

Recommendations

General recommendations to the Member States

- To ensure that adequate protection is available in all situations, the states should have civil and criminal protection orders, as well as emergency barring orders.
- These orders should not only exist on paper, but, depending on the characteristics of each individual case, should actually be considered and applied in practice.
- Protection orders should be available to all victims, and should not be reserved for victims of domestic or intimate partner violence only.
- Victims should be informed of the existence of protection orders and of their function.
- National legislators should avoid exhaustive lists of conditions as much as possible to provide courts and public prosecutors enough leeway to create the most appropriate conditions in a particular case.
- Civil and criminal protection orders should at least be able to prohibit or regulate contact between the victim and the violent person; the violent person from entering a certain area; and approaching the protected person more closely than a prescribed distance.
- Victims should (as much as possible) be involved in delineating the scope and duration of protection orders, and should at least be allowed to express their wishes in this respect.
- The maximum duration of protection orders should be established by law. Statutory maxima should at least amount to one year in the case of civil and (post-trial) criminal protection orders (not barring the offender from the family home). Prolongation of protection orders in the case of continued danger should be possible.
- Protection orders should be available and come into effect within the shortest time possible.
- Protection orders should be available *ex parte* – outside the presence of the violent party – on the condition that the defendant has been summoned and is allowed to appeal the decision.
- Protection orders should be made available free of charge.
- Authorities should have the possibility to declare that protection orders come into effect immediately, regardless of whether the decision is still open for appeal (immediate effectiveness).
- The coming into effect of protection orders should not be deferred by the service of the verdict. Enforcement in practice, however, can only take place if the offender had prior knowledge of the existence of the order and its conditions.
- Victims should always be informed – of the fact that a protection order was issued, of the precise conditions of the order, of its duration, and of how to react to a violation – unless the victim exercised her right ‘not to be informed’.
- The scope and duration of protection orders should be formulated with care, befitting the case-specific situation, and be as clear and unambiguous as possible.
- It should be possible to include (mutual) children in one and the same protection order on the condition that the violent person forms a threat to them as well.

- The authorities adopting protection orders should, as much as possible and explicitly, take parental and visitation rights into account and vice versa. In principle, protection orders should allow for continued contact between the violent parent and his children for the duration of the protection orders *if it does not impede the protection of the victim and if the violent person does not pose a threat to the children as well*. If this creates tension, the protection of the victim should be prioritized, after which alternative ways to allow for (safer) contact between the violent parent and children should be explored.
- Legal representation for victims should be highly recommended, but not made compulsory and Member States should foster a well-functioning and inclusive system of legal aid.
- Contact with the perpetrator, even if initiated by the victim, may not lead to negative consequences for the victim, especially not to the loss of protection.
- To avoid misunderstandings, mutual protection orders should not be allowed.
- Emergency calls of protection order violations should be prioritized.
- It is important to define who is responsible for monitoring protection order compliance. (Quasi-)criminal and emergency barring orders (at least) should formally, and, when necessary, in practice be (actively) monitored by the police and/or another state authority.
- It is helpful to provide the monitoring authorities with national guidelines that include information on *inter alia*: necessity and frequency with which to visit the victim, informing the victim, making a safety plan, conducting a risk assessment, etcetera.
- The monitoring authorities should have no discretionary power in reporting breaches of protection orders to superior authorities responsible for the enforcement of protection orders upon violation. It should be left up to the latter to decide whether the breach was serious enough to warrant further action.
- The violation of protection orders should in principle lead to (effective and dissuasive) sanctions. Informal and lenient reactions, such as warnings or reprimands, are only indicated in exceptional circumstances.
- Actors in the criminal and civil justice system – the police, prosecutors, judges, probation officers – as well as social workers and support personnel must receive adequate and specialized training on protection orders (e.g., as part of their continued education).
- Protection orders, including their violations, should be registered carefully in a nationwide, central registry.
- Nationwide statistical information on protection orders, including EPOs and EPMs, should be collected at regular intervals.

Recommendations for emergency barring orders

- An emergency barring order must at least make it possible to remove the violent person from the family home or other shared dwellings immediately, and prohibit any contact with the persons staying behind.
- The emergency barring order should in principle automatically extend to the children.

- It should be able to impose an emergency barring order *ex parte*, also without prior notification of the violent person, e.g., if he has absconded, as long as the barred person is allowed to appeal the decision.
- The emergency barring order should have immediate effect, even if the order must be confirmed by a court or other legal authority afterwards.
- The emergency barring order is valid for a short period of time, the minimum of which should be established by law. A minimum duration of approximately two weeks is commendable. There should be the possibility of renewal in the case of continued danger.
- The emergency barring order should at least be accompanied by the availability of support to the victim, such as victim services, legal advice and help, shelters, medical help and psychological support counselling.
- The sanctions for the breach of emergency barring orders must be effective and dissuasive. Preferably, the breach of an emergency barring order should be a criminal offence.

Recommendations for civil protection orders

- Civil protection orders should be available at the petition of the victim.
- Civil protection orders should not be dependent on the instigation of a proceeding on some other issue, such as divorce.
- The procedure should be simple. It should suffice that the victim shows that the threat of (repetitive) violence is real.
- The sanctions for the breach of civil protection orders must be effective and dissuasive. Preferably, the breach of an order should be a criminal offence.

Recommendations for criminal protection orders

- Protection orders should be available in all stages of the criminal procedure (pre-trial, post-trial, conditional release).
- In cases with a continued risk of violence, protection orders should, as a rule, be considered (e.g., in the context of a conditional release from pre-trial detention, a conditional sentence, and a conditional release from prison).
- Electronic monitoring of protection orders should be possible and duly considered in cases of serious violence.
- The sanctions for the breach of criminal protection orders must be effective and dissuasive.