

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

**Guidelines for national experts (final)**

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

*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)?
  - 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?)
  - c. Can protection orders be issued on an *ex parte* basis (without hearing the offender)?
  
- 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?
  - 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)?
  
- 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)
  - b. Could you give an indication of the length of the proceedings?
  - 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?
  - 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?
  
- 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?
  - b. Is legal representation/advice of victims required by law or in practice?
  - c. Is free legal representation/advice available?
  
- 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)?
  - 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?
  - c. Which of these types of protection (e.g., no contact order) are imposed most often in practice?
  - 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)?
  - e. If so, which combinations are most often imposed in general?



- 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?
- 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?  
b. If there are limitations, which factors do the legal authorities have to take into account when deciding on the scope of protection orders?  
c. Which factors do they take into account in practice?
- 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”)?  
b. What is the average scope of an order that prohibits someone to enter a certain area (one street, multiple streets, a village)?
- 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?  
b. Which factors do legal authorities generally take into account when deciding on the duration of a protection order?  
c. What is the average duration of the different protection orders (half a year, one year, two years)?
- 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?  
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?  
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?
- 13) a. Can offenders formally challenge/appeal the imposition of protection orders?  
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?  
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?
- 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)?

- 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)?
- 16) a. When a protection order is issued in a case of domestic violence, are the children automatically included in the protection?  
b. How is the order granted/implemented if the violent partner has visitation rights?  
c. Are there any problems with protection orders and custody/visitation decisions by the courts?
- 17) 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 or if mutual protection orders are only accepted in particular cases, in which cases are mutual protection orders prohibited and what is the rationale behind this prohibition?
- 18) a. Are protection orders provided free of charge?  
b. If not, who has to pay for the legal costs/court fees?  
c. Can these costs/fees constitute an undue financial burden for the victim (and bar him/her from applying for a protection order)?

#### 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).*

- 19) Where and how are protection orders registered?
- 20) 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?
- 21) 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?
- 22) a. Which activities can the monitoring authorities undertake to check the compliance with protection orders? (e.g., GPS, extra surveillance, house visits, etcetera)  
b. Which of these activities do they generally undertake in practice?  
c. If protection orders can be monitored with the help of technical devices (e.g., GPS), how often is this used in practice?  
d. Are protection orders actively monitored or is it generally left up to the victim to report violations?  
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?

- 23) a. Is contact with the offender initiated by the victim considered a breach to the protection order?  
 b. What (if any) role does contact initiated by the victim him/herself play in establishing or proving a protection order violation?  
 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?
- 24) a. Which evidentiary requirements have to be met before a violation of a protection order can be established?  
 b. Which procedure(s) has to be followed in order for the protection order to be enforced after a violation?
- 25) a. What are possible reactions/sanctions if a protection order is violated?  
 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)?  
 c. Which (official or unofficial) reaction usually follows on a protection order violation?  
 d. In your opinion, are the sanctions/reactions to protection order violations 'effective, proportionate and dissuasive'?  
 e. Are reports of PO violations, such as emergency calls by the victims, automatically given priority (e.g., with the police)?
- 26) 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?  
 b. If so, what is the range of sanctions (minimum and maximum penalty) attached to a violation?  
 c. If so, how do the police generally react to a violation of a civil, administrative or other protection order?  
 d. If not, can the victim still call in the help of the police and how do the police react?
- 27) 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?  
 b. If so, are they obliged to report all violations or do they have a discretionary power not to report violations?  
 c. If so, how is this discretionary power used in practice?
- 28) Do monitoring authorities receive training in how to monitor and enforce protection orders?

### 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.*

- 29) 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

- 30) 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?
- 31) For which types of crimes are protection orders generally imposed (IPV, stalking, rape, other)?
- 32) Is there any (empirical) information available on specific victim and offender characteristics?
- Are protection orders generally imposed against male offenders on behalf of female victims?
  - Which percentage of the restrainees already had a prior police record?
  - Which percentage of the restrainees already had a previous protection order imposed against him/her?

#### 2.2.4. Protection order effectiveness

*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.*

- 33) 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)?
- 34) Is there any empirical information available on factors which significantly influence the effectiveness of protection orders, either in a positive or a negative way?
- 35) Is there any empirical information available on the formal and informal reaction of the enforcing authorities to violations?
- How often (what percentage) do violations lead to a formal reaction?
  - How often (what percentage) do violations lead to an informal reaction?
  - How often (what percentage) do violations lead to no reaction?

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

- 36) Which impediments are present in your country when it comes to:
- Problems with protection order legislation
  - Problems with protection order imposition/issuing/procedure
  - Problems with protection order monitoring
  - Problems with protection order enforcement
  - Problems with protection order effectiveness?

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

#### 2.2.6. Promising/ good practices

38) Which factors facilitate the:

- a. Imposition
- b. monitoring, and
- c. enforcement of protection orders?

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

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

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

#### 2.2.7. Future developments

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

43) 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?  
b. If so, what will change?  
c. Are there at the moment any pilots in your country with a new approach to victim protection orders.

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

45) 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?

# Glossary

## 1. General Legal Terminology:<sup>2</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.

### **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.

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<sup>2</sup> Merriam-Webster's Dictionary of Law ©1996. Merriam-Webster, Incorporated. Published under license with Merriam-Webster, Incorporated.

**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>3</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 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**

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<sup>3</sup> EU Council framework decision, 15 march 2001. (2001/220/JHA)

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>4</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>5</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 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**

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<sup>4</sup> Rec. (2002)5. (VAW) (Committee of Ministers).

<sup>5</sup> C. Hageman-White, L. Kelly, & R. Römken (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.



Sexual assault is in this study defined as any sexual act committed against non-consenting persons<sup>6</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**

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.

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<sup>6</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence, art. 36 b.

**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.