

European Protection Order Handbook for CSOs & NGOs personnel



ARTEMIS

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WP4 - Handbook for CSOs and NGOs personnel



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A. EPO and EC Directive 2011/99/EU

What does EPO mean by its nature?

The European Protection Order (EPO) is an important protection tool for the protection of European citizens and in particular victims of violence; it is a mechanism for the mutual cooperation among Member States and the recognition of decisions concerning protection measures for victims of crime.

The main purpose of the (EPO) is to protect the victim (the so-called- “**protected person**”), from the dangerous behaviour of a perpetrator (the so-called- “**person causing danger**”), a behaviour that goes beyond national borders, within European level. This protection should apply in a manner that is effective for the benefit of the **persons in need of protection**, in order to prevent the continuous search for judicial protection, the re-examination/ questioning of the same facts and, finally, their repeated victimization.

Legal background of EPO

The (EPO) was established by Directive **2011/99/ EU** and is part of a coherent and comprehensive set of EU measures on victims' rights, related to the elimination of violence against women; together with **Regulation 606/2013** (on mutual recognition of protection measures in civil cases) and **Victims' Directive 2012/29 / EU**, they consist a package of measures aiming at strengthening the rights and protection of victims of crime in the EU in particular when travelling or moving to another Member State.

According to the definition provided in article 2 of the Directive:

‘European protection order’ means a decision, taken by a judicial or equivalent authority of a Member State in relation to a protection measure, on the basis of which a judicial or equivalent authority of another Member State takes any appropriate measure or measures under its own national law with a view to continuing the protection of the protected person;

Whereas;

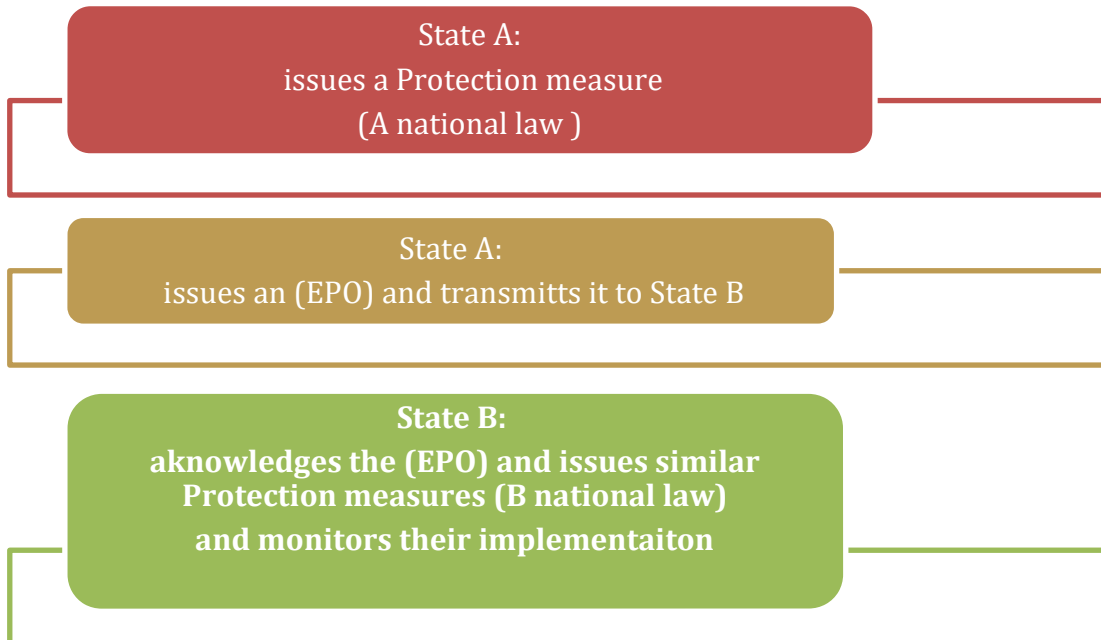
‘protection measure’ means a decision in criminal matters adopted in the issuing State in accordance with its national law and procedures by which one or more of the prohibitions or restrictions referred to in Article 5 are imposed on a person causing danger in order to protect a protected person against a criminal act which may endanger his life, physical or psychological integrity, dignity, personal liberty or sexual integrity.

Therefore, crucial elements for the understanding of an (EPO) are the following:

- A decision or order
- Taken by a judicial (or equivalent) authority in a Member State (State A),
- related to protection measures (certain prohibitions and restrictions)
- imposed on a person causing danger (perpetrator)
- for the benefit of the protected person (victim)

- To ensure that her/his protection continues in another Member State (State B) where both victim and the perpetrator have moved and (temporarily) reside.

The following Table depicts it more schematically:



The Directive contains an exhaustive list of prohibitions or restrictions which, when imposed in the **issuing State** and contained in an (EPO), they (prohibitions or restrictions) should be recognized and enforced in the **executing State**. Therefore an (EPO) applies to the **three most common types of national protection measures**:

- a prohibition from entering certain localities, places or defined areas where the protected person resides or visits;
- a prohibition or regulation of contact, in any form, with the protected person, including by phone, electronic or ordinary mail, fax or any other means; or
- a prohibition or regulation on approaching the protected person closer than a prescribed distance.

Please note that...!

- **Victims** of criminal acts are not the only victims of sexual violence. The Directive refers to criminal cases and national protection measures that aim to protect a person from criminal acts, i.e. acts that endanger life, physical-psychological-sexual integrity, dignity and personal freedom of the person. Therefore an (EPO) would be expected to be implemented in instances when persons in need of protection find themselves in imminent or possible danger in (at least) two EU Member States by the same perpetrator. Such instances or crimes would be; Domestic Violence-crimes, Acts of Interpersonal violence, Human trafficking, Crimes against minors and Stalking.

- The **nature of the authority** issuing the protection measure, (criminal, administrative or civil), does not matter.
- A necessary condition for the executing State to take action is **the movement of the person causing the danger** to the territory of said Member State.
- **Recognition of the (EPO)** by the executing State implies, inter alia, that the competent authority of that State acknowledges the existence and validity of the protection measure taken in the issuing State, recognizes the actual situation as described in the (EPO) and agrees that protection should be to be provided and to continue if provided in accordance with its national law. The protection measure is enforceable independently on the final court decision related to the criminal act.
- Protection measures aim to prevent the commission of new criminal acts or mitigating the consequences of previous criminal acts. A Member State is not obliged to issue an (EPO) under a prohibition/restriction/ protection measure which does **not specifically aim to protect a person in danger** but mainly serves other purposes, such as e.g. the social reintegration of the perpetrator.
- Competent authority of the executing State is not obliged to take the same security measure applied by the issuing State and has a **wide range of discretion** to approve any measure it deems appropriate under its national law, in order to ensure continued, to the highest degree possible, equivalent protection for the protected person, in line with the (EPO).

EPO and intervention of social support services

The Directive's point (31) states that the Member States should request **the provision of appropriate training of judges, prosecutors, police, and judicial staff involved in the procedures aimed at issuing or recognising a European protection order** from the authorities responsible for such training.

A EPRS¹ Study on the implementation of the EPO Directive refers to the request in the Directive's point (31) that the Member States should provide specialised training and appropriate training of persons involved in the EPO issuing process. According to this study, only Austria, Sweden, and Poland organised EPO-related courses, training sessions, and awareness-raising campaigns. However, in Germany, specialised training on protection measures in general and specifically on the EPO is part of the training of public officers, police officers, public prosecutors, judges, lawyers, social workers, and other professional groups (including doctors, psychologists, therapists, nurses, teachers, and government officials). In the Czech Republic, the Judicial Academy organises workshops about international judicial cooperation, also including the European protection order. Hungary organised public awareness campaigns focused on public officials. Spain and Sweden have mandatory training specialising in working with victims of crime for judges and police officers. In Spain it is a must for judges of specialised courts dealing with cases of gender-motivated violence. Direct contacts between public authority representatives and victims are increasing, and institutions increasingly consider the victims' needs and specific situations.

Under the Directive's point (35), the Member States and the Commission should include **information about the European protection order** in existing education and awareness-raising campaigns on protecting victims

¹European Parliamentary Research Service

of crime. However, the Directive does not regulate this obligation further and leaves the implementation method up to the Member States. It is namely the spreading of information about victims' rights, which is critical for the efficiency of the protection measures that can be provided to victims.

Of the 27 Member States, only few countries (i.e. Portugal, Romania, Sweden, Croatia, Italy, Greece, Cyprus or the Czech Republic) organised awareness-raising campaigns focused on the European protection order.

The ARTEMIS² project included an online questionnaire among non-profit organisations and organisations rendering victim support. Specifically, it targeted organisations in Croatia, Cyprus, the Czech Republic, Greece, and Italy and covered 294 respondents. Most countries have non-profit organisations providing support to victims of violent crimes (gender-motivated) within direct contact with the victim. The questionnaire did not show any significant differences in the provision of such support in the above countries. They include services providing information, psychological assistance, defence, psychological and social help, and legal counselling to the victims. The organisations also arrange awareness-raising and training activities.

When do the social services step in - which should be the mostly relevant

1) Propagation of information about the rights of victims

The published studies show that it is crucial and essential to propagate information about the rights of victims of violent crimes. The Member States should also organise awareness-raising campaigns focused on the European protection order.

2) Training of people working with victims

People involved in the work with victims should undergo specialised training about working with victims of violent crimes. The method of such work should aim at preventing and avoiding secondary victimisation.

Training courses should be adapted to specific professions. First and foremost, specialised training should focus on police officers, judges, public prosecutors, social workers working with victims of violent crimes, and lawyers. Officers, teachers, or doctors should also be included. Even though teachers or doctors may seem to be insignificant for the EPO issuing process, they may enter the game as people who can often observe that someone (e.g., a general practitioner's patient, a school child's mother, etc.) has become a victim of a violent crime (e.g., domestic violence). If such professions also received at least basic training about protection measures for victims or information about the European protection order, they could inform the victim about them and refer them to intervention centres or the police.

3) Confidence in the judiciary

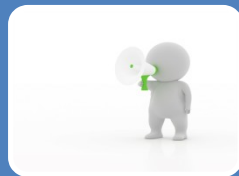
However much the victims may be informed about their rights, they will not be motivated to exercise them and ask the state for the protection measures if they do not trust the judicial system and protection measures' enforceability.

² Promoting the right of protection of women through the application of the EC Directive 2011/99/EU and the European Protection Order, D36 – Final Research Report

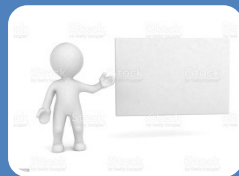
The trust in the judiciary is intrinsically linked to the efficiency of supervision of the compliance of the obligations imposed on the aggressor, i.e., the acts of the police and courts. The trust both in the judiciary and the state, in general, can also be built on the existence of an effective support network. It means the presence of such a network of intervention and social centres, which provide the victim with a safety base because of a failed protection measure. Such instances include a shelter or a centre for victims where the victim can turn to in case of another aggressor's attack. The existence of such a safety net should be communicated as part of the rights of victims of violent crimes.

Most Member States also offer financial aid to victims, legal aid, medical aid, or labour market-related assistance (e.g., counselling for victims seeking a job).

Hence, activities of social services should include the following fundamental steps:



informing victims about their rights and possibilities (including the existence of a support network)



training people involved in the work with victims



providing medical aid and supporting victims of violent crimes

B. Good Practices on the effective social support of victims related to POs and EPO

The European Protection Order (EPO) represents an important step to protect all victims of violence, and particularly women victims of gender-based violence across the EU Member States. It was estimated that in 2010 over 100,000 women were covered by protection measures in the EU.³ Many of these women need protection orders to apply not just in their country of citizenship, but also when they change their residence or travel to another EU Member State. However, a recent report indicated that since its transposition in national legislations in 2015, only 37 EPOs were issued and 15 were implemented.⁴ Such a low number of issued EPOs indicates that there is a need for improving the implementation of the Directive.

In some cases, the national authorities in charge of issuing an EPO are not aware of this possibility and very few EU citizens, especially victims, are aware of its existence. Furthermore, there is a wide variety of protection orders across the states and these are not always easy to transmit to another state in a manner that guarantees the same level of protection. Some states use digital surveillance to ensure the implementation of protection orders while others do not, and not all states punish the breach of an EPO in the same manner. Overall, there is a lack of awareness and training among the judiciary and other relevant actors on the use of EPO, and victims are not well informed of its existence or procedures related to it.

In order to ensure the full implementation of the Directive across the EU, it is useful to identify good practices in implementing protection orders and EPO. Due to the Directive still being seldom used, there are not many good practices identified related to it, but there are good practices in legislation and implementation of protection orders, which is the basis for effective implementation of an EPO. There are also good practices related to effective social support of victims related to protection orders and EPO.

Legal Framework

Portugal – The Portuguese legal system provides for a wide range of protection orders. These measures are governed by criminal law and are regulated both in general criminal law (the Portuguese Code of Criminal Procedure and the Portuguese Criminal Code) and under the legislation concerning specifically the crime of domestic violence (Law No. 112/2009). Measures encompass: contact bans, the prohibition of approaching certain people or places, mandatory permanence within certain locations, travel bans, mandatory attendance of rehabilitation or perpetrator programmes for domestic violence offenders and the prohibition of holding arms. Electronic monitoring can be imposed by a court decision whenever it is deemed essential to guarantee the safety of the victim. It is carried out under the supervision of the prison and probation services.⁵

³ European Parliamentary Research Service, European Protection Order Directive 2011/99/EU: European Implementation Assessment, September 2017.

⁴ European Commission, (2020), “Report from the Commission to the European Parliament and the Council on the implementation of Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order”.

⁵ GREVIO’s baseline evaluation report on Portugal.

Procedures for requesting an EPO

Estonia – Estonia has been cited in the EU Parliament Assessment study of the EPO (2017) as a good practice regarding the implementation of the EPO, due to its provision of comprehensive translation services. With regards to the issuance and execution of EPOs, the Estonian Ministry of Justice has established a framework for the translation of EPO forms. Thus, when issuing an EPO, the EPO shall be translated into the official language of the executing State and shall be transferred to the competent authority of the executing State accordingly. Additionally, in the cases of victims which are not proficient in the Estonian language, the legal framework provides for the translation of the EPO into the victim's native language or a language in which s/he is proficient, at the victim's request. The victim may also request the translation of additional supporting documentation which are deemed essential for ensuring her/his 5 procedural rights. If this request is refused, the competent authority must formalise the refusal with a ruling.⁶

Victim Support

Austria has intervention centres financed from the budgets of the Ministry of the Interior and Ministry of Social Affairs. When a court issues a protection measure, the police contact the competent intervention centre and provide information about the victims protected by the measure. The intervention centre subsequently reaches the victim with an offer of help.⁷

Cyprus – Association for the Prevention and Handling of Violence in the Family (SPAVO) has been identified as a good practice for victim support and individual needs assessment. SPAVO is a non-profit, non-governmental organization that operates to provide support, information, as well as awareness raising and training on domestic violence issues. All services provided are free of charge. SPAVO offers integrated services to victims of domestic violence in Cyprus including: A Call Centre, free of charge, accessible 24 hours and available to the public 365 days a year, staffed by psychologists, social workers and volunteers who are specially trained. It provides counselling, information on other relevant services, information on the basic rights and the choices of victims of domestic violence. SPAVO offers shelter to women victims of violence and their children. The shelter offers programmes aiming to empower women so that they can freely identify their needs and make their own decision to break the cycle of violence. SPAVO Counselling Services provides psychological support and counselling to victims of domestic violence by specially trained psychologists and social workers. All services operate in an integrated manner.⁸

Italy – Italy has a large number of anti-violence centres and associations that offer psychological, economic and other support to women victims of violence. The Italian system of protection and support to victims of violence and their children is largely based on the activity of women's NGOs, usually established as non-profit organizations that run anti violence centres and shelters at local or regional level. In addition to managing specialized services for women victims, women's NGOs organize prevention activities and provide training on violence against women to law enforcement officials, prosecutors, magistrates, social workers and other stakeholders. The role played by women's organizations has received legislative recognition at the

⁶ European Parliamentary Research Service, European Protection Order Directive 2011/99/EU: European Implementation Assessment, September 2017.

⁷ Council of Europe, Emergency Barring Orders in situations of domestic violence: Art 52 of the Istanbul Convention, 2017.

⁸ www.domviolence.org.cy

national level by Law No. 119/2013, which provided for their participation in the drafting of the “Extraordinary action plan against sexual and gender-based violence”. It also recognized the need for all public institutions to work closely with civil society associations and organizations engaged in supporting and assisting women victims of violence, including anti-violence centres and shelters.⁹

Multi-agency cooperation

Italy – In many Prosecutors' Offices in Italy, collaboration has been developed between social services, anti-violence centres, and public and private services of the local network, in order to immediately secure accommodation for victims of violence in cases when their removal from the home is urgent. In some Public Prosecutor's Offices, social service offices have been opened, in order to provide assistance to the specialized group responsible for crimes against "vulnerable groups" with reference to both civil and criminal affairs. The office receives and evaluates reports from individuals, local services, hospitals, and nursing homes for the purpose of providing support. This practice allows for a closer cooperation between the judiciary, the police and social services, facilitating both the investigation of crimes as well as the provision of victim protection. Social workers assigned to the office cooperate with the judiciary and the police by supporting the judicial police in cases where there is a need for a parallel social intervention (such as home visits). In addition, they constitute an effective interface with the social and health services when there is a need to initiate legal protection in favour of persons involved in criminal proceedings. In practice, this function is evaluated positively by the judicial offices that have experienced it because it allows to quickly identify competent social or health professionals and to obtain the necessary answers in a short time, by ensuring overall the speediness of the judicial action.¹⁰

Spain – There is a comprehensive system of support available to victims in Spain, with close cooperation and coordination of different agencies including courts, police and NGOs providing victim support. Psycho-social and legal support is available to all victims and their children, on the condition that the victim reports the violence; this support also includes financial and housing aid. Victim support services are provided by NGOs and state agencies, which are coordinated by specific measures ensuring the cooperation between them when POs are issued.¹¹

⁹ D.i.RE.: <https://www.direcontrolaviolenza.it/>

¹⁰ Resolution on guidelines on organization and good practice in dealing with proceedings relating to crimes of gender and domestic violence, (resolution of 9 May 2018), Italian Superior Council of the Magistracy.

¹¹ Spain State Report to GREVIO, 2019.

C. Country Specific Information

CROATIA

Protection orders in Croatia

Gender-based violence against women in Croatia is mainly regulated in through the Law on Protection from Domestic Violence (LPDV) and the Criminal Code. The protection orders are regulated through the LPDV, the Criminal Code, the Criminal Procedure Code, and Misdemeanour Law.

Types of protection orders and procedures for applying:

The Law on Protection from Domestic Violence

Protection orders (type and duration):

- Prohibition of approaching, harassing or stalking a victim (1 month -2 years),
- Removal from a joint household (1 month -2 years),
- Mandatory psychosocial treatment for the perpetrator (no less than 6 months),
- Compulsory treatment for addiction (up to 1 year).

Issued by: Municipal Misdemeanour Court.

Procedure: The protection measures can be imposed ex officio, at the proposal of the authorised prosecutor, the victim or the Centre for Social Welfare. The court may impose protection measures prohibiting the approach, harassment or stalking of a victim of domestic violence and removal from a joint household before initiating misdemeanour proceedings at the proposal of the victim or another authorized prosecutor if there is a direct danger to the safety of the victim or members of her family or a member of the joint household.. The deadline for issuing a decision is 24 hours. The court makes the decision after hearing the victim and the person against whom protection is sought. The appeal does not delay the execution of the decision. The decision will be revoked if the victim or other authorized prosecutor does not file an indictment within eight days from the day the decision was made, of which the court is obliged to warn the victim.

Sanction for violation: a fine of at least 3,000 HRK (€400) or at least 10 days in jail.

The Criminal Code

Protection orders (type and duration):

Prescribes a total of nine safety measures that can be applied to any defendant in a criminal procedure, including:

- Prohibition of approaching, harassing or stalking the victim (Art. 73 of CC), (1 to 5 years) which can be imposed for a period of 1 to 5 years, and

- Removal from a joint household (Art. 74 of CC), (3 months to 3 years).

Issued by: Municipal Criminal Court and County Court¹².

Procedure: Safety measures fall under jurisprudence of the Criminal Court and take effect from the enforceability of the judgment. Safety measures that are prescribed by the Criminal Code can only be issued by the judge presiding in the case. In order to be issued, the public prosecutor or the victim has to apply for them. The court can also decide to issue safety measure(s) without the plaintiff's application, if the judge deems such measures necessary.

Sanction for violation: up to two years in prison.

The Criminal Procedure Code

Protection orders:

Prescribes 11 precautionary measures, of which the following can be applied in cases of GBV:

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

Issued by: Municipal Criminal Court, County Court or State Attorney.

Procedure: Before filing an indictment, precautionary measures are determined, extended and revoked by a decision of the State Attorney. After the indictment has been filed and until the verdict becomes final or enforceable, the measure is determined, extended and revoked by the Municipal criminal Court or County court.

Sanction for violation: In case of non-compliance with the imposed measure, it will be replaced by pre-trial detention.

The Misdemeanour Law

Protection orders:

Article 130 prescribes precautionary measures, including:

- Ban on visiting a certain place or area, and
- Prohibition of approaching a certain person and prohibition of establishing or maintaining contact with a certain person.

Issued by: Municipal Misdemeanour Court.

¹² Depending on the type of crime. For example, the crime of rape is tried by the County Court while domestic violence is tried by the Municipal Criminal Court.

Procedure: After the indictment has been filed, the court may ex officio or at the request of the plaintiff issue a decision to apply one or more precautionary measures against the defendant to ensure the defendant's presence in the proceedings, prevent the defendant from committing new offense or from preventing or complicating evidence in the proceedings. These measures can be applied throughout the duration of the misdemeanour procedure. They can also be issued by the police in cases of domestic violence for a period of up to 8 days. The police have 8 days to file an indictment asking the court to extend the duration of the precautionary measure, or the measure will cease to be in effect after 8 days.

Sanction for violation: fine of up to 10,000 HRK (€1,300).

Prevalence

Available data indicates that most POs issued for the protection of women victims of gender-based violence have been issued pursuant to the Law on Protection from Domestic Violence. This reflects data collected by the police which indicates that the majority of cases of gender-based violence are prosecuted under the Law on Protection from Domestic Violence as opposed to criminal law, which would entail stronger sentences and would also cover a wider range of victims.

EPO and EC Directive 2011/99/EU

Transposition in National Law

The European Protection Order (EPO) established by the EC Directive 2011/99/EU was transposed into Croatian legislation through the Law on Judicial Cooperation in Criminal Matters with the Member States of the European Union. It was amended on 4 March 2015 to include the said Directive. This law defines circumstances and procedures for recognising an EPO from another EU state as well as for issuing an EPO in Croatia. As defined by this law, only a victim, that is, the person who has been issued a protection order, can apply herself or through her legal representative for an EPO.

Application process for an EPO - how service providers can support victims in applying

Where to apply for an EPO - Competent Authority: In Croatia, the investigative judge of the County Court is the competent authority for the issuance and recognition of an EPO.

- For issuing an EPO, the victim or her legal representative should apply to the County Court where the procedure for issuing the national protection order was conducted.
- For recognising the EPO issued in another EU Member State, the victim or her legal representative should apply to the County Court according to the place where she has or intends to have a permanent or temporary residence.

Issuance of an EPO – When the victim has a protection order from a Croatian court and plans to travel/move to another EU Member State

For which protection orders can an EPO be requested?

- **The Law on Protection from Domestic Violence:** prohibition of approaching, harassing or stalking a victim, and removal from a joint household.
- **The Criminal Code:** prohibition of approaching, harassing or stalking the victim (Art. 73 of CC), and removal from a joint household (Art. 74 of CC).
- **The Criminal Procedure Code:** ban on visiting a certain place or area, ban on approaching a certain person, prohibition to establish or maintain contact with a certain person, prohibition of stalking or harassing the victim or other person, and removal from home.
- **The Misdemeanour Law:** ban on visiting a certain place or area, and prohibition of approaching a certain person and prohibition of establishing or maintaining contact with a certain person.

When and how is an EPO issued?

- An EPO is issued at the request of the protected person or her guardian or representative submitted directly to the investigative judge of the County Court, if the protected person resides or decides to reside in another Member State.
- The EPO is issued on the prescribed form¹³ and contains the data prescribed by law which enable its execution in the executing state.
- There is no specific time limit for issuing or recognising an EPO in Croatia. The law merely states that the judge should act immediately and without delay. The only delay is allowed if the EPO is not translated in Croatian. In those cases, the procedure can be delayed by 15 days.
- In case of an appeal by the victim, the court needs to rule on that appeal within three days. There is no possibility to simultaneously issue an EPO to different States when the victim expresses the intention to stay in all of them.

What happens after an EPO is issued?

- The County Court will inform the victim or her legal representative that the EPO has been issued.
- The County Court will inform and forward the EPO to the executing State (the State where the victim plans to travel or move).
- If the perpetrator of violence breaches an EPO, the executing State must notify Croatian authorities. The punishment for the breach is the same as for violation of the national protection order.

How can service providers support victims in applying for an EPO?

- Inform every victim of the types of protection orders, their duration, scope of application and on how to apply. In cases of violence tried under the LPDV, the victim herself can request protection measures.
- Inform every victim who has an eligible protection order of the possibility to apply for an EPO in case she needs to travel and/or move to another Member State – explain the procedure and the benefits for her protection.

¹³ The prescribed form has been translated into Croatian and is part of the Judicial Cooperation Act, Annex 12. It can be accessed here: <https://www.zakon.hr/z/345/Zakon-o-pravosudnoj-suradnji-u-kaznenim-stvarima-s-dr%C5%BEavama-%C4%8Dlanicama-Europske-unije>

- Assist the victim to fill out an application form for an EPO and file it with the competent County Court.
- When the victim receives an EPO, provide information about its implementation and what will happen in case of a breach of order.

Recognition of the EPO – the victim has an EPO from another Member State and needs Croatia to recognise and execute it

Procedure to recognise an EPO:

- Immediately upon receipt of the EPO issued by the competent authority of the issuing State, the investigating judge of the County Court where the victim resides or plans to reside will recognize the order and take appropriate measures for the purpose of enforcement.
- In the decision on recognition of the EPO, the judge will determine which protection order according to the Croatian domestic legislation is the most similar to the one stated in the EPO. That protection order will come into effect and be enforced according to the national legislation and procedures.
- In recognising an EPO, the judge should act immediately and without delay.
- If the EPO is incomplete or is not accompanied by a translation, the investigating judge should set a time limit for delivering the supplement or translation, which may not exceed 15 working days. The investigating judge will postpone the issuance of the decision until the receipt of the amendment or translation of the EPO.
- The recognition of an EPO can be denied based on nine grounds enshrined in the Directive.
- The decision on the recognition of the EPO will be delivered by the Court without delay to the issuing State, the victim, her legal representative or guardian and the person causing danger, with notification of the legal consequences of the breach of those measures.

What happens after an EPO is recognised?

- When the investigating judge of the County Court recognises an EPO issued by another Member State, they must immediately inform the protected person. The protected person must also be immediately contacted if the EPO is rejected and informed of her right to appeal.
- The police, who are in charge of implementation, have to inform the investigating judge of any action of the person causing danger contrary to the decision.
- In case of a breach of measures imposed on the basis of an EPO, the investigating judge has an obligation to inform the competent authority of the issuing or supervising State. This notification is submitted on a standard form which is an integral part of this Judicial Cooperation Act. The form must be translated into the official language or another language accepted by the issuing or supervising State.

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

Appeal process

- An appeal against the decision on the recognition of an EPO may be lodged by the protected person or his/her guardian or legal representative and the person causing the danger within three days.
- The panel of the County court should decide on the appeal within three days.
- Once the decision recognising the EPO becomes final, it is enforced in accordance with domestic law.

How can service providers support victims in getting an EPO recognised?

- Help the victim translate the EPO in Croatian if it hasn't already been translated.
- Help the victim fill out the form for recognition of an EPO.
- After the EPO has been officially recognised by the County Court and the corresponding national protection orders have been issued, inform the victim of the scope and implementation of that protection order, including who is in charge of implementation and what happens in case of a breach.

Implementation of EPO

Although Croatian transposing provisions seem to be sufficient enough to enable the issuance and recognition of EPOs, very few EPOs have been issued or recognised. There is no available data on the prevalence of EPOs in Croatia. Without data collection and an institution in charge of monitoring the application of EPOs in Croatia, there is no way to be certain of how many EPOs have been recognised or issued.

The European Protection Order is not often used in Croatia. Women survivors of GBV are generally not aware of the existence of a possibility to obtain such an order and they therefore don't request it. There is a low awareness of it among the service providers and legal practitioners. There is no website or any other information point that provides information to the victims about the EPO. Since the information about an EPO is not readily available and there have been no campaigns to inform the women of their right to have an EPO, the level of awareness of its existence in the general public is very low. No centralised authority has been tasked with implementing the Directive, so there is no central point of information. The County courts don't keep track of the number of EPOs issued or recognised.

Useful Contacts

- **Central authority:** Ministry of Justice and Administration <https://mpu.gov.hr/?impaired=0>
- **NGO:** Autonomous Women's House Zagreb - Women against violence against women <https://www.azkz.net/>

- **Victim support (all crimes):** Victim and Witness Support Service Croatia <https://pzs.hr/>
- **Croatian Lawyers Bar Association** <http://www.hok-cba.hr/>



CYPRUS

Protection orders in Cyprus

In Cyprus, protection orders may be imposed under both **criminal law** and **civil law**.

Under **criminal law**, protection orders are issued in accordance with:

- (i) the **Violence in the Family (Prevention and Protection of Victims) Laws 2000 and 2004** (as amended) (the “Family Violence law”);
- (ii) the **Preventing and Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography Law 2014**; and
- (iii) **Violence against Women Law 2021**.

The types of protection orders which are available under criminal law consist of **restraining orders** and **orders for the removal of a victim** from the family home or from his/her place of residence. The specific conditions and restrictions included in protection orders are subject to the discretion of the court.

Specifically, protection orders consist of:

- *Interim restraining orders* issued against the perpetrator/offender;
- *Interim removal orders* to remove a victim from the family home or from his/her place of residence;
- *Removal orders* to remove a victim from the family home or from his/her place of residence;
- *Restraining orders* issued against the perpetrator/offender.

Interim protection orders are **temporary** and may be issued before the filing of criminal charges for a period of up to 8 days. The court may extend the duration of the interim protection orders by a further 8 days, provided that the total duration of the interim order does not exceed 24 days before the filing of criminal charges. If issued under the provisions of Articles 30 and 31 of the Violence against Women Law, the total duration of the interim order may be up to 60 days before the filing of criminal charges.

Removal orders may be issued once the criminal charges have been filed and for the duration of the trial, or, once the trial is finalised and the perpetrator is convicted, for as long as deemed necessary according to the discretion of the court.

Restraining orders may be issued when charges are filed against the perpetrator or when the perpetrator is convicted, and the duration of these are subject to the discretion of the court.

The violation of *interim orders* is not criminalised. However, a violation of any of the conditions included in *removal orders* and *restraining orders* constitutes a crime punishable with a maximum of 2 years imprisonment.

Under **civil law**, protection orders are issued in accordance with family law, namely the **Parents’ and Children’s Relations Law 1990** (as amended) - this provides for the issuance of:

- An order granting partial or full custody of a minor to one parent or to a custodian.

This protection order relates to minors, i.e. *children under 18 years of age*. The extent and conditions of the custody, as well as the duration of the order, are subject to the discretion of the court.

The violation of the protection order is criminalised under certain circumstances, depending on the specific restrictions and conditions included in the protection order which have been violated.

Who is protected?

In criminal law:

- victims of domestic violence under the Family Violence law;
- child victims of sexual abuse and/or sexual exploitation under the age of 18 under the Preventing and Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography Law 2014;
- victims of gender-based violence against women under the Violence against Women Law 2021.

In civil law:

- minors under 18 years of age, where one or both parents have failed or are unable to carry out their duties of parental care, for example due to domestic violence, or where one parent has been convicted of a crime that involves the life, health or morals of the minor.

How can victims apply for a protection order?

In criminal law, under the provisions of:

(i) the Violence in the Family Law

- *Interim protection orders (Article 22)*
 - ✓ The application needs to be accompanied by a ***sworn affidavit of the victim or by any other person who is in a position to have direct knowledge of the facts or of any evidence that there is a prima facie risk of the use or repetition of violence by the perpetrator.***
 - ✓ The persons who can apply for an interim removal order are: a family member, or the police, or the public prosecutor, or the Attorney General, or a Family Counsellor, or any other person acting on behalf of any of these.
- *Removal orders (Article 21) and Restraining orders (Article 23)*
 - ✓ The persons who can apply for a removal order are: Social Services, or a Family Counsellor, or the public prosecutor.

(ii) Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography Law 2014

- *Interim protection orders (Article 33)*
 - ✓ The application needs to be accompanied by a ***sworn affidavit of the victim or by any other person who is in a position to have direct knowledge of the facts or of any evidence that there is a prima facie risk of the use or repetition of violence by the perpetrator.***

- ✓ The persons who can apply for an interim removal order are: a family member, or the police, or the Attorney General of the Republic, or a custodian appointed pursuant to the Parents’ and Children’s Relations Law 1990 (as amended), or the Director of Social Services, or a Commissioner, or any other person acting on behalf of any of these.

- *Removal orders (Article 32) and Restraining orders (Article 34)*

- ✓ The persons who can apply for a removal order are: Social Services or the public prosecutor.

(iii) **Violence against Women Law 2021**

- *Interim removal orders (Articles 29 and 30)*

- ✓ The application needs to be accompanied by a ***sworn affidavit of the victim or, in the case of a victim who is a minor, by any other person who is in a position to have direct knowledge of the facts or of any evidence that there is a prima facie risk of the use or repetition of violence by the perpetrator.***

- ✓ The persons who can apply for an interim removal order are: the victim, or the police, or the Attorney General, or the Social Services, or, in the case of a victim who is a minor, a custodian appointed pursuant to the Parents’ and Children’s Relations Law 1990 (as amended).

- *Removal orders (Article 32)*

- ✓ The persons who can apply for a removal order are: [N/A].

- *Restraining orders (Article 33)*

- ✓ The persons who can apply for a restraining order are: [N/A].

In civil law, under the provisions of the **Parents’ and Children’s Relations Law 1990 (as amended)**:

- The persons who can apply for a protection order are: a parent, or the Director of Social Services, or public prosecutors.

Prevalence of protection orders

No data is available on the prevalence of protection orders in Cyprus; there is no official register recording the number and type of protection orders issued in Cyprus.

EPO and EC Directive 2011/99/EU

The Republic of Cyprus transposed EU Directive 2011/99/EU (the “**Directive**”) into national legislation in 2015 with **Law 156(I)/2015 on the European Protection Order 2015** (the “**Cyprus EPO Law**”).¹⁴ This mirrors the provisions of the Directive.

Application Process for the issuance of an EPO – how social services can support victims in applying

¹⁴ http://www.cylaw.org/nomoi/arith/2015_1_156.pdf (in Greek only).

If:

- A victim you come into contact with is benefiting from a protection order issued in their favour by a District Court during a criminal law trial
- The protection order imposes at least one of the following restrictions against the perpetrator:
 - ✓ Prohibition of entry into certain localities, places or designated areas where the victim resides or which s/he visits;
 - ✓ Prohibition or regulation of any contact with the victim, in any form; **or**
 - ✓ Prohibition or regulation of the perpetrator's access to the victim closer than a predetermined distance;
- The victim (i) decides to settle or already resides, **or** (ii) decides to stay or is already staying in another Member State within the EU (except Ireland and Denmark),

s/he has the right to apply for an EPO to the same District Court which issued the protection order under **Article 6 of the Cyprus EPO Law** and **Article 7 of the Cyprus EPO Law**.

- Only the victim can apply for an EPO to the District Court.
- No legal representation is required.
- The application consists of filling in a standard form annexed to the Cyprus EPO Law.¹⁵
- Legal aid for victims applying for an EPO is not provided for in the Cyprus EPO Law; however, victims may be entitled to legal aid under national Legal Aid legislation.¹⁶

What happens after an EPO is issued?

- The District Court will inform the victim or her legal representative that the EPO has been issued.
- The District Court will inform and forward the EPO to the executing State ([State B or] the Member State where the victim plans to travel or move to).

How can social services support victims in applying for an EPO:

- Provision of information: inform victims of their right to apply for an EPO and provide information on the Cyprus EPO Law.
- Provision of legal advice and/or counselling.
- Provide information on and assistance in applying for legal aid.
- Referral to relevant services such as police, social services, etc..

¹⁵ Available here (in Greek only): http://www.cylaw.org/nomoi/arith/2015_1_156.pdf.

¹⁶ Available here (in Greek only): http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/division-dd2e3b1b91-0d25-4feb-b0a1-148d4b1ebd14.html. See also (in English): <http://www.cyprusbarassociation.org/files/cba/Legal-aid-Legislation.pdf>.

Recognition of the EPO – the victim has an EPO from another Member State and needs Cyprus to recognise and execute it

Procedure to recognise an EPO:

- Upon receipt of an EPO issued by another Member State
 - ✓ in cases where the victim is a resident of Cyprus, the District Court of the district in which s/he resides recognises the EPO
 - ✓ in cases where the victim is not a resident, the District Court of Nicosia recognises the EPO.
- The District Court may accept an EPO from another Member State in English, as well as in the official languages of Cyprus.¹⁷
- Recognition of an EPO by the District Court is treated as a matter of priority taking into account the specific circumstances of the case, such as the urgency of the matter, the date of arrival of the victim to Cyprus and, where possible, the degree of risk to the victim.

What happens after an EPO is recognised?

- Once the District Court recognises the EPO, it will adopt any protection orders available under Cypriot law which provide, to the greatest degree possible, equivalent protection for the victim.
- The victim, the perpetrator and the issuing State are notified of the decision to recognise and execute the EPO by the District Court.
- If an EPO is breached by the perpetrator, the District Court is authorised to impose criminal sanctions or non-criminal sanctions under Cypriot law, as applicable.

Appeal process

- If the District Court does not recognise the EPO, the victim has a right to appeal the decision and apply for a national protection order under Cypriot law.

How can service providers support victims in getting an EPO recognised?

- After the EPO has been recognised by the District Court and the District Court has issued the corresponding national protection order(s), inform the victim of the scope and implementation of that protection order, including who is in charge of implementation and what happens in case of a breach.

Implementation of EPO - effectiveness, gaps

¹⁷ European Parliamentary Research Service (EPRS), 2017, p.44. Available at:
https://www.europarl.europa.eu/RegData/etudes/STUD/2017/603272/EPRS_STU%282017%29603272_EN.pdf.

No data is available on the number of EPOs issued or executed in Cyprus. The judicial system does not record or monitor the number of EPOs issued or executed, so it is not possible to assess the use of EPOs in Cyprus. However, it appears that ***no EPOs have been issued nor recognised and executed in Cyprus to date.***

A number of gaps have been identified:

- There is a lack of information provided to victims regarding their right to an EPO and their rights as victims.
- There have been no organised trainings of legal professionals, including the judiciary, prosecutors and lawyers coming into contact with victims of gender-based violence, on the use of the EPO and the provisions of the Cyprus EPO Law - this means that legal professionals are less likely to inform victims of their right to an EPO should they wish to travel to or move to another Member State.
- There is no legal obligation of the prosecution or lawyers representing victims of gender-based violence to inform them of their right to apply for an EPO under the Cyprus EPO Law; although judges are obligated to inform victims of their right to request an EPO under Article 7(3) of the Cyprus EPO Law, there is no evidence whether in practice judges do actually inform victims.

Useful Contacts

- Cyprus Bar Association - list of legal aid lawyers: <https://www.cyprusbar.org/LegalAssistance.aspx>
- Advisory Committee on Preventing and Combating Violence in the Family - Useful Contacts: http://www.familyviolence.gov.cy/cgibin/hweb?-A=31&-V=links&_VCATEGORY=0000
- Cyprus Police, Domestic Violence and Child Abuse unit, Tel: +357 22 808442, Email: domviol.childabuse@police.gov.cy, Website: <https://www.police.gov.cy/police/police.nsf/All/2913319CAC1AFDB1C22584000041D65F?OpenDocument>

CZECH REPUBLIC

Protection orders in Czech Republic

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, civil law and administrative law. Protection measures can be used at the pre-trial stage, as well as safety measures imposed at the sentencing stage. They may be in the form of restraining orders, no contact orders and removal orders. Additionally, the police may issue an emergency order - the eviction order - against the perpetrator as an emergency measure under administrative law.

Protection orders imposed under Czech Criminal Law

- **Legal background:** Criminal Procedure Code¹⁸
- **Characteristics:** These protection orders are considered to be the most effective provisional measures. However, the judicial authorities do not tend to use this protection order very frequently. The imposition of a provisional measure is not connected with specific crimes.
- **Main purpose:** a) protect victims, and b) prevent the accused from committing further crimes during the process.
- **Issued by:** Protection orders may be imposed by **court or prosecutor** under Articles 88 (c) etq. of the Criminal Procedure Code
- **Content:** The protection orders are 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.
- **Procedure:** It is the court or public prosecutor (depending on the stage of the criminal proceedings) who decides on a provisional measure, without a proposal.¹⁹ The decision can be initiated by the investigator (police officer) or victim/her/his lawyer. Protection orders within a criminal procedure may be imposed from the point of charging a person (so the person is no longer only a suspect, but a charged person). It is issued in written form and is in force as soon as it is delivered to the perpetrator. In contrast to civil law, provisional measures under criminal law are not interim and continue to be in force as long as its purpose requires it and until the final decision in the case is issued at the longest.²⁰ If the accused breaches this measure, he/she faces a disciplinary penalty, another type of provisional measure, custody,²¹ or sanctions for obstructing the enforcement of an

¹⁸ Criminal Procedure Code (Act No. 141/1961), Translation of CPC - https://www.legislationline.org/download/id/6371/file/Czech%20Republic_CPC_1961_am2012_en.pdf

¹⁹ § 88 (m) of the Criminal Procedure Code (Act No. 141/1961)

²⁰ § 88 (n) of the Criminal Procedure Code (Act No. 141/1961)

²¹ § 88 (o) of the Criminal Procedure Code (Act No. 141/1961)

official decision and expulsion.²² However, the last option happens only if the accused commits this breach repeatedly or in a serious manner.

Protection orders imposed under Czech Civil Law

- **Legal background:** In the cases of domestic violence or stalking are more frequently used protection orders under Czech Civil Law, in particular under The Act on Special Judicial Proceedings²³, which expressly deals with “the protection measure for the protection from domestic violence and stalking”.
- **Procedure:** Protection orders are issued on the proposal of the petitioner in cases of physical or mental violence, surveillance or harassment. Petitioner has to file a proposal including assertion constituting reasons why the protection order ought to be issued as well as evidence to support such conclusion.²⁴ A provisional measure can not only be issued upon the application of the person at risk, but also upon the application of someone else²⁵, typically minor living in the shared dwelling as the violent person and person at risk.
- **Issued by:** Competent is the District Court of petitioner’s residence.²⁶ Such a proposal is the first step initiating the civil judicial procedure, in which the court decides upon the petition (without public hearing). The Court must decide about issuing a proposal protect order promptly within 48 hours from its submission²⁷ and may issue an order against the violent person to temporarily leave the common dwelling and its immediate surroundings if he/she resides there, or to not enter into it, as well as to refrain from meeting or contacting the petitioner and or to refrain from undesirable observing and harassment of the petitioner in any manner may order the violent person to temporarily leave and not to enter the common dwelling and its surroundings, refrain from meeting or contacting the petitioner or unwanted monitoring and harassment.²⁸
- **Characteristics:** This decision is enforceable by its issuance and lasts one month and can be extended up to six months.²⁹ Usually, bailiffs are entrusted to deliver the judicial decision and to make sure it is obeyed. If bailiffs are not successful, the police can be summoned to enforce the PO.

Eviction Order under the Administrative Law

- **Legal background:** Act on the Police of the Czech Republic.³⁰

22 § 337 of the Criminal Code (Act No. 40/2009), Translation of the Criminal Code - https://www.legislationline.org/download/id/6370/file/Czech%20Republic_CC_2009_am2011_en.pdf

23 The Act on Special Judicial Proceedings (Act No. 292/2013)

24 § 402 of the Act on Special Judicial Proceedings (Act No. 292/2013)

25 § 403 of the Act on Special Judicial Proceedings (Act No. 292/2013)

26 § 400 of the Act on Special Judicial Proceedings (Act No. 292/2013)

27 § 404 of the Act on Special Judicial Proceedings (Act No. 292/2013)

28 § 405 par. 1 of the Act on Special Judicial Proceedings (Act No. 292/2013)

29 § 407 and 408 of the Act on Special Judicial Proceedings (Act No. 292/2013)

30 The Act on the Police of Czech Republic (Act No. 273/2008)

- **Purpose:** Eviction is used for the protection of 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 and thus typically aimed at victims of domestic violence.
- **Issued by:** Only the Police of the Czech Republic without application are competent to perform eviction, i.e., to expel an offender from the common dwelling and its surroundings.³¹
- **Characteristics and procedure:** Eviction order lasts for 10 days (with the possibility of extension)³² and the violent person must leave the defined space without undue delay and refrain from entering the defined space and contacting the person at risk.³³ In the case of eviction, the check has to be performed at least once during a given time limit by the police officer in the place from which the offender should have been excluded.³⁴ 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 expelled person breaches the eviction order, he or she may commit the offense of obstructing the enforcement of an official decision and expulsion.³⁵ Eviction orders and protection orders issued under civil law are applied quite frequently, in contrast to protection orders issued under criminal law which are used insufficiently.

EPO and EC Directive 2011/99/EU

Transposition in National Law – basic information

- **Legal background:** In the Czech Republic, the Directive 2011/99/EU on the European protection order 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. The government has issued guidelines in an Explanatory Memorandum on the application of the EPO Directive in the national context and specifically on the types of national POs which fall within the remit of the EPO Directive and the EPO.
- **Responsible body:** The body authorised to issue an EPO is a court or the public prosecutor’s office; and the body authorised to recognise an EPO is the District Court.
- **Characteristics:** The Czech Republic is one of the partner countries where the transposing legislation includes more detailed provisions as to the types of protection orders which fall within the ambit of the EPO, this has instituted an arguably restrictive approach to issuing EPOs. Provisions under civil law legislation providing for the issuance of national protection orders specifically for victims of domestic violence and stalking have been expressly excluded from the remit of the EPO. The Czech Republic has transposed and adapted most of the fundamental provisions of the Directive sufficiently. The

³¹ § 44 par. 1 of the Act on the Police of Czech Republic (Act No. 273/2008)

³² § 44 par. 2 of the Act on the Police of Czech Republic (Act No. 273/2008)

³³ § 45 par. 1 of the Act on the Police of Czech Republic (Act No. 273/2008)

³⁴ § 47 par. 4 of the Act on the Police of Czech Republic (Act No. 273/2008)

³⁵ § 337 of the Criminal Code (Act No. 40/2009), Translation of the Criminal Code -

https://www.legislationline.org/download/id/6370/file/Czech%20Republic_CC_2009_am2011_en.pdf

Czech Republic is besides Italy the only one of the project partner countries, which in national legislation stipulates an express obligation that the victim should be informed of their right to request an EPO. On the contrary, with regard to legal aid it can be pointed out to insufficient national transposing legislation. No provisions have been made to provide legal aid to victims requesting an EPO, further constraining victims from exercising their rights and their access to justice.

Application Process for an EPO – how social services can support victims on applying

- **Provide information** about the EPO to those who meet the requirements for its issuing, i.e., the person who is planning to move to another Member State and for his/her protection has been given a protection order under Czech Criminal law.
- **Help the applicants with filling out applications** and provide an official translation of this form into the Czech language. Czech law provides that they may be recognized if the protection order has been issued by a judicial or equivalent authority of another Member State in accordance with its legislation **upon the application of the protected person**. The application shall be given using the standard form set out in Annex I of the Directive. The official translation of this form is currently not available to Czech applicants for the EPO.

Procedure

- Before issuing an EPO, the judicial authority (courts or public prosecutor's offices) is obliged to verify that the protection order on the basis of which it is to be issued imposes restrictions only under **criminal law**. At the same time, it ascertains whether the described conduct is criminal in the Czech Republic. If it is not a crime, the court will not be issuing the EPO.
- The protected person may apply for an EPO, either to the competent authority of the issuing State or to the competent authority of the executing State. If the request to issue an EPO is rejected, the protected person has the right to submit a complaint against such a decision.
- A district court in the place where the protected person (temporarily) resides is competent to issue decisions recognising the EPO.
- The court must issue two (2) Orders; one for the recognition of the (EPO) and the second for the adoption of similar protection measures, already prescribed by the Criminal Procedure Code. The law does not specify any time limits for decisions; there is only a duty to adjudicate without undue delay.
- The district court is obliged to inform the protected person, the person causing danger, and the competent authority of the issuing State about the measures which were adopted. If the court does not recognise the EPO, it must inform the protected person about the possibility to seek provisional measures under Czech criminal law.

Implementation of EPO - effectiveness, gaps

Although Czech transposing provisions seem to be sufficient enough to enable the issuance and recognition of EPOs, this has not taken place so far. According to info received by the international section of the Supreme Public Prosecutor's Office, **has not registered any EPO in 2020** or in the previous years that would

be made or that would be issued in another EU Member State and sent to the Czech Republic for recognition and execution.

Major impediments in the application process and execution of EPOs in the Czech Republic are the following:

- The Czech Republic is one of the partner countries where the transposing legislation includes more detailed provisions as to the types of protection orders which fall within the ambit of the EPO, this has instituted an arguably restrictive approach to issuing EPOs.
- Provisions under civil law legislation providing for the issuance of national protection orders specifically for victims of domestic violence and stalking have been expressly excluded from the remit of the EPO, as well as eviction orders. This despite the fact that protection orders are more frequently issued pursuant to these civil law provisions, rather than criminal law provisions, to protect victims of domestic violence.
- In the Czech Republic there is an exceptionally low awareness about the EPO among the general public and experts.
- Transposition of the EPO Directive was not accompanied by practical guidelines for legal and social professionals as well as judicial / administrative authorities involved in its implementation. Even though the obligation to inform the protected person about the EPO was implemented into the Czech law, the persons in need of protection are hardly informed about the possibility to apply for it.
- There is no campaign, or a comprehensive information platform focused on the EPO. The lack of relevant and comprehensible information is a fundamental obstacle to the filing of applications for an EPO.

Useful Contacts:

NGOs helping victims of domestic and sexual violence:

- **ACORUS, z. ú.** is a Prague-based organisation offering assistance with simple legal submissions and cooperating with external lawyers (info@acorus.cz, <http://www.acorus.cz/>).
- **Persefona, z. s.**, based in Brno, ensures complex services for victims, including legal aid, for the Region of South Moravia (poradna@persefona.cz, <https://www.persefona.cz/>).
- **profem, o. p. s. – centre for victims of domestic and sexual violence** provides complex legal, social and psychological aid in offices in Prague, Beroun, Příbram and Benešov (info@profem.cz, <https://www.profem.cz/>).

NGOs helping victims of crimes:

- **Bílý kruh bezpečí, z. s.** operates in various Czech cities (such as Olomouc, Ostrava, Pardubice, České Budějovice, Jihlava etc.), offers legal support and cooperates with external lawyers (bkb@bkb.cz, <https://www.bkb.cz/>).

- **In IUSTITIA, o. p. s.** focuses on victims of hate crimes and it offers legal and social services in Prague and Brno (in-ius@in-ius.cz, <https://www.in-ius.cz/>).

NGOs helping foreigners and migrants:

- **Organizace pro pomoc uprchlíkům (OPU), z. s.** (Organisation for aid to refugees), present in Prague, Brno, Hradec Králové, Plzeň and Ostrava, may assist migrants or asylum-seekers in foreign-related legal matters and it might also coordinate legal representation (opu@opu.cz, <https://www.opu.cz/>).
- **Sdružení pro integraci a migraci (SIMI), o. p. s.** (Association for integration and migration) helps foreigners and migrants living in the Czech Republic and provides them with complex legal support in a number of languages (poradna@migrace.com, <https://www.migrace.com/>).

Attorneys

- **Register of providers of assistance to crime victims** is a public database led by the Ministry of Justice containing attorneys helping victims of crimes and violence (<https://otc.justice.cz/verejne/seznam.jsf>).
- **Czech Bar Association**, as a union of practicing attorneys, may be useful when looking for a legal representative (<https://www.cak.cz/>).

GREECE

Protection orders in Greece

In the Greek law, protection measures provided for victims of all forms of violence are contained in generic Civil and Criminal Law and more specific provisions in Domestic Violence (D.M.) Law.

Types of protection orders and procedures

Civil Law

In **Civil Law** and in particular articles 731 et seq. Code of Civil Procedure (CCP) “*Temporary settlement of a situation*” **security measures** are foreseen as well as competent judicial authorities, process and duration.

Temporary measures that can be ordered according to Article 735 par. 2 of CCP:

- the eviction of the defendant from the family residence,
- the relocation,
- the prohibition to approach the residence or work premises of the applicant or the residences of close relatives/ children’s schools and shelters

Issued by: Civil Court

Procedure: Civil Courts are entitled to order as a security measure any action, omission or tolerance of a specific act by the person against whom the application is directed. The Court's decision is of a temporary nature and is valid only if the victim files a lawsuit for the permanent settlement of the case. Since judicial proceedings might last from 2 to 6 months, a temporary judicial protection may also be granted by the issuance of an interim order.

Duration: Security measures last until Court’s ruling in the lawsuit for the permanent settlement of the case

Implementation: In Greek jurisprudence most common protection (security) measures ordered by civil courts in SGBV cases (article 735 CCP) are: a) in (D.V)- cases, the removal of parental care due to previous violent behavior, the relocation of the person from family domicile and the regulation of communication with the children and b) in non-family-cases; the prohibition of approaching the person at risk and the prohibition to stay in a specific area/place.

Criminal Law

In **Greek Criminal Law**, Penal Code (PC) and Criminal Procedure’s Code (CPC) **restrictive conditions** are imposed on the person causing danger.

Types of protection orders according to Article 283 par. 1 of CPC:

- the provision of a guarantee,

- the obligation of the accused to appear at certain periods to the investigator or to other authority in Greece or in Greek consular abroad,
- the prohibition to go or reside in a certain place or abroad and the prohibition to associate or meet with certain persons.

Procedure and competence:

Competent for their imposition of Court, the conditions, their type and duration differ in every stage of the criminal proceedings; a) pre-trial, b) by the issuance of court decision or c) in sentencing.

At the pre-trial stage:

Issued by: the Investigator

Procedure: At the pre-trial stage and in particular, during the interrogation, restrictive conditions may be imposed on the person accused. Competent to impose them is the Investigator, who issues an Order, after obtaining the previous written consent of the Prosecutor. Any dispute among the Investigator and the Prosecutor is resolved by the Council of Criminal Judges. According to article 282 par. 2 (CCP), the purpose of the restrictive conditions is on one hand to prevent the risk of new crimes committed by the person accused and on the other to ensure that (s)he will appear in the interrogation or in Court and the sentence will be executed.

For their imposition, following conditions must apply, namely:

- serious evidence of guilt for the person accused for crime or misdemeanor punishable by at least 3-month-imprisonment (Articles 282 Par. 1 and 283 Par. 2 CCP),
- known residence in the country or not having facilitated his escape by means of preparatory acts or not having previously been a fugitive from a trial or from a sentence or not been found guilty of escaping as a detainee or for violating residence restrictions in order to escape or there are no irrevocable convictions for similar criminal acts so that it is reasonably expected that if (s)he is released will not commit other crimes (a. 286 par. 1).

Duration: until a final decision is issued by the Criminal Court.

When issuing a court decision

Issued by: Criminal Court

Procedure:

When issuing a court decision, the criminal court may impose restrictive conditions in cases when:

- someone is sentenced to imprisonment not exceeding three years and
- the execution of the sentence is suspended for a period of one to three years according to article 99 par. 1 or part of the sentence is suspended (article 100 par. 1 PC).

These restrictive conditions are imposed disjunctively or cumulatively and are indicatively listed in article 99 par. 2 (PC). In case terms are violated by the accused article 81 par. 5 (PC) provides, *inter alia*, the lifting of the restrictions and the execution of imprisonment that had been suspended.

Duration: If they have been ordered by a court decision, they last for the period defined in it and anyways until the sentence is served.

At the sentencing stage

Issued by: The Board of Judges

Procedure: At sentencing stage, persons convicted to imprisonment can be released, unless revoked, in cases provided explicitly by article 105 B PC and under the conditions set by article 106 of PC. According to article 106 par. 2a' P.C. the person dismissed may be subjected to certain obligations concerning the way of life and in particular his place of residence by analogy application of article 99 par. 2 of PC. Also, according to article 105 par. 3 of PC, in case imprisonment is replaced by serving the sentence at the residence of the convicted person, appropriate conditions may be placed at the discretion of the Court (those in article 99 par. 2 cases d' to f'), with analogous application of article 99 par. 4 (PC), or sentence under electronic surveillance.

Duration: The duration is until sentencing is served.

In case of violation of protection orders: Article 169A par. 2 PC provides for imprisonment of up to three years for anyone who violates restriction orders, regarding his/ her freedom of movement/ residence as imposed by a court/ judges/ decision.

Law 3500/2006 on Domestic Violence

In Greek Law, the pre-eminent law for persons in need of protection is Law 3500/2006 on **Domestic Violence (D.V)**.

Types of protection orders: article 15 provides for security measures that can be ordered by civil courts against a perpetrator of domestic violence. They are:

- the eviction of the defendant from the family residence,
- the relocation,
- the prohibition to approach the residence or work premises of the applicant or the residences of close relatives/ children's schools and shelters.

Issued by: the competent investigator or the penal court or the board of judges, depending on the stage of the penal procedure.

Procedure: Similarly in the context of criminal proceedings, article 18 contains an indicative list of the restrictive conditions imposed on the perpetrator in the event of a (D.V) crime and defines the procedure, the conditions and the purpose of their imposition. Such restriction orders are imposed if it is deemed necessary to protect the physical and mental integrity of the victim.

Duration: Their duration is not specified, but it is explicitly provided that they are imposed for as long as it is required. It is noteworthy that after the amendment of Law 3500/2006 by the Istanbul Convention, said

restriction orders are valid until their revocation, replacement or modification by the Judicial authority/ Prosecutor that imposed them.

In case of violation: Article 18 par. 1 also provides a sentence of imprisonment in case above mentioned measures/ restrictions are violated.

EPO and EC Directive 2011/99/EU

Greece transposed EU Directive 2011/99/EU into national legislation in 2016 with Law 4360/2016 on the European Protection Order 2015. It reflects most of the provisions of the Directive.

Application Process for an EPO

Conditions:

- A “victim” is already benefiting from a protection order issued by a judicial authority in Greece (Prosecutor, Investigator, Court)
- Said protection order imposes at least one of the following restrictions against the perpetrator:
 - ✓ Prohibition of entry into certain localities, places or designated areas where the victim resides or which s/he visits;
 - ✓ Prohibition or regulation of any contact with the victim, in any form; **or**
 - ✓ Prohibition or regulation of the perpetrator’s access to the victim closer than a predetermined distance;
- The victim decides to settle (stay) or is already residing (staying) in another Member State within the EU (except Ireland and Denmark), and the same perpetrator is following her/him.

The person in need of protection has the right to apply for the issuance of an EPO to the Prosecutor of the Court that issued the protection order under **Article 5 of L.4360/2016**.

- Only the victim can apply for an EPO either in person or by a (legal or social) representative.
- They need to apply/ fill in a standard form annexed to the EPO Law and address it to the competent authority of either the issuing- or the executing state
- Legal aid for victims applying for an EPO is not provided for in Greek EPO Law; however, victims may be entitled to legal aid under national Legal Aid schemes

Recognition of an EPO

- Upon receipt of an EPO, the Prosecutor of 1st Instance Court in the place where the protected person (temporarily) resides is in charge to recognize it and adopt all protection measures available under national law, that correspond to a similar case.

- The prosecutors must issue two Orders:
- One for the recognition of the EPO,
- The second for the adoption of similar protection measures, already prescribed by law.

How social services can support victims in applying for an EPO:

- Provision of information: inform victims of their right to apply for an EPO and provide information on the Greek EPO Law and its implementation in European level
- Assistance in filling in the standard form (Annex I of EPO law) and in submitting it to competent Prosecutor (translating it also if necessary)
- Referral to other relevant services such as legal aid, police, social services, etc.

Implementation of EPO - effectiveness, gaps

No data is available on the number of EPOs issued or executed in Greece. The judicial system does not record or monitor the number of EPOs issued or executed and the Ministry of Justice, Transparency and Human Rights which is designated as central authority in order to coordinate and assist prosecutors, has not so far recorded such data. Therefore, it appears that ***EPOs have neither been issued nor recognised/ executed in Greece to date.***

A number of gaps have been identified:

- There is a lack of information provided to victims regarding their right to an EPO and their rights as victims.
- There have been no organised trainings of legal professionals, including the judiciary, prosecutors and lawyers coming into contact with victims of SGBV, on the use of the EPO and the provisions of the Greek Law - this means that legal professionals are less likely to inform victims of their right to an EPO should they wish to travel to or move to another Member State.
- There is no legal obligation of the judiciary, prosecution or lawyers/ social workers assisting victims of gender-based violence to inform them of their right to apply for an EPO under the Greek Law.

Useful Contacts

- **Central authority:** Ministry of Justice Transparency and Human Rights (European and International Cooperation) Head of department for European and International Affairs, Ms Kara: tel: 213 130-7088 (-7236) MKara@justice.gov.gr
- **Supreme Annulment Court Prosecutor** - Department of International Relations and Lifelong Training of Prosecutors, tel 210 6411528
- **NGO Diotima** <https://diotima.org.gr/en/, legal>, e-mail: diotima@otenet.gr, tel: 210-3244380 (lawyer Ms. Apostolaki)

- **Union of Women Associations of Heraklion prefecture**, www.kakopoiisi.gr, email: info@kakopoiisi.gr, tel: 2810 24 21 21

ITALY

Protection orders in Italy

Protection provided for by the Italian legal system is made up of micro-systems of integrated protection: measures can be of administrative, civil and criminal nature, and are applicable to specific types of crimes (stalking, injury, domestic violence, sexual violence).

In criminal matters, prosecutors, judges for preliminary investigations and, in some cases, judicial police as well as various social services step in. The rights to defence are always upheld also by lawyers.

Main legal bases are provided by the Italian Criminal code, Criminal procedure code and the Civil code: in addition, several major laws have regulated gender-based and domestic violence.

Main laws on gender-based and domestic violence

In general, this legislation is designed to govern the violent conduct to which protective orders can be applied.

Law no. 154 of April 4, 2001 has introduced into the Italian legal system the main measures and rules on protection orders.

Decree Law no. 11 of February 23, 2009 has introduced the crime of persecutory acts (stalking, article 612 *bis* of the Criminal Code), providing the victim with information on anti-violence centres and introducing a free telephone number at the Presidency of the Italian Council - Department for equal opportunities.

Law Decree no. 93 of August 14, 2013 ('femicide law') has introduced into the system the urgent removal from the family home, as well as tightening of penalties and provision for new aggravating circumstances: violence against pregnant women; ill-treatment in families; physical violence against or in the presence of minors; violence perpetrated by the spouse - even ex-spouse - or by those who have or have had a relationship with the victim, even if there is no marriage or cohabitation bond. In addition, free legal aid has been provided, at the expense of the State, for victims of ill-treatment in families, female mutilation, group sexual violence and stalking. Finally, any modification or revocation of measures against the offender, including release orders, must be communicated in writing to the victim as a warning.

According to **Law No. 161 of October 17, 2017**, which has reformed the Anti-Mafia Code, new prevention measures may be applied to the suspects of stalking. In particular, the special surveillance of public security will be applicable, to which the prohibition of residence in one or more municipalities may be added. When other preventive measures are not considered suitable, the suspected stalker may be required to reside in the municipality of residence or habitual abode.

The **Law No. 69 of July 19, 2019**, usually referred to as the 'Code Red', provides for penalty increases and aggravating factors, swiftness while dealing with criminal procedures³⁶, specific training courses for different

³⁶ For this type of procedure, it is as if a sort of a 'fire alarm' with a preferential treatment was triggered: thus, the judicial police, faced with a report of a crime of domestic or gender-based violence, acquire the information and immediately reports it to the

police corps and the possibility for the offender to undergo psychological treatment, with the aim of making a recovery and support, which could also result in the suspension of the sentence.

The law also introduces four new criminal offences: violation of orders of removal from the family home and the prohibition of approaching places frequented by the injured party; deformation of the person's appearance through permanent facial injuries, an intentional violent crime that entitles the victim to receive compensation from the State; illicit dissemination of sexually explicit images or videos without consent of persons captured (revenge porn); using violence or threat or taking advantage of the conditions of vulnerability or psychic inferiority or a person's need, by abusing family, domestic, working or authority relationships deriving from the custody of the person due to a medical treatment, training or education, supervision or detention, induces the person to contract marriage or civil union.

Administrative protection order

Decree Law n. August 14, 2013, no. 93 provides that domestic violence includes all serious and non-episodic acts of physical, sexual, psychological or economic violence used in families or households or between current or former spouses or persons linked by an ongoing or previous romantic relationship, regardless of whether the perpetrator of such crimes shares or has shared the same residence with the victim.

Types of protection orders

- The order consists of an oral warning.
- The Questore informs the perpetrator of the violence, without delay, about the services available on the territory, including family counselling centres, mental health services and addiction treatment facilities, in order to prevent the repetition of the criminal conduct.
- If situations of violence or abuse against a foreigner are ascertained and there seems to be a very real and ongoing danger to their safety (as a result of the choice to escape violence or as a result of statements made during the preliminary investigation or trial), the Questore will issue a residence permit to allow the victim to escape violence.

Issued by: the 'Questore'³⁷.

Procedure: The procedure starts with the presentation of the crimes, by the victim and, after assessing the circumstances of domestic violence, the authority verbally admonishes the offender, by inviting them to engage in proper conduct, in compliance with the law: the measure on weapons, ammunition and driving licenses may also be adopted. Generally, in the administrative context, only the police are involved, either

Public Prosecutor, who, within three days, must hear the injured party or take information from the person who has reported these crimes. The speed and immediacy of investigations are directed towards limiting as much as possible criminal conduct of repeated violence. In addition, 12 months (instead of six) have been provided for a criminal complaint.

³⁷ High-level official of the Italian Ministry of Interior who, within a province, in liaison with the Prefect (government representative on the territory), is responsible for the technical coordination of police services and public order.

independently (on the basis of information) or at the request of the victim: the measure is decided after the victim has been heard and the police have conducted necessary investigations.

Duration: the Prefect, on the proposal of the Questore, may suspend the driving licence for one to three months.

In case of violation: for stalking cases only, violation of the warning leads to the initiation of criminal proceedings *ex officio*.

Civil protection orders

The purpose of civil measures is to react to domestic abuse not in a view of a future penalty (as in criminal matters, where the precautionary measure effects the initiation of criminal proceedings) but with an action that ends in a measure that is as swift as possible, and in a precautionary and preventive sense, such as to ensure the interruption of domestic abuse and the reduction of the risk of reiteration of such violence.

In civil measures, the civil judge makes orders that can also originate from criminal offences (which will be evaluated by criminal court judges) but against which civil measures are taken.

Types of protection orders according to Articles 342 *bis* and 342 *ter* of the Civil Code

- removal from the family home of the cohabitant or spouse who has engaged in violent conduct,
- prohibition to approach the places habitually frequented by the victim (in particular, the workplace, home of the family of origin, or the home of other close relatives or other persons and the children's schools, unless the spouse or cohabitant must go to the same places for work purposes.
- The judge may also order that social services of the territory or of a family mediation centre, step in, as well as associations whose purpose is to support and accommodate women and minors or other victims of abuse and maltreatment.
- Such authority may require periodic payment of an allowance given to cohabitating partners, even by having it paid directly by the employer of the person causing danger.

Issued by: The civil judge has exclusive jurisdiction over domestic abuse but with minor detention penalties, such as, for example, beatings or light injuries, since in these cases the criminal judge cannot issue precautionary measures.

Procedure (Article 736 *bis* Code of Civil Procedure): When the conduct of a spouse or other cohabitant causes serious harm to the physical or moral integrity or freedom of the other spouse or cohabitant, the judge, at the request of the injured party and by decree, orders the spouse or cohabitant, whose conduct is detrimental to the physical or moral integrity or freedom of the other spouse or cohabitant, to refrain from such conduct and orders one of the protection measures.

Duration: The duration of the protection order cannot exceed one year and may be extended, at the request of the injured party, only if serious reasons subsist and only for the time strictly necessary.

In case of violation: failure to comply with protection orders is a criminal offence. The penalty is that provided for in Article 388(2) of the Criminal Code: imprisonment for up to three years or a fine of between EUR 103 and EUR 1032.

Criminal protection measures

These measures have been introduced by the legislator, in the form of ‘precautionary measures’, namely coercive measures on the freedom of the accused against whom strong evidence of guilt has been brought forward. The criminal judge can issue the precautionary measures provided for crimes punishable by more than three years’ imprisonment.

Types of protection orders

- One precautionary measure (**Article 282 bis Code of Criminal Procedure**) that is enforced, is the expulsion from the family home: in such case, the defendant must leave the family home immediately (family home shall mean cohabitation, which therefore also applies to *de facto* families or forms of cohabitation that are not necessarily stabilized³⁸). If there is a risk to the safety of the injured party or their close relatives, the judge may require that the accused does not approach places that are habitually frequented by the injured person: the workplace, home of the family of origin or the home of a close relative.
- Another measure (**Article 282 ter Code of Criminal Procedure**) regulates the prohibition to approach or the obligation to keep a certain distance from places habitually frequented by the injured party and their close relatives: to this end, a control modality by means of electronic means or other technical instruments (e.g. electronic bracelet) can also be put in place (but only in the case of house arrest and with the defendant’s consent).
- There is also the measure for urgent removal from the family home (**Article 384 bis of the Criminal Code**, introduced by the Law no. 93/2013, known as the ‘law against femicide’). The judicial police, upon authorization (written, or made orally and confirmed in writing, or by telematic means) of the public prosecutor, has the power to order the urgent removal from the family home, with the prohibition to approach the places usually frequented by the injured party, with regard to those who are caught in *flagrante delicto* of the crimes referred to in Article 282 bis (6), where there are reasonable grounds to believe that the criminal conduct may be repeated, by placing in serious and ongoing danger the life or the physical or psychological integrity of the injured party. This is a precautionary measure, functional to protect the injured party from the violence perpetrated inside and outside homes. Obviously, the public prosecutor is under obligation to ask the judge for the preliminary investigations to validate the measure, according to the rules of procedure. Urgent removal is justified by the flagrancy of the following crimes: violation of family assistance obligations; abuse of means of correction or discipline; personal injuries; reduction or slave maintenance or servitude; child prostitution; child pornography; possession of pornographic material; trafficking in persons; purchase and alienation of slaves; sexual violence; aggravated sexual violence; sexual acts with a minor; corruption of a minor; group sexual violence; threats, formulated towards the cohabitant or their close relatives.

³⁸ Law no. 54 of April 4, 2001, which introduced this provision, expressly refers to regulations aimed to combat violence ‘in family relationships’.

Issued by: the judge for preliminary investigations, the public prosecutor in the case of Article 384 *bis* Criminal Code.

Procedure: Protection orders are requested by the public prosecutor and imposed by the judge for preliminary investigations. The surveillance of protection orders is entrusted with the victim themselves. Extra surveillance, such as home visits, may be used at the discretion of the police. Moreover, the probation officer may ask, during meetings with the offender, whether they have obeyed the protection order; finally, victim support services may indirectly check, with her help, whether she is safe.

Duration: one year, except for an extension, which must be requested, if serious reasons continue to apply.

In case of violation: Violation of the obligations or of precautionary measures described is punishable by imprisonment from six months to three years (Article 387 *bis* of the Criminal Code).

By means of the communication about the measures implemented, the injured party is informed of the right to request the issuance of a European protection order (EPO), in order to move to another Member State enjoying the right to benefit, through the EPO, from a protection order similar to the original one, without having to start a new procedure.

EPO and EC Directive 2011/99/EU

The European legislation (Directive 2011/99/EU) was transposed in Italy by **Legislative Decree No. 9 of February 11, 2015**. According to the decree:

- Judicial courts are competent to issue an EPO or to recognize an EPO issued in another Member State. The Ministry of Justice is the central authority in charge of forwarding and receiving European protection measures and protection orders.

Issuing an EPO

- The competence lies with the same judge who, in the criminal proceedings, has ordered the application of a protection order (Articles 282 *bis* and 282 *ter* of the Code of Criminal Procedure). This judge informs the victim of the possibility of applying for an EPO and decides on the request of the protected person, who has to indicate where they intend to stay. The decision declining or declaring the request inadmissible can be appealed to the Supreme Court of Cassation.
- The judicial authority that issued the EPO sends the order to the Ministry of Justice for the purpose of forwarding it to the competent authority of the executing State, after translating the EPO into the language of that State. If the executing State does not recognize the EPO, the protected person will be informed.

Recognising an EPO

- To obtain recognition and enforcement of an EPO issued in another MS, the application in Italian language must be submitted to the Ministry of Justice, which then forwards it to the Court of Appeal in whose district the protected person has declared to stay or wants to stay. If the EPO is recognized, the Ministry, in such case, will inform the protected person, the person causing danger (also through the competent authority of the issuing State), the judicial police (to enforce the supervision measure) and the social services of the place where the protected person has declared their intention to settle. The communication must be written in a language spoken by the recipients and must be made in such a way as not to disclose, to the person causing danger, the address and contact details of the protected person.
- In the event that the person causing danger violates the requirements of the protection order, the judicial police will inform the court of appeal, which, in that case, may apply a more serious temporary measure. The court will inform the competent authority of the EPO issuing state about the violation. The notification will be sent in standard form, in the language of the issuing state.
- The EPO may also be non-recognized: in such cases, the judicial authority will inform the Ministry of Justice that will notify the competent authority of the issuing State, without delay: under Italian law, if certain legal conditions are not met, the EPO cannot be recognized.

Effective implementation of EPO

According to the EU Commission's Report on the Implementation of the Directive in the MSs, dated May 2020³⁹, in the period 2015-2018, 37 EPOs were issued and 15 of them executed, while in the previous period only one EPO is known to have been issued in Italy. In 2017, the Ministry of Justice requested the Courts of Appeal to register the EPOs issued domestically and those issued in other MS and recognized in Italy, together with the related protection orders, and to forward them to the Ministry. This body will then forward the data received to the EU Commission for statistical analysis and for the purpose of monitoring the actual implementation of the directive. At present, aggregate and specific data are not accessible as they have not yet been made available to the public.

Useful Contacts

- **Central Authority for EPO:** Ministry of Justice - Office II - International Cooperation, Via Arenula 70 - 00186 Roma e-mail: cooperation.dginternazionale.dag@giustizia.it
- **National Authority for combating gender-based violence and discrimination:** Presidency of the Italian Council of Ministers - Department for Equal Opportunities, Largo Chigi 19 – 01187 Roma Phone no. +39-06 -6779 5339

Victim Support:

- Phone number 1522: it is a public service promoted by the Presidency of the Italian Council of Ministers - Department for Equal Opportunities. The number, free of charge and providing a round-

³⁹ Report from the Commission to the European Parliament and the Council on the implementation of Directive 2011/99/EU of the European Parliament and of the Council of 13th December 2011 on the European protection order, 11 May 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:187:FIN>

the-clock service, receives requests for help and support from victims of violence and stalking through specialized operators.

- State Police - Phone number 113
- Youpol: app created by the State Police for family abuse, which puts the victim directly in contact with the police. It can be downloaded for free, and is available for Ios and Android devices.
- European emergency phone number: 112 (You can call the Single European Emergency Number, 112, free of charge from your landline or mobile phone, even when your phone is without a SIM, locked or you have no phone credit).
- Support and protection associations for women, victims of violence (*Telefono Rosa, Donne in rete contro la violenza, ...*)

D. Useful Resources on the EPO

In case you are interested in further reading on EPO, we hereby provide you with a list of resources in which you can discover more relevant information.

EU documents

- **European Implementation Assessment of the Directive 2011/99/EU** was released in 2017 by the European Parliamentary Research Service. Available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2017/603272/EPRS_STU%282017%29603272_EN.pdf.
- **Report of the European Parliament regarding implementation of Directive 2011/99/EU on the EPO** was released in 2018 and contains general recommendations on transposition of the EPO Directive into domestic legal order. Available at: https://www.europarl.europa.eu/doceo/document/A-8-2018-0065_CS.html.

Reports and data

- **Mapping the legislation and assessing the impact of protection orders in the EU Member States** is a thorough report from 2015 resulting from the Daphne III Programme of the European Commission which brings summary of data on protection orders, including the EPO. Available at: <http://poems-project.com/wp-content/uploads/2015/04/Intervict-Poems-digi-1.pdf>.
- **Protection of the Gender-Based Violence Victims in the EU** is a publication issued by the University of Barcelona in 2014. It describes information regarding implementation of the EPO directive in the EU Member States and it focuses on the function of the EPO as a tool of international judicial cooperation. Available at: https://www.researchgate.net/publication/281555933_Protection_of_the_Gender-Based_Violence_Victims_in_the_European_Union.
- **The European Protection Order: Its application to the victims of gender violence** is a publication funded by the Daphne III Programme of the European Commission and published in 2015. The publication analyses the transposition of the EPO Directive in relation to protection of victims of gender-based violence. Available at: https://www.researchgate.net/publication/281555482_The_European_Protection_Order_Its_Application_to_the_Victims_of_Gender_Violence.

Articles

- **Cross-border protection measures in the EU** is an article from 2016 authored by Dutta Anatal for the Journal of Private International Law. The piece tries to sketch the approach of the EU legislator to the creation of the EPO Directive and aims to point out to its weaknesses. Available at: <https://www.tandfonline.com/doi/full/10.1080/17441048.2016.1143689>.

- **Protection Orders in the EU Member States: Where Do We Stand and Where Do We Go from Here?** is an article written in 2012 by Suzan van der Aa for the European Journal on Criminal Policy and Research aiming to provide overview of current protection order legislation in the EU. Available at: <https://link.springer.com/article/10.1007/s10610-011-9167-6>.
- **The European Protection Order: No time to waste or a waste of time?** is an article published in 2011 by authors van der Aa and Ouwerkerk in the European Journal of Crime, Criminal Law and Criminal Justice. Available at: <https://research.tilburguniversity.edu/en/publications/the-european-protection-order-no-time-to-waste-or-a-waste-of-time>.

EU projects

- **Artemis** - Promoting the right of protection of women through the application of the EC Directive 2011/99/EU and the European Protection Order, Website: www.artemis-europa.eu

Croatia

- Law on Judicial Cooperation in Criminal Matters with the Member States of the European Union, with the Application Form, <https://www.zakon.hr/z/345/Zakon-o-pravosudnoj-suradnji-u-kaznenim-stvarima-s-dr%C5%BEavama-%C4%8Dlanicama-Europske-unije>
- European portal for E-justice, https://e-justice.europa.eu/content_european_protection_order-360-hr.do

Cyprus

- Cyprus Bar Association – Legal Aid legislation: <http://www.cyprusbarassociation.org/files/cba/Legal-aid-Legislation.pdf>
- Judicial Service, Supreme Court, Republic of Cyprus – application for legal aid (in Greek only): <http://www.supremecourt.gov.cy/judicial/sc.nsf/All/D25E254964A1F850C22583B00043B149?OpenDocument>
- Advisory Committee on Preventing and Combating Violence in the Family: http://www.familyviolence.gov.cy/cgi-bin/hweb?-V=index&_FSECTION=20000&-dindex.html

Czech Republic

- Act. No 104/2013 Coll. - <https://eur-lex.europa.eu/legal-content/CS/TXT/PDF/?uri=NIM:205471>
- European Justice Portal https://e-justice.europa.eu/content_mutual_recognition_of_protection_measures-358--maximize-cs.do
- proFem - centrum pro oběti domácího a sexuálního násilí website - <https://www.profem.cz/shared/clanky/837/Informa%C4%8Dn%C3%AD%20materi%C3%A1l%20EPO.pdf>

Greece

- Ministry of Justice Transparency and Human Rights (European and International Cooperation) <https://www.ministryofjustice.gr>
- Supreme Annulment Court Prosecutor - Department of International Relations and Lifelong Training of Prosecutors <https://eisap.gr/>
- Research Center for Gender Equality (KETHI) <https://www.kethi.gr/en>

Italy

- **Free legal aid** - Consiglio Nazionale Forense (Italy's National Bar Council) <https://www.consiglionazionaleforense.it/modulistica>
- National strategic plan on male violence against women 2017-2020 <http://www.pariopportunita.gov.it/wp-content/uploads/2018/03/testo-piano-diramato-conferenza.pdf>
- Legislative Decree No. 9 of February 11, 2015 (implementation of Directive 2011/99/EU) <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2015;9>

E. Perceptions of Professionals on the EPO & national legislation for Protection Measures

During the Transnational Seminar for Civil Society Organisations held online by the Artemis Project partners in 13th July 2021, participants from all partner countries (namely Cyprus, Croatia, Greece Czech Republic and Italy) were invited to reflect upon the achievements and gaps they perceive, regarding the national legislation for protection from GBV, including national protection orders as well as on the implementation of the EPO.

The main **challenges and gaps** identified by participants regarding the implementation of national protection measures and the EPO can be summarised as follows:

- Women victims are often unaware of their rights. As well as this the victim's perspective is often overlooked.
- Women victims often face double victimization and are represented by less competent lawyers.
- Women victims are the ones who are forced to leave the household while male partners and perpetrators of crime remain in the household. Perpetrators often do not face the consequences of their actions.
- There are conflicting rules when rights of the fathers conflict with the right of the victim who has a protection order.
- Data collection and data availability is often limited. Difficulties in monitoring cases.
- Istanbul Convention and EU Victim's Directive are not implemented effectively.
- There is a great range of legal tools that victims can use, but enforcement is not great.
- National protection measures often take too long to be established and enforced, thus, (migrant) women have problems in accessing protection orders, which also affects the EPO.
- Under-funding of women centres by governments and low referral rates.
- EPO is not widely known among professionals; although it is considered a useful tool the participants did not know of any cases. EPO is an effective measure especially for migrant and refugee women in Europe.

As well as this participants also formulated the following **Recommendations to improve the application of national protection measures and the EPO:**

Policy Oriented

- Improve implementing efficiency of protection orders.
- EU should urge Member States to improve harmonisation of EPO implementation; further integration of EPO to the Protection Orders Courts decisions.

- Member States should improve effectiveness and compliance with the Istanbul Convention and EU Victims Directive.
- Data collection to ensure there is an evidence base for possible improvements and policymaking, as well as monitoring mechanisms to ensure compliance with protection orders.
- Special focus on the needs of migrant/refugee women.
- Set up a strong multi-agency collaboration framework.
- NGOs providing frontline services should be treated as equal partners by public authorities.
- Sustainable, long-term funding of NGOs in order for them to be able to adequately meet the demand for their services.

Practice Oriented

- Rapid intervention of the civil judge/ prosecution in order to regulate the relationships and protect the victims. More awareness raising and communication of EPO.
- Services should take all necessary actions to avoid any form of secondary victimization.
- Introduce more effective forms of coordination during the civil and criminal justice processes.
- Reinforce collaboration among professionals.
- Digitalise processes of national protection measures and EPO.

Knowledge Oriented

- Education and in-depth training of the operators involved in the provision of support to women victims regarding the existence and implementation of national protection measures and EPO.
- Implement capacity-building activities in a continuous basis, as well as internal capacity building for staff who are working directly with the victims.
- Development of tools to enable women victims to access relevant information
- Raise the visibility of the existing tools which are available free of cost.
- Further investigate how EPOs/Protection Orders include children and how custody issues in cases of domestic violence are related to the EPO/Protection Order

Legislation Oriented

- Shared custody to be excluded in the ascertained cases of domestic violence.
- Apply changes in legislation related to protection orders, in cases where the father's right to contact conflicts with the right of the victim and children to safety.
- Remove criteria for removal of the perpetrator from the family home.

