



## Specific Needs and Protection Orders

### International policy recommendations

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This EU funded project with partners from Austria, Germany, Ireland, Poland, Portugal, and involving an expert from the UK, analysed phenomena of domestic violence (DV) against women in situations of heightened vulnerability and therefore with specific victim needs. Such specific needs may arise, for example, in cases where women with disabilities are assaulted, in cases of violence against homeless women, in connection with violence against women from ethnic minorities, who do not speak the country's official language and who lack a permanent legal residence status. Specific needs arise and exist in given situations, they are not "permanently attached" to a woman via her economic situation, ethnicity, disability status or other characteristics. The project focused upon frictions and mismatches between victimization experiences in specific situations, individuals involved in and affected by these experiences, and measures taken to handle incidents and to prevent their reoccurrence as stated in the European Victims' Directive (Directive 2012/29/EU, art. 9, 22, 23, 25). The situations the project primarily looked at are those where the use of protection orders, as specified in the Istanbul Convention (Council of Europe Convention on preventing and combating violence against women and domestic violence, 2011), is an option. Problems and tensions can arise with regard to the consequences and anticipated consequences of an application for protection

**The SNaP project**

orders. Tensions relate to such aspects as not being able to live independently once the perpetrator has been banned, losing one's permanent residence permit, being ostracized by one's significant others, or endangering custody of one's children. Problems can also arise with regard to the availability of measures. Availability and accessibility issues may for example be related to lack of information, illiteracy, or not speaking the respective country's official language.

## Key policy recommendations emerging from the SNaP project

### 1. A comprehensive legal approach integrating criminal law, civil law, and administrative law measures is essential.

With regard to cases of domestic violence in general and to cases involving specific needs in particular, criminal law, civil law, and administrative law measures need to be available. Criminal prosecution of domestic violence cases emphasizes the severity of the infringement on victims' rights and the value ascribed by society to protection from violence. Criminal law measures usually have a primary focus on the offender (as the possible subject of criminal sanctions) and not on the victim. Therefore, criminal law responses may be at odds with victims' primary needs for safety from violence and recovery from traumatic experiences. Civil law measures such as civil protection orders issued by courts aim at victim protection and are useful tools in safeguarding women from violence and preventing reoccurrence of violence in the domestic context. Usually, measures rooted in civil law require a considerable degree of self-initiative by the victim. If civil protection orders are dependent on criminal prosecution, they are generally only available to those victims willing to press charges or support criminal prosecution. Specific needs cases of domestic violence may involve victims who are limited in their potential to claim their rights and to self-initiate measures such as civil protection orders. Therefore:

*Comprehensive legal approach*

- Emergency barring orders / emergency protection orders issued by the police are required as a means of protecting victims in situations of imminent danger and providing them with some room for decision-making about steps to take in the interests of their safety and recovery.
- All protection orders, be they based on criminal, civil or administrative law, are only effective if an adequate and immediate response to breaches is standard policy.
- Particularly for victims who require support for everyday activities, linking protection orders with complementary measures is of the utmost importance.

## **2. Women's social rights in cases of domestic violence need to be recognised and legally protected.**

Not only does domestic violence infringe on victims' physical and emotional health and integrity but may also affect "social rights" such as maintenance of income, housing, or access to education and health services. Protection of social rights is of special importance in cases of domestic violence affecting victims whose vulnerability is connected to violation or endangerment of such rights – such as economic insecurity, risk of homelessness, or health conditions requiring assistance or treatment. Hence,

- a crucial precondition to assist women to overcome violence and leave a violent relationship is the availability of sufficient social, economic and support resources enabling the victim to live successfully without the perpetrator.

***Recognition and protection of social rights***

## **3. The implementation of EU Directive 2012/29/EU needs to be monitored with regard to vulnerable victims and specific protection needs.**

In Article 22, Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 "establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA" requires an "Individual assessment of victims to identify specific protection needs". This regulation is of the utmost importance with regard to especially vulnerable victims (such as women with disabilities, ethnic minorities, homeless women, female asylum seekers, older women, or refugees) whose specific needs may easily be overlooked by practitioners. Implementation of Article 22 entails the following requirements:

- Instruments for assessing "specific protection needs" need to be developed and clear regulations concerning responsibilities and procedures must be established.
- The involvement of persons with specific needs is crucial for the development of assessment instruments, training and for monitoring as well as victim support.
- These instruments need to be made available to those in charge of needs assessment; professional use of the instruments requires training.
- Monitoring mechanisms need to be set up in order to ensure implementation of individualized assessment of protection needs.

***Monitoring implementation of EU Directive 2012/29/EU***

#### **4. Professional resources in working with vulnerable victims of domestic violence need to be strengthened.**

Police, criminal and civil courts and other professionals involved in the prevention of domestic violence and intervention in domestic violence cases require special training in order to accomplish their tasks and deliver a high quality service in victim protection. Whereas in general training with regard to domestic violence has gained importance in European countries in recent years, specific needs cases have remained largely out of reach of continuing education measures. As specified in the above-mentioned Istanbul Convention (2011), judiciary, police, social and health services personnel, and support organisations need to be educated and trained in order to recognise and respond to specific needs of victims.

- With regard to the training of legal professionals in particular, independent expert input into this training from both DV and non-DV specialist support services is needed.
- Furthermore, both of these kinds of services need to be resourced to encompass training in both civil and criminal measures, so that recipients of the training understand both the processes and victims' rights therein.
- Finally, effective inter-agency working and interdisciplinary learning is of critical importance in order to ensure inclusion of the needs of all victims, particularly of those with specific needs. That is, involvement of peers with expert knowledge of domestic violence in training and assessment is crucial.

*Strengthening of professional resources*

#### **5. Identification of specific needs is a cornerstone of vulnerable victim protection.**

Article 22 of Directive 2012/29/EU requires an individual assessment of victims' specific protection needs. This can be regarded as a cornerstone of victim protection, especially with regard to women living in conditions that make them vulnerable. Reaching the full potential of this regulation requires development and implementation of instruments and procedures for a full assessment of victims' needs, training of professionals working with victims and both regular and appropriate monitoring of needs assessment processes and outcomes.

*Identification of specific needs*



## References

Council of Europe Convention on preventing and combating violence against women and domestic violence. Available online

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Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, 25 October 2012. Official Journal of the European Union, L 315/57.

All national and international SNaP project reports as well as national policy papers are available via the project website <http://snap-eu.org/report>

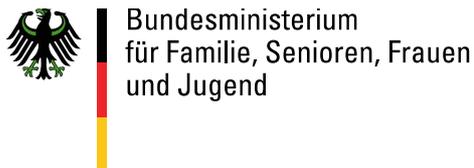
## Project partners

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