An “instantaneous” crime is one which is fully consummated or completed in and by a single act (such as arson or murder) as distinguished from one which involves a series or repetition of acts.

#### **Continuous crime**

A “continuous crime”, or a “course of conduct crime”, is a crime consisting of a continuous series of acts, which endures after the period of consummation

#### **Civil law**

Law that applies to private rights especially as opposed to the law that applies to criminal matters. Protection orders that are imposed as part of civil proceedings are referred to in this study as ‘civil protection orders’.

#### **Criminal law**

Branch of public law that deals with crimes and their prosecution. Substantive criminal law defines crimes, and procedural criminal law sets down criminal procedure. In criminal law the protection order is a public matter. A criminal protection order can be imposed by a judge or prosecutor.

#### **Administrative law**

Law dealing with the establishment, duties, and powers of and available remedies against authorized agencies in the executive branch of the government. Some Member States view intimate partner violence (also) as a breach of the public order.

#### **Case law**

In the context of this research case law refers to the entire collection of published legal decisions of the courts regardless of whether in the particular member state law can be established by judicial decisions or only by legislative acts, such as statutory law.

#### **Substantive Law**

Law that creates or defines rights, duties, obligations, and causes of action that can be enforced by law.

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<sup>4</sup> Merriam-Webster's Dictionary of Law ©1996. Merriam-Webster, Incorporated. Published under license with Merriam-Webster, Incorporated.



**Procedural Law**

Law that prescribes the procedures and methods for enforcing rights and duties and for obtaining redress and that is distinguished from law that creates, defines, or regulates rights. It determines the rules of legal process such as the rules of evidence and of procedure in enforcing a legal right or obligation.

**Pre-trial detention or remand**

The detaining of a suspect in a criminal case before the trial has taken place. Since pre-trial detention occurs while the suspect is still presumed innocent, it is often seen in most jurisdictions an exceptional measure. It serves two main purposes: to protect the public and or the victim's safety (prevent the perpetration of further crimes or violent situations) or to protect the conduct of the proceedings (prevent the suspect from fleeing or compromising evidence). The pre-trial detention can be prolonged by a judge.

**Adult person**

An individual who is above the age fixed by law at which he or she would be charged as an adult for a criminal act and to whom no special rules apply in relation to the criminal proceedings.

**Report**

Detailed account or statement of facts, potentially constitutive of a charge of misconduct against someone, made normally before the police or other social services such as health centres, hospitals, courts, etc.

**Legal provisions**

Legal provisions are sections/articles within (codes of) criminal, administrative, civil, or other law that can form the basis of a protection order. Take, for instance, the 'no contact' order as a condition to a conditional release from prison. In this example, the 'no contact' order is the protection order, whereas the conditional release from prison is the legal provision upon which the protection order is based.

**Formal complaint**

It refers to the initial pleading that starts a lawsuit and that sets forth the allegations made against the defendant. It can proceed from a victim, police officer or other person, yet it sets forth a criminal violation and serves as the charging instrument by which charges are filed and judicial proceedings commenced against a defendant in a court.

**Complainant**

It refers to the party (as a plaintiff or petitioner) who makes the complaint in a legal action or proceeding.

**Victim**

A natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal law of a state.<sup>5</sup>

**Decision**

It refers to an authoritative determination (as a decree or judgment) made after consideration of facts or law. While being an authoritative determination of a disputed issue, it does not have to

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<sup>5</sup> EU Council framework decision, 15 march 2001. (2001/220/JHA)

be a final determination closing the case. Some (interlocutory) decisions may be appealed. With regards to a protection order, a decision can be made by a judge, prosecutor, magistrate, or any other administrative officer or public servant.

### **Legal representation/counsel**

By legal counsel or representation we refer to a professional of the law who gives legal advice and pleads the cause of another before a court or tribunal.

### **Legal aid/advice**

By legal aid we refer to the provision of information or advice in relation to the rights, without actually representing the person in the legal procedures.

### **Probation**

The suspension of all or part of a sentence and its replacement by freedom subject to specific conditions (and the supervision of a probation officer). If the suspected/accused/convicted person fails to follow the conditions the sentence will be imposed. The purpose of this is to stimulate good behaviour. This condition may, for instance, include a 'no contact' order or a street ban.

### **Sanction**

Punitive or coercive measure or action that results from failure to comply with a law, rule, or order. The sanction of a crime refers to the actual punishment, usually expressed as a fine or jail term.

### **Notification**

Notification refers to the communication of a fact, claim, demand, proceeding, or verdict. The requirements of when, how, and what notice must be given to a person are often prescribed by a statute, rule, or contract. The notice can, for instance, be published in a public medium (as a newspaper) or it can be serviced on the defendant/suspect in person.

## *2. Forms of violence*

### **Intimate partner violence (IPV)**

Intimate partner violence refers to physical, sexual, psychological, and economic violence or threats against a person by a current or former intimate partner, irrespective of the sex of the partner. It can take place regardless of whether there is, or has been, a shared residence.

### **Domestic violence<sup>6</sup>**

Violence occurring in the family or domestic unit, including, *inter alia*, physical and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants.

### **Stalking<sup>7</sup>**

Stalking refers to a pattern of repeated and unwanted attention – a course of conduct - in the form of direct, indirect or virtual attention, communication or contact, causing anxiety or fear in the targeted person. More severe forms of stalking consist of persistent and continued pursuit and

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<sup>6</sup> Rec. (2002)5. (VAW) (Committee of Ministers).

<sup>7</sup> C. Hageman-White, L. Kelly, & R. Römkens (Eds.), Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence (pp. 127-152). Luxembourg: European Commission.

harassment in a way that is likely to impair the victim's life. It is often, but not always, associated with IPV, especially post-separation.

### **Rape/sexual assault**

Sexual assault is in this study defined as any sexual act committed against non-consenting persons<sup>8</sup>, even if they do not show signs of resistance. Rape is considered one form of sexual assault consisting of the sexual penetration with any means, by one person of another person's body without the consent of that other person.

### *3. Terms related to the protection order*

#### **Types/nature of protection orders**

Protection orders refer, in the context of this research, to those orders specifically issued for the protection of a particular party from violence and to prevent violence from (re-)occurring. The type/nature of the order refers to the different measures that can be included in order. These measures could require, for example, the eviction of the aggressor from the home, the prohibition to return, the prohibition to approach or contact the victim, etc. or a combination of these measures.

#### **Injunction**

A remedy in the form of a court order compelling a party to do or refrain from doing a specified act. An injunction is available as a remedy for harm for which there is no adequate remedy at law. Thus it is used to prevent a future harmful action rather than to compensate for an injury that has already occurred, or to provide relief from harm for which an award of monetary damages is not a satisfactory solution or for which a monetary value is impossible to calculate. A defendant who violates an injunction is normally subject to penalty for contempt.

#### **Restraining order**

An order of a specified duration normally issued after a hearing attended by all parties that is intended to protect one individual from violence, abuse, harassment, or stalking by another esp. by prohibiting or restricting access or proximity to the protected party. Temporary restraining orders can be issued for brief duration, ex parte, to protect the plaintiff's rights from immediate and irreparable injury by preserving a situation or preventing an act until a hearing for a preliminary injunction can be held.

#### **Barring order**

A barring order requires the respondent to leave the family home and stay away from the family home of the applicant/victim and/or dependent children. It may also include terms prohibiting the respondent from using or threatening to use violence or to contact the victim.

#### **Police go order**

A police go order is not a judicial order but a notice given by the police to a person as a warning, in order to stop a violent event or prevent it from happening.

#### **(The) scope**

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<sup>8</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence, art. 36 b.

The scope of the order details the exact limits of the protection order and its conditions. For instance, how many streets are included in a protection order that prohibits the offender from entering a certain area? And which persons is (s)he no longer allowed to contact?

**Radius**

The area, usually measured in meters, surrounding the home (or other defined location) which the aggressor must not approach.

**Practical impediments**

Practical impediments refer to all the circumstance which may impair the implementation of a protection order, such as shortage of police personnel. Thus, regardless of the imposition of the order, in practice, the protection that the order should offer turns out to be limited or even completely hindered.

**Pro-active supervision**

Pro-active supervision means in this study that the police personnel work to monitor and enforce the order by controlling that the aggressor complies with it. Police should actively verify the absence of any breach by the aggressor (or the victim). In the event of a violation of the protection order, the police should report this to the authorities handling the case.