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## ARTEMIS:

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

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

**CZECH REPUBLIC**

**PROFEM**  
— | PRÁVO  
— | POMOC

## LEGAL NOTICE

This report is the result of a research carried out by proFem – center for victims of domestic and sexual violence, o.p.s. 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.

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## 1. INTRODUCTION

### 1.1. Introduction to the Project (Brief Summary)

The project entitled '*Artemis – Support of the right to the protection of women through the application of Directive of the European Parliament and Council 2011/99/EU and the European protection order*' maps out the legislative regulation of the European protection order (the "EPO") and its application in practice in the countries involved (the Czech Republic, Italy, Croatia, Cyprus, Greece). We are analysing both good practices and deficiencies in this area and increasing the awareness of lawyers and helping organisations about the possibilities of its application.

### 1.2. Country Context

In the Czech Republic, the Directive of the European Parliament and the Council 2011/99/EU of 13 December 2011, on the European protection order (the "Directive") was transposed into Act No. 104/2013 Sb. [*Collection of Laws of the Czech Republic*], on International Judicial Cooperation in Criminal Matters, through Amendment No. 77/2015 Sb. effective from 1 May 2015. In the Czech Republic, the EPO is issued by a court or public prosecutor's office. In other countries, it is a judicial or equal body with comparable judicial powers and competences. The EPO is issued based on a protection order, i.e. a decision made in the criminal proceedings to protect a person from a crime that may jeopardise this person's life, health, freedom, or human dignity. This decision prohibits the suspect, accused or convict from approaching the given person for a prescribed distance, contacting that person, even electronically or in another manner, or from entering certain places where the protected person visits and resides.

A district court is competent to issue decisions recognising the EPO and to adopt the follow-up measures. If the court does not recognise the EPO, it must inform the protected person about the possibility to seek provisional measures under Act No. 141/1961 Sb., on the Criminal Procedure (the "Criminal Procedure Code").

## 2. METHODOLOGY OF THE RESEARCH

This report aims at presenting the results of the implemented desk review, questionnaire survey, and interviews with the relevant stakeholders, and at identifying good practices and putting forward recommendations to improve the existing practice.

The researchers have implemented the desk review focused on mapping out the theoretical legal basis and practices related to protection orders and the EPO and on evaluating the EPO's implementation and impact in the Czech Republic. They were searching and analysing current national policies, the legal development, the relevant research projects and specialised studies on protection orders and the EPO in relation to gender-based violence (the "GBV"). We were mapping out national policies and initiatives, legislation, statistical data, research projects and studies, evaluations of the use of protection orders and the EPO, academic texts and the relevant media articles.

We also conducted telephone interviews with three stakeholders – representatives of police and people working at not-for-profit organisations helping victims of crimes. We asked them about their experience with protection orders and the EPO, examples from practice where these tools can be used, and about their theoretical knowledge, good and bad practice regarding this issue.

We have also implemented a questionnaire survey. We used questionnaires posted on the internet and shared in the social media and by a network of cooperating experts in the Czech Republic and abroad (child welfare authorities and other social care authorities, the police, the judiciary, lawyers, including trainee lawyers, law faculty students, the international network of WAVE organisations). We addressed three target groups, EU citizens, legal professionals and people working at organisations helping victims. We asked them about their knowledge of and experience with the EPO. We received answers from 302 EU citizens, 40 legal professionals and 47 people working at organisations helping victims.

## 3. DESK REVIEW

### 3.1. Country Profile

#### **NATIONAL POLICIES AND INITIATIVES**

The Czech Republic's government has a strategic document related to the prevention of domestic and gender-based violence entitled *Action plan of prevention of domestic and gender-based violence in the years 2019–2022* (the "Action Plan"). It is the third separate strategic government document in this area. It follows up on the *Action Plan for the years 2015–2018* and the *Government strategy for equality of men and women in the Czech Republic in the years 2014–2020*.

The Action Plan does not deal with protection orders or the EPO specifically, but it focuses on providing justice to victims of domestic and gender-based violence through the judiciary.

Priorities in this area include raising the awareness among judges and public prosecutors about domestic and gender-based violence and the current outputs in this respect. The expected impact in this area is the provision of support in the form of more in-depth specialisation of public prosecutors in domestic and gender-based violence through a sufficient number of specialised courses of the Judicial Academy (In Czech: *Justiční akademie*) and sufficient options for judges to gain additional knowledge about this topic and regular information about the current expert outputs in this area.

Hence, these employees of the judiciary should be provided with access to education and information about protection orders and the EPO that are among the tools to protect victims of these types of violence.

#### **NATIONAL LEGISLATION**

Act No. 104/2013 Sb., on International Judicial Cooperation in Criminal Matters

Act No. 273/2008 Sb., on the Police of the Czech Republic

Act No. 250/2016 Sb., on Liability for Administrative Infringements and their Proceedings

Act No. 40/2009 Sb., the Criminal Code

Act No. 141/1961 Sb., on the Rules of Criminal Procedure (the "Criminal Procedure Code")

Act No. 292/2013 Sb., on Special Judicial Proceedings

Act No. 218/2003 Sb., on Liability of the Youth for Unlawful Acts and the Youth Justice System (the "Act on the Youth Justice System")

Act No. 45/2013 Sb., on the Victims of Crimes

#### **ANY OTHER RELEVANT NATIONAL LEGISLATION OR POLICY RELEVANT TO PROTECTION ORDERS/EPOS**

*Explanatory memorandum related to the government bill amending Act No. 104/2013 Sb., on International Judicial Cooperation in Criminal Matters, and other related acts, election period 2013-2017, 261/0 of 3 July 2014* (the "Explanatory Memorandum").

The Explanatory Memorandum expressly states which protection orders embedded in Czech legislation can be applied after EPO's issuance and recognition. They are provisional (interim) measures under the Criminal Procedure Code prohibiting contact with the injured party (s. 88d), prohibiting the offender from entering a shared dwelling and its immediate vicinity and to remain there (s. 88e), or prohibiting the offender from remaining in a specific place (s. 88g).

The scope of the Directive can also cover some decisions issued as part of the so-called diversions, i.e. decisions on the conditional postponement of application to punish a suspect (s. 179g) and on conditional discontinuance of criminal prosecution of the accused (s. 307) if a reasonable restriction or obligation which character corresponds to the restriction or obligation contemplated by the Directive is imposed at the same

time. They include reasonable measures and reasonable obligations set out in s. 48(4) of the Criminal Code, expressly to refrain from visiting the unsuitable environment and contacting certain people or from unlawful interferences in the rights or interests of other persons protected by the law.

The Explanatory Memorandum also states that the scope of the Directive does not cover the protection measures issued by administrative or civil authorities outside the criminal proceedings. In Czech law, they include the eviction under Act No. 273/2008 Sb., on the Police of the Czech Republic, and a provisional measure for the protection from domestic violence under Act No. 292/2013 Sb., on Special Judicial Proceedings. In this respect, the dichotomy of the legal regulation of the said institutes intended for the direct protection of victims of gender-based violence seems to be insufficient. The relatively frequently used and effective eviction and provisional measures to protect from domestic violence/stalking are excluded from the international protection that should be provided by the EPO even though they have an identical purpose and content. Eviction is an administrative-law tool, while the provisional measure to protect from domestic violence is a civil-law tool. However, both tools are frequently (and repeatedly) used in the case of commenced criminal proceedings. It also follows from their purpose that they are intended for the protection of victims of crime – domestic and other types of gender-based violence.

*General instruction of the supreme public prosecutor, No. 10/2013 of 16 December 2003, on international judicial cooperation in criminal matters, regulates the duty to inform in the proceedings on the recognition of the EPO and adoption of follow-up measures (Article 113a) and provision of protection of the protected person in another member state (Article 113b).*

## **NATIONAL STATISTICAL DATA**

### **Protection orders**

The CSLAV system which collects and publishes data from the judiciary can provide information about individual crimes. Specifically, it contains information about how many cases the judiciary registers for a given period; how many of them have been clarified/how many convictions there have been, and whether they were with or without attached conditions. There we can also find data on imposed reasonable restrictions and obligations (protection orders under which the EPO can be issued). However, it is a problem because it is impossible to find data about which restrictions or obligations had been imposed because only some of them correspond to the content of the EPO. Hence, it is impossible to determine in how many cases it would be realistic to apply for an EPO.

As stated above, the scope of the Directive can cover decisions on the conditional postponement of application to punish a suspect and on the conditional discontinuance of criminal prosecution of the accused from the diversions in the criminal proceedings. A detailed analysis of the Institute of Criminology and Social Prevention (the “IKSP”, the “Institute”) entitled ‘*Crime rate analysis in the Czech Republic in 2018*’ deals with the number of decisions on diversions. The Institute analysed data from the CSLAV system. We can see a gradual decline in diversions since 2009 and a rise in 2018 (it means 3,276 cases of conditional discontinuances of criminal prosecution and 2,203 cases of conditional postponement of application for punishment in 2018).<sup>1</sup>

However, the system of data collection from the judiciary does not enable assigning a specific crime investigated in the given criminal procedure to these decisions. Neither does it allow establishing in how many cases a reasonable restriction or reasonable obligation had been imposed which nature corresponds to the restriction/obligation contemplated by the Directive. Hence, it is impossible to say in how many cases a victim of the given crime could apply for an EPO if the imposition of the reasonable

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<sup>1</sup> DIBLÍKOVÁ, Simona a kol. *Analýza trendů kriminality v České republice v roce 2018*. Praha: Institut pro kriminologii a sociální prevenci, 2019. Ediční řada Studie. ISBN 978-80-7338-179-0. Available only in Czech.

restriction/obligation is a prerequisite for this procedure, and the victim's protection through the EPO has a sense only for some types of crimes.

The same situation applies to the data about imposing sentences upon juvenile delinquents. According to the same sources, diversions are used in a higher number of cases than with adult offenders. However, the same barriers are inhibiting to find out the crimes these decisions concerned and whether the reasonable restriction/obligation was imposed (a so-called reformatory restriction).

The Ministry of Justice of the Czech Republic is also keeping statistics of imposed provisional measures in criminal court cases prepared by individual courts. Unfortunately it is again impossible to see the relation to a specific crime that was investigated in the given case.

Nonetheless, experts have also pointed to the insufficient use of reasonable restrictions and obligations when imposing sanctions.<sup>2</sup>

An analysis of judgments regarding rape cases made in 2017 by proFem's lawyer Veronika Ježková (*Jen ano je ano – Trestný čin znásilnění; in English: Only yes means yes – the rape in the light of the Istanbul Convention*<sup>3</sup>) shows that there is almost an equal proportion of conditional and unconditional sentences imposed for this crime in the Czech Republic. A court may impose the above reasonable restrictions and obligations on a conditionally sentenced convict. The analysis covered a total of 55 judgments. Of this number, a suspended (conditional) sentence of imprisonment was imposed on 22 offenders. The reasonable restriction or obligation could also be considered in their case. The restriction consisting in refraining from contacting the injured party was imposed only on one adult convict and one juvenile convict.

Hence, Veronika Ježková concludes that courts "do not go overboard" with the imposition of these protection orders even though the restrictions consisting in the prohibition of contact with the injured suggest themselves in all cases of sexual violence.

As indicated above, the ten-day eviction is a preventive tool for the protection of victims of gender-based violence in the Czech Republic. The Association of Intervention Centre Lawyers (the "APIC") collects data on evictions. According to figures from 2019, a total of 1,256 evictions were performed throughout the Czech Republic in 2019. The APIC also collects data about persons at risk (2019: 2,076 persons, including 1,245 women, 671 children, and 160 men).

Other figures show the number of persons at risk who applied for a provisional measure against domestic violence under Act No. 292/2013 Sb., on Special Judicial Proceedings (1,382 persons, including 611 applications relating to the eviction).

Not-for-profit organisation *Bílý kruh bezpečí* ("BKB") is also keeping eviction stats by individual years since 2007 when this institute was implemented in the Czech Republic's legislation, as well as by individual regions. The total number of evictions between 1 January 2007 and 31 December 2019: 15,464.

We contacted the Police Presidium with a request for eviction statistics. We received the number of evictions for 2018 and 2019. These numbers differ from the figures published by *Bílý kruh bezpečí* by a few units (2018: BKB: 1,283, Police Presidium: 1,293; 2019: BKB: 1,256 (the same figure as APIC), Police Presidium: 1,262).

These sources show that eviction is used relatively frequently. However, we need to point to the conflict in the figures provided by individual institutions.

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<sup>2</sup> e.g. ŠÁMAL, Pavel. *Nejvyšší soud zhodnotil praxi soudů v oblasti ukládání a výkonu vybraných trestních sankcí a odklonů v letech 2010 a 2011*. 2014: Trestněprávní revue 9. Available only in Czech.

<sup>3</sup> JEŽKOVÁ, Veronika. *Jen ano je ano: Trestný čin znásilnění ve světle Istanbulské úmluvy*. Praha: proFem, o.p.s., 2017. ISBN 978-80-904564-9-5. Available only in Czech.

We contacted the Police Presidium and the Supreme Public Prosecutor's Office by telephone, asking them about the number of provisional measures relating to the protection from domestic violence and whether they keep any statistics. We were told that either *"there are no such statistics"* or that *"they do not know whether there are any statistics or who specifically keeps them"*.

### The EPO

We turned to the Ministry of Justice of the Czech Republic with a request for the statistics regarding the number of EPOs made or recognised in the Czech Republic. First, we received a summary table for 2018 and 2019. It shows the following number of "newly incoming" (incoming) EPOs: four in 2018 and five in 2019. In 2018, there were two outgoing (made) EPOs while in 2019, there were 67 of them. However, we received additional information that these were erroneous records within the statistical data.

Therefore, we forwarded the same request to the Supreme Public Prosecutor's Office. They answered that the international section of the Supreme Public Prosecutor's Office did not register any EPO in 2020 or in the previous years that would be made in the Czech Republic or that would be issued in another EU Member State and sent to the Czech Republic for recognition and execution although lower-level public prosecutor's offices should provide information to this section.

Hence, we need to point out that the judicial authorities keep the statistical data in a confused manner, and individual institutions are not mutually aligned in the reported numbers.

## 3.2. Overview of Protection Orders in the Czech Republic

### LEGISLATION

#### List of laws regulating protection measures

- s. 44 and the following provisions of Act No. 273/2008 Sb., on the Police of the Czech Republic. It is an administrative-law regulation governing police procedures when protecting not only victims of domestic violence.
- s. 51 and the following provisions of Act No. 250/2016 Sb., on Liability for Administrative Infringements and their Proceedings. It is an administrative-law regulation governing the imposition of a restrictive measure to protect a person at risk and the imposition of an administrative sentence.
- s. 67 and s. 88b and the following provisions of Act No. 141/1961 Sb., on the Criminal Procedure. It is a criminal-law regulation governing the imposition of a protection measure for fear that the offender will commit crimes repeatedly and influence the injured party in the criminal proceedings.
- s. 19 of Act No. 218/2003 Sb., on Liability of the Youth for Wrongful Acts and the Youth Justice System. It is a criminal-law regulation under which it is possible to impose reformatory restrictions on a juvenile consisting in restricted contact with specific persons or stay in specific places.
- s. 48 and the following provisions of Act No. 40/2009 Sb., the Criminal Code. It is a criminal-law regulation that can prohibit the offender's contact with the person at risk.
- s. 400 and the following provisions of Act No. 292/2013 Sb., on Special Judicial Proceedings. It is a civil-law regulation specifically regulating provisional measures to protect persons exposed to domestic violence.

#### Are the protection measures regulated by general laws or laws focused on specific forms of violence (e.g. an act on domestic violence)?

The protection measures are regulated only by general laws. In the Czech Republic, the Act on Special Judicial Proceedings currently expressly deals with "the protection measure for the protection from domestic violence".

## TYPES AND PREVALENCE OF PROTECTION MEASURES

### What types of protection measures are there in the Czech Republic and for what kind of subjects?

- Act No. 273/2008 Sb., on the Police of the Czech Republic regulates eviction. Only the Police of the Czech Republic are competent to perform eviction. It is a tool used to protect persons who are exposed to the risk of violence in the form of attacks against life, health or freedom or an exceptionally severe attack against human dignity. The protection is typically aimed at victims of domestic violence, but the law does not set it out specifically. It can also be used to protect other victims/persons at risk.
- Under Act No. 250/2016 Sb., on Liability for Administrative Infringements, a protection measure (a restricting measure consisting in the prohibition to enter specific places, the obligation to refrain from contacting a specific person or the obligation to undergo a certain programme) can be imposed. The restricting measure can be imposed only with an administrative sentence. The restricting measure can be imposed only in relation to an administrative infringement.
- Under Act No. 141/1961 Sb., on the Criminal Procedure, a provisional measure can be imposed, prohibiting the offender in particular to
  - contact the injured party, the next of kin, or other persons, especially witnesses
  - enter the shared dwelling occupied together with the injured party and its immediate vicinity and reside in such a dwelling

Provisional measures made in the criminal proceedings are used to protect everyone harmed by the crime or their next of kin (e.g. children). The imposition of a provisional measure is not connected with specific crimes.

The accused can also be taken into custody in the criminal proceedings if there are justified concerns that the offender will continue committing crimes or influence the injured party or witnesses. This measure can also be used to protect the person at risk indirectly.

- Under Act No. 40/2009 Sb., the Criminal Code, a court may impose an obligation to refrain from unlawful interferences in the rights or interests of other persons protected by the law.
- Under Act No. 218/2003 Sb., on the Youth Justice System, a court may impose a reformatory measure.
- Under Act No. 292/2013 Sb., on Special Judicial Proceedings, a provisional measure may be ordered in the following cases:
  - Co-habitation of persons is not bearable due to physical or psychological violence
  - Stalking

### What methods of protection can the protection means provide?

- Under Act No. 273/2008 Sb., on the Police of the Czech Republic, a violent person has the following obligations (all together):
  - To leave the defined space without undue delay (the police officer determines the defined space)
  - To refrain from entering the defined space
  - To refrain from contacting or making contact with the person at risk
  - To give the police officer, upon his request, all keys from the shared dwelling available to him/her
- Under Act No. 250/2016 Sb., on Liability for Administrative Infringements, it is possible to impose a measure consisting in the prohibition to enter specific places, the obligation to refrain from contacting a specific person or the obligation to undergo a specific programme.
- Under Act No. 141/1961 Sb., on the Criminal Procedure, it is possible to
  - prohibit contact with the injured party, the next of kin or other persons, especially witnesses
  - prohibit access to the shared dwelling occupied with the injured party and its immediate vicinity and to reside in such a dwelling (the “prohibition to enter the dwelling”),
- Under Act No. 40/2009 Sb., the Criminal Code, a court may impose the obligation to refrain from unlawful interferences in the rights or interests of other persons protected by the law.

- Under Act No. 218/2003 Sb., on Liability of the Youth for Wrongful Acts and the Youth Justice System, a court may impose reformatory restrictions (a type of a reformatory measure) on a juvenile consisting in restricted contact with specific persons or staying in a specific place.
- Under Act No. 292/2013 Sb., on Special Judicial Proceedings, it is possible to determine that the respondent:
  - leaves the shared dwelling as well as its immediate vicinity, does not remain in and enter the shared dwelling,
  - does not enter the immediate vicinity of the shared dwelling or the petitioner and does not remain there,
  - refrains from meeting the petitioner, or
  - refrains from unwanted stalking and harassment of the petitioner in any way.

#### **What is the time limitation of specific protection measures?**

- Under Act No. 273/2008 Sb., on the Police of the Czech Republic, eviction lasts ten days; the filing of an application to order a provisional measure under Act No. 292/2013 Sb., on Special Judicial Proceedings, can extend this period until the decision on the application.
- Under Act No. 250/2016 Sb., on Liability for Administrative Infringements, a protection measure can be determined for one (1) year from the decision at the longest.
- Under Act No. 141/1961 Sb., on the Criminal Procedure, a provisional measure lasts for the period of the criminal proceedings, until the court's final decision or another decision ending the criminal proceedings
- Under Act No. 40/2009 Sb., the Criminal Code, the duration is determined by the court. It depends on the determined probationary period. It should last for a maximum of five years, but there are exceptions.
- Under Act No. 218/2003 Sb., on Liability of the Youth for Wrongful Acts and the Youth Justice System, reformatory measures can be imposed for a maximum of the determined probationary period in case of a suspended sentence, or a conditional postponement of a financial measure; If they are imposed separately or next to another protection or criminal measure, they can be imposed for a maximum of three years.
- Under Act No. 292/2013 Sb., on Special Judicial Proceedings, a provisional measure lasts one month; it can be extended for a maximum of six months

#### **Do you have available any statistics regarding the protection measures issued?**

The figures are only partly available. Additional information about the data collection in this area is provided on pp. 3-6 of this report.

#### **For what offences are the protection measures issued in general?**

The figures that could be used to read these data are not available.

### **PROCEDURE REGARDING THE APPLICATION FOR PROTECTION MEASURES**

#### **Are protection measures available to all victims of crime?**

- Under Act No. 273/2008 Sb., on the Police of the Czech Republic, a person can be excluded from a shared dwelling where this person lives together with the person at risk.
- Under Act No. 250/2016 Sb., on Liability for Administrative Infringements, there are no specific rules.
- Under Act No. 141/1961 Sb., on the Criminal Procedure, there are no specific rules. If an especially vulnerable victim (an older person, child, victim of sexual abuse, etc.) initiates issuance of a provisional measure, the investigative, prosecuting and adjudicating bodies must grant it under the Act on the Victims of Crime. However, it does not work in practice. In practice, we can see disputable assessments of who is an especially vulnerable victim.

- Under Act No. 40/2009 Sb., the Criminal Code, the duration is determined by the court. It can be imposed if, for instance, a court issues a suspended (conditional) sentence and a reasonable measure that must pertain to the criminal activity. It means that the crimes or victim specifics are not precisely given.
- Under Act No. 292/2013 Sb., on Special Judicial Proceedings, they can be imposed to protect a person living with the violent person or to protect a person being stalked or harassed.

#### Who can apply for/initiate a protection measure?

- Under Act No. 273/2008 Sb., on the Police of the Czech Republic, only the police determine the eviction, without application
- Under Act No. 250/2016 Sb., on Liability for Administrative Infringements, a protective measure is ordered by an administrative body, without application.
- Under Act No. 141/1961 Sb., on the Criminal Procedure, it is the court or public prosecutor (depending on the stage of the criminal proceedings) who decides on a provisional measure, without an application. The decision can also be initiated by the investigator (police officer) or victim/her/his lawyer.
- Under Act No. 40/2009 Sb., the Criminal Code, the measure is imposed by the court. The application can be filed by the public prosecutor.
- Under Act No. 292/2013 Sb., on Special Judicial Proceedings, a provisional measure can only be issued upon the application of the person at risk/her/his lawyer.

#### Which organisations/institutions are involved in the process of applying for and issuing protection measures?

- Child welfare authorities, if the case concerns minor children.
- Intervention centres: In case of eviction under Act No. 273/2008 Sb., on the Police of the Czech Republic, the police must notify an intervention centre about the eviction, and the centre contacts the victim subsequently.

#### Can protection measures be issued independently of other legal procedures?

- Under Act No. 273/2008 Sb., on the Police of the Czech Republic: yes, they can be issued without any other initiative of the person at risk.
- Under Act No. 250/2016 Sb., on Liability for Administrative Infringements: an administrative body must also impose an administrative sentence.
- Under Act No. 141/1961 Sb., on the Criminal Procedure: no, criminal prosecution must be pending at the same time.
- Under Act No. 40/2009 Sb., the Criminal Code: they can be issued only as part of the criminal proceedings.
- Under Act No. 292/2013 Sb., on Special Judicial Proceedings: yes, they can also be issued without another legal basis.

### MONITORING AND SANCTIONS

#### Are protection measures monitored in any way, or is it generally left up to the victim to report any violations?

- Under Act No. 273/2008 Sb., on the Police of the Czech Republic: yes, a police officer must check compliance at least once during the given time limit.
- Under Act No. 250/2016 Sb., on Liability for Administrative Infringements: it is left up to the victim.
- Under Act No. 141/1961 Sb., on the Criminal Procedure: it is left up to the victim.

- Under Act No. 40/2009 Sb., the Criminal Code: the situation is checked by an employee of the Probation and Mediation Service.
- Under Act No. 292/2013 Sb., on Special Judicial Proceedings: it is left up to the victim.

#### **If authorities monitor compliance with the protection measures, what activities/means can they use?**

- In the case of eviction, the check is performed by the police officer in the place from which the offender should have been excluded. The police officer checks whether the given person is not present there. However, the police officer cannot enter the dwelling unless it is allowed by the victim.
- If the procedure under Act No. 40/2009 Sb., the Criminal Code, is applied, the check is carried out by an employee of the Probation and Mediation Service where the violent person must appear. This employee can also contact the person at risk.

#### **Are there any sanctions for the breach of the civil-law, administrative-law and criminal-law protection measure? If so, what is the (lowest and highest possible) sanction?**

- Any breach of protection measures can constitute the crime of obstructing the enforcement of an official decision and expulsion under section 337(2) of the Criminal Code. Everyone violating a protection measure is subject to the sentence of imprisonment of up to two years. The lowest sanction is not defined.
- Any breach of a civil-law protection measure can be sanctioned with a fine of up to CZK 50,000.
- Any breach of a criminal-law protection measure can be sanctioned with a fine of up to CZK 50,000, or there is a reason to place the accused into custody.

#### **OVERVIEW OF ANY RELEVANT RESEARCH ON THE IMPLEMENTATION OF PO/EPO**

##### **Empirical research, studies and evaluations, covering POs/EPOs with particular attention to GBV**

FREIXES, Teresa and ROMÁN, Laura. *Protection of the gender-based violence victims in the European Union: Preliminary study of the Directive 2011/99/EU on the European protection order*. Barcelona: Publicacions de la Universitat Rovira i Virgili and Publicacions Universitat Autònoma de Barcelona, 2014. ISBN (URV) 978-84-8424-333-5, ISBN (UAB) 978-84-490-4489-2.

FREIXES, Teresa and ROMÁN, Laura. *The European protection order: its application to the victims of gender violence*. Madrid: Editorial Tecnos (Grupo Anaya, s.a.), 2015. ISBN 978-84-309-6553-3.

##### **Evaluation and/or assessments of national practices and/or tools on POs/EPOs with particular attention to GBV**

No source exists.

##### **Academic articles and/or research reports on POs/EPO**

HORŇÁK, Lukáš. *Ochrana oběti trestného činu*. Praha, 2018. Diplomová práce. Univerzita Karlova. Právnická fakulta. Thesis, available only in Czech.

##### **Any other studies relevant to POs/EPOs**

There are academic papers and articles about provisional measures, but they do not have any closer relation to the subject of our interest in this project.

We have searched media sources about the EPO and found out that the public is insufficiently informed about this issue. Except for the government website whose aim is to inform the Czech Republic's citizens about EU issues ([www.euroskop.cz](http://www.euroskop.cz)), there is only marginal and brief information available about the EPO. Of five articles searched, one is purely negative, voicing the widespread rhetoric against the EU in the Czech Republic. Other articles briefly reported on events in connection with the EPO (on the proceedings of the European Parliament, on the adoption of the transposition amendment to the Act on International Judicial Cooperation) or on what the EPO is.

### 3.3. Assessing the implementation and impact of the EPO in the Czech Republic

#### LEGAL FRAMEWORK

##### Has the Czech Republic transposed Directive 2011/99/EU into national legislation?

Yes. It was transposed into Act No. 104/2013 Sb., on International Judicial Cooperation in Criminal Matters with Amendment No. 77/2015 Sb., effective from 1 May 2015. The European protection order is described in ss. 340–356 of this Act.

##### Who can apply for an EPO?

Under section 341 of Act No. 104/2013, the EPO is issued by a judicial or equal body of another Member State in accordance with its laws and regulations upon the application of the protected person. In the Czech Republic, the judicial bodies include courts and public prosecutor's offices.

#### PREVALENCE OF EPOS

##### For what crimes are the EPOs issued/enforced in the Czech Republic?

No EPO has been issued in the Czech Republic to date. The application of an EPO is not bound to specific crimes.

The law (s. 341) states that a protection order prohibits the accused

- to enter specific places or defined areas visited or resided by the person protected by the protection order,
- to contact (or orders to limit such contact with) the person protected with the protection order, including the contact through an electronic communication network or other similar means, or
- to approach (or orders to limit this approach of) the person protected by the protection order closer than for a defined distance.

##### Does your country have a public register to keep track of the EPO monitoring? What information does it register?

There is no register here.

#### THE PROCEDURE OF APPLYING FOR EPO

##### Which organisations/institutions are involved in applying for and issuing EPO?

The EPO is issued by district courts or public prosecutor's offices.

## Recognition of the EPO

The competent Czech district court determines the recognition of an EPO issued in another country. If it does not recognise such an EPO, it must inform the victim about the provisional measures offered by Czech law.

## What is the time limit for issuing an EPO?

The law does not specify any time limits for decisions; there is only a duty to adjudicate without undue delay.

## Do the victims who are eligible for an EPO get free legal aid?

No. They can alternatively turn to not-for-profit organisations specialising in legal aid for the victims of crime or use another means to get free legal aid provided by Czech legislation subject to the fulfilment of the required conditions (e.g. a limited number of lawyer's hours).

## For what reasons can a competent authority reject an application for an EPO?

- Recognition of the EPO and adoption of follow-up measures would be in conflict with the plea res judicata,
- The facts for which the protection order described in the EPO was issued does not meet the elements of the facts of crime under Czech legislation,
- The violent person enjoys privileges and immunities under Czech and international law for which he/she is excluded from the powers of investigative, prosecuting and adjudicating authorities,
- According to the Czech Republic's law, the violent person would not be criminally responsible, due to age, for his/her acts for which the protection order described in the EPO was issued,
- The criminal liability for the act for which the protection order described in the EPO was issued is barred by the statute of limitations according to the Czech Republic's laws, and such a protection order was issued for an action whose prosecution is in the powers of the Czech Republic's authorities under Czech law,
- The prohibition or restriction imposed on the violent person by the protection order described in the EPO does not correspond to the prohibition or restriction specified in section 341(2), or
- The prohibition or restriction imposed on the violent person by the protection order described in the EPO is part of a sentence or protection measure whose execution is subject to amnesty in the Czech Republic, and such a prohibition or restriction was imposed for an action whose prosecution is in the powers of the Czech Republic's authorities under Czech law.

If there is no reason for non-recognition, the EPO must be recognised.

## How long does EPO's recognition in the Czech Republic last?

It cannot be determined.

## Does our state allow issuance of EPOs in multiple states simultaneously if the victim wants to stay in several states?

The legislation does not exclude this option.

## How long does it take in the Czech Republic (what is the time limit) to recognise an EPO if the Czech Republic is the executing state?

Neither the law (nor the Directive) sets out any time limit. They only say that the judge must act "without undue delay", and after EPO's recognition, the judge must act reasonably to s. 88b-88m of the Criminal Procedure Code when making follow-up measures. With this, the EPO loses its sense compared to the

national provisional measures because it is impossible to guarantee that it would be issued/recognised sufficiently in time.

## **DEGREE OF PROTECTION AND MONITORING PROCESS**

### **To what types of crimes does the EPO apply in the Czech Republic?**

The EPO does not apply to specific crimes.

### **Does the EPO grant the same degree of protection to the victim as it does in the issuing state?**

No. If provisional measures according to the Czech Criminal Procedure Code are issued, the person they apply to must be prosecuted (this person must be accused). In contrast, a provisional measure issued on the basis of an EPO can also be issued against a suspected person, not an accused person.

Provisional measures issued under an EPO are neither subject to any limitations set out by the Criminal Procedure Code.

That means that the degree of protection under an EPO is higher in this respect.

### **Are EPOs monitored in any manner, or is it left up to the victim to report their breach?**

No. Any breaches must be reported by the victim.

### **How does the Czech Republic monitor that the executing state enforces EPOs issued by us?**

The executing state must report any breach of the EPO to the issuing state.

### **How is the Czech Republic, as the executing state, monitoring the application of the EPO?**

If there is any violation of the EPO (s. 350 of the Act on International Judicial Cooperation), the violent person can face a procedural fine (disciplinary penalty).

### **What are the supposed sanctions for a breach of the EPO?**

A disciplinary penalty can be imposed.

### **Under what conditions can the Czech Republic terminate a protection measure adopted in relation to the recognition of an EPO from another state?**

- The competent authority of another member state will notify the court that it does not insist on further execution of the follow-up measure based on the original EPO,
- The protected person no longer stays in the Czech Republic or does not have a residence here anymore,
- The competent authority of another member state notifies the court of the cancellation of the EPO,
- There is another fact as a result of which it is impossible to continue the execution of a follow-up measure imposed on the basis of a recognised EPO.

### **Are any other entities involved in the procedure once the EPO is issued and accepted? If so, what entities are they? What is their task?**

We do not know. Neither the law nor methodical instructions regulate the cooperation of individual institutions when issuing the EPO.

## **AWARENESS AND ACCESS TO INFORMATION**

### **Is there any information or are there any campaigns focused on victims in connection with the possibility to apply for an EPO if they move to another state?**

There is no such campaign.

**Can the information about the procedure for applying for EPO in the Czech Republic be easily accessed?**

From our perspective, it is not easy to obtain information about the EPO. The EPO is not traditionally mentioned in the auxiliary sources for non-specialists. All information that we can find about the EPO can be found only with a great degree of difficulty.

**Follow-up: Is this information provided in a comprehensible and easy language for victims-regular citizens?**

Although the information about the EPO is in the Czech language, it requires knowledge of the course of the criminal proceedings in the Czech Republic. That means the information is not provided in a comprehensible way. There are neither any instructions about the organisations or institutions that can be contacted if necessary.

**Do the EPO subjects (i.e. those in whose benefit the EPO was issued) have access to information/legal aid during the process/validity of the EPO?**

There is no source that would provide such information. Victims can turn to a lawyer (for a consideration) or not-for-profit organisations helping victims of gender-based violence and providing free legal advice.

**Is there any information that professionals involved in the EPO procedure (judges, public prosecutors, lawyers, people working for not-for-profit organisations, etc.) have access to organised education – courses, training sessions, informative campaigns, brochures, etc.?**

There is no specialised or less specialised training programme focused on the EPO. According to available information, the EPO issues are not even discussed at workshops devoted to domestic violence and protection of persons exposed to gender-based violence.

## 4. QUALITATIVE RESEARCH - INTERVIEWS

Three telephone interviews with stakeholders (representatives of institutions and organizations active in the issue of crime victims) were conducted, namely with the Police of the Czech Republic and non-profit organisations helping the victims of crimes. We interviewed an investigator from the Department of General Crime of the Police of the Czech Republic specializing in the issue of domestic violence and abuse (interview no. 1), a social counsellor of THEiA – crisis center o.p.s., a key employee working with crime victims in this organization (interview no. 2) and a lawyer from Prosapia, z. ú., association for the family, where we interviewed the counsellor for victims of crime (interview no. 3). Key findings arising from these interviews are explained below.

### **Information on the EPO and how to obtain it is not sufficiently available.**

Based on the interviews no. 1 and 2, there is a lack of sufficient and adequate information on EPO available.

The investigator from the Police of the Czech Republic stated that when searching for information about the EPO on the internet, she found out that some general information about the EPO is available, especially its definition. However, there is and insufficient information about how to obtain an EPO – how to apply for it or what specific steps to take in a given case (interview no. 1).

The social counsellor of THEiA organisation said, that she has not encountered any information on EPO, neither any specific awareness raising nor informative campaign targeting this issue (interview no. 2).

### **In order to exercise the victim's right to protection through the EPO, it is needed to prepare guidelines and a model application for issuing the EPO.**

The finding arose from all the interviews conducted.

According to the investigator from the Police of the Czech Republic, it would be useful to create a manual that would describe the processes of submitting applications for the issuance of EPO, the method of its issuing and the procedure in a given case. It would be more understandable for victims, also because they often grope in the dark and do not know where to turn to and who will help them (interview no. 1).

The social counsellor of THEiA organisation stated that a form or template that could be used to draw up an application for an EPO would be appropriate for some clients. However, some of them need to be guided through the entire process. In her practice, she usually works with socially weaker clients and drawing from her experience with this target group, she believes they would be unable to look up the information about the EPO on their own. Especially given the fact that many of them do not have internet access. She finds a comprehensible delivery of information by the police during the first contact to be an appropriate procedure. This information should also be given to organisations helping the victims, also in written form – f.e. on flyers (interview no. 2).

The lawyer from Prosapia organisation said, as for the provision of information to clients, he could imagine a form or a template of an application for an EPO that would be useful.

If necessary, he would be searching it in legal-information systems containing the templates of filings and submissions such as Codexis, Aspi or Beck-online (interview no. 3).

### **The approach of the Police of the Czech Republic to protection orders differs in individual regions.**

The finding arose from interviews no. 1 and 3.

The investigator from the Police of the Czech Republic said that if the statutory conditions were met and prosecution of the violent person were commenced, the possibility to issue a provisional measure in the criminal proceedings would be automatically discussed with the victim. In the case of violent crimes that she deals with and where the victim fears the offender, the issuing of the provisional measure under the Criminal Procedure Code is automatically initiated and police investigator sends the request to the public prosecutor. Together with the public prosecutor's office, they ensure that this provisional measure is issued basically overnight. In this stage, a provisional measure to protect from domestic violence under the Act on Special Judicial Proceedings is useless for her. Moreover, a provisional measure in a criminal case is issued much faster.

When asked whether it is easy for victims to obtain protection in the form of provisional measures in criminal cases in general, she says: *"Yes, I think so. It is about the approach. We have established exceptional cooperation with the public prosecutor's office. When I ask them, they oblige my request. But I do not know the practice in other locations."*

She uses the provisional measure to protect from domestic violence if the conditions to commence criminal proceedings are not met. In a large part of such cases, she refers victims to an intervention centre where they help them apply for it (interview no. 1).

The lawyer from Prosapia organisation encounters the civil provisional measures for the protection from domestic violence. An intervention centre helps them draw up an application for provisional measures for their clients. The centre refers the clients to Prosapia if a criminal-law-related solution of their situation is appropriate.

However, he does not encounter provisional measures issued under criminal law. It has not happened yet that a public prosecutor issued them for any of their clients (interview no. 3).

### **In order to increase the protection of victims, it is necessary to increase sanctions for violations of protection orders – criminal provisional measures.**

The finding arose from interview with the investigator from the Police of the Czech Republic. She sees problems in the sanctions for the breach of the provisional measure consisting in the prohibition of contact. If the accused breaches this measure, he/she faces a disciplinary penalty, another type of provisional measure, custody, or sanctions for obstructing the enforcement of an official decision and expulsion. However, the last option happens only if the accused commits this breach repeatedly or in a serious manner.

In her practice, the investigator has several times seen that the breach, e.g. telephone contact of the victim, was not sufficient to accomplish the elements of this crime. She believes that an offender, who is well versed with these processes, will know "how far he can get", how vehemently and how often he can contact the victim to avoid sanctions. *"It is not a serious breach unless the offender comes to the injured party and assaults her physically. If he contacts her by writing text messages, it will take some time before he accomplishes the element of repetition and seriousness so that the police can initiate custody."* She finds

this situation paradoxical. She believes that the consequences for the breach of provisional measures should be defined more accurately and strictly. *“If I restrict someone’s rights to such an extent that I prohibit his contact with a specific person because he had behaved violently, the consequence of breaching this order should be unambiguous, concrete, clear, and rigorous.”* She also met an offender for whom the provisional measure was a *“mere piece of paper”* (interview no. 1).

**Stakeholders did not encounter the EPO in practice, nor in theory in the context of professional development.**

This was stated by all respondents.

The investigator from the Police of the Czech Republic said that it is surprising for her that the information about the EPO is not communicated anywhere. She did not even encounter the EPO theoretically as part of her professional development even though she says she has taken part in many training courses focused especially on domestic violence in which she is interested significantly (interview no. 1).

**Stakeholders would benefit from the EPO-focused training.**

The finding arose from all the interviews conducted, all respondents explicitly stated this need and possible benefit from such training.

**Stakeholders do not encounter cases with an international element at all or only exceptionally.**

We explicitly asked all respondents about the frequency of cases with an international element, two answered that they had encountered them very exceptionally (interviews no. 1 and 3), one respondent had never encountered that (interview no. 2).

In her practice, the investigator from the Police of the Czech Republic had a case with an international element. The case concerned the torturing in a family where a part of the offender’s family lived in Germany. The offender threatened the victim that he would take children away from her.

During the preparatory procedure, the offender was taken into custody, i.e. the issuing of the protection order was useless.

The offender was granted an unconditional sentence of imprisonment and was banished from the country. In this case, the EPO could be considered in the preparatory procedure if a provisional measure replaced the custody, or in the execution procedure if a decision were issued regarding the conditional release from prison and reasonable restrictions or obligations were imposed at the same time and if he were discharged from banishment (interview no. 1).

## 5. QUANTITATIVE RESEARCH - SURVEY

The survey, conducted in the frame of this project, was divided into 3 parts each targeting different group:

- (1) general public (Czech citizens),
- (2) lawyers / legal professionals and
- (3) representatives of CSOs/victim support services in the Czech Republic.

General information on the survey methodology, together with detailed analysis of its results is attached to this report as an Annex 1.

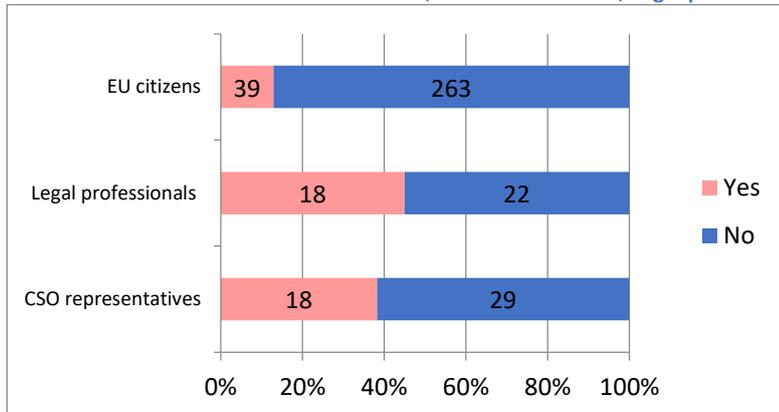
The interpretation of collected data has its significant limits and it does not allow any generalisation of the results. For more details, please see the Disclaimer attached in Annex 1. Therefore, in the following chapter only several observations from the survey are presented.

### 5.1. Awareness on the European Protection Order

The key objective of the survey was to identify the level of awareness on the provisions of the Directive EU on EPO among Czech citizens (both public and professionals). As it is visible from the graph below, the majority of **EU citizens** who participated in the survey – more than **87 %** - **are not aware** of the EPO.

Despite the fact that professionals are more aware of its existence comparing to general public, still more than half professionals participating in the survey were not aware of the EPO and its respective measures – namely **61 % of CSO representatives and 55 % legal professionals**.

1 Awareness on the Czech law on the EPO; EU citizens: n=302, Legal prof.: n=40, CSO repres.: n= 47



### 5.2. EPOs in the Czech Republic – applied and granted

In total 2 legal professionals and no CSO representative participating in the survey declared that they requested an EPO on behalf of a client/victim with an effective protection order. However, only one professional shared more details about the process; he applied for EPO in relation to sexual abuse, the request for EPO was not granted. This information is in line with the official statistics, according to which **no EPO have been granted in the Czech Republic**. In contrast to this information, one person participating in the survey targeted to EU citizens declared that he applied and was granted an EPO.

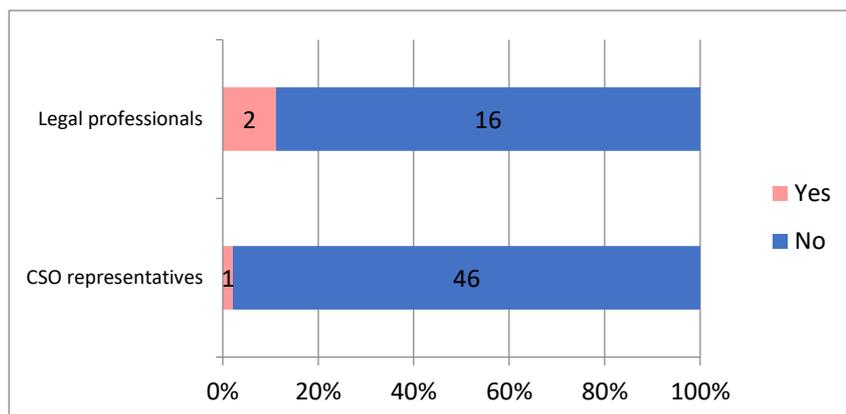
This survey result corresponds to the finding that **the data from individual sources (including the survey) differs significantly**, as a result of the fact that **official statistical data in the Czech Republic is collected in unsystematic way**. For more details see chapter 7.1.

### 5.3. Trainings on the Application of EPO

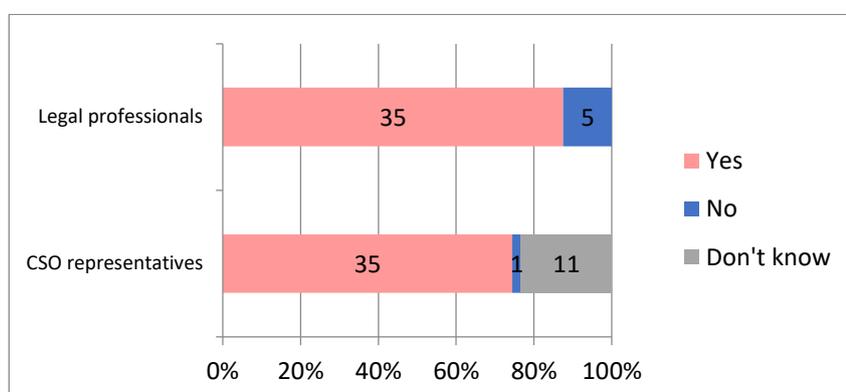
In relation to the project objectives, the survey examined the potential of trainings and training activities on the application of the EPO intended for professionals.

As it is clearly visible from the graph 2 and graph 3 below, the vast majority of survey participants have never participated in any similar training and expressed willingness to attend it (respectively expressed that they would benefit from such a training). Only 2 legal professionals and 1 CSO representative deemed that they had received such a specific training. Nevertheless, more than 88% of legal professionals and almost 75 % CSO representatives expressed they would benefit from training on application of the EPO (graph 2). As was already discussed in previous chapters, there is no such educational program available in the Czech Republic, despite there is demonstrated need.

2 Participation in specific training on the application of the EPO; Legal prof.: n=18, CSO repr.: n=47



3 Expressed expected benefit from the training on EPO; Legal prof.: n=47, CSO repr.: n=47



## 6. GOOD PRACTICES

### 6.1. Procedures

#### **Case 1 – based on case study A.**

We have identified good practices with respect to the cooperation of the Czech and Slovak police. The victim of domestic violence who fled from her violent partner in Slovakia to the Czech Republic filed a criminal complaint in the Czech Republic, which was immediately delivered to Slovakia, using international judicial cooperation (see case study A.)

The victim was informed about protection options. Due to the gravity of the case, it was probable that the offender will be taken into custody (see case study A.)

It was also promised that the acts in the criminal proceedings – provision of explanation and questioning of the victim – would be performed by the police in the Czech Republic (the request institute) (see case study A.)

→ We believe this practice (informing the victim about the protection options and cooperation between police authorities in individual states) should also be applied with respect to the EPO.

#### **Case 2 – based on an interview with the investigator of the Department of General Crimes, specialising in domestic and sexual violence**

The investigator explained that she mostly works with the torturing of persons living in a shared dwelling, stalking, and rapes. If the criminal proceedings against the violent person are commenced and other statutory conditions are met, the victim is automatically informed about the possibility of a provisional measure in the criminal proceedings. The application to issue this provisional measure is automatically submitted to the public prosecutor in these cases where the victim is afraid of the offender. This provisional measure is basically immediately issued in cooperation with the public prosecutor's office.

A provisional measure to protect from domestic violence under the Act on Special Judicial Proceedings is made at moments when the conditions to launch the criminal prosecution are not met. A large part of such cases is referred to the intervention centre, where they help the victim apply for this measure.

We welcome the above good practice in specific cases regarding the individual approach of police officers in the Central Bohemian Region. Based on the insights from our practice, we need to note that these procedures are not applied throughout the Czech Republic, but we intensively recommend them.

### 6.2. Case study

The case studies represent examples of good practices (case study A.) and examples of the recommended procedure to reach good practices (case studies B, C, D) – These cases follow from our practice and direct work with the victims of gender-based violence.

#### Course of domestic violence

The client and her partner are Slovak. They live in Slovakia. She left to the Czech Republic where her family lives due to long-term domestic violence (in the past, her partner broke her leg; he caused her a head injury which needed sutures, etc.). She came to the Czech Republic with her oldest child (six years). Younger children (1 and 2 years) stayed in Slovakia.

The partner had absolute power over her life. He did not allow her to leave their home – she could not go shopping, to see the doctor or to the post office to collect social benefits – he did it on her behalf. He held her personal documents for this purpose. She could go out only with him, with her head bent down, so she could not look at other men.

The partner is a gambler. He often engages in fights; that is why the police know him. The police had to intervene in their home several times, but domestic violence had always been denied (by the offender, his family and the client due to fear for life and fear for losing her children if she does not obey him – this is how he threatened her).

The youngest daughter has a physical disability and requires all-day care. Her health condition is a result of the partner's attack against the client when she was pregnant – he kicked her brutally, and after that, the client delivered early in the seventh month of pregnancy.

#### Situation in the Czech Republic – filing a criminal complaint

The client buys a new SIM card. After a few days, she receives calls from various unknown numbers and a hidden number. She is afraid and is sure it is her ex-partner. Eventually, she learns their common friend actually gave him her new number.

The intervention centre (a service helping victims of domestic violence) and child welfare authorities in the Czech Republic and Slovakia recommend she should file a criminal complaint. They assess the situation as a serious one.

The intervention centre recommends and arranges with the client a reception centre with a concealed address.

The client contacts the Police of the Czech Republic. At first, she is rejected and told she should report the crime in Slovakia. However, she is hindered by fear and a lack of money to travel.

The intervention centre and employee of the child welfare authority accompany her to the police and help her negotiate. The provision of help depended on the willingness of a specific police officer. They agreed to meet when he was on duty. The client filed a criminal complaint. The police officer used security elements: a hidden address, notification of inappropriate verification by the competent police department in Slovakia due to the offender's ties with the local police. The police officer also informed the client that the offender would probably be taken into custody in Slovakia.

The case was subsequently referred to Slovakia via international judicial cooperation. The client was told she would be notified/invited to the questioning. The police officer also confirmed the option to request the performance of an act, which would mean the Czech police would do the questioning.

The client then received a notice that the case had been delivered to a Slovak police investigator, i.e. to the police authority with subject-matter competence.

#### Development-return to Slovakia

About two months after her escape, the partner calls the client and texts her that he is in Prague and then in the town where the client stays. He came over with one of the younger children. The client does not react to his messages and calls and contacts the intervention centre. She is frightened and thinks the ex-partner wants to use the child to lure her back to Slovakia (she feels she is blackmailed because she really wants to see her daughter). The intervention centre employee prepares a security plan together with the client that also includes contacting the police. She also gives her telephone number to a toll-free nonstop line for victims of crime. All of this takes place on Friday.

On Monday, the client's brother contacts the intervention centre, saying she went back to Slovakia together with her partner.

A European protection order would be appropriate in this case.

The Slovak police commenced preparatory criminal proceedings. During the proceedings, the offender started repeatedly contacting the victim of the above domestic violence. Later on, he told her he was in the Czech Republic, which apparently meant he was going after her. The victim reported this fact to the police. The Slovak police should have initiated the issuance of a protection order and subsequently an EPO that would be recognised in the Czech Republic. Under the EPO, a provisional measure under section 88c of the Criminal Procedure Code would be issued, prohibiting contact with the victim or entering her current dwelling. The measure could prevent the offender from contacting and meeting the victim. If the measure were breached, he could be sanctioned with a disciplinary penalty. According to Czech legislation, he would face criminal-law sanctions for the breach of a follow-up measure if the breach constituted a new crime (e.g. bodily harm, dangerous threatening, blackmailing).

Barriers in the procedure – issuance of the EPO

The victim did not know there was an option of an EPO – she did not know she could initiate its issuance.

Neither social service nor state institutions (child welfare authority) and non-state institutions knew there was an option of an EPO.

The police did not know there was an option of an EPO – the police officer told her there was only an option of taking the offender into custody, not other protection options.

The unwillingness of the police to accept a criminal complaint in cases with a cross-border element – the victim had to contact several police officers before she found one who was willing to accept the complaint and take steps in line with the Act on International Judicial Cooperation in Criminal Matters.

For the said reasons, neither the Czech Republic nor Slovakia could react effectively and protect the victim of domestic violence from being found by her partner in a state where she took refuge and from a violent return.

### Case study B., Germany → the Czech Republic

The client is Czech, and her husband is German. The husband owns extensive real property in the Czech Republic and Germany; he travels between the two countries. They met in the Czech Republic and moved to Germany after one year. Domestic violence started already in the Czech Republic and intensified in Germany. The husband worked from home and kept watching the client; she was only at home. She tried to escape several times, which failed due to the lack of her knowledge of the language (he did not let her learn German) and the lack of access to family money (only he had the money). He held her personal documents and mobile phone.

Social isolation: He allowed her to call her family only once a year and was always listening to what she was saying – she had to say that everything was all right.

He also committed psychological (shouting at her, humiliating her) and physical violence (threatening he would kill her).

After about ten years, they moved to the Czech Republic, where domestic violence continued. The client did not have the power to leave him and was paralysed by fear. She had to be admitted to a hospital after the most recent physical attack. She submitted a criminal complaint from the hospital. She could contact her family in the Czech Republic and did not return to her husband.

If the police or another authority involved in the criminal proceedings in any of the two countries learned about ongoing criminal activities, it would be appropriate to make an EPO due to the ties to both countries to protect the victim both in the Czech Republic and Germany.

### Case study C., Germany → the Czech Republic

Both the victim and the offender are Czech. They moved to Germany where he worked, and she stayed at home (she did not know the language and was taking care of their minor child). They are married. Domestic violence started in Germany: psychological and physical violence, sexual and financial violence. The husband drank alcohol a lot and did not want to deal with it even though his aggression intensified under the influence of alcohol.

The client fled to the Czech Republic with her son. Now they are in a reception centre. The client contacted a child welfare authority and the Office for the International Legal Protection of Children. She informed her husband about the child and initiated mediation. However, the husband continues his violent behaviour, threatening that he will accuse her of kidnapping the child. He also wrote to her that he knew where they were and that he would kill them when they least expected it. The client does not know for sure where her husband is (he works in Germany but has a family in the Czech Republic).

The client contacted the police in Germany (complaining about domestic violence against her) and the Czech Republic (dangerous threats to her and her son).

Due to the continued danger, the German police should, after commencing the criminal proceedings, issue a protection order and subsequently the EPO. The Czech Republic would then recognise the EPO and a corresponding provisional measure could be made. This procedure would protect the client and her son in case the offender chooses to fulfil his threats in the Czech Republic.

### Case study D., the Czech Republic → the Netherlands

The client is Mongolian; her husband is Czech. They met in the Netherlands where both of them had lived. They have one minor child. They were married at variance with Czech legislation. The client is now seeking the declaration of nullity of their marriage in court.

They live in the Czech Republic now. The husband started behaving violently, using physical violence. The client called the police, and the husband was excluded from the shared dwelling for ten days. The eviction was extended to one month with a provisional measure to protect the victim from domestic violence (as a civil-law tool).

The husband continues his violent behaviour and threatens the client he will kill her. He broke into the flat and attacked her. The client called the police due to these incidents. However, the police did not launch any acts within criminal proceedings, believing this is a matter of civil law.

The client does not have any background in the Czech Republic. She is considering returning to the Netherlands, where her friends can arrange living and work for her.

If the police launched acts within the criminal proceedings and the offender's prosecution as part of the next stages of the proceedings, they could issue a provisional measure in the criminal proceedings (protection order) and subsequently the EPO. The EPO would be recognised in the Netherlands where the protection order would be issued, thus ensuring the client's protection in both countries.

#### Barriers to making the EPO

The police do not see sufficient gravity in domestic violence – it is not as intensive as a crime; no criminal proceedings are commenced. Hence, the victim cannot be granted protection at the EPO level.

## 7. SUMMARY OF FINDINGS AND RECOMMENDATIONS

### 7.1. Findings

**1. The dichotomy of the legal regulation aimed at protecting victims of gender-based violence does not make it possible to use all available sources effectively.**

In the Czech Republic, the so-called protection orders, i.e. provisional measures protecting victims of crimes from the offender's repeated wrongful acts, are regulated by criminal and civil law. Besides the provisional measures defined by the Criminal Procedure Code, there are provisional measures for the protection from domestic violence granted under the Act on Special Judicial Proceedings. These tools partly overlap in their content, yet their purpose is the same. In practice, there are cases when no provisional measure under the Criminal Procedure Code is issued even after the commencement of the criminal prosecution even though the situation requires it. Investigative, prosecuting and adjudicating bodies do not make a provisional measure because the victim is already protected by a civil-law tool which, however, is intended to protect victims in cases that do not reach the intensiveness of a crime. It has a limited duration, and it can end independently of the outcome of the criminal proceedings. Any extension depends on the victim's initiative. In contrast to that, a provisional measure under the Criminal Procedure Code is issued by an investigative, prosecuting or adjudicating body without application. Such provisional measure continues to be in force as long as its purpose requires it and until the final decision in the case is issued at the longest. If the offender does not adhere to the measure, he/she can be taken into custody in extreme cases, which we also see in practice. This protection of victims seems to be the most effective tool in serious cases of gender-based violence.

**2. The EPO cannot be issued based on a provisional measure for the protection from domestic violence/stalking under the Act on Special Judicial Proceedings.**

The dichotomy mentioned in the finding under (1) also results in a situation where an EPO cannot be issued based on a provisional measure issued under the Act on Special Judicial Proceedings even though this tool is *de facto* used to protect victims in the pending criminal proceedings, as is described in the first finding.

**3. The justice system minimally uses effective tools of offender penalisation contemplated by criminal laws that can serve to protect the victim.**

Reasonable restrictions and reasonable obligations regulated by the Criminal Code (especially not to contact specific persons and unlawfully interfere in the rights or interests of other persons protected by the law) are a group of protection orders that are imposed only in a minimum extent. Hence, their potential is not sufficiently used. If they are not issued, the victim does not have an option to apply for an EPO based on the decision imposing such a restriction/obligation.

**4. Sanctions for the breach of a protection order and the EPO are low, which reduces the effectiveness of their use in practice.**

The sanctions defined by the law for the violation of a criminal-law provisional measure are also problematic. Primarily, a disciplinary penalty of up to CZK 50,000 or another provisional measure can be imposed on the accused. It is hard to believe that such a low sanction or a new provisional measure would prevent the prosecuted offender who violated or is violating a provisional measure from other such acts. We neither see the disciplinary penalty as an effective measure because we cannot expect that the penalties can be enforced from low-income offenders. Hence, there is no deterring effect. Moreover, if gender-based violence is committed in a family, the penalty can affect the family budget, thus harming the victim.

If the statutory conditions are met, the accused can be taken into custody in the case of a breach, which is more effective. We can also see it in some cases, but the above, more moderate sanctions prevail.

The breach of protection measures can also constitute the crime of obstructing the enforcement of an official decision and expulsion under section 337(2) of the Criminal Code. However, it must involve serious and repeated acts that would obstruct the provisional measure. That is why the facts of this crime are accomplished only sporadically even though the investigated crime in fact continues.

Only a disciplinary penalty can be imposed for the violation of a follow-up measure issued on the basis of a recognised EPO in the executing state; other sanctions are excluded. We believe this approach to sanctions for the breach of a follow-up measure conflicts with the Directive. Art. 11(2)(c) of the Directive states that *“In the event of a breach of one or more of the measures taken by the executing State following the recognition of a European protection order, the competent authority of the executing State shall, in accordance with paragraph 1, be competent to take any urgent and provisional measure in order to put an end to the breach, pending, where appropriate, a subsequent decision by the issuing State”*. We believe a disciplinary penalty does not meet the requirement of a sufficiently urgent and provisional measure and cannot accomplish its purpose, i.e. to put an end to the breach of the measure.

**5. There is an exceptionally low, even minimum awareness in the Czech Republic about the EPO among the general public and experts.**

There is no campaign, or a comprehensive information platform focused on the EPO. There is only brief and sketchy information available. It is hard to search and does not describe the course of the proceedings regarding the EPO issuance. Also, the language of such information requires the knowledge of the criminal proceedings in the Czech Republic. Such information is mostly incomprehensible for the general public. Furthermore, there are no instructions as to what organisations or institutions can be contacted if necessary. There is no educational programme focusing on EPO. According to available information, the issue of the EPO is neither discussed during workshops about domestic violence and the protection of persons jeopardised by gender-based violence. The lack of relevant and comprehensible information is a fundamental obstacle to the filing of applications for an EPO.

**6. The data about protection orders that can be used to issue an EPO as well as the data about EPOs are kept in a confused and non-systematic way, and the data from individual sources differ a lot.**

The lack of data and the error rate make it difficult to map out the need for an EPO in specific cases and to target potential information campaigns about this tool of protection and other communication paths to (potential) victims and experts working with them.

## 7.2. Recommendations

### **1. To change the practice of imposing provisional measures by combining the procedure under the Criminal Procedure Code and the Act on Special Judicial Proceedings.**

To issue a provisional measure under the Criminal Procedure Code always when criminal prosecution is commenced, and there is a need to continue the protection of the victim. Alternatively, to introduce a mechanism of mutual “shifting” of provisional measures: when the criminal prosecution is commenced, a criminal-law provisional measure would be issued automatically, and vice versa: a provisional measure under the Act on Special Judicial Proceedings would be issued automatically when the criminal prosecution is terminated, but there is still the need to protect the victim. Typically, this procedure would regard the reference of the case to hearing as an administrative infringement.

### **2. To enact the option to issue an EPO also based on a provisional measure issued under the Act on Special Judicial Proceedings.**

This provisional measure can be issued outside the pending criminal proceedings but is intended to protect people from domestic violence and stalking, which are serious acts attacking the integrity of another harmed person. If Czech legislation embeds dual protection of victims, it should allow the application of international tools of mutual recognition in both legal fields.

### **3. To fully use the scale of penalising tools against the offender as contemplated by criminal laws under which an EPO can be issued.**

They include provisional measures under the Criminal Procedure Code prohibiting contact with the injured party, entry to the shared dwelling and its immediate vicinity and stay in such dwelling, or prohibiting stay in a specifically determined place. They also include some decisions made within the so-called diversions, i.e. the decision conditionally postponing the application to punish a suspected person and the decision on the conditional discontinuance of criminal prosecution of the accused if a reasonable restriction or obligation is imposed at the same time and its character corresponds to the restriction or obligation contemplated by the Directive. They include reasonable restrictions and obligations under the Criminal Code, expressly refraining from visiting an unsuitable environment and contacting specific persons or refraining from unlawful interferences in the rights or interests of other persons protected by the law. In the case of juvenile offenders, the reasonable restrictions or obligations mean the so-called reformatory restrictions, specifically the prohibition to contact specific people and stay in a specific place.

### **4. To tighten up sanctions for the breach of protection orders and the EPO.**

To mitigate the conditions for taking the accused person into custody in the case of a breach of a provisional measure under the Criminal Procedure Code. And to enable taking into custody for the breach of a measure issued under an EPO. According to the Explanatory Memorandum, the breaching person cannot be taken into custody “because the criminal proceedings are not held in the Czech Republic, and the Directive directly rules out this procedure in some cases; this power is given to another member state issuing the protection order – see Art. 13(1)(b)”. Nevertheless, the Czech criminal law knows the option of taking into custody persons who are not criminally prosecuted in another case of international judicial cooperation (the so-called extradition custody). The Explanatory Memorandum also refers to Article 13 of the Directive regulating the exclusive jurisdiction of the issuing state to impose a measure connected with imprisonment as a result of the cancellation of a protection measure. However, it neglects other provisions, specifically the above Art. 11(2)(c) directed at the breach of a follow-up measure which sets out the jurisdiction of the executing state in such event.

**5. To launch an information campaign about the EPO targeting both the general public and experts, to expand the offer of educational programmes for legal professions and people working for organisations helping victims of crimes to include information about the EPO.**

The information must be available to everybody. An online campaign would thus be suitable, as well as information leaflets and brochures. These materials will also reach the groups that are disadvantaged e.g. due to the financial situation or lack of knowledge of work with electronic devices. This information must be passed in a comprehensible way.

For experts to be able to provide victims with information and aid when applying for an EPO, they need to be educated in a conventional way, e.g. through courses offered by the Judicial Academy or through accredited education of social workers.

**6. To introduce a single system of data collection about issued protection orders and EPOs.**

In order to be valid, the data must put it clearly which protection orders were issued in a given case and for which crime the criminal proceedings were conducted.

## 8. LIST OF USED SOURCES

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FREIXES, Teresa and ROMÁN, Laura. *Protection of the gender-based violence victims in the European Union: Preliminary study of the Directive 2011/99/EU on the European protection order*. Barcelona: Publicacions de la Universitat Rovira i Virgili and Publicacions Universitat Autònoma de Barcelona, 2014. ISBN (URV) 978-84-8424-333-5, ISBN (UAB) 978-84-490-4489-2.

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### Thesis

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### List of used legislation

#### Czech legislation

Act No. 77/2015 Sb., Amending Act No. 104/2013 Sb., on International Judicial Cooperation in Criminal Matters, and other related acts

Act No. 104/2013 Sb., on International Judicial Cooperation in Criminal Matters

Act No. 273/2008 Sb., on the Police of the Czech Republic

Act No. 250/2016 Sb., on Liability for Administrative Infringements and their Proceedings

Act No. 40/2009 Sb., the Criminal Code

Act No. 141/1961 Sb., on the Rules of Criminal Procedure

Act No. 292/2013 Sb., on Special Judicial Proceedings

Act No. 218/2003 Sb., on Liability of the Youth for Unlawful Acts and the Youth Justice System

Act No. 45/2013 Sb., on the Victims of Crimes

#### EU legislation

Directive of the European Parliament and the Council 2011/99/EU of 13 December 2011, on the European protection order

#### Explanatory memoranda to Czech legislation

Důvodová zpráva k vládnímu návrhu zákona, kterým se mění zákon č. 104/2013 Sb., o mezinárodní justiční spolupráci ve věcech trestních, a další související zákony, volební období 2013-2017, 261/0 ze dne 3. 7. 2014

**Czech secondary legislation**

Pokyn obecné povahy nejvyššího státního zástupce č. 10/2013 ze dne 16. prosince 2003, o mezinárodní justiční spolupráci ve věcech trestních

**Strategic government documents**

Action plan of prevention of domestic and gender-based violence in the years 2019–2022

## 9. ANNEX – REPORT FROM THE SURVEY

## Annex 1 Survey results

The survey which was conducted in the frame of the project “Artemis – Support of the right to the protection of women through the application of Directive of the European Parliament and Council 2011/99/EU and the European protection order” was divided into 3 parts: (1) targeting general public (EU citizens), (2) lawyers/legal professionals and (3) CSOs/victim support services in the Czech Republic. The data collection started in June 2020 and finished in September 2020.

### Disclaimer

The purpose of the online survey was to explore the level of awareness of protection mechanisms available for victims of gender-based violence against women in the Czech Republic, 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 gender-based violence 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 and the methodology of data collection do not allow any generalization of the results. Therefore, study is intended to be indicative of the level of awareness of protection measures and does not allow any generalisation of the results.<sup>1</sup>

Channels used for the dissemination of the online survey in the Czech Republic included:

- social media channels (Facebook),
- organisation website
- electronic dissemination to organisation contact database

Total number of responses:

EU citizens	Lawyers/legal practitioners	NGOs/victims support services
302	40	47

In total more than **3 885 persons were reached** with the survey; 2 457 through Facebook campaign, 1 428 directly through e-mail.

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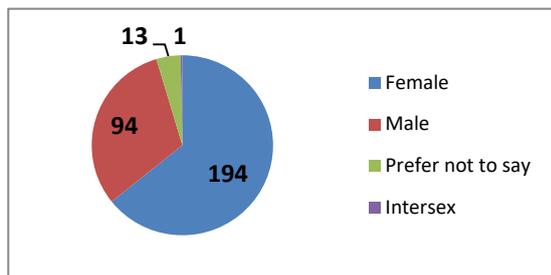
<sup>1</sup> Terminology: in connection to above described limitations for interpretation and the fact that this survey does not contain research data, the term „survey participants“ is used for persons who participated in the survey in this document (not respondents).

# 1. Survey for EU citizens

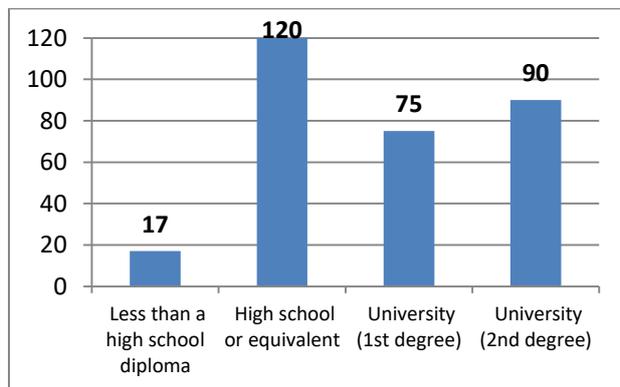
## A. Characteristics of the survey sample

The characteristics of the survey sample were examined in connection to the gender (graph 1), age (graph 2) and education (graph 3). The survey sample consists of more than 64 % women (194). Almost 57 % survey participants declared that they have university degree (1<sup>st</sup> or 2<sup>nd</sup>), which does not correspond to the percentage of the population of the Czech Republic<sup>2</sup>. This fact together with the methodology limitation described above (in the Disclaimer) limits the interpretation of the collected data.

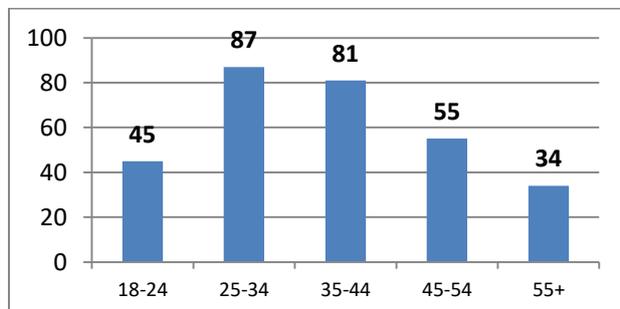
### 1 Gender (n=302)



### 2 Education (n=302)



### 3 Age (n=302)

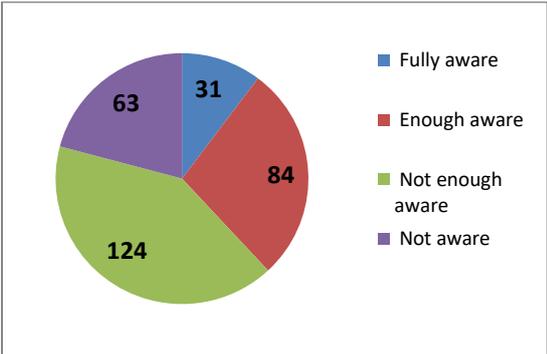


<sup>2</sup> According to the Czech Statistical Office's latest data, the percentage of university degree education among Czech population is 12,5 %.

**B. Level of awareness of support services/information for victims of violence**

The survey demonstrates that only 10% of survey participants are fully aware of types of information, advice or support available for victims of violence (graph 4). Most alarming is the fact that almost 62% of participants of the survey expressed that they are not aware enough of any type of information or support available to victims (187 survey participants are not aware at all or not enough). This data illustrates huge gap between the awareness among the population and its perceived needs.

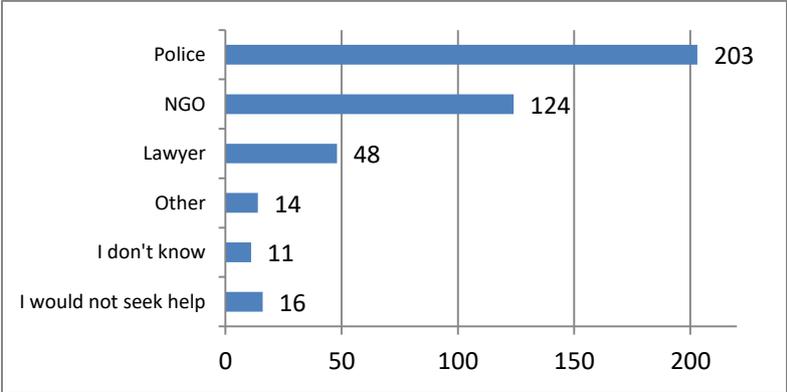
4 Awareness of support for victims (n=302)



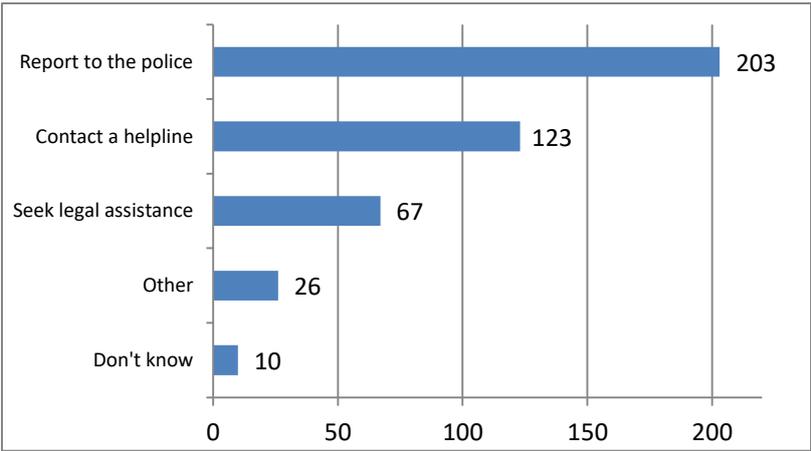
Next graph (graph 5) illustrates that survey participants, in case they are victims of any violence, would mainly seek help from the **police** (almost 67 % of participants declared that they will contact police in the case they are victims of violence) and from **NGOs** (more than 41%). Several participants selected option “Other”, where they highlighted that they would seek help from their relatives, family, or from the health care system.

The proportion among approached institutions or individuals corresponds to the actions described in the following graph 6; which describes actions taken up by the survey participants in case they are victims of violence. Almost 67% of participants would report the case to the police and almost 41% of them would contact help line (which are usually run by NGOs in the Czech Republic). In cases participants would take “Other” actions, they would contact their relatives or friends, doctors, or they expressed that the action would differ depending on the specific situation.

5 If you were a victim of violence, from where would you seek help? (n=302)

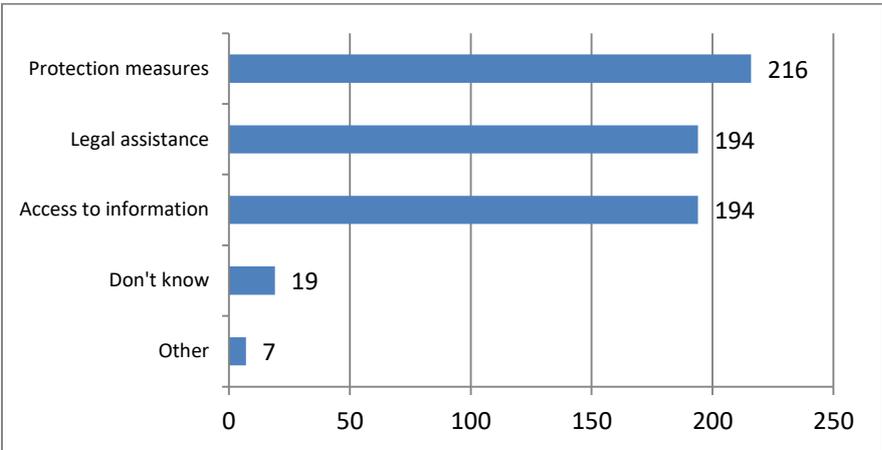


6 If you were a victim of violence, what of the actions would you take? (n=302)



As the graph below (graph 7) shows, more than **71% of the survey participants were aware of the right of victims to protection measures**. Nevertheless, this high number might be significantly affected by the structure of the survey sample and the methodology of its selection. Especially, the fact that mainly persons with connection to proFem – center for victims of domestic and sexual violence were approached with the questionnaire might significantly affect this data.

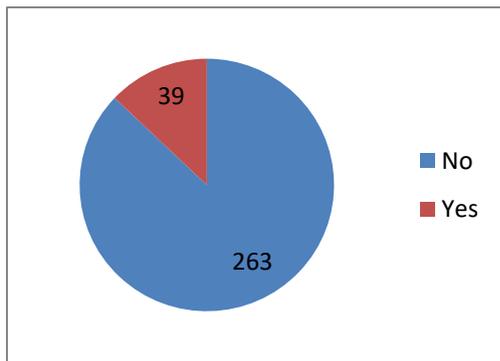
7 A victim of violence/abuse has the right to: (n=302)



C. Awareness on the European protection order

The key objective of the survey was to examine the level of awareness of the European Protection Order among EU citizens. Despite the fact that the data is not representative, it indicates that the level of awareness among Czech population is significantly low. As the following graph (graph 8) illustrates only 13 % of survey participants are aware of the Czech law on the EPO.

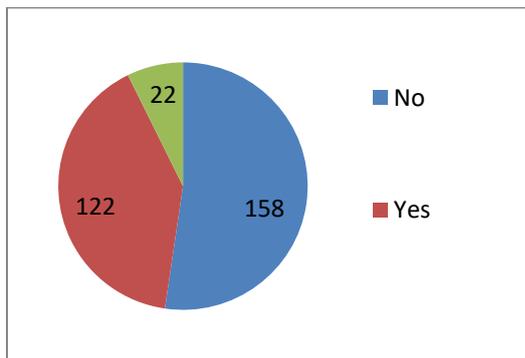
#### 8 General awareness on the Czech law on the European Protection Order (n=302)



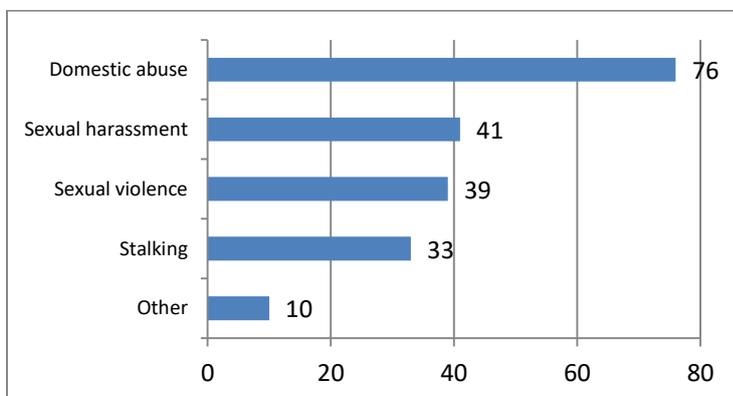
#### D. Experience with the violence/abuse

Following part of the questionnaire intended to map the experience of the survey participants with violence or abuse. More than 40 % of participants expressed that they have been a victim of violence or abuse (graph 9); mostly they have experienced domestic violence (62%), sexual harassment (34%) or sexual violence (32%) (graph 10). This percentage is affected by the methodology of survey sample selection. It is expected that many participants are linked to the organization (proFem – centre for victims of domestic and sexual violence, which provides direct services to these victims).

#### 9 Have you ever been a victim of violence/abuse? (n=302)



#### 10 What form of violence did you experience? (n=302)

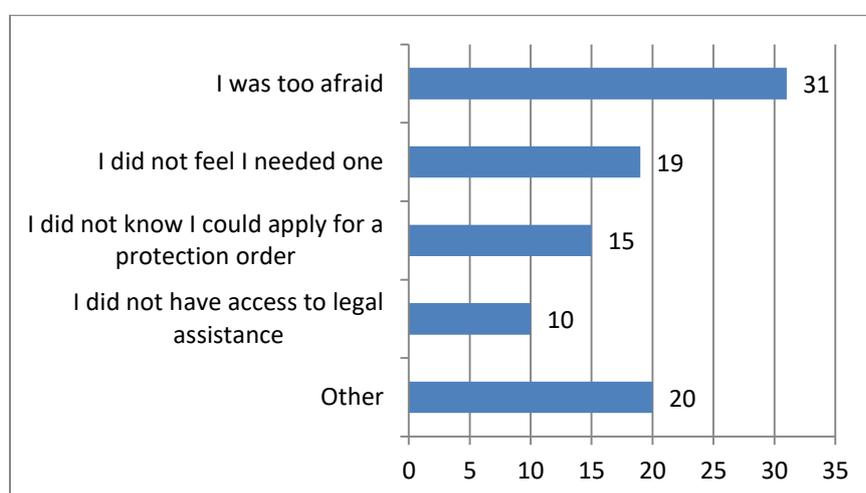


### E. Protection orders according to the Czech law

In total 11 participants of the survey declared that they had ever requested a protection order. These participants were victims of several types of violence: domestic abuse (9 cases), stalking (3 cases), sexual harassment (1 case) and sexual violence (1 case).

The limits and barriers for applying for the protection orders in cases of victims of violence (122 participants) were examined further in the survey. As following graph illustrates (graph 11), the biggest **barrier in the application for the protection order was the fear**, almost 32 % of survey participants – victims of violence, who did not apply for protection order - declared that they did not apply for it because they were too afraid to do that. More than 20 % survey participants either did not know they could apply for it or did not have the access to legal assistance, which demonstrates the gaps in the system of providing either information or legal aid. “Other” barriers mentioned in the survey were connected to the fact that survey participants **did not trust the state authorities**, or that at the time of the violent crime or abuse, there were no similar measures available.

11 Why did you not apply for a protection order? (n=122)



### F. Procedures for the implementation of protection orders

In most cases where participants of the survey applied for the protection order (11 cases in total), the application was initiated by the police (4 cases) and social services (2 cases). In the remaining cases, the judge, state prosecutor, lawyer or the participant himself applied for the protection order.

In total 4 survey participants declared that their requests for protection order were granted. These were issued in relation to eviction order, restraining order and custody. More details are described in the table below.

Type of protection order	Duration of the protection order	Perceived effectivity of the protection order
Restraining order	10-20 days	No
Eviction order	4 - 6 months	Yes
Custody	More than 6 months	Yes
Restraining order	21 days – 3 months	Don't know

### **G. Data on Experience and use of EPO**

For above mentioned 4 cases additional information in relation to possibility of EPO application was examined: During the period for which was the protection order issued only 2 participants travelled or wanted to travel to another European country. However, only **1 participant applied for the EPO and was granted the EPO**, which was intended for Sweden. (The second participant did not remember if he/she was informed about the EPO and did not apply for it.) Nevertheless according to the available data from the desk research, **there is no official evidence of this application in officially available data**. In accordance with findings from the desk review and from the qualitative research, the officially available data might be confused, as these are kept in non-systemic way. This finding might be supported also by the fact that one case was described in the survey, though it was not reflected in the officially available data.

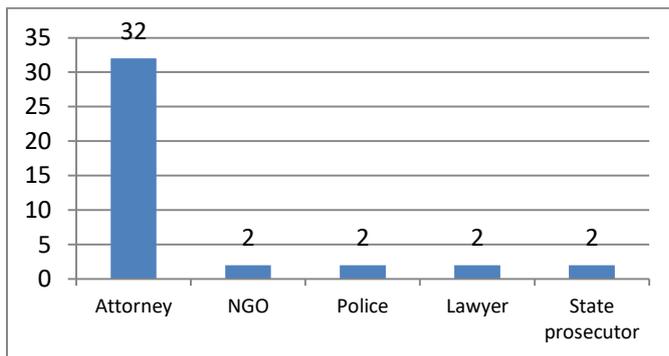
Despite the fact that the participant claimed that she was granted EPO, according to her response the EPO was not effective as she did not have the access to legal assistance.

## 2. Survey for legal professionals

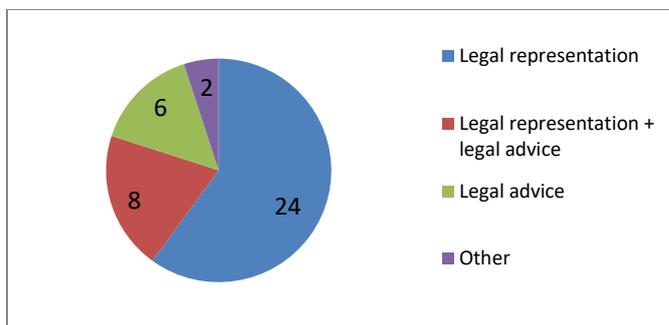
### A. Characteristics of the survey sample

The legal attorneys represented the biggest group of legal professionals participating in the survey sample (80 %). Next to them; lawyers, state prosecutors and representatives of NGOs and police also participated in the survey (see graph 12). Types of legal services provided by survey participants are illustrated in graph 13; the majority of participants provided both; legal advice together with legal representation (at the court). The category “Other” was filled by the representatives of police, as they did not provide either legal advice or representation.

12 Survey participants' profession (n=40)

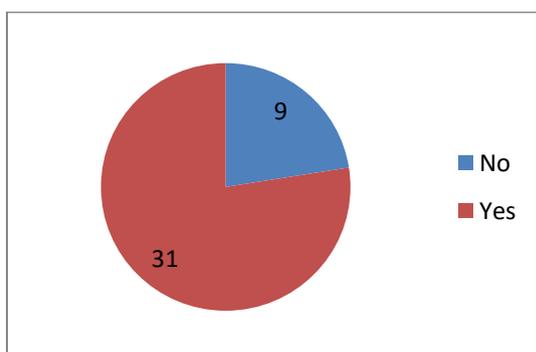


13 Types of legal services (n=40)

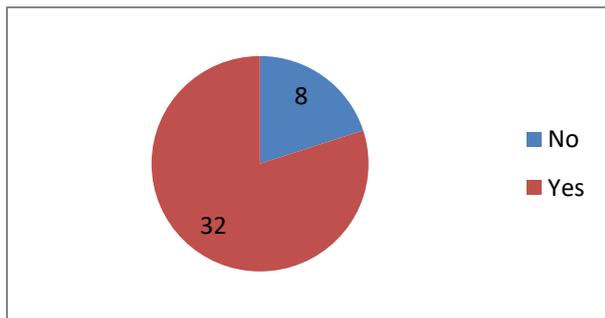


Most survey participants provided their services – legal assistance to victims of violence - according to the national law on victims (80%) and similar percentage of survey participants participated in Czech legal aid program (according to the Czech law on crime victims).

14 Participation in Czech legal aid program (n=40)



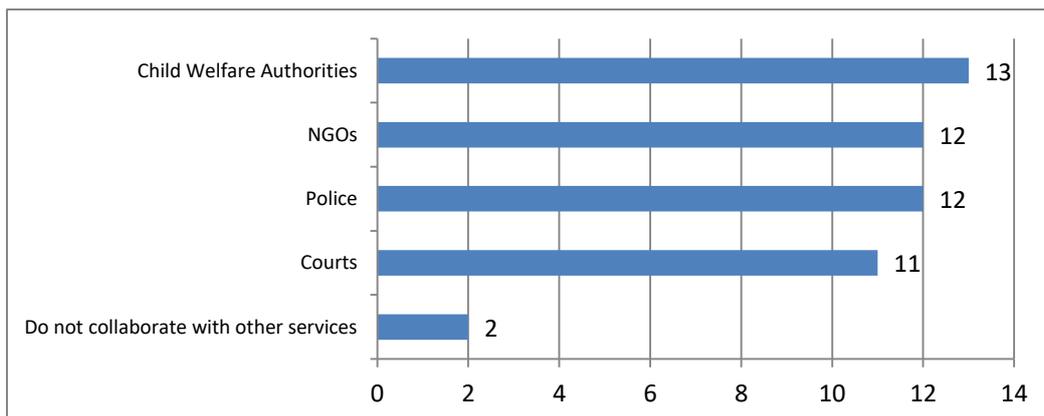
### 15 Provision of legal assistance to victims of violence according to the Czech law (n=40)



### B. Collaboration with other services

The survey participants, who were aware of provisions of EPO provided further information on their network of collaborating partners or services. The main collaborating partners are summed up in the graph below (graph 16). More than 72 % participants (13 out of 18) declared that they collaborate with Child Welfare Authorities.

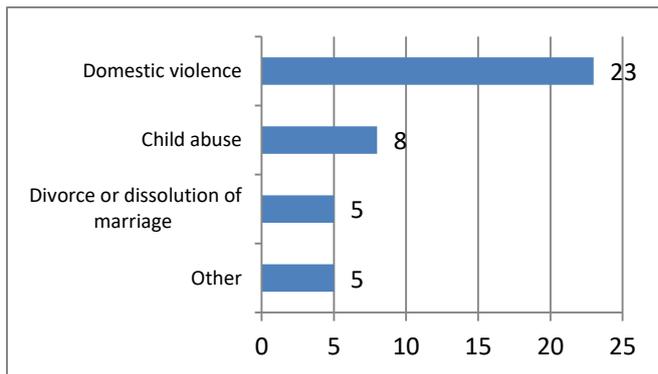
### 16 Collaborating institutions/services (n=18)



### C. Protection orders according to the Czech law

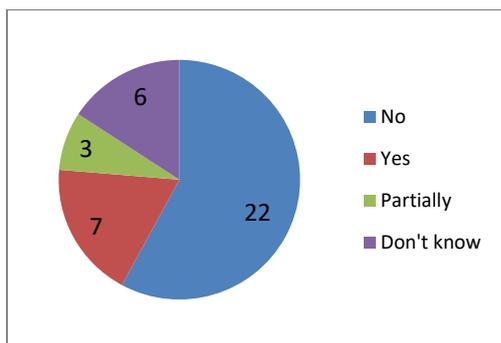
**In total 75 % survey participants have requested a protection order** on behalf of a victim/client in a family/criminal case according to the Czech law. The main reasons for requesting a protection order for the survey participants' clients are described in the graph below (graph 17). More than 76 % of participants (who have ever requested a protection order on behalf of their clients) indicated the domestic violence as one of the main reasons. This data reflect the fact that mainly legal professionals, who are active in the similar field as proFem (domestic and sexual violence), responded to the questionnaire.

### 17 Main reasons for requesting a protection order for a victim/client (n=30)



Only **7 legal professionals** participating in the survey considered the protection measures available to victims according to the Czech law effective (in total less than 20 %), see graph 18. The professionals criticized mainly the **insufficient consequences and penalties for violation** of the protection orders. This finding corresponds to the conclusions from the desk review and interviews which demonstrated that low sanctions for the breach of protection orders reduces the effectiveness of their use in practice. Several legal professionals who participated in the survey considered the **institutional level sufficient, in contrast to the level of practical application**.

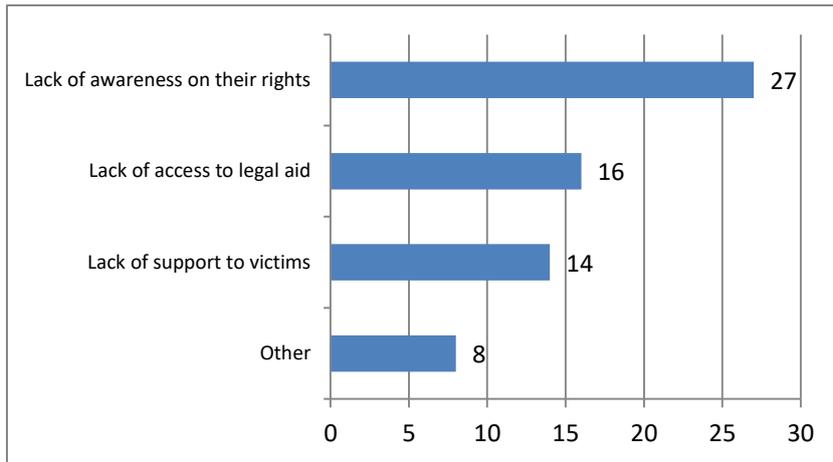
### 18 Effectiveness of the protection measures available to victims according to the Czech law (n=38<sup>3</sup>)



Following graph (graph 19) describes the barriers, which victims face in the process of obtaining a protection order according to the legal professionals. These barriers significantly decrease the motivation of victims to apply for protection orders in the Czech Republic. One of the main barriers identified by the survey participants was the lack of awareness on the victims' rights (more than 71 % legal professionals).

<sup>3</sup> 2 survey participants did not reply to the question visualized on graphs 17 and 18.

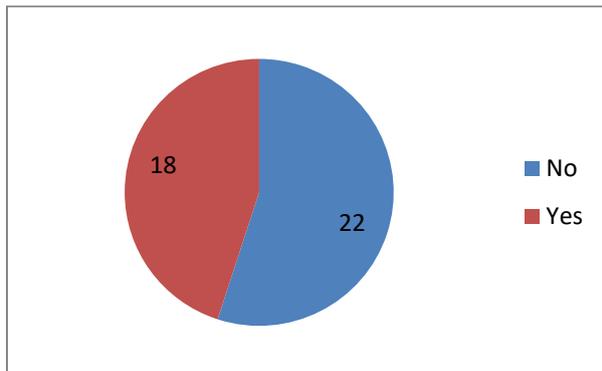
**19 Barriers to victims obtaining a protection order (n=38)**



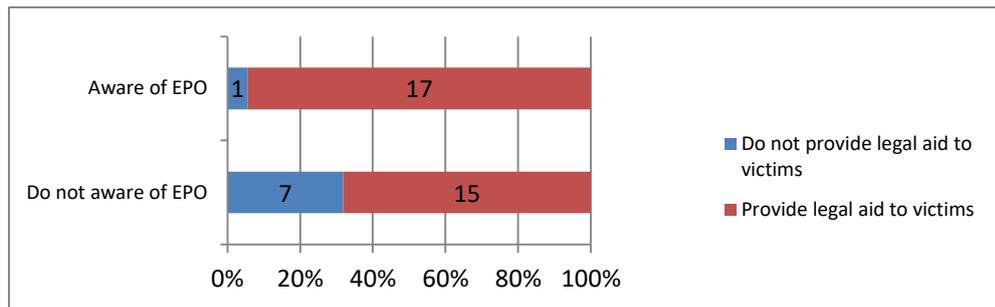
**D. Awareness on the European protection order**

The level of awareness on the provisions of the Directive EU on EPO was examined also among the legal professionals participating in the survey. As it is visible from the data, 55 % survey participants – legal professionals - declared that they are not aware on the provisions of the EPO (graph 20). Further, the awareness among professionals who provide legal assistance to victims of violence under the Czech law was examined. The following graph (graph 21) sum up these findings. Only one professional who does not provide legal assistance to victims of violence under the Czech law was aware on the EPO provisions.

**20 Awareness of the provisions of the Directive EU on European Protection Order (n=40)**

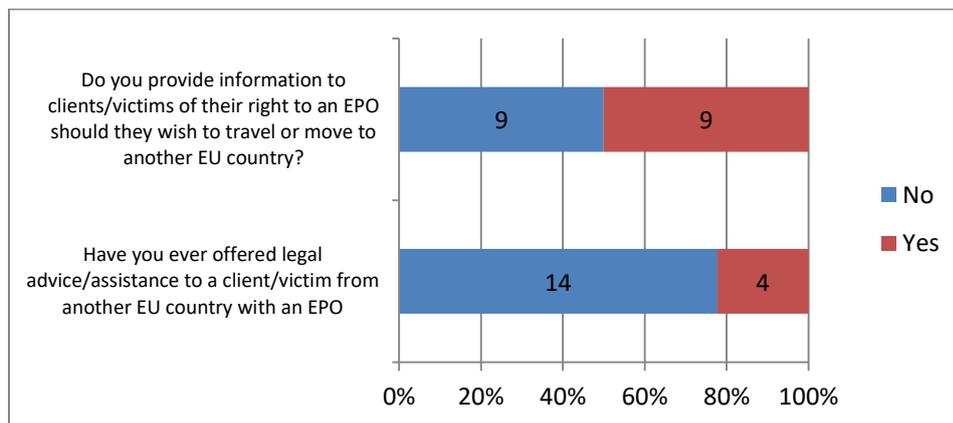


## 21 Awareness on EPO x provision of legal aid to victims (n=40)



In total 18 professionals declared that they are aware of the EPO, **one half of these professionals** (9 cases) provide information to clients/victims on their right to an EPO, in case they wish to travel or move to another EU country. However, almost 78 % of these professionals have never offered legal advice or assistance to clients from another EU country with an EPO.

## 22 Information/legal advice to victims of violence (n=18)

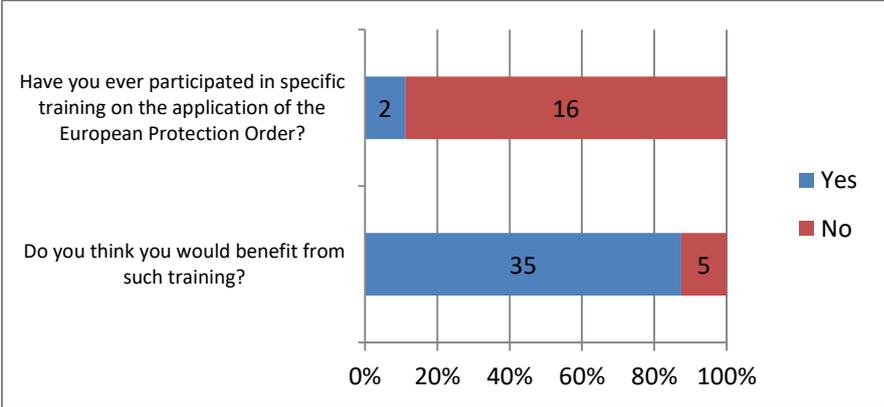


In total 2 legal professionals declared that they requested an EPO on behalf of a client/victim with an effective protection order. However, only one professional shared more details about the process; he **applied for EPO in relation to sexual abuse and this request for EPO was not granted**. This information is in line with the official statistics, according to which **no EPOs have been granted in the Czech Republic**.

## E. Trainings for legal professionals

The attendance of survey participants – legal professionals - in specific trainings on the application of the EPO was further examined. In total only 2 professionals deemed that they had received such a specific training. Nevertheless, more than 88% of survey participants declared they would benefit from training on application of the EPO (graph 23). As was already discussed in previous chapters, there is no such educational program available in the Czech Republic, despite there is demonstrated need.

23 Trainings for legal professionals – participation and benefit (n=40)

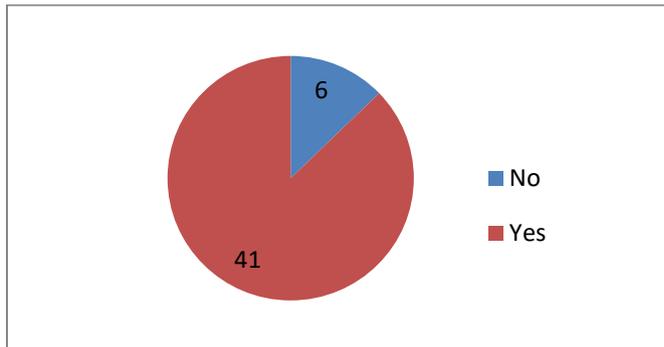


### 3. Survey NGOs/Victim Support Services

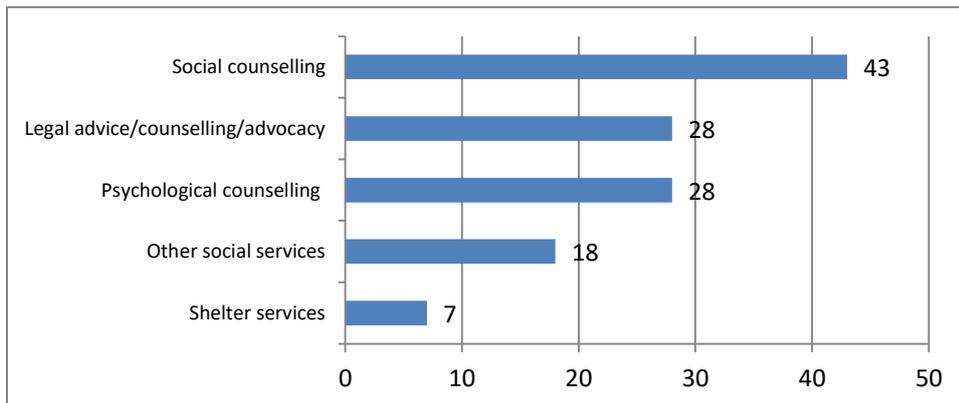
#### A. Characteristics of the survey sample

The third part of the survey targeted NGOs/Victim Support Services. The majority of survey participants – more than 87 % - provide services to victims of gender-based violence or other forms of violence in form of social counselling (graph 24 and graph 25). Next to this type of intervention, almost 60 % survey participants provide legal advice/counselling or advocacy and the same percentage provide psychological counselling.

24 Provision of services to victims of gender-based violence or other forms of violence (n=47)

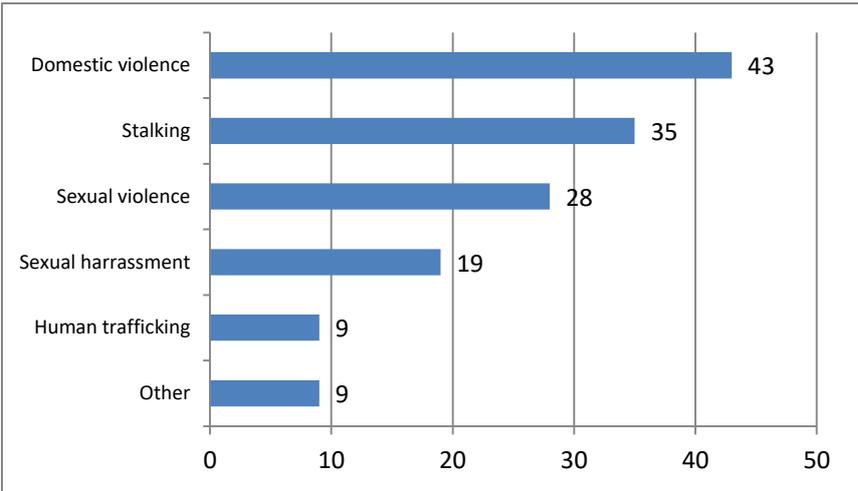


25 Type of services provided by CSOs (n=47)



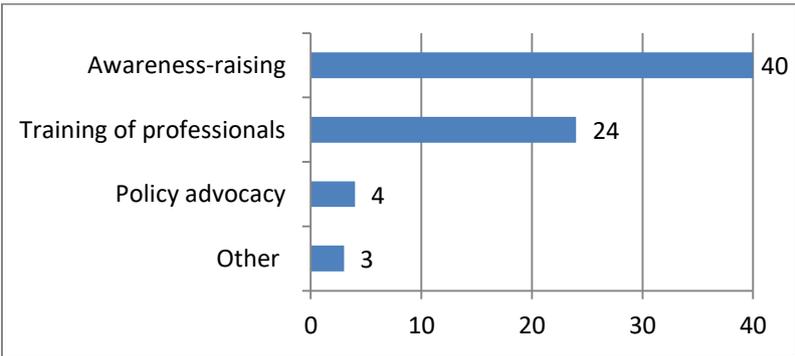
As mainly individuals and organizations which collaborate with proFem – center for victims of domestic and sexual violence have been targeted, their clients are often victims of domestic violence. More than 91 % of survey participants indicated that their clients are dealing with issues connected to domestic violence. 35 NGOs represented in the survey (almost 75 % survey participants) support victims of stalking. Other topics were represented as described in following graph (graph 26). Among “other” forms of violence, professionals mentioned prejudicial violence or the fact that the organization supports all victims no matter the specific kind of crime.

**26 Beneficiaries are victims of: (n=47)**



As it is visible from the graph below (graph 27); professionals participating in the survey represented organizations with broader focus. Apart to the direct care and support to victims, these organizations are involved in activities connected to awareness raising (more than 85% survey participants) and training of professionals (more than 51 %), as well as policy advocacy.

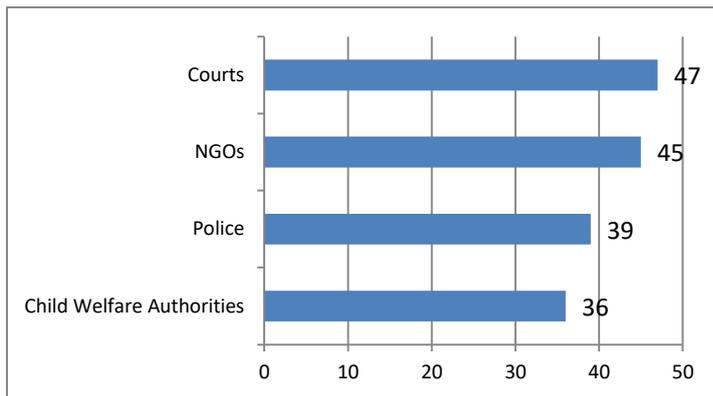
**27 Other services provided by the organisation (n=47)**



**B. Collaboration with other services**

When dealing with victims/clients the participants of the survey declared that they collaborate with other services or organizations. It is inevitable that all professionals/organizations collaborate with representatives of courts and almost all collaborate with other NGOs (except 2 survey participants).

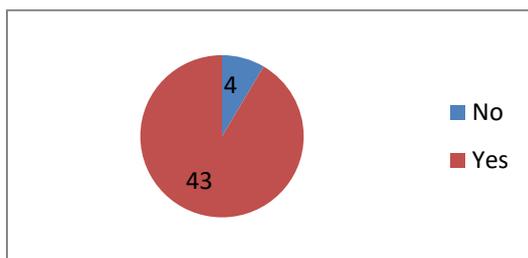
### 28 Collaboration with other services (n=47)



### C. Protection orders according to the Czech law

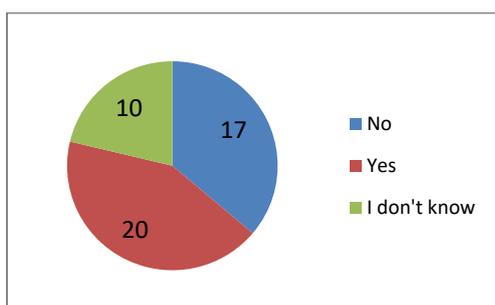
Almost all organizations represented in the survey provide information/assistance to clients/victims on protection measures available in the Czech Republic according to national law. Only 4 survey participants responded that they do not provide such assistance to victims (graph 29).

### 29 Provision of information/assistance to clients/victims on protection measures (n=47)

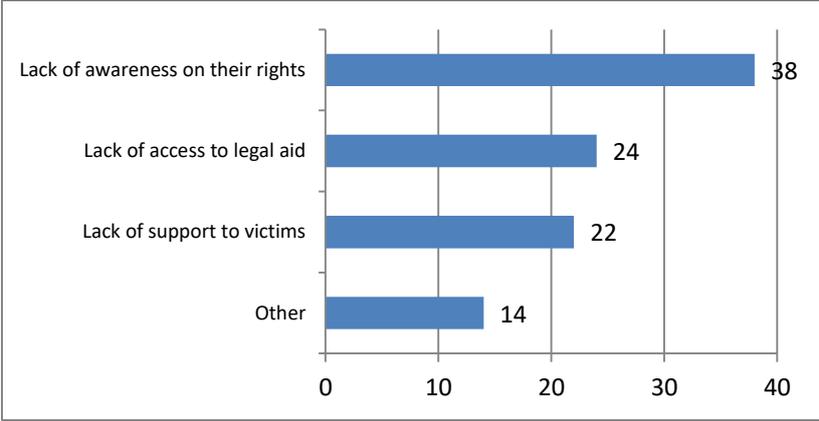


More than 42% of CSOs representatives consider the protection measures in the Czech Republic sufficiently available to victims of violence. According to 36 % these measures are not available adequately (graph 30) and the victims of violence face significant barriers which prevent them from accessing any protection orders. The highest number of the survey participants (more than 80 %) identified **the lack of awareness on the rights of victims** as the crucial barrier. 51 % CSO representatives considered the lack of legal aid as significant barrier, and almost 47 % of them also the lack of support to victims. Among legal professionals and lawyers same barriers were identified with similar distribution among the survey participants (see survey 2. Chapter B.) Additionally, the barriers of financial dependence on the abuser were identified.

### 30 Availability of protection orders to victims of violence (n=47)

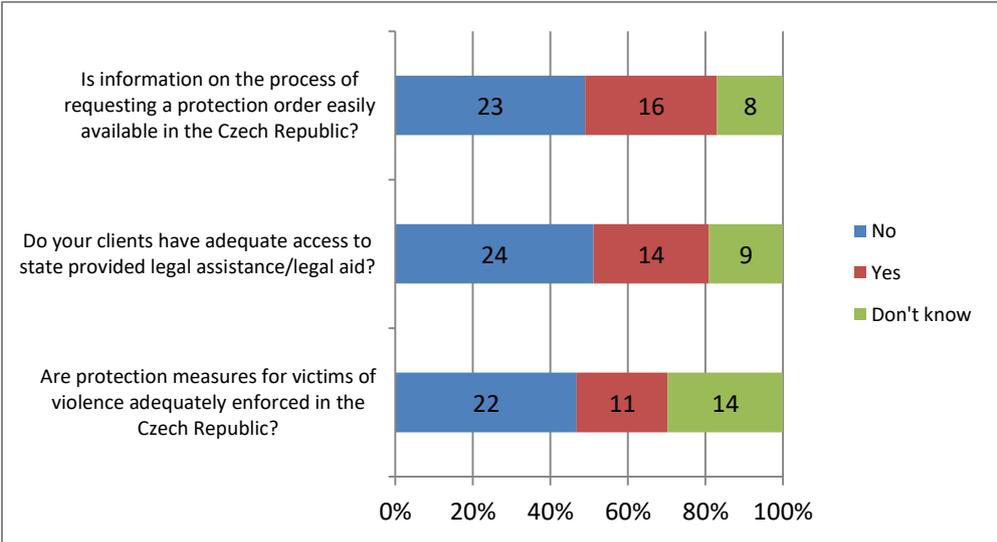


**31 Barriers to victims of violence accessing protection orders (n=47)**



Following graph (graph 32) summarizes data on the enforcement of protection measures for victims of violence, information on the processes of requesting protection orders in the Czech Republic and accessibility of legal aid to victims of violence. CSO professionals participating in the survey criticized all these aspects of Czech legal aid: only 34 % considered the information on the process of requesting a protection order easily available, almost 30 % expressed that their clients have adequate access to state provided legal assistance/aid and only 23 % survey participants considered protection measures for victims of violence adequately enforced in the Czech Republic.

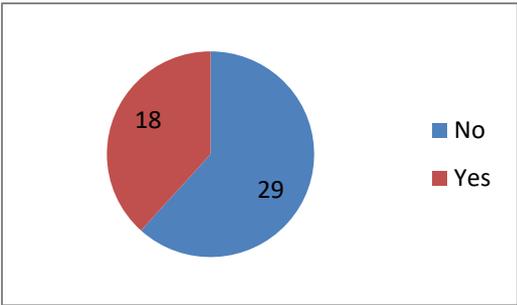
**32 Information. Accessibility of legal aid. Enforcement. (n=47)**



**D. Awareness on the European Protection Order**

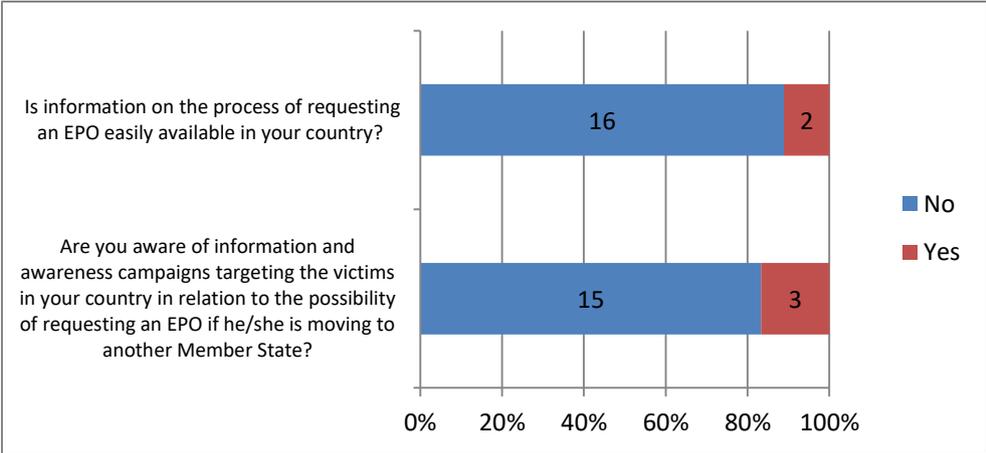
The level of awareness of the provisions of the Directive EU on European Protection Order is less than 39 %. More than 61 % survey participants were not aware of the EPO (graph 33). Apart to that, only **5 participants** declared that they **provide information to clients/victims of their right to EPO** in case they wish to travel or move to another EU country.

**33 Awareness of the provisions of the Directive EU on European Protection Order (n=47)**



One of the crucial issues discussed in previous chapters is the accessibility of information either to legal professionals or to general public. The CSOs representatives - participating in the survey - who were aware of the EPO, expressed their opinion regarding this issue as well (see graph 34). Most of them (88 %) did not consider the information on the process of requesting an EPO easily available in the Czech Republic and were not aware of any specific information campaign regarding it (83 %). This fact indicates that there was no campaign, or it did not reach this audience sufficiently.

**34 Information or awareness raising campaign availability (n=18)**



**E. Trainings for CSOs/Victim Support Organizations**

Important part of the survey targeting the representatives of CSOs and victim support organizations examined accessibility of the training activities in relation to EPO, participation at specific trainings and expected benefit from these trainings. Similar to the responses of legal professionals, the majority of survey participants have not participated in any trainings/training activities focused on EPO (except 1 participant who declared that he/she participated at similar training). Almost 75 % survey participants expressed that they would benefit from such specific training focused on EPO.

35 Trainings for CSOs/Victim support organizations (n=47)

