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This project is co-funded by
the Justice Programme of
the European Union



ARTEMIS:

Promoting the right of protection of women through the
application of the EC Directive 2011/99/EU and the European
Protection Order

National report Croatia – D2
13 September 2020

THE APPLICATION OF THE EC DIRECTIVE 2011/99/EU AND THE EUROPEAN PROTECTION ORDER

REPUBLIC OF CROATIA



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LEGAL NOTICE

This report is the result of a research carried out by Valentina Andrašek and Sanja Bezbradica Jelavić within the implementation of the project “ARTEMIS - Promoting the right of protection of women through the application of the EC Directive 2011/99/EU and the European Protection Order”.

All reasonable efforts have been made to ensure the accuracy of the data referred to in this report, including through data verification. We regret, however, any data errors that may remain.

This publication was produced with the financial support of the European Union.

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Contents

INTRODUCTION	6
METHODOLOGY.....	6
COUNTRY PROFILE.....	7
Violence against women in Croatia – prevalence	7
National policies and legislative framework	7
PROTECTION ORDERS.....	12
Legal provisions	12
Types of protection orders	12
Procedures for applying for protection orders	14
Monitoring and sanctions	16
Data on protection orders.....	18
EUROPEAN PROTECTION ORDER	20
Legal framework.....	20
Procedures for applying for an EPO	20
Reasons for rejecting an EPO	21
Level of protection and monitoring mechanisms	22
Prevalence	23
Awareness and access to information	23
OVERVIEW OF RELEVANT RESEARCH	24
RESULTS OF THE SURVEY.....	27
Survey for EU citizens.....	27
General part	28
Experience of GBV survivors.....	31
Survey for legal practitioners	35
Survey for NGOs and other service providers	38
FINDINGS AND RECOMMENDATIONS.....	43
Findings	43
Recommendations	46
Bibliography.....	47

Acronyms

AWHZ	Autonomous Women's House Zagreb
CC	Criminal Code
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CPC	Criminal Procedure Code
CSW	Centre for Social Welfare
EPO	European Protection Order
EU	European Union
GBV	Gender-based violence
HRK	Croatian national currency (Croatian Kuna)
LPDV	Law on Protection from Domestic Violence
NGO	Non-governmental organisations

INTRODUCTION

The European Protection Order (EPO) was introduced by the EC Directive 2011/99/EU¹ to allow judicial protection orders issued in criminal proceedings in one Member State to be applied in another Member State.

The directive introduces measures aimed at creating a specific common area of security and justice without internal borders, strengthening the protection measures already obtained by victims of crime. The institution of the European Protection Order is based on judicial cooperation in criminal matters as well as on the mutual recognition of judgments and judicial decisions, as sanctioned by the Treaty on the functioning of the European Union (EU).

This analysis on the implementation of the EC Directive 2011/99/EU and the implementation of national legislation related to protection orders in Croatia was carried out by the Autonomous Women's House Zagreb – Women against Violence against Women (AWHZ) within the EU project “Promoting the right of protection of women through the application of the EC Directive 2011/99/EU and the European Protection Order – ARTEMIS”.² The project is carried out by the lead organisation PROGEU – Progress in European Union from Italy with partners from the Czech Republic, Cyprus, Greece and Croatia.³ The project aims to contribute to a better and coherent application of the EC Directive 2011/99/EU and to promote the use of the EPO among European citizens, lawyers and the personnel of non-governmental organisations (NGOs) and other service providers.

METHODOLOGY

This analysis looks at the application of the EC Directive 2011/99/EU, the use of the European Protection Order and the level of awareness and knowledge among European citizens, lawyers and the personnel of NGOs and other service providers. In order to analyse the application of EPO in Croatia, AWHZ carried out a desk research to identify the legal provisions regarding gender-based violence (GBV) against women, types and application of protection orders, procedures for applying for EPOs, and level of protection and monitoring mechanism. The results of the desk research are presented in the first part of this report.

Besides carrying out a desk research, three online surveys were designed and distributed: one for EU citizens, one for legal practitioners and one for NGOs and service providers. The surveys aimed to inquire into the level of awareness and knowledge about the EC Directive 2011/99/EU and the EPO among EU citizens, lawyers and the personnel of NGOs that support women in cases of domestic violence, stalking and other forms of abuse.

The survey for EU citizens was distributed through e-mail and newsletter to AWHZ contact list (400) and it was distributed through AWHZ Facebook page, supported by Facebook ads and reaching 13,234 people. 920 responded to the survey. The survey for NGOs and service providers was distributed to 204 NGOs and other service providers, mainly Centres for Social Welfare (CSWs), of whom 88

¹ The European Parliament and the Council, [Directive 2011/99/EU of the European Parliament and of the Council on the European Protection Order](#), Official Journal of the European Union”, 2013.

² Website of the project available at <https://www.artemis-europa.eu/>

³ Partners in the project are: Croatia – Autonomous Women's House Zagreb, Czech Republic – Profem, Cyprus – Mediterranean Institute of Gender Studies, Greece – Union of Women's Association Heraklion, Italy - EBIT Scuola di Formazione e Perfezionamento per la Pubblica Amministrazione. The project is funded by the European Commission – Justice Program.

responded to the survey. The survey for legal practitioners was distributed to all prosecutors' offices (47) and it was also distributed to all registered lawyers in Croatia (4,800) through Croatian Bar Association and its local branches, with 41 legal experts responding to the survey. The results of these surveys are presented in the second part of this report.

COUNTRY PROFILE

Violence against women in Croatia – prevalence

Violence against women in Croatia is a serious and widespread issue, especially violence in intimate partner relationships. A nation-wide survey that AWHZ conducted in 2003, the only one of its kind to date, showed that every third woman had survived or will survive some form of physical intimate partner violence during her lifetime.⁴ The same research showed that 44% of women survived verbal abuse in their current relationship, while nearly seven out of 10 (68%) women had experienced such abuse from a previous partner. A third of the women (34%) were survivors of sexual violence.

The 2012 data from the Fundamental Rights Agency EU wide survey on violence against women⁵ showed that one in eight (12%) women in Croatia survived physical violence from a partner since the age of 15, 3% have shared that they have survived sexual violence from a partner and 42% have survived psychological violence from a partner. Among them, most (33%) have experienced abusive behaviours (verbal abuse, insults, humiliation), but nearly three in ten (29%) also identified controlling behaviours. More than one in ten (11%) have identified economic abuse from their partners since the age of 15.

Femicide, or murder of women in intimate partner relationships, is a serious issue in Croatia. From 2013 till 2018, 99 women have been murdered in Croatia. Of those, 80 were murdered by a close person, of which 51 by an intimate partner.⁶ An in-depth analysis of these cases showed in many of them the femicides were the consequence of the failure of the state institutions to use the available legislative measures and protect the women from intimate partner violence.⁷

National policies and legislative framework

Croatia has ratified most of the relevant international instruments on violence against women and domestic violence. They include:

- UN Convention on the Elimination of All Forms of Discrimination of Women (CEDAW), ratified in 1997, together with its Optional Protocol (2001).
- Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), ratified in 1997. Later, its optional protocols 12, 13 and 14 were also ratified.
- Convention on the Rights of Persons with Disabilities, and its optional protocol, were ratified in 2007.

⁴ Autonomous Women's House Zagreb, *Interpretacija rezultata istraživanja o nasilju nad ženama u Republici Hrvatskoj* ("Interpretation of Research Results of a Survey on Prevalence of Violence Against Women in Croatia"), available (in Croatian) at <http://www.azkz.net/istrazivanja.html>. The research looked at the violence that women have survived, the violence their mothers have survived and the violence their friends have survived and then calculated a lifetime prevalence.

⁵ European Union Agency for Fundamental Rights, *Violence against Women: an EU-wide survey (2014)*, available at <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

⁶ Ibid.

⁷ Ibid.

- Council of Europe Convention of Preventing and Combatting Violence against Women and Domestic Violence (the Istanbul Convention), was ratified in 2018. Although the Istanbul Convention was signed in 2013, it was not ratified until 2018. The reason for this substantial delay was a strong backlash and opposition to its ratification from pushback movements, which misrepresented the content and aim of the Istanbul Convention.

The main national strategic document dealing with domestic/intimate partner violence against women is the **National Strategy for Protection against Family Violence from 2017 – 2022**, passed by the government of Croatia on September 22nd 2017.⁸ This is the fourth such national strategy since the first one was passed in 2004 and it contains:

- Responsibilities of the relevant state bodies and other stakeholders who participate in investigation and prosecution of violence, and in providing support to women victims of gender-based violence and victims of domestic violence;
- The forms, manner and content of co-operation between the competent authorities and other actors involved in the detection and suppression of violence and the provision of assistance and protection to women victims of gender-based violence and victims of domestic violence;
- Other activities and obligations related to the conduct of competent bodies and other actors involved in the detection and suppression of violence, and the provision of assistance and protection to women victims of gender-based violence and victims of domestic violence.

While this Strategy makes reference to the most relevant international instruments on violence against women, including CEDAW and the Istanbul Convention, as well as clearly stating that, according to the statistical reports, most victims of domestic violence are women, it is a gender-neutral document, which fails to make the connection between gender inequality and violence against women.

GBV against women is regulated in Croatia through the Criminal Code (CC) and the Law on Protection from Domestic Violence (LPDV). The Criminal Procedure Code (CPC) and Misdemeanour Law also make reference and regulate some parts of proceedings related to cases of violence. There is also a specialised law on Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War Act that secures compensation of women survivors of sexual violence during the 1990s war. The Free Legal Aid Act provides all victims with access to secondary legal aid.

The Criminal Code

The **Criminal Code** contains legal provisions to sanction most forms of violence against women and GBV. Several articles in the Criminal Code are defined in an aggravated form if committed against a close person, including murder⁹, bodily injury¹⁰, grievous bodily injury¹¹, particularly grievous bodily

⁸ Ministry for Demography, Family, Youth and Social Policy, *National Strategy on Protection against Violence in the Family 2017-2022.*, available (in Croatian) at

<https://ravnopravnost.gov.hr/UserDocImages//arhiva/preuzimanje/dokumenti//Nacionalna%20strategija%20zastite%20o%20nasilja%20u%20obitelji%20za%20razdoblje%20do%202017.%20do%202022.%20godine.pdf>

⁹Criminal Code, art 111.3 «whoever murders a close person whom they have abused before...», will be punished by at least 10 years of imprisonment (5 years for regular murder).

¹⁰ Criminal Code, art 117.2. – bodily injury punished by to 3 years in prison (up to 1 year for basic form).

¹¹ Criminal Code, art 118.2. – punishment if committed against a close person is 1 to 8 years of imprisonment (basic form of the crime is punished by 6 months up to 5 years).

injury¹², female genital mutilation¹³, unlawful deprivation of liberty¹⁴, coercion¹⁵, threat¹⁶, and stalking¹⁷. Sexual violence is regulated in the Criminal Code through several provisions. Rape is defined in art 153 of the Criminal Code as sexual intercourse or equated action without consent which is punishable by 1 to 5 years of imprisonment, and 3 to 10 years if committed by use of threat/force or against a close person.

Under the Criminal Code Art. 179a, violence in the family is defined as:

“Whoever violates the regulations on the protection of domestic violence, and thus causes a member of the family or a close relative a fear of their safety or the safety of their close persons or puts them in a humiliating position, (in a way) that they don’t commit a heavier offense, they shall be punished by imprisonment for up to three years.”

The Criminal Code does not define “coercive control” as a key element of intimate partner violence, therefore leaving a vague definition of family violence in art 179a. While it is commendable that the government introduced aggravated form of offense for eleven criminal acts, the result was a focus on domestic violence as an incidence-related crime, easily described with one or more criminal acts. However, in order to prosecute physical violence resulting in injuries (which provides for the highest sanctions, besides murder), the victim has to provide medical documentation.¹⁸ Women suffer violence sometimes for years without reporting so they usually don’t have medical documentation of their injuries. This means in practice that the criminal acts for bodily injuries and sometimes grievous bodily injury cannot be prosecuted, so many of the offenders end up being prosecuted for threat, which doesn’t accurately describe the crime they committed and carries a lower punishment.

Law on Protection from Domestic Violence

Despite the existence of both aggravated forms of several acts and a separate crime of domestic violence, most cases of domestic violence are still prosecuted and punished under the **Law on Protection from Domestic Violence**. The first LPDV was passed in 2003, and amended slightly in 2009. The new LPDV was passed in 2017. This is a misdemeanour law and defines domestic violence as:¹⁹

1. Physical violence;
2. Bodily punishment or other forms of humiliating treatment of children;
3. Psychological violence which has caused injury to dignity or anxiety to the victim;
4. Sexual harassment;
5. Economic violence as a prohibition or disabling of the use of joint or personal property, disposing of personal income or property gained by personal work or inheritance, disabling employment, deprivation of resources for maintaining a common household and child care;
6. Neglecting the needs of a person with a disability or an elderly person which leads to causing her anxiety or insulting her dignity and thereby causes her physical or mental suffering.

¹² Criminal Code, art 119.2. – punishment is 1 to 10 years of imprisonment if committed against a close person (1 to 8 years for basic form).

¹³ Criminal Code, art 116.3. – punishment if committed against a close person is 1 to 8 years of imprisonment (basic form of the crime is punished by 6 months up to 5 years).

¹⁴ Criminal Code, art 136.3 – punishment if committed against a close person is 1 to 10 years of imprisonment (basic forms are up to 3 years (for unlawful deprivation of liberty, art 136.1.) and 6 months to 5 years (for unlawful deprivation of liberty for purpose of extortion, forcing a person to do something or with a goal to cause suffering, art 136.2.)).

¹⁵ Criminal Code, art 138.2. – while the punishment is the same regardless of who the victim is, the crime is prosecuted ex officio instead of by private complaint if it is committed against a close person.

¹⁶ Criminal Code, art 139.2. – the punishment is up to 3 years of imprisonment and it is prosecuted ex officio if committed against a close person (basic form is up to 1 year and prosecuted by a private complaint).

¹⁷ Criminal Code, art 140.2. – punishment is up to 3 years of imprisonment if committed against a close person, basic form is up to 1 year. However, there is no ex officio prosecution. The victim has to file a private complaint unless the victim is a child.

¹⁸ Advocates for Human Rights and Autonomous Women's House Zagreb, *Stakeholder report for the UPR*, September 2018, point 32, page 8.

¹⁹ Law on Protection from Domestic Violence 2017, Official Gazette 70/2017, art 10.

Such violence is punishable by a fine, jail and/or protection measures. Whoever commits domestic violence according to this law will be punished by a fine of at least 2,000 HRK (€270) or up to 90 days in jail. Repeat offenders will be punished by at least 6,000 HRK (€800) or at least 30 days in jail. The law also defines aggravated forms of domestic violence, so that for violence committed in the presence of a child the sanction is at least 7,000 HRK (€930) or at least 45 days in jail (8,000 HRK (€1,060) or 60 days in jail for repeat violence), and at least 12,000 HRK (€1,600) or at least 70 days in jail for domestic violence committed against a child or a disabled person.

To ensure the implementation of LPDV, the government passed a protocol called the Rules of Procedure in Cases of Domestic Violence that were amended in 2019. The aim of the new protocol is, among other things, ensuring public awareness of the problem of violence, prevention of violent behaviour, introduction of prevention programs in educational institutions, early identification of risks and mutual exchange of information for comprehensive protection of victims and family members, as well as integrated approach to protection from DV.²⁰

Administrative data

Administrative data on domestic violence in Croatia is collected primarily by the police, and published in monthly and yearly reports. These data provide an incomplete picture of violence against women and domestic violence in particular since they are only partially sex-disaggregated and do not cover all forms of GBV against women. Since the LPDV does not provide protection to women who have never lived with their perpetrator and don't have any children in common, the administrative statistics, which are based on the legislation, do not cover the information on all women survivors of intimate partner violence.

According to the official crime statistics published by the police, in 2019 there were 9.626 reported perpetrators of domestic violence under the Misdemeanour Law²¹. Out of these, 78% of perpetrators were men and 22% were women.

Number of reported perpetrators of domestic violence through the LPDV by year ²²								
2011	2012	2013	2014	2015	2016	2017	2018	2019
17.884	17.976	16.564	14.874	13.775	11.948	11.506	10.272	9.626

The total number of recorded crimes in close personal relationships according to the Criminal Code in 2018 was 3.198. Over nine in ten (91%) of perpetrators were male, while 75% of victims were female.²³ These numbers include both adult and minor victims and perpetrators and can be therefore misleading in showing the true extent of male violence against women. Specifically, for the crime of domestic violence (Art 179a CC) there were 623 such acts committed in 2018. The year 2019 saw an increase by 28% in the number of these cases, with 4.460 recorded crimes in personal relationships.²⁴

²⁰ Ministry for Demography, Family, Youth and Social Policy, Rules of Procedure in cases of domestic violence, 2019., available (in Croatian) at <https://mdomsp.gov.hr/UserDocImages/Vijesti2019/PROTOKOL%200%20POSTUPANJU%20U%20SLU%C4%8CAJU%20NASILJA%20U%20BITELJI.pdf>

²¹ Ministry of Interior, Survey of Basic Safety Indicators in 2019 in the Republic of Croatia, 2019., available (in Croatian) at https://mup.gov.hr/UserDocImages/statistika/Statisticki_pregled_2019_WEB.pdf. The cumulative number of reports for 2018 apply to all forms of domestic violence defined in the Law on Protection from Domestic Violence: physical, psychological, economic, sexual harassment and violence towards children.

²² Ombudsperson for Gender Equality, Work reports 2011-2019., available (in Croatian) at <https://www.prs.hr/index.php/izvjesca>

²³ Ibid.

²⁴ Ombudsperson for Gender Equality, Work Report 2019., page 97, available in Croatian at https://www.prs.hr/attachments/article/2894/IZVJESCE_O_RADU_ZA_2019_Pravobraniteljice_za_ravnopravnost_spolova.pdf

Regarding the crime of domestic violence (Art179a CC), there were 1.134 such cases, nearly twice as many as in the previous year.²⁵ In 88% of the cases, the reported victims were women, while 93% of the perpetrators were men.

Up until the beginning of 2020, the Criminal Code differentiated between rape (requiring the use of force/threat) and sexual intercourse without consent and the data is collected based on these provisions. In 2018, there were 56 reported cases of rape (all victims were women), of which 30 were committed by a close person. The crime of sexual intercourse without consent was reported 69 times, out of which 27 were committed by a close person. There were 11 attempted rapes in 2018, and 49 cases of sexual harassment.²⁶ In 2019, there were 116 reported crimes of sexual intercourse without consent, of which 37 were committed by a close person (36 of the victims were women) and there were 73 reported crimes of rape, of which 23 were committed by a close person (all victims were women).²⁷

Sexual intercourse without consent (Art. 152 CC) statistics:²⁸

Year	Total cases	Committed by a close person
2014	44	22
2015	70	26
2016	116	83
2017	67	33
2018	69	27
2019	116	37

Rape (Art. 153 CC) statistics:²⁹

Year	Total cases	Committed by a close person
2014	57	16
2015	72	32
2016	81	34
2017	61	25
2018	56	30
2019	73	23

²⁵ Ministry of Interior, *Survey of Basic Safety Indicators in 2019 in the Republic of Croatia, 2019*, page 65.

²⁶ Ombudsperson for Gender Equality: *Work report for 2018.*, available (in Croatian) at <https://www.prs.hr/attachments/article/2645/lzviešće%20o%20radu%20Pravobraniteljice%20za%20ravnopravnost%20spolova%20za%202018.%20godinu~.pdf>

²⁷ Ombudsperson for Gender Equality, *Work Report 2019.*, page 140.

²⁸ Ombudsperson for Gender Equality, *Work Report 2018*, page 148.

²⁹ Ibid.

PROTECTION ORDERS

Legal provisions

Protection orders in Croatia are regulated through both criminal and misdemeanour laws. The intent was to secure that victims of violent crime are protected in all procedures since both domestic violence and other forms of violence are prosecuted, depending on gravity and other factors, through either the Criminal Code, the Criminal Procedure Code, Misdemeanour Law or the specialised Law on Protection from Domestic Violence.

The Criminal Code prescribes safety measures for perpetrators of criminal offenses who have been found guilty, with the purpose of eliminating the circumstances that enable or encourage the commission of a new criminal offense. The Criminal Procedure Code prescribes precautionary measures as a substitute for pre-trial detention. The Misdemeanour Law prescribes precautionary measures during the proceedings and protection measures as a type of sanction. In cases of domestic violence, protection measures are further regulated through a specific law, the Law on Protection from Domestic Violence, which prescribes protection measures as a type of sanction.

Types of protection orders

Each law described in the previous section prescribes different types of protection orders, depending on the acts to which each law is applied.

The Criminal Code – Safety Measures

The **Criminal Code**³⁰ prescribes a total of nine safety measures that can be applied to any defendant in a criminal procedure. Safety measures take effect from the enforceability of the judgment. Five of these measures could typically be applied in cases of GBV and the following two are covered by the EPO:

Prohibition of approaching, harassing or stalking the victim (Art. 73 of CC), a person or group of persons, or a ban on approaching a certain place to the perpetrator will be imposed by the court when there is a danger that the perpetrator may commit a criminal offense against those persons or in those places. This measure can be imposed for a period of 1 to 5 years.

Removal from a joint household (Art. 74 of CC) may be imposed by the court on the perpetrator of violence against a person living in a joint household if there is a high degree of danger that without implementing this measure the perpetrator could repeat violence against a member of the joint household. This measure can be imposed for a period of 3 months to 3 years.

The remaining three measures that can be imposed on the perpetrator of GBV are: compulsory psychiatric treatment (Art. 68 of CC), compulsory treatment for addiction (Art. 69 of CC) and compulsory psychosocial treatment (Art. 70 of CC). All three may be carried out during the prison sentence or while on probation.

The Criminal Procedure Code – Precautionary Measures

³⁰ The Criminal Code, Official Gazette 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, available in Croatian at <https://www.zakon.hr/z/98/Kazneni-zakon>

The **Criminal Procedure Code**³¹ prescribes precautionary measures when there are reasons for ordering pre-trial detention or it has already been ordered. Then the court and the State Attorney, if the same purpose can be achieved by a precautionary measure, may determine the application of one or more such measures. In case of non-compliance with the imposed measure, it will be replaced by pre-trial detention. Article 98 Par 2 states that precautionary measures are:

- 1) ban on leaving the place of residence,
- 2) ban on visiting a certain place or area,
- 3) the obligation to report regularly to a certain person or state body,
- 4) ban on approaching a certain person,
- 5) prohibition to establish or maintain contact with a certain person,
- 6) ban on performing certain business activities,
- 7) temporary confiscation of travel and other documents for crossing the state border,
- 8) temporary revocation of the license for driving a motor vehicle,
- 9) prohibition of stalking or harassing the victim or other person,
- 10) removal from home,
- 11) ban on internet access.

Precautionary measures can be imposed pre-trial or during the trial and may last until the final judgement is passed. These measures can be imposed on all persons accused of a crime against whom criminal procedure has been instigated. There are some limitations so, for example, the precautionary measures may not restrict the defendant's right to his own home and the right to unhindered relations with family members, spouses, parents, or children, unless the proceedings are conducted for a criminal offense committed to the detriment of one of these persons. Therefore, this limitation does not hold in cases of GBV and domestic violence. The general objection to the Criminal Procedure Code is that there is no possibility of independently imposing a precautionary measure due to the fear that the victim feels. Thus, a precautionary measure is imposed as a substitute for pre-trial detention if the conditions for pre-trial detention are met. If the conditions for pre-trial detention are not met and the victim is afraid, the measure cannot be imposed. Despite this, there are isolated cases of good practice where some judges do issue those measures for the purpose of protecting the victim who is afraid of the perpetrator, even when the preconditions described by the law are not strictly met.

The Misdemeanour Law – Precautionary Measures, Emergency Protection Order and Protection Measures

The **Misdemeanour Law**³² prescribes precautionary measures. After the indictment has been filed, the court may ex officio or at the request of the plaintiff issue a decision to apply one or more precautionary measures against the defendant if necessary to ensure the defendant's presence in the proceedings, prevent the defendant from committing new offense or from preventing or complicating evidence in the proceedings. Art. 130 lists the following precautionary measures:

1. ban on leaving the place of residence, without a court permit,
2. ban on visiting a certain place or area,
3. prohibition of approaching a certain person and prohibition of establishing or maintaining contact with a certain person,
4. ban on undertaking certain business activities,
5. temporary confiscation of travel and other documents for crossing the state border, with a ban,

³¹ The Criminal Procedure Code, Official Gazette 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19, available in Croatian at <https://www.zakon.hr/z/174/Zakon-o-kaznenom-postupku>

³² The Misdemeanour Law, Official Gazette 107/07, 39/13, 157/13, 110/15, 70/17, 118/18, available in Croatian at <https://www.zakon.hr/z/52/Prekr%C5%A1ajni-zakon>

6. temporary revocation of a driver's license for driving a vehicle or a license for operating a vessel, aircraft or other means of transport.

These measures can be applied throughout duration of the misdemeanour procedure to any defendant if deemed necessary. Similar to the Criminal Procedure Code precautionary measures, there are limitations in that the measures may not restrict the defendant's right to his own apartment, and the right to unhindered relations with family members, spouses, extramarital or former spouses, with the children of each of them, parents, adoptive parent, person with whom he has children, with a same-sex partner and with a former same-sex partner, unless the proceedings are conducted for offenses related to domestic violence.

These precautionary measures can also be issued by the police in cases of domestic violence for a period of up to 8 days, therefore, they can be used as **emergency protection orders**. There is no data on the police issuing this emergency protection order and there have been no cases in the practice of AWHZ Shelter and Counselling Centre where the police have indeed used this option to protect the victim. Article 50 of the same law prescribes protection measures for misdemeanour acts, which include a restraining order, with a duration of 1 month to 2 years. However, since there is specialised legislation with protection measures in cases of domestic violence, this article is rarely used in these cases.

The Law on Protection from Domestic Violence – Protection Measures

The main legislation dealing with cases of domestic violence is the **Law on Protection from Domestic Violence**.³³ According to this law, protection measures are defined as a type of sanction and can be issued with or without other types of sanctions (jail or a fine). Article 12 of the same law states that the purpose of protection measures is to prevent domestic violence, ensure the protection of the health and safety of victims of domestic violence and eliminate circumstances that favour or encourage the commission of a new offense. The law prescribes the following protection measures:

1. Mandatory psychosocial treatment for the perpetrator,
2. Prohibition of approaching, harassing or stalking a victim of domestic violence,
3. Removal from a joint household,
4. Compulsory treatment for addiction.

Protection measures of removal from a joint household and prohibition of approaching, harassing or stalking a victim (eviction and restraining order) can be passed for a period of 1 month to 2 years. Psychosocial treatment can be ordered for no less than 6 months and addiction treatment for up to 1 year. Violation of a protection measure can be punished by a fine of at least 3,000 HRK (€400) or by at least 10 days in jail.

Procedures for applying for protection orders

Protection orders prescribed by the Criminal Code, Criminal Procedure Code and Misdemeanour Law are available to all victims of crime, while protection measures prescribed by the Law on Protection from Domestic Violence are only available for victims of domestic violence. These protected persons do not include women who have never lived with their abuser and don't have any common children as LPDV is limited by the definition of family and place of residence.

³³ The Law on Protection from Domestic Violence, Official Gazette 70/17, 126/19, available in Croatian at <https://www.zakon.hr/z/81/Zakon-o-za%C5%A1titi-od-nasilja-u-obitelji>

Protection orders can be divided into criminal level and misdemeanour level. If GBV against women is prosecuted as a crime through the Criminal Code, then the victim has a right to be protected before and during the trial with precautionary measures prescribed by the Criminal Procedure Code and after the final court ruling by safety measures prescribed by the Criminal Code. On the other hand, where GBV and domestic violence are prosecuted as misdemeanours through the LPDV, the victims have the right to be protected before or during the proceedings by precautionary measures prescribed in the Misdemeanour Law and after the court ruling by protection measures prescribed by the LPDV. Each of these laws has specifically defined procedures for requesting and issuing protection orders, but generally, protection orders can be requested by the victim, the prosecutor or they can be issued by the court ex officio.

The Criminal Procedure Code

According to the Criminal Procedure Code, precautionary measures may be ordered before and during the criminal proceedings. Before filing an indictment, precautionary measures are determined, extended and revoked by a decision of the State Attorney, and the investigating judge when deciding on pre-trial detention. The public prosecutor or the investigating judge who ordered the measure is competent to extend or revoke it. After the indictment has been filed and until the verdict becomes final or enforceable, the measure is determined, extended and revoked by the court.³⁴

The Criminal Code

Safety measures that are prescribed by the Criminal Code can only be issued by the judge presiding in the case. In order to be issued, the public prosecutor or the victim has to apply for them. The court can also decide to issue safety measure(s) without the plaintiff's application, if the judge deems such measures necessary.

The Misdemeanour Law

Pursuant to the provisions of the Misdemeanour Law Art. 130, after the indictment has been filed, the court may ex officio or at the request of the plaintiff issue a decision to apply one or more precautionary measures against the defendant if necessary to ensure the defendant's presence in the proceedings, to prevent repetition of the act or to prevent interfering with the evidence in the proceedings. Also, one or more precautionary measures may be temporarily and for a maximum of eight days ordered by the police or state administration inspection bodies against a person for whom there are grounds for suspicion that he is the perpetrator of a misdemeanour. In cases of violence, the police are in charge of ordering the precautionary measures. Once they order the measure, they have eight days to file an indictment asking the court to extend the duration of the precautionary measure, otherwise the measure will cease to be in effect after eight days. The appeal process does not delay the execution of precautionary measures.

The Law on Protection from Domestic Violence

The LPDV in Art. 12 states that protection measures may be imposed ex officio, at the proposal of the authorised prosecutor, the victim or the Centre for Social Welfare. The authorised prosecutor in cases tried under the LPDV is usually the police, or sometimes the public prosecutor. In accordance with Art. 14 of the same law, the court may impose protection measures prohibiting the approach, harassment or stalking of a victim of domestic violence and removal from a joint household before initiating misdemeanour proceedings at the proposal of the victim or another authorized prosecutor if there is a direct threat to the safety of the victim or their family member. That decision has to be rendered by the court without delay, and no later than twenty-four hours after the submission of the motion. The court makes the decision after hearing the victim and the person against whom protection is sought. The appeal does not delay the execution of the decision. The decision will be revoked if the victim or

³⁴ Article 98 par. 5 of the CPC.

other authorized prosecutor does not file an indictment within eight days from the day the decision was made, of which the court is obliged to warn the victim.

All four types of protection and precautionary measures are tied to either criminal or misdemeanour proceedings. Only the Misdemeanour Law precautionary measures can be issued directly by the police for a period of up to eight days, but even these can only be extended through further judicial proceedings. The LPDV protection measures can be issued without further sanctions because they are defined as a form of sanction, but this process is still a part of the misdemeanour proceedings. There are no civil protection orders in Croatia.

Monitoring and sanctions

Each of the four laws has specific rules for monitoring compliance with protection orders and prescribed sanctions for violations.

The Criminal Code

For safety measures of compulsory psychiatric treatment, compulsory treatment for addiction and compulsory psychosocial treatment, as defined in the **Criminal Code**, the institutions carrying out the treatment together with the court are in charge of monitoring compliance. If these measures are implemented during the prison sentence, the prison is responsible for monitoring compliance. Otherwise, psychiatric facilities or other institutions or organisations in charge of the treatment programme are in charge of monitoring compliance, sometimes with the aid of probation officer. The judge in each case has to review whether there are conditions for continuation of treatment and make decision on that based on the report of the institutions carrying out the treatment.

For the two safety measures directed at protection of the victim, there are specific procedures for monitoring outlined in the Ordinance on implementation of safety measures of restraining order and removal from the joint household³⁵. For either of these two safety measures, one police officer who is in charge of implementation should draft, together with the victim, a safety plan and should check once a week with the victim whether the perpetrator is complying with the measure. While the language of the Ordinance is somewhat vague, it is clear that monitoring the compliance of the measure is done primarily through communication with the victim and based on reports of violation from the victim or other people close to her.

When the safety measure of removal from the joint household is issued, the person on whom the measure was imposed is obliged to leave the joint household immediately in the presence of a police officer. In accordance with Art. 12 of the Ordinance, the execution of the safety measure of removal from the joint household is carried out in such a way that the police officer has to escort the perpetrator into a joint household to take his personal documents and objects, warn the perpetrator to hand over the keys of the joint household to the victim or another present person who will hand them over to the victim, warn him that he may not enter the household through duration of the safety measure and finally remove him from the premises.

When the restraining order is issued, the police officer in charge, according to Art. 11 of the Ordinance, has the following additional duties:

- in case of finding the perpetrator in the preventive area determined by the Security Execution Plan, warn him of the need to respect the safety measure as well as the consequences in case of its violation;

³⁵ Ordinance on implementation of safety measures of restraining order and removal from joint household, Official Gazette 76/13, available in Croatian at <http://www.propisi.hr/print.php?id=12406>

- upon notification of the victim or another person about the violation of the safety measure, go urgently to the scene and issue an order to the perpetrator to leave the area where the victim is if such contact occurred accidentally;
- when circumstances or knowledge indicate the intention or plan of the perpetrator to act contrary to the imposed safety measure or to endanger the health and safety of the victim in another way, the police officer shall urgently find the perpetrator and warn him of the consequences of such conduct;
- if circumstances indicate that the perpetrator, despite the warning, may violate the safety measure, the victim will be provided with adequate police protection while there is a danger to her health and safety.

The perpetrator who is found violating one of these safety measures will be arrested and criminal proceedings will be instigated. **The sanction for violating the safety measure is up to two years in prison.**

The Criminal Procedure Code

The compliance with the precautionary measures issued according to the **Criminal Procedure Code** is monitored by the police through the Ordinance on implementation of precautionary measures.³⁶ The procedure for monitoring the ban on visiting a certain place or area is visiting and checking that place or area, while the procedure for monitoring the ban on approaching a certain person, prohibition to establish or maintain contact with a certain person, and prohibition of stalking or harassing the victim or other person is done through contacting and talking to the person whom the measure is protecting, i.e. the victim. Again, while the police are supposed to take pro-active approach and contact the victim, the burden is mostly on the victim to help the police monitor the compliance. Pursuant to the Criminal Procedure Code, **in case of non-compliance with the precautionary measures, they are replaced by pre-trial detention.**

The Misdemeanour Law

Monitoring the compliance with the precautionary measures issued according to the **Misdemeanour Law** is done by the police. The court may at any time request a review of the execution of the precautionary measure and a report from the police or another body executing the precautionary measure. **The violation of the precautionary measure may be sanctioned with a fine of up to 10,000 HRK (€1,300).**

The Law on Protection from Domestic Violence

There are three ordinances regulating the implementation of protection measures according to the **Law on Protection from Domestic Violence**. The Ordinance on the implementation of the protection measure of compulsory psychosocial treatment³⁷ and Ordinance on the implementation³⁷ of the protection measure of compulsory treatment for addiction³⁸ define who can and how carry out these treatment programmes. These programmes are then in charge of notifying the court of non-compliance with the programme. For the protection measures that protect the victim directly, i.e. restraining order and eviction, there is the Ordinance on the manner of implementation of protection measures prohibiting the approach, harassment or stalking of a victim of domestic violence and measures of removal from a joint household.³⁹

³⁶ Ordinance on implementation of precautionary measures, Official Gazette 92/09, available at https://narodne-novine.nn.hr/clanci/sluzbeni/2009_07_92_2317.html and Official Gazette 66/14, available at https://narodne-novine.nn.hr/clanci/sluzbeni/2014_05_66_1256.html

³⁷ Ordinance on the implementation of the protection measure of compulsory psychosocial treatment, Official Gazette 116/18, available in Croatian at https://narodne-novine.nn.hr/clanci/sluzbeni/2018_12_116_2315.html

³⁸ Ordinance on the implementation of the protection measure of compulsory treatment for addiction, Official Gazette 110/18, available in Croatian at https://narodne-novine.nn.hr/clanci/sluzbeni/2018_12_110_2132.html

³⁹ Ordinance on the manner of implementation of protection measures prohibiting the approach, harassment or stalking of a victim of domestic violence and measures of removal from a joint household, Official Gazette 28/19, available in Croatian at https://narodne-novine.nn.hr/clanci/sluzbeni/2019_03_28_577.html

During the implementation of the protection measure, the police officer in charge is obliged to check in contact with the perpetrator, at least once a month, whether the perpetrator acts in accordance with the imposed protection measure and warn him of the consequences in case of violation. Depending on the circumstances and the behaviour of the perpetrator in relation to the imposed protection measure, the contact is made upon the perpetrator's arrival at the police station, through other police officers or through other means of communication. The compliance with the measure is also checked through communication with the victim. **A person who violates the protection measure will be punished by a fine of at least 3,000 HRK (€400) or at least 10 days in jail.**

Data on protection orders

Administrative data on crime in Croatia is collected primarily by the police and published in the yearly statistical reports of the Ministry of Interior. Other institutions sporadically collect data, but often these are not publicly available. The data are collected based on the specific law, not on the general type of crime. Therefore, the data on violence against women and GBV is not available collectively, but rather broken down according to different acts and often not sufficiently sex-disaggregated.

Most protection orders for women survivors of GBV are issued according to the LPDV. In 2018, there were 10.272 reported perpetrators under the LPDV. The police requested a total of 6.741 protection measures, of which 2.657 were granted. In 2019, there were 9.623 reported perpetrators. The police requested 5.900 protection measures, of which 2.521 were granted.

Protection measures according to the LPDV in 2018⁴⁰ and 2019⁴¹:

Measures	Prohibition of approaching, harassing and stalking		Eviction order		Psychosocial treatment of perpetrator		Substance abuse treatment of perpetrator	
	2018	2019	2018	2019	2018	2019	2018	2019
Requested	2584	2537	447	437	2263	1963	1447	963
Granted	1336	1470	163	249	505	385	653	417

From 6741 measures the police requested in 2018 according to LPDV, only 2657 or 39% were granted. Of those, the most granted was the order of prohibition of approaching, harassing and stalking the victim (52%), and the least the psychosocial treatment of perpetrator (22%). However, only the eviction order was implemented in all the granted cases. While substance abuse treatment is the second most favoured measure by the courts, only 10 of 653 granted were implemented, or 0.02%.⁴²

The numbers for 2019 are slightly higher, with 42% of the requested orders granted. The most favoured was again substance abuse treatment of perpetrator and the least favoured was psychosocial

⁴⁰ Report on the activities of the Commission for Monitoring and Improving the Work of the Bodies of Criminal and Misdemeanour Procedure and Execution of Sanctions Related to Protection from Domestic Violence for 2018, available in Croatian at <https://pravosudje.gov.hr/UserDocsImages/dokumenti/Pravo%20na%20pristup%20informacijama/Izvjecje%20o%20Oradu%20Povjerenstva%20za%20pra%20C4%87enje%20i%20Unaprje%20C4%91enje%20rada%20tijela.pdf>

⁴¹ Report on the activities of the Commission for Monitoring and Improving the Work of the Bodies of Criminal and Misdemeanour Procedure and Execution of Sanctions Related to Protection from Domestic Violence for 2019, available in Croatian at <https://pravosudje.gov.hr/UserDocsImages/dokumenti/Strategije,%20planovi,%20izvjecje%20o%20Oradu%20Povjerenstva%20za%202019.pdf>

⁴² Ombudsperson for Gender Equality, *Work report 2018*, page 92.

treatment. Furthermore, of 385 granted orders for psychosocial treatment, only 285 (74%) were implemented, which is more than in 2018, when 302 out of 505 such granted order were implemented (60%). Positively, there was an increase in granting both restraining and eviction orders.

The data for safety measures issued under the Criminal Code are generally less available. According to the report of the State Attorney Office, there were a total of 576 safety measures issued in 2018 and 607 in 2019.

Safety measures issued in 2018 and 2019 under the Criminal Code⁴³:

Year	Compulsory addiction treatment	Compulsory psychiatric treatment	Prohibition to perform a certain duty or activity	Prohibition of driving a motor vehicle	Other
2018	267	125	2	107	75
2019	293	146	4	87	77

The data is not segregated further, but most safety measures for compulsory addiction treatment were issued related to violence against close persons, threats and attacking an officer of the law. The most relevant safety measures for GBV, mainly eviction, restraining order and psycho-social treatment of perpetrators can be found under the category of Other. The Year report from the Ombudsperson for Gender Equality states that there were 28 safety measures for psycho-social treatment in 2019, which means that 49 were eviction and restraining orders, all related to GBV. In 2018, there were 32 safety measures of psycho-social treatment, but only 13 were related to GBV. Therefore, it is likely that there were up to 43 eviction and restraining order issued.

⁴³ Report of the State Attorney for 2019, available in Croatian at <http://www.dorh.hr/dorh05052020>

EUROPEAN PROTECTION ORDER

Legal framework

As explained in the introduction to this study, the purpose of the European Protection Order is to ensure that protection granted to victims of violence in one EU state is maintained even if that person travels or moves to another EU state. In this manner, EU citizens are ensured freedom of movement and protection within the EU. **The EC Directive 2011/99/EU was transposed into Croatian legislation through the Law on Judicial Cooperation in Criminal Matters with the Member States of the European Union.**⁴⁴ It was amended on 4 March 2015 to include the said Directive. This law defines circumstances and procedures for recognising an EPO from another EU state as well as for issuing an EPO in Croatia. As defined by this law, only a victim, that is, the person who has been issued a protection order, can apply herself or through her legal representative for an EPO.

Recognition and enforcement of an EPO

According to Article 131 of the Law on Judicial Cooperation in Criminal Matters with EU Member States (Judicial Cooperation Act), the investigating judge of the County court will immediately recognise the EPO issued by the issuing competent authority and take appropriate measures to enforce it. If, instead of an EPO, a domestic court receives a request from a protected person for an EPO relating to a decision taken by another Member State, it shall without delay forward it to the competent authority of that State.

Issuing an EPO

According to Article 131a.e of the Judicial Cooperation Act, when a domestic judicial body issues a decision imposing a precautionary measure or a special obligation, which contains the protection measure referred to in Art. 2, item 29 of the same law⁴⁵ on the possibility and conditions of issuing a European warrant for protection shall inform the protected person who resides or decides to reside in another Member State or his/her guardian or representative.

Procedures for applying for an EPO

The Judicial Cooperation Act stipulates that the investigating judge of a County court according to the place where the protected person has or intends to have a permanent or temporary residence is competent for the recognition of an EPO in the Republic of Croatia. Immediately upon receipt of the EPO issued by the competent authority of the issuing State, the investigating judge shall recognize the order and take appropriate measures for the purpose of enforcement. If the EPO is incomplete or is not accompanied by a translation, the investigating judge shall set a time limit for delivering the supplement or translation, which may not exceed 15 working days. The investigating judge will postpone the issuance of the decision until the receipt of the amendment or translation of the EPO.

By a decision recognizing an EPO issued in the course of criminal proceedings, the investigating judge shall impose a precautionary measure in accordance with domestic law. With the decision on the

⁴⁴ Law on Judicial Cooperation in Criminal Matters with the Member States of the European Union, Official Gazette 91/10, 81/13, 124/13, 26/15, 102/17, 68/18, 70/19, available in Croatian at <https://www.zakon.hr/z/345/Zakon-o-pravosudnoj-suradnji-u-kaznenim-stvarima-s-dr%C5%BEavama-%C4%8Dlanicama-Europske-unije>

⁴⁵ Article 2, item 29 of the Law on Judicial Cooperation in Criminal Matters with the Member States of the European Union states that a „protected person is a natural person who is protected by protection measures against the danger of committing a criminal offense that may endanger his life, physical and mental integrity, dignity, personal freedom or sexual integrity“.

recognition of the EPO issued after the issuance of a probation decision or an alternative sanction, the investigating judge will determine a special obligation.

The decision on the recognition of the EPO shall be delivered without delay to the issuing State, the protected person, its legal representative or guardian and the person causing danger, with notification of the legal consequences of the breach of those measures.

The EPO in Croatia is issued by the investigating judge of the County court competent according to the place where the procedure is conducted.

An EPO is issued at the request of the protected person or her guardian or representative submitted directly to the domestic authority, if the protected person resides or decides to reside in another Member State. The EPO is issued on the prescribed form and contains the data prescribed by law which enable its execution in the executing state.

There is no specific time limit for issuing or recognising an EPO in Croatia. The law merely states that the judge should act immediately and without delay. The only delay is allowed if the EPO is not translated in Croatian. In those cases, the procedure can be delayed by 15 days. In case of an appeal by the victim, the court needs to rule on that appeal within three days. There is no possibility to simultaneously issue an EPO to different States when the victim expresses the intention to stay in all of them.

Reasons for rejecting an EPO

The reasons for refusing to recognise the European protection order are stated in Art. 131.e. of the Judicial Cooperation Act. The investigating judge will refuse to recognize an EPO if:

1. The EPO is incomplete or if the requested supplement or translation has not been received even within the time limit of 15 days;
2. The EPO contains a measure which is not prescribed by Article 2, item 29 of Judicial Cooperation Act⁴⁶;
3. Protection measure refers to an offense that does not constitute a criminal offense under domestic law;
4. The person causing danger under domestic law enjoys immunity;
5. The recognition of an EPO would violate the principle of *ne bis in idem*;⁴⁷
6. The person causing the danger is under 14 years of age.

The investigating judge may refuse to recognize an EPO if:

1. An EPO has been issued in connection with an act covered by amnesty in the Republic of Croatia, and there is jurisdiction of a domestic court on the basis of law;
2. Under domestic law, the statute of limitations for criminal prosecution has arisen against a person who causes danger for an act in respect of which a protection measure has been imposed, and there is jurisdiction of the Republic of Croatia on the basis of domestic law;
3. The protection measure refers to an act which, according to domestic law, is considered to have been committed in whole or in part or in a substantial part in the territory of the Republic of Croatia or in a place equated with its territory.

Both the issuing State and the protected person should be informed of the reasons for refusing to recognize the EPO. An appeal against the decision on the recognition of an EPO may be lodged by the

⁴⁶ Ibid.

⁴⁷ *Ne bis in idem* - the principle of criminal procedure law according to which a criminal case cannot be the subject of criminal proceedings again.

protected person or his/her guardian or legal representative and the person causing the danger within three days. The panel of the County court should decide on the appeal within three days. Once the decision recognising the EPO becomes final, it is enforced in accordance with domestic law. Withdrawal or amendment of the EPO in the issuing country will result in the revocation, i.e. modification of the precautionary measures and special obligations determined by the decision on the recognition of the EPO.

Level of protection and monitoring mechanisms

An EPO is valid in Croatia for all criminal acts that can be tried under the Criminal Code, based on the procedures governed by the Criminal Procedure Code. Issuing an EPO is possible for the following precautionary measures from the Criminal Procedure Code:

- Ban on visiting a certain place or area;
- Ban on approaching a certain person;
- Prohibition to establish or maintain contact with a certain person;
- Prohibition of stalking or harassing the victim or other person;
- Removal from home.

An EPO is also applied to the following safety measures prescribed by the Criminal Code:

- Prohibition of approaching, harassing and stalking;
- Removal from the joint household.

Precautionary measures under the Misdemeanour Law and protection measures under the LPDV are not eligible for an EPO. This is unfortunate because most women survivors of violence receive protection measures under the LPDV. These measures should be covered alternatively by the Regulation (EU) 606/2013 of the European Parliament and of the Council.⁴⁸

For recognising an EPO issued in another Member State, the court in Croatia must issue a measure or an obligation that is in accordance with the domestic legislation. Prohibitions and restrictions imposed by precautionary measures and special obligations must correspond, as far as possible, to those imposed in the issuing State.

Once an EPO is recognised in Croatia and a corresponding measure or obligation issued by the Croatian court, it is monitored in the same way as the precautionary measures prescribed by the Criminal Procedure Code and safety measures prescribed by the Criminal Code. The decision recognising the EPO, once it becomes final, is enforced in accordance with domestic law. The final decision on the recognition of the EPO is submitted for execution to the competent authority in accordance with domestic law. An investigating judge who has issued a decision recognizing an EPO may order a review of the execution of the protection measure and request a report from the police or other competent authority. The body executing the protection measure should immediately carry out the ordered checks and inform the investigating judge of the results.

The body executing the protection measure has to inform the investigating judge of any action of the person causing danger contrary to the decision. In case of a breach of measures imposed on the basis of an EPO, the investigating judge has an obligation to inform the competent authority of the issuing or supervising State. This notification is submitted on a standard form which is an integral part of this Act. The form must be translated into the official language or another language accepted by the issuing or supervising State.

⁴⁸ European Parliament, Regulation (EU) 606/2013 of the European Parliament and of the Council, 2013, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013R0606&from=hr>

In cases where an EPO is issued in Croatia, there is no mechanism prescribed in the law for monitoring its implementation in another Member State.

Finally, the sanctions for violation an EPO in Croatia are determined based on the Criminal Code and Criminal Procedure Code, depending on the type of measure that the judge issued based on the EPO.

Termination and/or discontinuation of a recognised EPO is possible under the following circumstances:

1. If the protected person does not reside in the state territory of the Republic of Croatia;
2. If, under domestic law, the maximum duration of the precautionary measures or special obligations laid down in the decision recognizing the EPO has expired and after obtaining the necessary information from the issuing State on the need for further enforcement of the protection measures;
3. In the EPO is changed in a way that it no longer has the same measure or it is not translated;
4. If the issuing State has requested the recognition and enforcement of the decision within the meaning of Chapter VIII. and VIII.a. of Judicial Cooperation Act, which determines precautionary measures or special obligations, which were previously determined by the decision on the recognition of the European protection order.

Prevalence

There is no available data on the prevalence of EPOs in Croatia. Several contacts with the employees of the Ministry of Justice, the County court and the Supreme court showed that there is no department in charge of monitoring the application of EPOs and collecting data. Therefore, it is not possible to tell how many EPOs have been issued in Croatia since the Directive was transposed into national legislation. One article from January 2020 by a legal adviser from the Supreme court indicated that two EPOs in the same case (an original EPO and an extension of the same) have been recognised by the County court and enforced.⁴⁹ These EPOs were issued by the Republic of Slovenia. According to the same article, no EPOs were issued in Croatia. However, the results of the survey, as demonstrated in the second part of this study, show that there may have been more EPOs issued. Without data collection and an institution in charge of monitoring the application of EPOs in Croatia, there is no way to be certain of how many EPOs have been recognised or issued.

Awareness and access to information

The European Protection Order, as the data indicate, is not often utilised in Croatia. Women survivors of GBV are generally not aware of the existence of a possibility to obtain such an order and they therefore don't request it. There is no website or any other information point that provides information to the victims about the EPO. Since the information about an EPO is not readily available and there have been no campaigns to inform the women of their right to have an EPO, the level of awareness of its existence in the general public is very low.

⁴⁹ Briški, M. *Europski nalog za zaštitu i njegova primjena u Republici Hrvatskoj* ("European Protection Order and its application in the Republic of Croatia"), IUS-INFO, 15 Jan 2020, available at <https://www.iusinfo.hr/aktualno/u-sredistu/40386> (accessed on 27 Aug 2020)

OVERVIEW OF RELEVANT RESEARCH

The Fundamental Rights Agency research on violence against women in the EU⁵⁰ indicated that every fifth woman in Croatia (21%) has survived some form of partner or non-partner violence since the age of 15. Two in five women (42%) have experienced some form of psychological violence by a partner since the age of 15, with abusive behaviour being the most common (33%), but threats or actual acts of hurt involving children also prominent (17%).

Although many women reported serious long-term psychological consequences to violence, only 18% of them contacted the police. The reasons women gave for not contacting the police are mostly that they dealt with it themselves, involving perhaps a family member, or they didn't report out of fear and embarrassment. Of those women that did try to get help, they were most satisfied with women's shelters and other women's and health organisations (100% satisfaction with the shelters, above 70% with other organisations) and least satisfied with the police (40%). Women who contacted different services and asked for support after surviving non-partner violence are slightly more satisfied with the police, but still, less than half of those women were satisfied (48%).

Four out of five women (81%) consider that violence against women is common or very common and nearly two in five (38%) know a victim of such violence among friends and family, indicating actually a higher number of prevalence of violence against women in the country. On the positive note, awareness of legislation is above average in Croatia, with 70% of women being aware of political initiatives and laws against violence against women (the highest level of awareness in the EU), and 74% being aware of the same regarding domestic violence (second highest in the EU). Two thirds of women (67%) report that they have recently seen or heard campaigns against violence against women.

The only nation-wide research on prevalence done so far in Croatia was in 2003 by Autonomous Women's House Zagreb⁵¹. This research showed that a much higher percentage, every third woman in Croatia, has survived some form of physical violence from a current or former partner, while two thirds (68%) of divorced women reported that they survived psychological violence in marriage. According to this research, only 17% of women reported the violence to the police.

A report on monitoring the implementation of national and local policies for the protection of women from gender-based violence, done by the Centre for Women War Victims in 2014⁵², looked at the reasons for not reporting the violence. The women indicated that they didn't report violence because of lack of information about their rights, feeling ashamed, lack of financial resources, feelings of inferiority due to a failed marriage, and distrust in the work of institutions. Most women who participated in this research did contact the police and most of them were more satisfied with the work of the police than with the Centres for Social Welfare. From negative experiences with the police, the respondents cited not receiving information about their rights, failure to provide information about further proceedings, other institutions or organizations that women can turn to for help, reporting and the same treatment of victims and perpetrators, minimizing violence and its consequences, and persuading women to withdraw their complaint.

⁵⁰ European Union Agency for Fundamental Rights, *Violence against Women: an EU-wide Survey*, 2014.

⁵¹ Autonomous Women's House Zagreb: *Interpretation of Research Results of a Survey on Prevalence of Violence Against Women in Croatia*.

⁵² Centre for Women War Victims, *Izveštaj o praćenju primjene nacionalnih i lokalnih politika za zaštitu žena od rodno utemeljenog nasilja* („Report on monitoring the implementation of national and local policies for the protection of women from gender-based violence“), 2014., available in Croatian at <http://www.potpisujem.org/doc/769d9e6af693cd4baabb0a1b92bd4bdb.pdf>

Since most protection orders in Croatia are issued under the LPDV and the prosecutor and applicant in most of these cases are the police, it is extremely important that women have trust and good experiences with the police. Less than 20% of women report the violence to the police which means that most survivors never report and therefore don't have a chance to get protection orders. A monitoring study done in 2012⁵³ and another one again in 2016⁵⁴ by the Advocates for Human Rights and Autonomous Women's House Zagreb looked at the implementation of Croatia's legislation on domestic violence. Several concerning practices were found. One of the biggest problems identified are dual arrests, where the victim is arrested alongside the perpetrator for either defending herself or insulting the perpetrator. This was possible in part due to the definition of domestic violence in the LPDV, which put physical violence on par with psychological violence, but it also defined domestic violence on the level of incident, without the context of coercive control in which such violence usually takes place. Dual arrests were a big problem in Croatia, with as much as 20% of all cases being charged that way. A report from 2016 found that victims were charged alongside perpetrators in 43% of the cases.⁵⁵ Another reason why this happens is because the police are not trained to identify defensive injuries nor are the police and judges trained to identify the primary aggressor. Even though this harmful practice is declining, it still happens fairly often.⁵⁶

Another issue is that social service professionals tend to focus on father's rights, even when they are abusive, and interpret the father's right to have contact and even custody over children as children's right to see the father. This prioritisation often comes at the expense of victim safety as well as safety of her children. Furthermore, the courts during divorce procedures tend to blame the victim for the violence which the children have witnessed. Police and judges limit offender accountability for violence under the LPDV by favouring perpetrator treatment over remedies that provide immediate protection to victims. Specifically, police and judges tend to propose and issue psychosocial and addiction treatment. Very few eviction orders are requested and granted. Most sanctions are fines and suspended sentences. For example, in 2019, only 12% of perpetrators tried and convicted under LPDV received a jail sentence. Over half of them (54%) received a fine, followed by 34% who received a suspended sentence.⁵⁷ Also, there is a high number of recidivists, 21% in 2019. More serious sentences and more eviction and restraining orders would ensure more protection for women and could contribute to lower recidivism.

The number of reported acts of domestic violence is steadily decreasing each year. Unfortunately, we can't attribute this to an actual decrease in domestic violence incidence. Rather, this drop could be at least partially due to the majority of low sentences being passed in cases of domestic violence. At the same time, there has been an increase in the number of criminal cases, which could indeed show a trend of brutalisation in violence, but hopefully also that the prosecutors (the police and State Attorney) are treating cases of GBV against women more seriously.

The Ombudsperson for Gender Equality Office conducted two research analyses of court cases, both misdemeanour and criminal in 2012-2016. The research "Expert analysis of final criminal convictions on violence against women in the period 2012-2016"⁵⁸ analysed 655 court rulings, while the research

⁵³ Advocates for Human Rights and Autonomous Women's House Zagreb, *Implementation of Croatia's Domestic Violence Legislation*, 2012., available at https://www.theadvocatesforhumanrights.org/uploads/croatia_final_report_2012.pdf

⁵⁴ Advocates for Human Rights and Autonomous Women's House Zagreb, *Implementation of Croatia's Domestic Violence Legislation: Follow-up Report*, 2016, available at https://www.theadvocatesforhumanrights.org/uploads/croatia_final_report_2016.pdf

⁵⁵ Ibid, page 4.

⁵⁶ Ombudsperson for Gender Equality, *Work Report 2019.*, page 98.

⁵⁷ Report on the activities of the Commission for Monitoring and Improving the Work of the Bodies of Criminal and Misdemeanour Procedure and Execution of Sanctions Related to Protection from Domestic Violence for 2019.

⁵⁸ Rašić, M. et al. *Kvantitativni rezultati stručne analize pravomoćnih kaznenih presuda o nasilju prema ženama 2016. 2012.* ("Expert analysis of final criminal convictions on violence against women in the period 2012-2016"), Office of the

“Quantitative results of the expert analysis of final misdemeanour verdicts on violence against women 2012-2016”⁵⁹ analysed 470 court cases. All cases concerned only GBV committed against a close person. They both showed that courts tend to issue low sanctions for domestic violence, with only about 10% of cases being prison or jail sentences. There is a general lack of understanding of the gendered aspect of GBV, as well as of its continuity, resulting in the police, prosecutors and the courts treating GBV as isolated incidents.

Looking specifically at protection orders, the research showed that in 655 analysed rulings according to the Criminal Code, in only 6% of the cases (40 cases out of 655) the court issued any precautionary measures through Criminal Procedure Code. In these 40 cases, 71 precautionary measures were issued, including 30 bans on approaching a certain person, 23 prohibitions to establish or maintain contact with a certain person, 3 prohibitions of stalking or harassing the victim or other person, and 4 removals from home.⁶⁰ A total of 90 safety measures were issued according to the Criminal Code in 85 cases (13%). There were 44 measures for treatment of addiction, 22 measures for psychiatric treatment, 9 psycho-social treatments, 9 restraining orders and 2 eviction orders.⁶¹

Looking at the other research on the rulings in misdemeanour cases, from 470 court cases, precautionary measures were issued in only 5% of the cases (22). Of those, 17 were restraining orders.⁶² Protection orders were issued in 22% of the cases (105). There were a total of 123 protection measures issued, of which 12 were issued for mandatory substance abuse treatment according to the Misdemeanour Law, while the rest were issued according to the LPDV: 37 prohibitions of approaching a victim, 28 compulsory addiction treatments, 20 compulsory psycho-social treatments, 9 evictions and 9 prohibitions of harassing and stalking the victim.⁶³

Ombudsperson for Gender Equality, 2019., available at

http://vawa.prs.hr/storage/uploads/publikacije/Kvantitativni_rezultati_kaznenih_presuda-3c09.pdf

⁵⁹ Rašić, M. et al. *Kvantitativni rezultati stručne analize pravomoćnih prekršajnih presuda o nasilju prema ženama 2012. – 2016.* (“Quantitative results of the expert analysis of final misdemeanour verdicts on violence against women 2012-2016”), Office of the Ombudsperson for Gender Equality, 2019., available at

http://vawa.prs.hr/storage/uploads/publikacije/Kvantitativni_rezultati_prekršajnih_presuda-4861.pdf

⁶⁰ Rašić, M. et al. *Kvantitativni rezultati stručne analize pravomoćnih kaznenih presuda o nasilju prema ženama 2012. – 2016.* (“Expert analysis of final criminal convictions on violence against women in the period 2012-2016”), page 21., Office of the Ombudsperson for Gender Equality, 2019.

⁶¹ Ibid, page 60.

⁶² Rašić, M. et al. *Kvantitativni rezultati stručne analize pravomoćnih prekršajnih presuda o nasilju prema ženama 2012. – 2016.* (“Quantitative results of the expert analysis of final misdemeanour verdicts on violence against women 2012-2016”), Office of the Ombudsperson for Gender Equality, 2019., page 33.

⁶³ Ibid, page 54. These measures were issued prior to amendment to the LPDV, when there was a separate protection measure for prohibition of harassment and stalking of the victim. This prohibition is now contained within the prohibition of roaching, harassing or stalking a victim of domestic violence.

RESULTS OF THE SURVEY

Three online surveys were designed by the project team and distributed: one for EU citizens, one for legal practitioners and one for NGOs and service providers. The survey aimed to enquire into the level of awareness and knowledge about the EC Directive 2011/99/EU and the EPO among EU citizens, lawyers and the personnel of NGOs that support women in cases of domestic violence, stalking and other forms of abuse. The purpose of the research was to explore the level of awareness of protection mechanisms available for survivors of GBV against women in Europe. This will help us understand the national differences related to protection measures in place across the EU Member States. This part of the report presents the results of the surveys.

Survey for EU citizens

The survey for EU citizens was distributed through e-mail and newsletter to AWHZ contact list (400) as well as through AWHZ Facebook page, boosted by two Facebook ads. Over 13,000 people were reached this way. The target of this survey were EU citizens 18 years of age and above who are living in Croatia. The purpose of the online survey was to explore the level of awareness of protection mechanisms available for victims of GBV against women in the Croatia, as well as on European Protection Order. This information will be used to design training and awareness raising activities for legal professionals and NGOs working in the field of GBV against women.

The online survey aimed to reach as many respondents as possible without purposive monitoring of sample characteristics such as region, age, and gender. The relatively small sample does not allow for any generalisation of the results. Therefore, the study is intended to be indicative of the level of awareness of protection measures and does not allow for any generalisation of the results.

Channels used for the dissemination of the online survey in Croatia included Facebook, organisation website and electronic dissemination to organisation contact database.

There were a total of 920 responses to the survey. Out of 920 respondents, only three were not EU citizens and only one didn't have permanent residence in Croatia. 851 of the respondents were women (92,50%), 66 were men (7,17%), and 3 preferred not to say (0,03%).

The survey consisted of several parts. The first part of the survey looked at the demographics of the respondents, as well as their general knowledge about GBV and the rights of victims. This part of the survey also established the level of awareness of the existence of the EPO. The second part of the survey was specifically for those respondents who have survived GBV and it looked in detail into their experience regarding protection measures and EPO.

General part

Looking at the demographics of the sample in terms of age, most were in the 35-44 age bracket (32,82%), followed by 45-54 (27,83%), 55 and over (22,28%), 25-34 (14,78%) and 18-24 (2,29%).

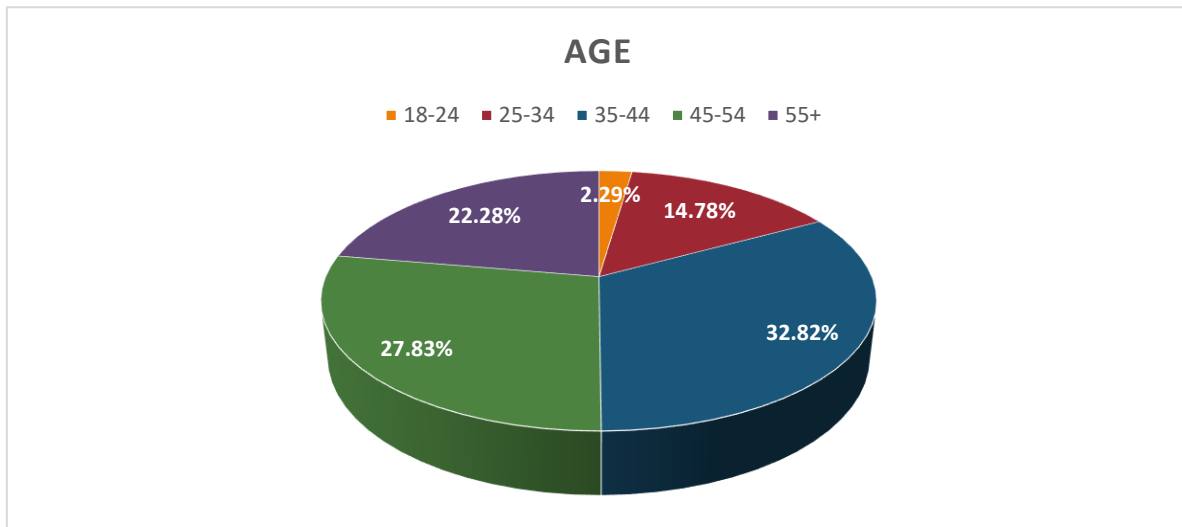


Figure 1.1. Age of the respondents. Based on 920 responses.

Regarding education levels, most respondents have finished 2nd degree university (42,50%) and high school (41,30%), followed by 1st degree university (14,78%) and less than a high school diploma (1,42%).

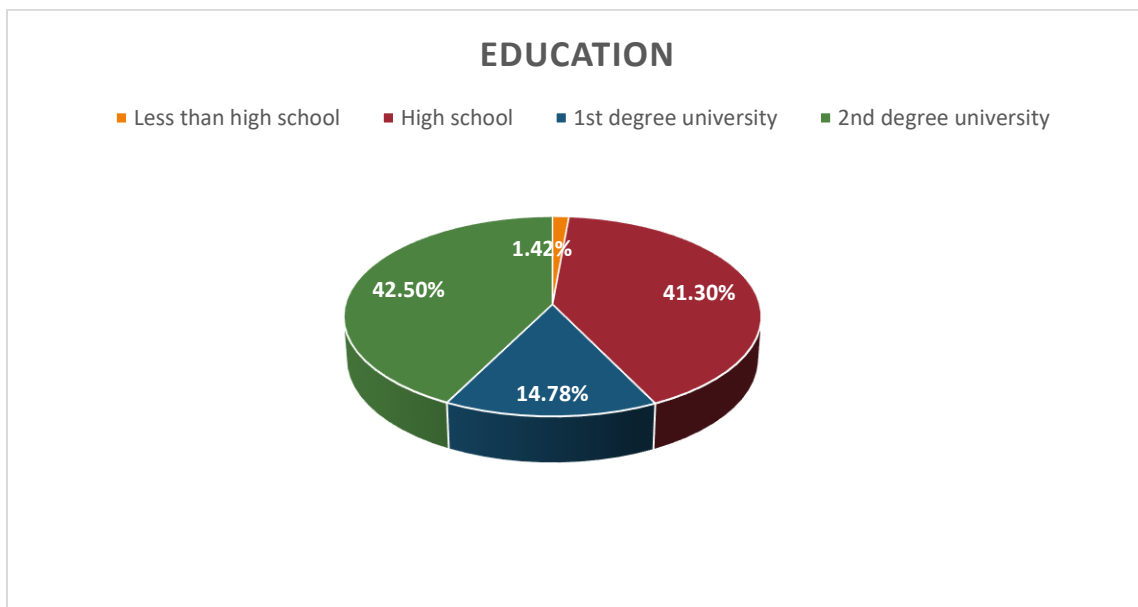


Figure 1.2. Level of education of the respondents. Based on 920 responses.

When asked about their level of awareness about types of information, advice or support available for victims of violence in Croatia, only 9,24% responded that they are not at all aware, while 36,20% responded that they are quite aware or fully aware. Over half of the respondents are at least somewhat aware (54,57%).

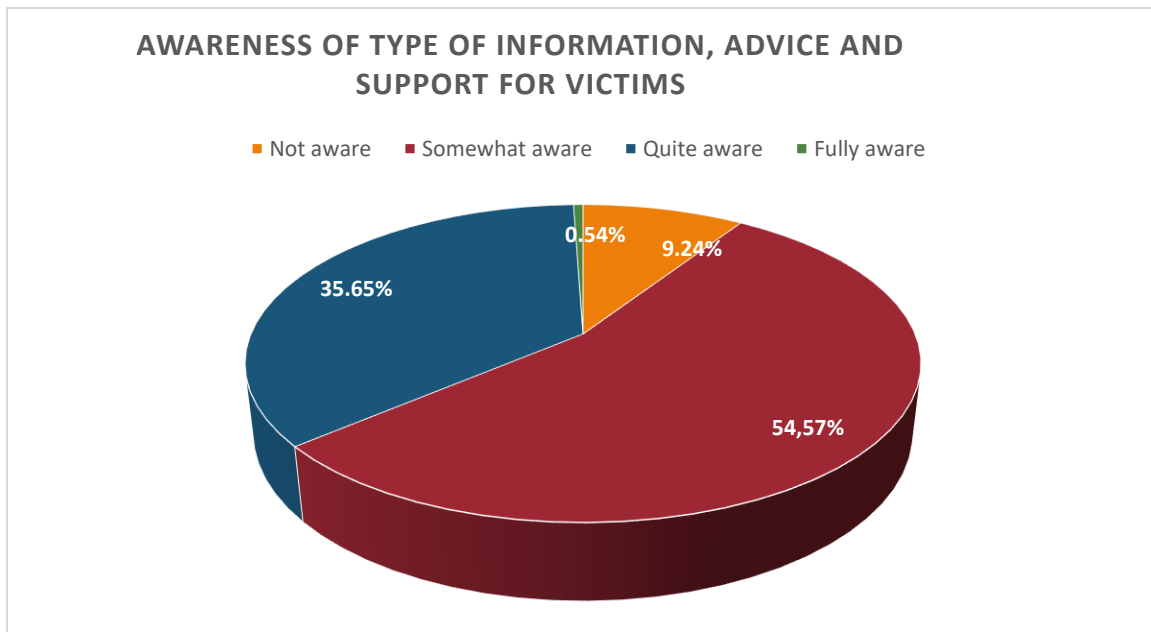


Figure 1.3. Level of awareness of types of information, advice and support available for victims of violence. Based on 920 responses.

Of those who are quite aware or fully aware, most have a 2nd degree university level education (43,98%), followed by High school (41,57%), while fewer have completed 1st degree university (13,86%). The level of awareness is highest among older age groups, with most awareness among the 45-54 years old people (30,42%) and over 55 (29,82%), followed by the 35-44 year old group (25,60%).

When asked who would they contact for help if they were victims of violence, most respondents said that they would call the police (61,60%), contact an NGO (47,40%) or a lawyer (26,70). One in ten (11%) said they don't know what they would do. Only 2% would ask for help from their family and friends.

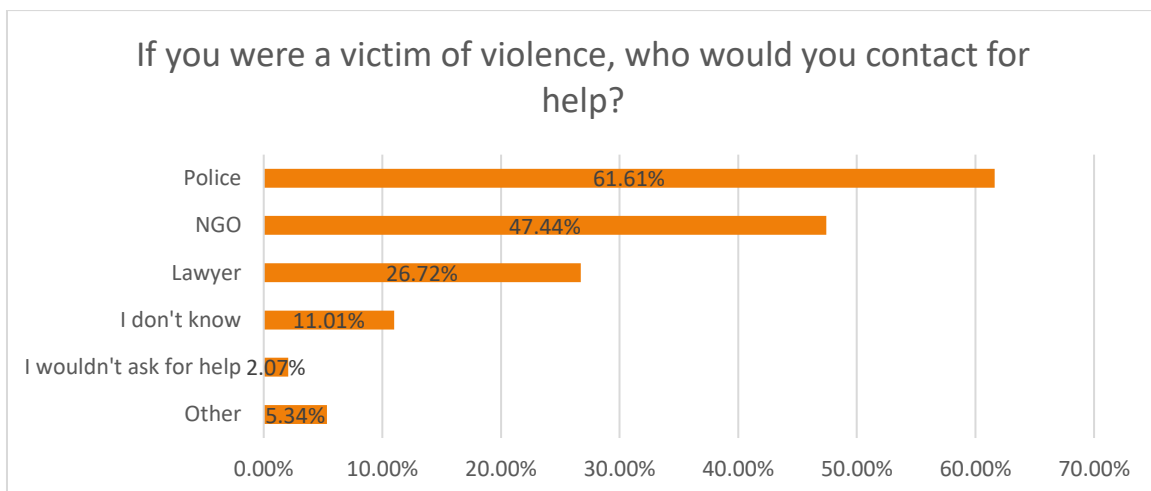


Figure 1.4. Who would they contact for help if they were victims of violence. Based on 917 responses. 20 out of 49 responses in the Other category were “family” and/or “friends”.

This somewhat contradicts what the victims actually do once they survive violence, since less than 20% will contact the police, very few contact an NGO and most women actually first look for support from family and friends. It is possible, since this is not a representative sample and there is high level of awareness among the respondents about the rights of victims, that they responded that they would call the police, but it is also possible that the actual experience of violence changes perception of the

victim since there are many reasons that could prevent them from calling the police such as shame, fear or lack of trust in institutions (as shown in the review of the existing research).

Another question asked was what they would do in general if they were victims of violence. Most respondents again said that they would call the police (70,31%), call a helpline (41,70%) or seek legal assistance (40,28%).

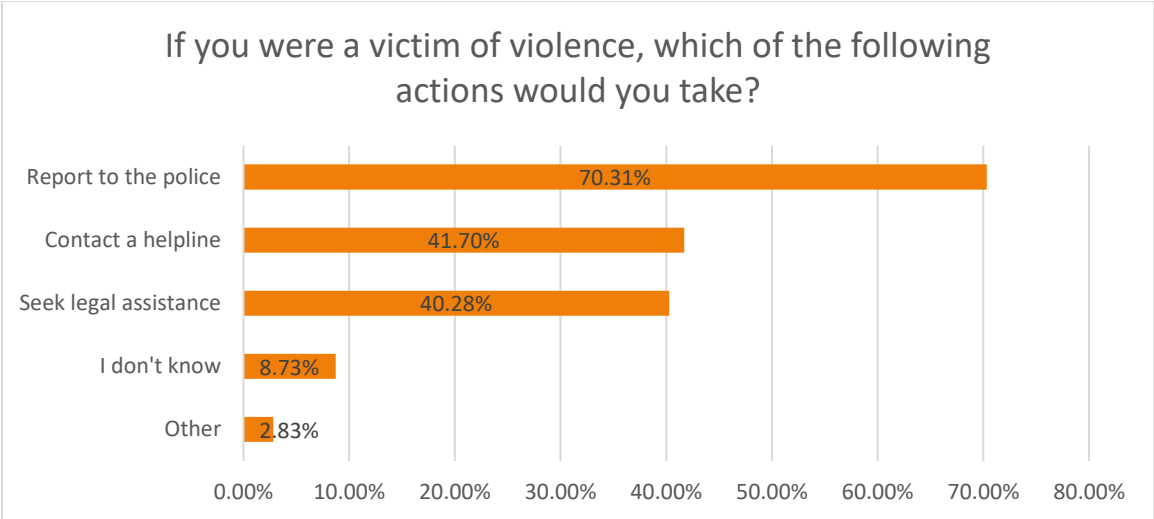


Figure 1.5. Which action would they take if they were victims of violence. Based on 916 responses.

In the category of Other, several respondents said that they would talk to friends and family and that they would just get away from the abuser/rapist.

Respondents were further asked for their opinion on which rights the victim of violence has. Most replied that she has a right to protection measures (90,65%), legal assistance (87,50%) and access to information (80,87%).

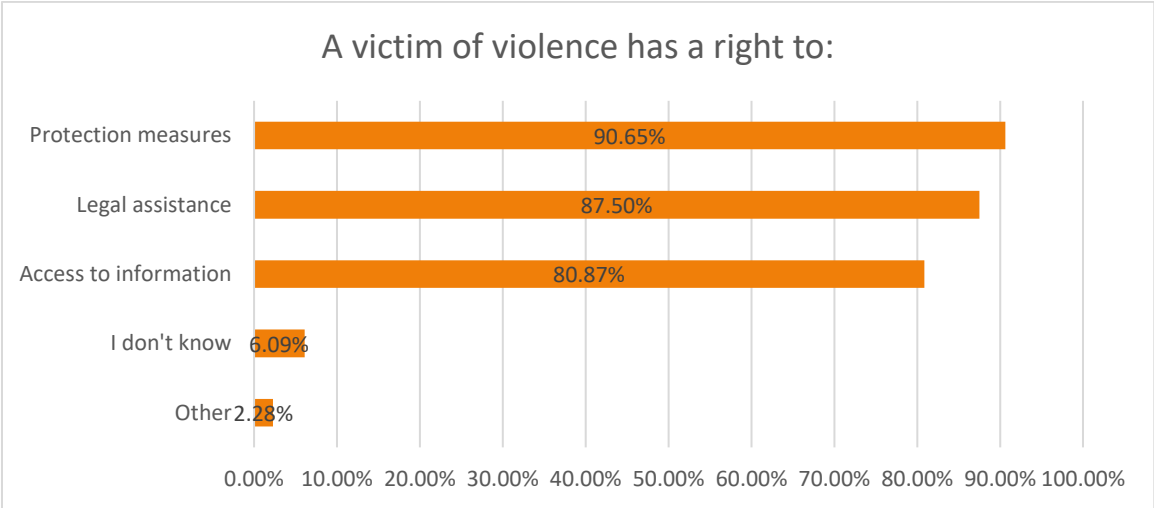


Figure 1.6. Awareness of the rights of the victim of violence. Based on 920 responses.

Among other rights the respondents mentioned were accommodation at the shelter, helpline, financial and psychological help, support of a close person, health support and court protection. Several

respondents, however, expressed their concern that the victim has those rights in theory, but not in practice.⁶⁴

All respondents, regardless of whether they themselves had survived any form of GBV, were asked if they are aware of the existence of the **European Protection order**. **Nearly one in six (17,28%) responded that they are aware of its existence**. This is a much higher number than expected seeing as there have been no campaigns about the EPO and there is no information point for it. However, it is likely that since this was not a random sample, but rather the survey was shared with the contacts and followers on social media of AWHZ, the people who responded tended to be more interested and/or knowledgeable about GBV and related legislation than the average population.

Experience of GBV survivors

When asked if they have ever survived violence, over a third of the respondents (35,77%) replied that they had. The number could be even higher since 5,75% of people preferred not say if they have survived violence or not. Most victims were women (95,44%). As per their age, most were 35-44 years old (35,56%), followed by 45-54 (29,18%) and over 55 (23,10%). There were 10,94% in the 25-34 group and 1,22% in the youngest group of 18-25 year olds.

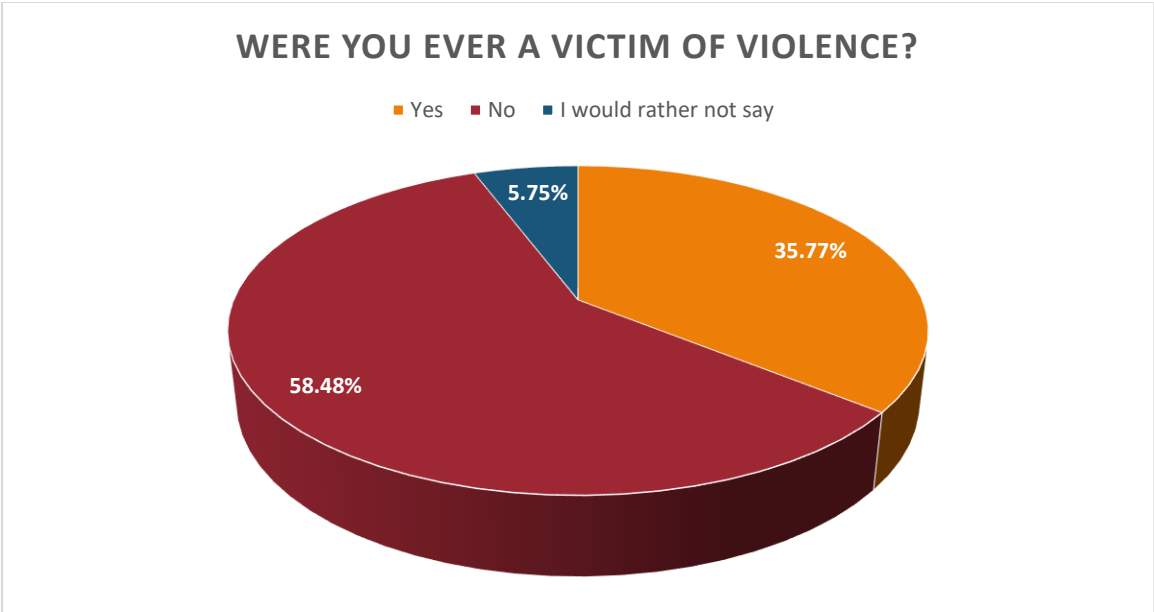


Figure 1.7. Were you ever a victim of violence? Based on 920 responses. Of 329 respondents who said Yes, 314 were female, and 15 were male. **Since the number of male survivors is very low, the further results are based on responses of women survivors of violence only.**

The participants in the online survey who responded that they have survived violence were further asked what type of violence they survived. Most responded that they have survived domestic/intimate partner violence (80,83%), with fewer saying that they have survived sexual harassment (25,56%), sexual violence (20,86%) or stalking (21,09%). Over a third of respondents (34,82%) said that they had survived more than one form of violence and 24 respondents (7,67%) said that they had survived all four or more forms of violence.

⁶⁴ This concern was expressed by 5 people out of 21 who responded in the Other section.

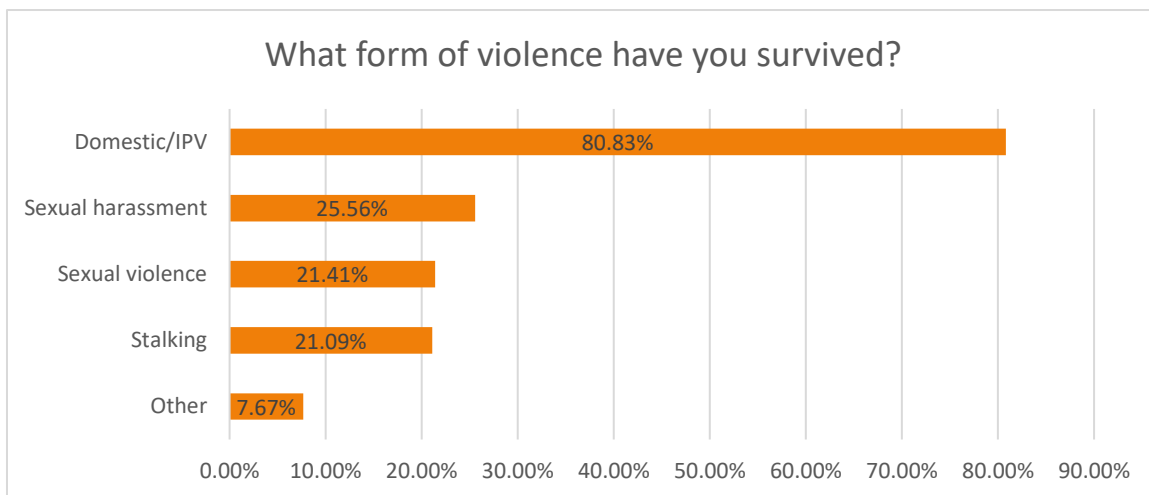


Figure 1.8. Forms of violence. Based on 313 responses, all women.

Other forms of violence that the respondents reported having survived included mobbing, economic violence and institutional violence.

All forms of violence in the previous question would have been eligible for some type of protection measures. However, when asked if they had ever requested a protection measure, only 37,90% replied that they had.⁶⁵ The reasons that they didn't request any protection measures were mostly that they were afraid (36,04%), they didn't feel they needed one (21,83%), or they didn't know that they could apply for one (14,72%).

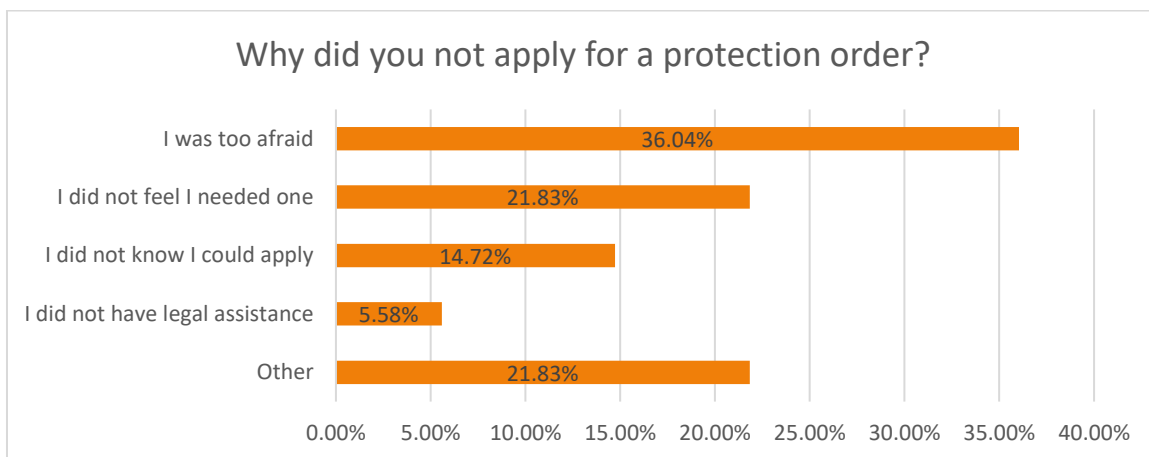


Figure 1.9. Reasons for not applying for a protection order. Based on 197 responses from women.

Other reasons that the respondents did not apply for a protection order were: they were children at the time, they were too young, it was a long time ago and there were no protection orders, they did not believe that the state could help them or they dealt with it themselves.

In 38,46% of the cases, the protection order was requested by the police. The State Attorney requested the orders in 4,27% of the cases. The court issued them ex officio in 17,95% of the cases, CSW requested them in 9,40% of the cases, lawyers in 7,69% of the cases and in 6,84% of the cases women didn't know who requested the protection order.⁶⁶

⁶⁵ Based on 314 responses from women.

⁶⁶ Based on 117 responses from women.

In just over half the cases, the requested order was granted (51,26%). However, almost a fifth of women did not know if their request for order was granted (19,33%) and in nearly three in ten (29,41%) of the cases, the protection order was not granted.⁶⁷

Most protection orders that were granted were prohibition of approaching, stalking and harassing the victim (38 measures), removal from a joint household (18 measures) and emergency precautionary measures (7).

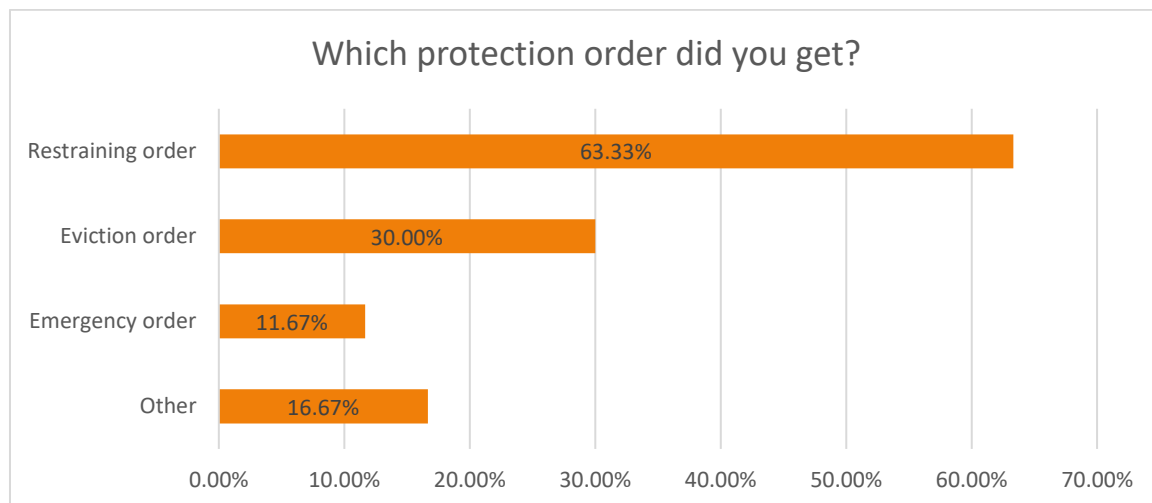


Figure 1.10. Type of protection order. Based on 60 responses from women.

Other protection orders that the respondents listed were accommodation at the shelter, jail for the abuser or the abuser spending the night in jail. Since none of these are defined as protection orders under the Croatian legislation, it shows that the actual number of orders requested and granted was probably lower than reported earlier. It also shows that women survivors of violence are not sufficiently informed about their rights, including about their right to both emergency and long-term protection orders and the right to have information about their types and procedures to obtain them.

Most protection orders that were issued were for a period of more than 6 months (25,00%), followed by 21 day to 3 months (20,00%), 4 to 6 months (13,33%) and less than 10 days (10,00%). One in five respondents didn't know how long the order was issued for (20,00%).⁶⁸

What is especially concerning about the results is that over half of the respondents who have received the protection order (52,46%) didn't feel that it was effective in ensuring protection. Two in five (42,62%) felt the protection orders were effective.⁶⁹

⁶⁷ Based on 119 responses from women. Additionally, not included in this number, four protection orders were requested by three male victims and all were granted. One man was granted eviction and restraining orders, and two men were granted restraining orders.

⁶⁸ Based on 60 responses from women.

⁶⁹ Based on 61 responses from women.

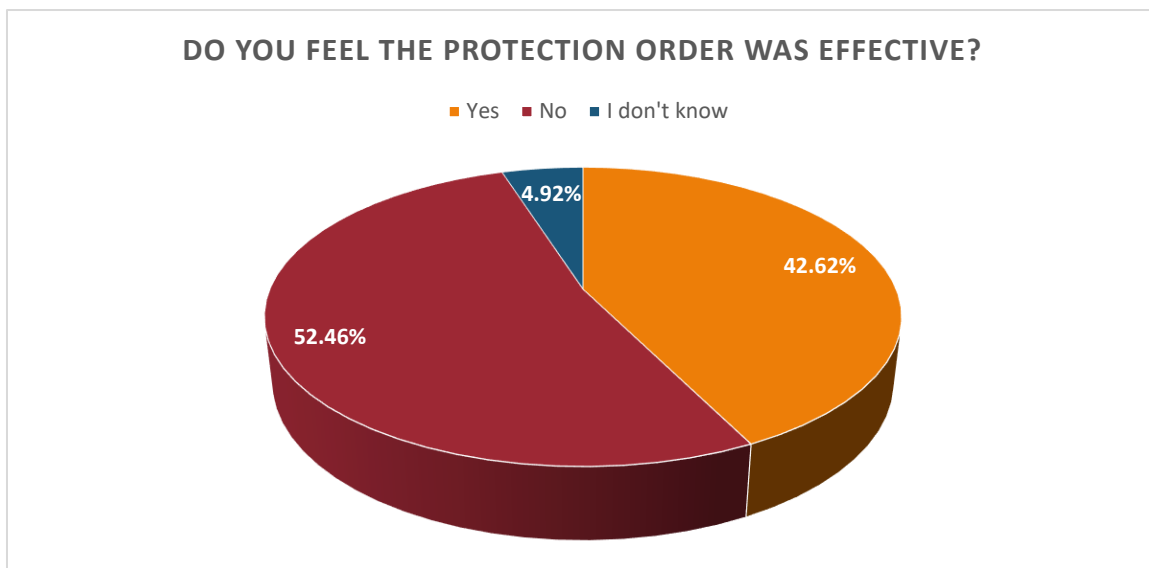


Figure 1.11. Perceived effectiveness of the protection order. Based on 61 responses from women.

During the period for which the protection order was issued, seven women who had a protection order were travelling (11,48%) or planning to travel to another EU state.⁷⁰ Of the seven women, only three were informed of the right to an EPO. Two women were informed by the NGO for protection of victims and one woman was informed by the police. They both requested an EPO. For one of them, the EPO was requested by her lawyer, and the other one replied that she doesn't know who requested the EPO. Both EPOs were granted. One woman felt that the EPO was effective, but still responded that she didn't have enough information, while the other woman felt that the EPO was not effective because she didn't receive the same level of protection. The number of women who requested and were granted an EPO is too small to make any generalisations, but they do support the desk research finding that information about EPOs is not available to the victims and that more EPOs need to be issued to enable the creation of positive implementation and good practices.

Additionally, women survivors of violence shared their opinions and experiences related to the violence they survived and protection they received. Several women expressed an opinion that the institutions are not doing enough to protect the victims and that Croatia still has a long way to go. The system of co-operation between the police, CSWs and the courts is not good and outcomes depend too much on the individuals. The courts are too slow and it takes too long to get protection. Women feel that victim blaming is still present and that the victims are left to themselves. The laws should be enforced more and the sanctions for violence more rigorous.

One respondent shared:

In our country, the victim is punished, not the perpetrator. The victim is questioned, not the abuser. If the police do react, they return the perpetrator home later and the victim then has even bigger problems. Punishments for the perpetrator arrive too late, if at all.

The respondents gave recommendations that there should be more shelters at a secret address, more and better education for the people working in the institutions, harsher punishments for the perpetrators, free legal aid and support for women survivors and more information dissemination so that the victims know how to get help.

⁷⁰ Based on 61 responses from women. 53 (86,89%) respondents didn't travel to another EU country and one (1,64%) replied that they didn't know. Two women were travelling or planning to travel to Italy, one to Germany, one to Austria, one to Germany and Italy, one to Estonia and Slovakia, and one to Cyprus, Greece and Latvia.

Survey for legal practitioners

Within this research project, we also looked at experiences of legal professionals regarding GBV, protection orders and EPOs. An online survey was distributed to all prosecution offices in Croatia (47 offices) and to Croatian Bar Association, as well as local Bar Association offices (16 offices). Croatian Bar Association distributed the online survey to all registered lawyers in Croatia. 41 legal professionals responded to the survey. The purpose of the research was to explore the level of awareness of protection mechanisms available for victims of GBV against women in Europe, and the extent to which such mechanisms are implemented. The online survey aimed to reach as many respondents as possible without purposive monitoring of sample characteristics such as region, age, and gender. The results of the online survey for legal practitioners is intended to be indicative of the level of awareness of protection measures and does not allow for any generalisation of the results.

Of 41 legal practitioners who responded to the survey, 39 were lawyers, one was a public prosecutor and one was a trainee lawyer. Of those, 30 respondents (73,17%) said that they provide legal advice and legal representation, nine (21,95%) said that they provide legal representation and two that they provide legal counselling (4,88%). Less than half (46,34%, 19 respondents) said that they participate in the national legal aid programme. Most of them (85,37%, 35 respondents) provide legal aid to victims of violence.

When asked if they ever requested a protection order on behalf of a client before court according to the national law, most (82,93%, 34 respondents) replied that they had. In most cases, the reason for requesting the protection order was domestic violence.⁷¹

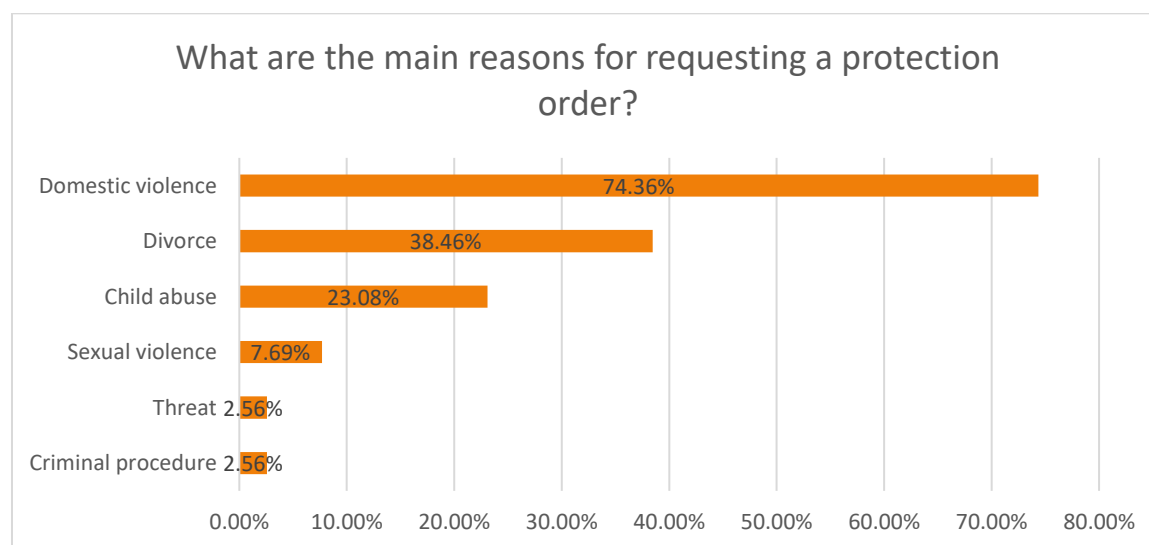


Figure 2.1. Reasons for requesting protection order. Based on 39 responses.

In line with the findings of the desk research as well as responses from the online survey for EU citizens, the majority of legal practitioners also didn't feel that the protection orders that are available to victims are effective. Only about a quarter (24,39%, 10 respondents) felt that the protection orders were effective while more than half (53,66%, 22 respondents) thought that they weren't.

⁷¹ In several cases, the respondents had a combination of reasons for requesting the protection order, most commonly divorce and domestic violence.

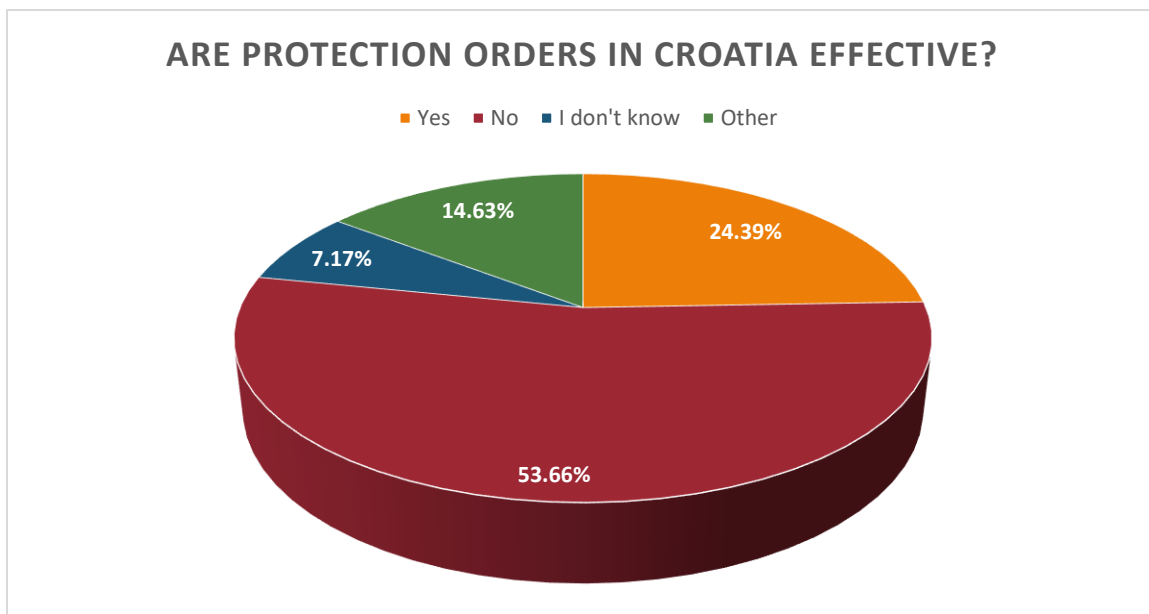


Figure 2.2. Perceived effectiveness of protection orders. Based on 41 responses.⁷²

When asked what they perceived as the main barriers to the victim obtaining a protection order, most respondents (56,10%, 23 respondents) said that it is a lack of awareness of victim’s rights and a lack of support to victims (34,15%, 14 respondents).

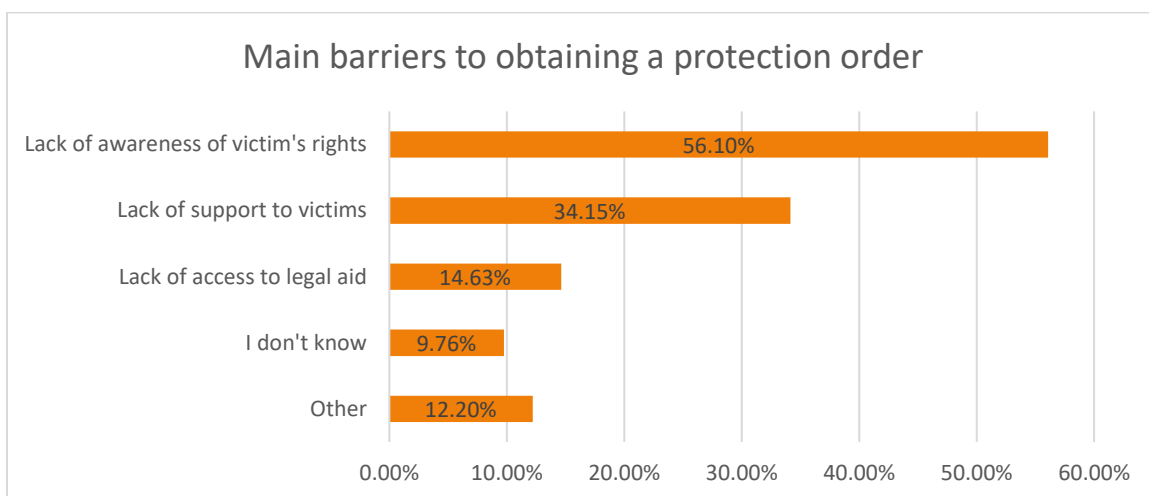


Figure 2.3. Main barriers to obtaining a protection order. Based on 41 responses.

Other barriers that the legal practitioners identified included inefficient implementation of protection orders, a restrictive approach by the courts in issuing the orders and the difficulty of proving in court that the victim is in high state of danger. There is also a trend of banalisation of violence.

Several legal practitioners said that Croatia has a good legal framework, but a lot of it is just theoretical and doesn’t work in practice. The awareness on the rights of victims is very low.

One lawyer said:

⁷² Those who were in the Other category responded that protection orders were partially effective or sometimes effective, depending on the person. Some felt that protection orders in themselves were not enough to protect the victim.

The problem is in the collective mental structure and the evaluation of elementary rights and obligations. Until sexism in public space becomes sanctioned, it will not be possible to effectively implement protection for victims.

Regarding the European Protection Order, a little over half of the legal practitioners are aware of the EC Directive 2011/99/EU (58,54%, 24 respondents). Of those who are aware of its existence, less than half (26,83%, 11 respondents) provide information to clients of their right to an EPO should they wish to travel or move to another EU country. When asked if they ever offered legal advice/assistance to a client from another EU country with an EPO, only two⁷³ out of 24 legal practitioners responded that they had. Both said that they had also requested an EPO on behalf of a client with an effective protection order, and both several times.⁷⁴ These EPOs were requested related to domestic violence and child abuse. According to the respondents, both were granted.

Of those respondents who are aware of the existence of EC Directive 2011/99/EU and the EPO, most collaborate with other services, primarily the CSWs (83,33%), the courts (75,00%), the police (58,33%) and with the NGOs (20,83%)⁷⁵.

Only five of the respondents said that they have participated in specific training on the application of the EPO, but most of them (95,12%, 39 respondents) felt that such a training would be beneficial for them.

⁷³ One lawyer and one public prosecutor.

⁷⁴ The public prosecutor requested less than 5, and the lawyer between 6 and 10.

⁷⁵ Based on 24 responses.

Survey for NGOs and other service providers

The third online survey was distributed to NGOs and social services. This survey was designed specifically for NGOs because they provide support to women survivors of GBV. However, the survey was also distributed to CSWs because a lot of women survivors of violence have to approach CSW in cases of divorce or if they need other types of support. It was distributed to 204 NGOs and other service providers, of whom 88 responded to the survey. The online survey aimed to reach as many respondents as possible without purposive monitoring of sample characteristics such as region, age, and gender. The results are intended to be indicative of the level of awareness of protection measures and do not allow for any generalisation of the results.

Of 88 respondents, 84 (95,45%) replied that they provide services to victims of gender-based and other forms of violence. Most provide information (84,09%), psychological counselling (69,32%), psychosocial support (67,05%), legal support and counselling (50,00%), and accommodation (44,32%).⁷⁶ Two thirds (68,19%) said that they provide three or more types of services to the victims.

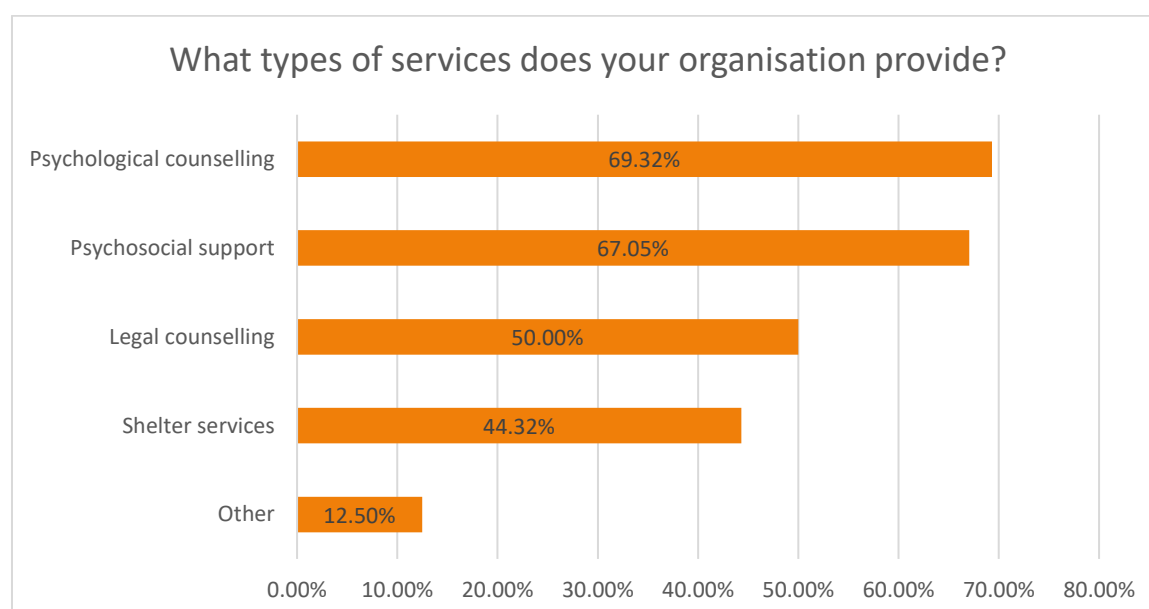


Figure 3.1. Types of services the organisation provides. Based on 88 responses.

Most respondents provide services to survivors of domestic violence (97,70%) and sexual violence (62,07%), followed by sexual harassment (43,68%), stalking and trafficking in human beings (26,44% each).

However, most organisations work with more than one target group. More than half (52,87%) work with three or more target groups, while 29,55% work only with survivors of domestic violence.

⁷⁶ There are more responses claiming that they provide accommodation than there are shelters in Croatia. This could be due to several respondents working at a same organisation and also due to CSW participating in securing accommodation through issuing referral to State homes for adult and children victims of domestic violence.

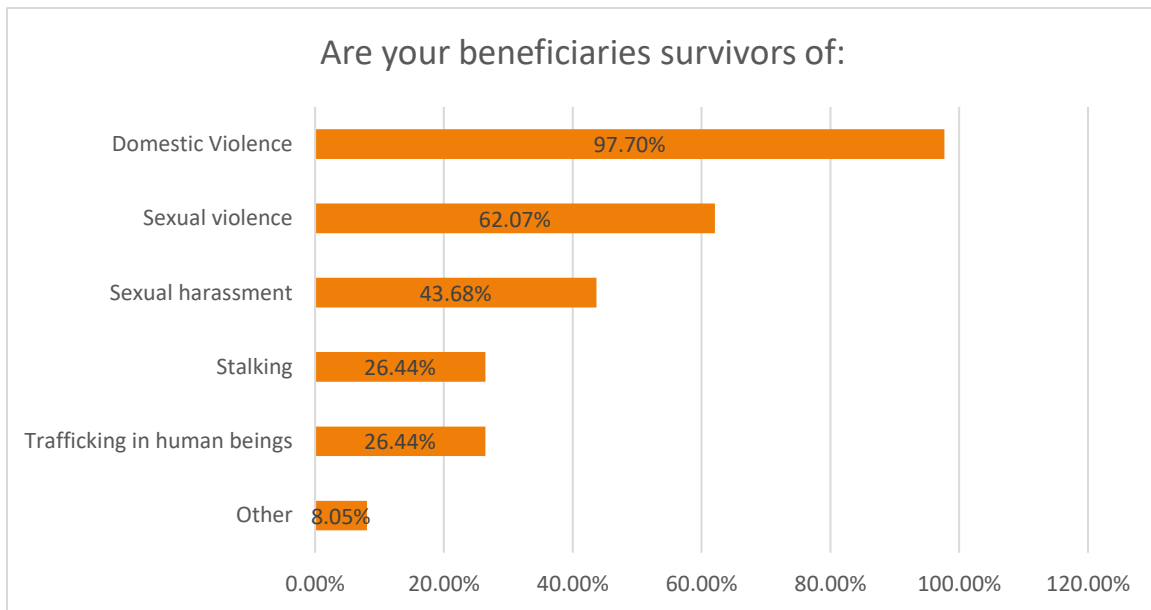


Figure 3.2. Beneficiaries. Based on 87 responses.

Besides providing direct support to women survivors of GBV, many organisations also have other activities. Two third of organisations (77,11%) work on raising awareness and a third (33,73%) do advocacy, as well as provide training of professionals.

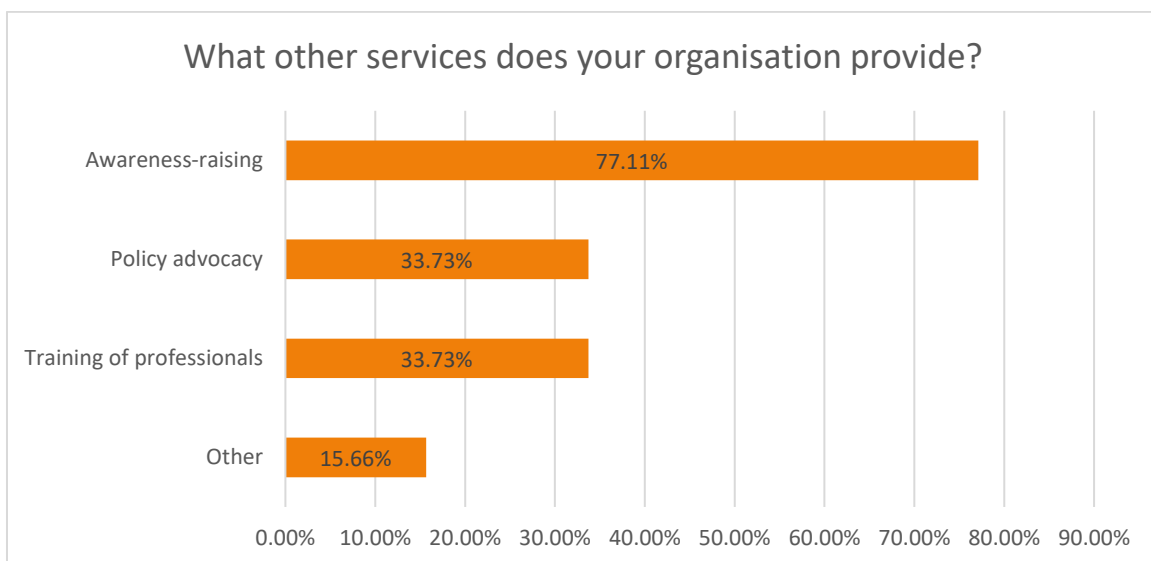


Figure 3.3. Other activities. Based on 83 responses.

Other activities and services that the organisations provide include education, preventive work with teenagers, mediation, work with minorities, education and work with volunteers.

Only one respondent replied that they don't co-operate with other organisations and institutions. Most organisations, when dealing with their beneficiaries, collaborate with others, primarily with the police (92,05%).

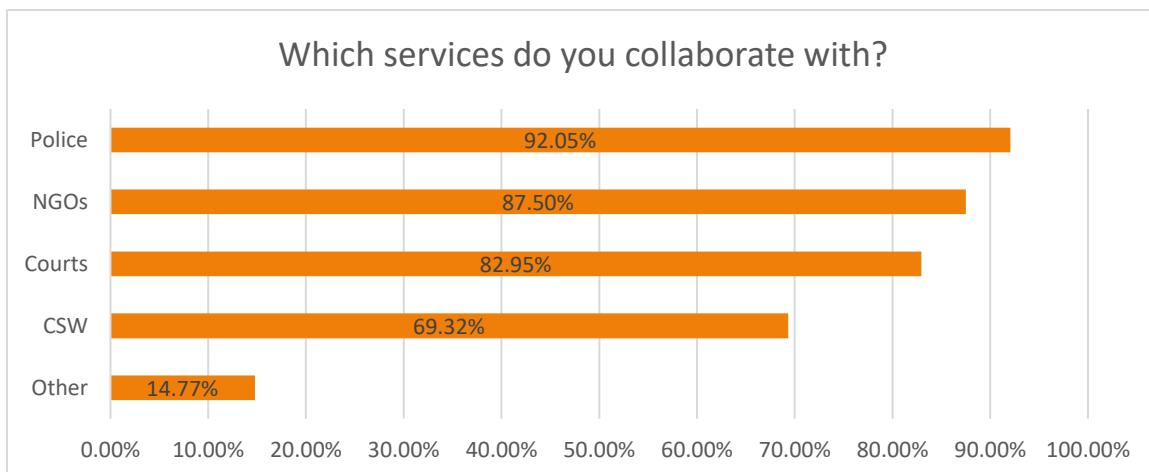


Figure 3.4. Collaboration with other services. Based on 88 responses.

Other services included public prosecutor, ministries and health services. Again, most respondents said that in their work they collaborate with more than one organisation or institution. 53 (60,23%) respondents collaborate with the police, courts, NGOs and CSWs, while 21 (23,86%) collaborate with at least three types of institutions and organisations.

The majority of 84 respondents (95,45%) said that they provide information to survivors of violence about protection orders. However, most of them (72,73%) feel that protection orders in Croatia are not adequately available to survivors.

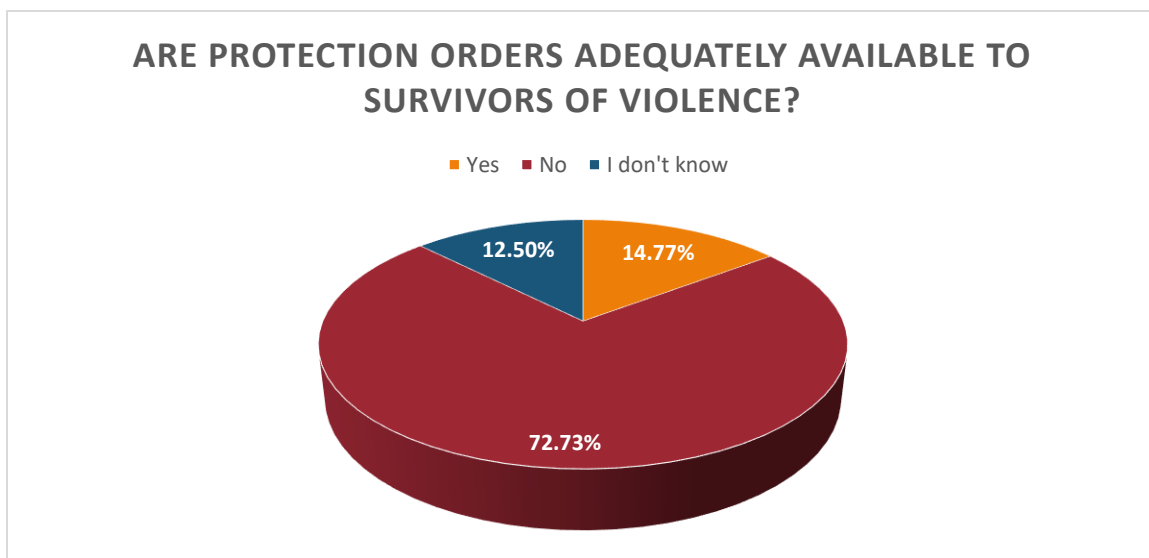


Figure 3.5. Availability of protection orders. Based on 88 responses.

The main barrier to obtaining the protection order, according to NGOs and other services providers, is lack of awareness of victim's rights (75,00%). This is similar to opinion of legal experts. Lack of support to victims was indicated as another significant barrier (63,64%), as well as lack of access to legal aid (54,55%).

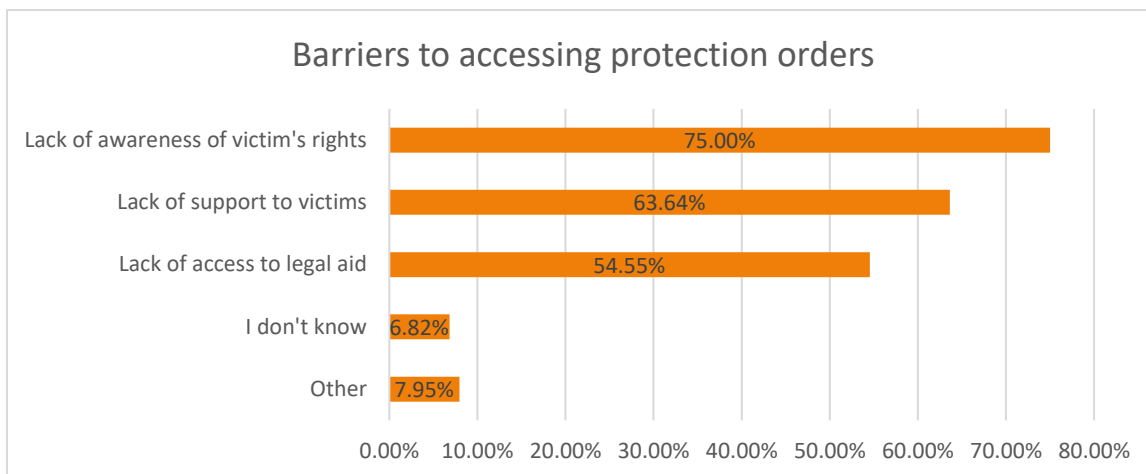


Figure 3.6. Perceived barriers to accessing protection orders. Based on 88 responses.

Besides these, other perceived barriers included inefficiency of the judicial system, lack of safe accommodation and lack of financial and human resources.

When asked if the information on the process of requesting protection orders in Croatia is easily available, the majority said no (63,64%). About a fifth think that the information is easily available and the same portion responded that they don't know (18,18% each).⁷⁷ Only a third of the respondents (36,36%) felt that their beneficiaries have adequate access to state provided legal assistance/legal aid. Lack of access to legal aid was identified as one of the main barriers to accessing protection orders by a little over half of the respondents. Following that, nearly half (47,73%) felt that their beneficiaries didn't have adequate access to legal aid and 15,91% said that they didn't know⁷⁸.

Similar to the legal experts, most NGO and service provider respondents (69,32%) thought that protection orders are not adequately enforced in Croatia.

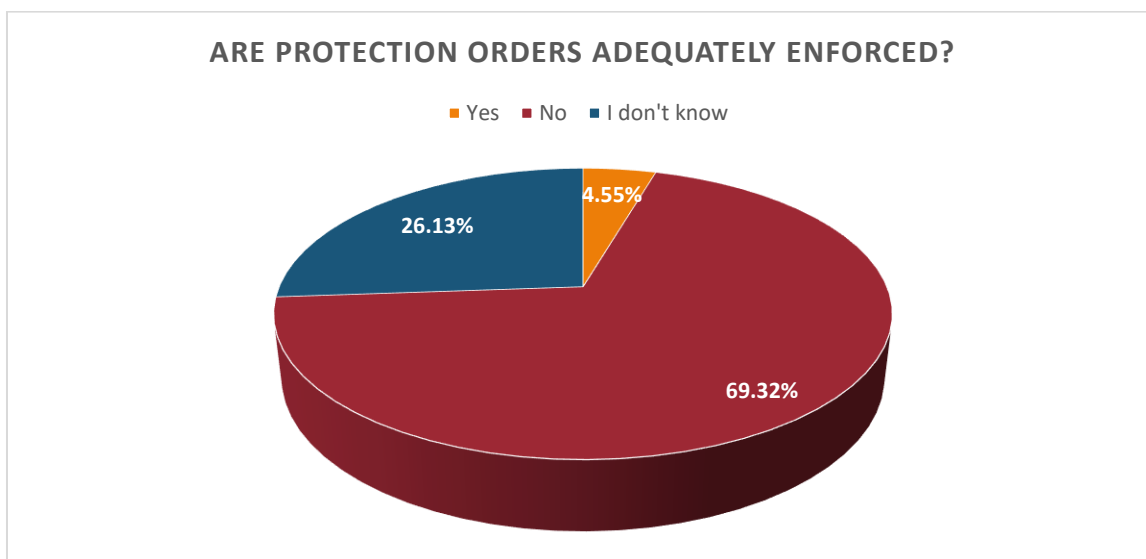


Figure 3.7. Enforcement of protection orders. Based on 88 respondents.

An EPO is based on Criminal Procedure Code precautionary measures and the Criminal Code safety measures. However, most of NGOs and other service providers, 49 out of 88 (55,68%), are not aware

⁷⁷ Based on 88 responses.

⁷⁸ Based on 88 responses.

of the provisions of the Directive EU on European Protection Order. Of those who are aware, 26 (66,67%) provide information to clients of their right to an EPO should they wish to travel or move to another EU country. However, only 3 people (7,69% of 39 respondents) think that information on the process of requesting an EPO is easily available in Croatia. Eight respondents out of 39 (20,51%) said that they are aware of information and awareness campaigns targeting the victims in Croatia in relation to the possibility of requesting an EPO if she is moving to another Member State. However, since the desk research did not uncover any public campaigns on this issue and even the departments in charge of EU co-operation within the Ministry of Justice have no information or data on EPOs, it is likely that what is meant here is more general information on protection measures and campaigns against GBV. Furthermore, the results of the EU citizens and legal expert surveys show that there is almost no information on EPOs for survivors.

When asked if they have access to organised courses, training activities or information campaigns on the EPO, 11 out of 88 respondents said that they do (12,50%), 67 (76,14%) said that they don't and 10 didn't know (11,36%). Only six respondents (6,82%) claimed that they participated in specific training on the application of the EPO. While a small portion of respondents (15,91%) are unsure if such a training would be beneficial to them, and one person (1,14%) said that it wouldn't, most (82,95%) think that they would benefit from a training on specific application of EPOs.

FINDINGS AND RECOMMENDATIONS

Findings

1. Violence against women is underreported

The available research shows that every third woman in Croatia has survived physical violence by a partner or a previous partner, while 44% of women have survived psychological violence from a current partner and 68% from a previous one. However, less than 20% of women reported the violence to the police. The number of reported cases each year under the Law on Protection from Domestic Violence has been steadily decreasing in the last 10 years, with 46% less cases reported in 2019 than in 2011. In the recent years, more cases have been reported through the Criminal Code, but not nearly enough to account for such a decrease in reported LPDV cases. Qualitative research indicates that women don't report violence because of lack of information about their rights, feeling ashamed, lack of financial resources, feelings of inferiority due to a failed marriage, and distrust in the work of institutions. Three in five women (60%) who did report the violence were not satisfied with the police response.

2. Violence against women is treated mostly as a misdemeanour instead of as a crime and the sanctions issued for both are low

Croatia doesn't have specific legislation nor policy referring to GBV against women. Instead, different forms of violence against women are criminalised, including intimate partner violence, which is treated as one of the forms of violence in the family. Most cases of violence against women that are reported in Croatia are cases of intimate partner violence. Although intimate partner violence is criminalised, both as a separate offence through Art 179a of the Criminal Code and as an aggravated form of several other crimes, most cases of intimate partner violence are treated as misdemeanours through the LPDV. The previous research and practice of AWHZ indicate that the reason police give for this is that misdemeanour proceedings are faster, allowing for quicker passing and application of protection orders. However, another reason is that violence against women is not treated as a serious crime. Research has shown that under 10% of sanctions issued for such violence are jail or prison, regardless of whether it is tried under the Criminal Code or LPDV. Most sanctions are fines and suspended sentences, even for repeated acts of violence. The failure to treat violence against women as a serious offence has repeatedly resulted in more aggravated forms of violence, as well as in femicide. Moreover, the LPDV doesn't protect all victims of violence because it doesn't include women who have never lived with their abuser and have no children in common. Intimate partner violence is treated in both the law and actual implementation as specific incidents of violence and the context of violence and coercive control are usually not taken into account. In Criminal Code procedures, in order to prosecute physical violence resulting in injuries, the victim has to provide medical documentation. Women suffer violence sometimes for years without reporting so they usually don't have medical documentation of their injuries. This means in practice that the criminal acts for bodily injuries and sometimes grievous bodily injury cannot be prosecuted, so many of the offenders end up being prosecuted for threat, which doesn't accurately describe the crime they committed and carries a lower punishment. All these issues result in minimising the violence women have survived, not issuing protection orders and passing of low sentences.

3. Precautionary orders in both criminal and misdemeanour procedures are rarely used to protect the victim, but rather to secure the presence of the defendant in the process

Precautionary orders in Criminal Procedure Code and Misdemeanour Law should be used to protect the victim during the process since protection measures from LPDV and safety measures from Criminal Code come into effect after the final verdict. However, as they are currently defined, these precautionary orders are used to make sure that the defendant will not escape, destroy evidence or repeat the act. The last condition can be used to protect the victim, but is rarely used. Very few

judges will use these orders to protect the victim on the basis of her fear. This means that, especially in criminal procedures, the victim is left unprotected during a very long time since these proceedings can take years. The situation is similar in misdemeanour proceedings where the conditions for issuing precautionary orders are the same. The courts are mostly interested in securing the presence of the defendant. The procedures are not victim-centred. One research showed that misdemeanour precautionary measures are issued in only 5% of the cases. The police, although they have the possibility of issuing precautionary orders of both eviction and restraining orders for eight days immediately, almost never use this possibility. This means that Croatia, although it has such legal option, in reality hasn't implemented emergency protection orders as required by the Istanbul Convention.

4. Precautionary and safety measures under the Criminal Code and Criminal Procedure Code are rarely used

While criminal proceedings in cases of GBV against women are not used enough, precautionary and safety measures are used even less. There is no publicly available data for each type of safety measures that are issued. However, available reports from the public prosecutor indicate that less than 50 restraining and eviction orders are issued per year. The research also indicated low portion of cases where protection orders are issued, with the Criminal Procedure Code precautionary measures issued in 6% of the cases and Criminal Code safety measures in 13% of the cases. Violence doesn't stop when the victim reports it or when she leaves the abuser. On the contrary, violence tends to intensify, with perpetrators becoming more dangerous after the victim reports them. Protecting the victim during the criminal proceedings is vitally important, as well as ensuring long-term protection by issuing safety measures with a duration of up to five years. The courts and other institutions in Croatia are not sufficiently trained to recognise that GBV against women, especially intimate partner violence, is not an isolated crime which can be prosecuted and put to rest. It is a pattern of violence, usually lasting for many years, where the perpetrator feels he has the right to abuse his victim. GBV against women is structural violence, rooted in unequal power relations between women and men. In order to prevent repeated acts of violence and femicide, more prison sanctions and safety measures need to be issued and carefully monitored to ensure that the victims are protected.

5. Protection orders are not issued enough, the sanctions for their breach are too low and they are seen by the public and the experts as ineffective

Available data shows that the police request restraining orders on behalf of the victim under the LPDV in only about a quarter of the cases. Even when they do request them, the court grants only about a half of them. Eviction orders are requested and granted even less. The police and courts prefer psychosocial treatment of perpetrators and addiction treatment, even though the only measures directly protecting the victim are restraining and eviction orders and very few addiction treatments and psychosocial treatments are successfully implemented. Furthermore, the prescribed sanctions for violating the imposed protection measures are extremely low, consisting of a fine of at least €400 or at least 10 days in jail. However, the jail sentence is rarely applied. What is especially concerning is that over half of the respondents of our EU citizens online survey who have received the protection order (52,46%) didn't feel that it was effective in ensuring protection. This result is supported by the opinion of both legal experts, of whom 56,10% felt the protection orders in Croatia are generally not effective, and NGOs, most of whom (72,73%) said that the protection orders in Croatia are not adequately available to survivors and over half (55,68%) think that they are not adequately enforced. Such high numbers across all surveyed target groups that think that protection orders are not available, effective or adequately enforced indicate that urgent changes on the level of legislation and implementation need to be made to ensure protection of women survivors of GBV.

6. An EPO can not be issued for protection measures under the LPDV

According to the Law on Judicial Cooperation in Criminal Matters with EU Member States, under which the EC Directive 2011/99/EU was transposed into Croatian legislation, an EPO can only be issued for

precautionary measures under the Criminal Procedure Code and safety measures under the Criminal Code. As already described, most protection orders for women survivors of GBV are issued under the LPDV. It is a misdemeanour law and therefore is not covered by the EPO. However, LPDV is a misdemeanour law, and not a civil law, which means that it should be covered as part of criminal protection.

7. There is a low awareness of victim's rights and EPOs in the general public and no information is available on the EPOs

Both legal experts and NGOs indicated in the online survey that one of the main barriers to obtaining protection orders is lack of awareness of victim's rights, identified by 75,00% of NGOs and 56,10% of legal experts. Women survivors of violence shared their experiences of being blamed for violence, feeling alone and having to fight for themselves and generally not finding understanding and support, especially from the institutions. Very few citizens are aware of the EPOs (17,28%). Even so, this number was higher than expected. However, it is likely that since this was not a random sample, but rather the survey was shared with the contacts and followers on social media of AWHZ, people who responded tended to be more interested and/or knowledgeable about GBV and related legislation than the average population. There is no evidence of any campaigns or information being provided to survivors of their right to an EPO.

8. The data collection is not centralised nor publicly available, and there is no data collection on EPOs

Croatia has some publicly available data collected by the Ministry of Interior and published each year. These data show the number of LPDV cases, including the gender of perpetrator and victim, but not the number and type of protection orders or the relationship of perpetrator to victim, nor any other data. The public prosecutor's office has also some data published in their yearly report, that includes the number of safety orders, but not completely divided by type or crime. The data collection is not centralised, with each institution collecting their own data. Some reports, such as yearly work reports of the Ombudsperson for Gender Equality, have more data which means that additional data is collected by institutions, but not published. However, regarding EPOs, there is no available data on the prevalence of EPOs in Croatia. Several contacts with the employees of the Ministry of Justice, the County court and the Supreme court showed that there is no department in charge of monitoring the application of EPOs and collecting data. Without data collection and an institution in charge of monitoring the application of EPOs in Croatia, there is no way to be certain of how many EPOs have been recognised or issued.

9. There is a significant interest among legal and NGO experts in specific training on the application of EPOs

The online survey for NGOs and legal experts showed that a few of them have had access to information about the application of EPOs. Only five of the legal experts have participated in specific training on the application of the European Protection Order, but most of them (95,12%, 39 respondents) felt that such a training would be beneficial for them. NGOs and other service providers have also not had a lot of information and training on EPOs, with six respondents (6,82%) claiming that they participated in specific training on the application of the EPO. Most of them (82,95%) think that they would benefit from a training on specific application of EPOs.

Recommendations

- Expand the scope of the LPDV to protect victims of domestic violence who have never lived with their offender, but are in or have been in an intimate relationship;
- Expand the scope of the Criminal Code to protect victims of domestic violence who have never lived with their offender, but are in or have been in an intimate relationship;
- Provide and fund mandatory and regular gender-sensitive training to judges, police, CSW personnel, prosecutors, health care workers, and psychosocial treatment administrators on the dynamics of domestic violence and coercive control, in collaboration with women's feminist NGOs;
- Train police officers, prosecutors, and judges on identifying the primary aggressor and assessing defensive injuries to reduce the number of dual arrests, charges and convictions of victims of domestic violence;
- Train criminal judges on the application of and promote their use of eviction and restraining order safety measures under the Criminal Code and precautionary measures under the Criminal Procedure Code in domestic violence cases;
- Train both criminal and misdemeanour judges in order to increase the number and length of prison sanctions for the perpetrators;
- Amend the LPDV to ensure that the breach of protection measures constitutes a crime under Art 179a of the Criminal Code;
- Amend the Misdemeanour Law to ensure that the breach of precautionary measures constitutes a crime under Art 179a of the Criminal Code;
- Ensure accountability of responders who fail to exercise due diligence and prevent further violence against women, as well as institute a mechanism for monitoring the work of responders and provide sanctions for secondary victimization of the victims;
- Amend the Law on Judicial Cooperation in Criminal Matters with EU Member States to include protection measures issued under the LPDV and precautionary measures issued under the Misdemeanour Law as basis for issuing an EPO;
- Ensure regular centralised data collection, segregated by age and gender, on GBV against women, including type of violence, sanctions, number and type of issued protection orders and EPOs;
- Organise an information campaign for the general public and experts on the right of the victim to an EPO and its application.

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