



Resolution 1853 (2011)¹

Final version

Protection orders for victims of domestic violence

Parliamentary Assembly

1. Domestic violence is a persistent scourge affecting the lives of millions of people, especially women. Unfortunately, an inadequate legal framework often affects the capacity of Council of Europe member states to effectively respond to the protection needs of the victims and their dependants, whose physical safety is of the utmost importance.
2. In recent years, member states have adapted a number of existing legal measures, such as civil injunctions or restraining orders in the context of a criminal procedure, to suit cases of domestic violence. In addition, some member states have introduced protection orders specifically intended to protect victims of domestic violence by ensuring the removal of the perpetrator from the common home, provided that certain conditions are met.
3. These developments represent an important step forward in providing a comprehensive framework to meet victims' basic protection needs. However, the small proportion of cases of domestic violence reported to the authorities, the high number of cases withdrawn by the victims themselves and the low rate of convictions indicate that the current framework is not flawless.
4. One of its flaws is the fact that the procedure to obtain protection measures can usually only be initiated *ex parte*, which presents daunting difficulties for victims of violence in the light of their psychological situation and their fear of retaliation from the perpetrator. Likewise, the often exceedingly short duration of the protective measures does not leave sufficient time for victims to gather their thoughts, find practical solutions in order to resume a normal life and consider legal steps against the perpetrator.
5. A further element which contributes to weakening the effectiveness of the existing legal framework is a lack of understanding of the phenomenon of violence against women on the part of the law enforcement authorities, whether the police or the judiciary, whose members rarely receive specific training in this area.
6. The Parliamentary Assembly is convinced that strengthening the effectiveness of available measures to provide for the physical safety of victims of domestic violence should be a priority, not only to prevent harm to the victims, but also to ensure the credibility of the entire criminal-law framework on violence against women. Victims will feel safe to report the crimes to which they have been subjected only when they are convinced that the legal system is willing and able to protect them against the threats posed by the perpetrator.
7. In this context, the Assembly reaffirms its support for the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210) which has made a major contribution to bringing the issue of domestic violence to the forefront of the political debate and ensuring that it is not considered as a "private" matter, but one which affects the public interest.

1. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 25 November 2011 (see [Doc. 12786](#), report of the Committee on Equal Opportunities for Women and Men, rapporteur: Ms Myller; and [Doc. 12791](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Díaz Tejera).



8. With these considerations in mind, the Assembly asks Council of Europe member states to:
 - 8.1. ensure that a variety of legal measures is available for the protection of victims of domestic violence, including civil injunctions, restraining orders in the context of a criminal procedure, and emergency barring orders, as well as specific protection orders for victims of domestic violence;
 - 8.2. ensure that, as far as possible, these measures can be initiated *ex officio*, in addition to *ex parte*;
 - 8.3. instruct the police to investigate and keep a record of all reported cases of domestic violence;
 - 8.4. introduce an obligation on law enforcement authorities to pursue investigations or legal proceedings even when victims withdraw their complaint;
 - 8.5. in the context of legal proceedings in the area of domestic violence, ensure that emergency barring orders can be imposed for immediate protection, to be followed, as the case may be, by more permanent measures, including ones taken in conjunction with a criminal case;
 - 8.6. in cases of serious violence and threats, ensure that an emergency barring order is automatically imposed, together with an injunction on the perpetrator to undergo rehabilitation;
 - 8.7. ensure that when, in the context of a criminal procedure, a suspected perpetrator of violence is arrested for a short period, a restraining order is available to protect the victim upon the perpetrator's release;
 - 8.8. ensure that, in the context of a criminal procedure, a restraining order can be issued both before the trial and after sentencing, in both cases *ex officio*;
 - 8.9. instruct the police to investigate all cases of breaches of protection orders, irrespective of whether or not this is requested by the victim;
 - 8.10. ensure that sanctions for breaches of protection orders are substantial, proportionate and have an effective deterrent effect;
 - 8.11. ensure that protection orders are available for immediate protection and are free of charge for the victims of violence;
 - 8.12. organise or promote the organisation of training for law enforcement officials on violence against women and domestic violence, in all its forms, including psychological violence and so-called "honour crimes";
 - 8.13. set up one-stop services, providing a wide range of assistance and advice to victims of domestic violence.
9. The Assembly calls on member states to sign and ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence without delay.
10. The Assembly calls on Council of Europe member states to identify and share best practices in preventing and combating violence against women and domestic violence, with a view to enhancing common standards in this field.
11. Finally, as far as international co-operation is concerned, the Assembly encourages member states to recognise injunctions as well as restraining and protection orders issued by other Council of Europe member states.