



Specific Needs and Protection Orders

Policy Paper Poland

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Social science studies show that individuals suffering from physical or cognitive disabilities or mental illnesses are victims of physical, psychological and sexual violence significantly more often than their peers (Schröttle/Hornberg, 2013 and 2014; Schachner et al., 2014; FRA, 2014; WHO, 2003; Hughes et al., 2012). This begs the question whether and how measures of protection against violence in the intimate social environment are working for this group. *SNaP – Specific Needs and Protection* started out with the hypothesis that police and court measures of protection in cases of violence in intimate social relationships are less often imposed when incidents involve women who need support in their daily lives or are in need of care (e.g. women with physical disabilities or mental problems), or do not (effectively) protect them from (further) violence. Two previous Daphne projects¹ showed that in particular the protection of older, dependent women or those in need of nursing care poses particular challenges to

¹ "Intimate Partner Violence against Older Women" (www.ipvow.org) and "Mind the Gap" (<http://www.ipvow.org/en/research-reports/mind-the-gap>)



the police and/or the legal system. Protective measures aim to remove the endangerer from the victim, only permitting limited, if any, contact between the perpetrator and the victim. Such protective measures, however, presuppose that the person to be protected is not in need of daily assistance from the perpetrator.

Project Design

Scientific studies from different countries (cf. Hague et al., 2007; Ackerman et al., 2014; Schröttle et al., 2013) indicate that the current practice of protective orders is problematic because the support needs of victims with so-called specific needs are not considered or not adequately taken into account. With that in mind, the research teams in the partner countries² examined national protective measures for their suitability and efficiency for different victim groups with specific needs. On the country level, *SNaP* therefore focused on the following issues:

- Which victim groups can be identified by their “specific needs”?
- Are current legal provisions fully at their disposal, or are there limitations?
- What are barriers for an ideal protection of victims?
- What is the scope for improvement, what are alternatives to existing measures of protection against violence?

The study therefore focused on the lived practice, the essential issue was whether and how those involved are able to identify specific needs and how they react to them. Another point we needed to clarify were the factors that influence decisions about imposing protective measures in cases with victims with specific needs. We analysed from the victim’s perspective what prevented them from having recourse to measures of victim protection, and which problems confronted them when they turned to the police or other agencies.

In order to facilitate the understanding of the results, we will first outline the respective legal provisions for the protection against violence in the intimate social environment on the national level and present some statistics on protective measures.

² Besides the project leader, the Institute of Conflict Research (IKF, Austria), the participants include ZOOM - Gesellschaft für prospektive Entwicklungen e.V. and the German Police University (DHPol) (both Germany), CESIS – Centre for Studies for Social Intervention (Portugal), Safe Ireland (Ireland) and the University of Bialystok (Poland).

On the basis of the research results, we also drafted an international policy paper to increase the awareness of politics, government agencies, lobbying organisations and victim protection facilities for specific needs and the consequences of ignoring them.

Methodological Approach

As described above, our study aimed to identify victim groups with specific needs, to examine the implementation and effectiveness of protective measures for these groups, and to develop recommendations to improve their protection. To reach these goals, we chose a qualitative research approach³ combining a number of methods and perspectives:

- **Collection of data on legal provisions and regulations and secondary analytic evaluation of existing data on victim protection measures.** This step provided an overview of the respective national regulations and their implementation as far as national statistics were available, but also gave us an insight into the problems confronting victims of violence with specific needs.
- **Collection of data on legal provisions for the protection against violence within the immediate social environment in five more countries.** In this literature analysis, we collected data on relevant legal provisions, taking into account evaluations and experiences in Great Britain, Spain, New Zealand and the Netherlands as well as the U.S.A. The analysis concentrated on potentially valuable approaches to victim protection for vulnerable groups that might be adopted, on implementing and monitoring measures and on the protection against violence. Insights from these studies were primarily used in the cross-country project report.
- **Interviews with experts and practitioners from the fields of police work, the legal system and NGOs.** In the exploratory phase of the project, each partner carried out expert interviews with national and international key experts (4 in A, PT, PL, IE, 8 in G), in order to explore key restraints relating to legal provisions and their implementation and to identify specific needs groups and target groups for interviews. Furthermore, in each partner country, 29 experts and practitioners were interviewed; in Germany, because of the size of the country, 44. The national project teams were free to

³ A quantitative empirical survey leading to sound data was not feasible within the financial framework of the Daphne III programme. On the one hand, such a survey would have required a very large sample in order to determine which victims are particularly vulnerable with regard to barriers in accessing victim protection measures. On the other hand, such a project would only have provided limited information, because it is difficult for research to reach the most vulnerable groups, such as victims with serious cognitive disabilities.

choose between individual interviews or focus group discussions. The interviews focussed on three areas, namely (i) identifying groups with specific needs; (ii) the most important current barriers to the protection against violence in legal provisions and their implementation as well as room for improvement; and (iii) the collection of agency-specific data and case histories. In addition, two expert interviews were conducted in each country to sketch and draft a national policy paper.

- **Analysis of files and qualitative case histories.** At least 50 files were analysed in each country; the approach regarding the case providers (e.g. police, public prosecution, courts, NGOs) was left open on the national level, and therefore varied considerably. Privacy rules sometimes complicated access to and tracking of cases. As “special needs” of victims, e.g. disabilities or residence status, are not used as classification markers in the institutions that provided the cases, no computer-aided search for relevant files was possible. In Poland we decided to ask the president of the District Court in Białystok for her permission for analyzing cases. Having received approval we analyzed 50 court files. We would like to emphasize from the start – regardless of the source used for file analysis – that because of the random nature of file selection this cannot be called a representative study in any of the countries. Nevertheless, we can infer case types that provide information on the implementation of victim protection measures, their effectiveness, and awareness for and attention to specific needs within the police and the judiciary. For file analysis, we developed a project-wide grid which was only adapted with regard to national specifics. We collected information on the socio-demographic data of victims and endangerers as well as information on the living conditions at the time of the violence, on the history of violence and the experienced forms of violence. In addition, we surveyed the victim’s attitude towards seeking help – who did the victims turn to, what support did they receive, and what was their attitude towards the involvement of police or public prosecution? Another main focus was the approach of police and judiciary: Were protective measures taken, and if so, which ones? What were the problems that arose in the course of police/ judicial procedures? What was the impact of protection orders? The analysis grid was used to ensure the comparability of basic data while enabling us to enter into the specifics of each case. We did not attempt a statistical evaluation beyond some essential

- case features for the presentation of the overall sample, as this would not lead to reliable data due to the random selection of cases.
- **Expert meetings on the national as well as EU level.** The aim of the national expert meeting was to present the results of our study and to reflect upon these findings together; but also to discuss the content and target audience of the policy paper. In Poland, 23 experts accepted our invitation, including representatives of the judiciary, police, social services, non-governmental organizations dealing with domestic violence and violence against women and researchers from universities.
 - Finally, we held a final conference in Berlin in September 2016, to integrate the experiences and perspectives of other European experts and to benefit from their knowledge for the development of recommendations for future activities on the national levels, but also on the EU level.

Recommendation for future activities

- **A program should be introduced, which would support female victims of intimate partner violence even if the perpetrator is incarcerated** – practitioners' experience indicates that often, despite the separation of perpetrator and victim, she is still harassed by him with telephones or through children, whom the perpetrator asks to tell their mother that he has understood his mistakes, that he will improve his behaviour and everything will be fine when he comes back; this causes the victim to feel remorse and makes her susceptible to the perpetrator's influence; **female victims of violence need therapy**, which would strengthen them and reveal to them the tricks used by perpetrators, to help them prevent the perpetrators from returning home after their sentence ends; **efforts are also necessary to countermand the effects of violence and preserving changes**, which means that victims of domestic violence need to be provided with long term professional help.
- It would be reasonable to introduce **therapeutic programs for perpetrators of domestic violence, which would be implemented while they are in prison**; efforts should be made to change the perpetrators' attitudes, rehabilitate them and countermand the effects of violence; most importantly, **it would be reasonable to have the perpetrators treated for alcohol addiction while they are in prison** – experts explained that the perpetra-

tor's period of incarceration is not used constructively; no one takes an interest in the prisoners and whatever problems they had, remain; the period of incarceration should be used to a better effect.

- **A program of prevention should be introduced** as soon as the first incident of violence is reported; the perpetrator should be sent to a short workshop, which would prevent him from again raising a hand against other members of the household; it should be systematically repeated.
- It is suggested that **workshops for police officers, judges and other members of the judiciary** should be organised, where they would learn how to interview victims of violence reporting the crime (art. 207 of the Penal Code); the specific situation in a family affected by violence means that the victim may have trouble expressing herself, describing the violence she has experienced, etc.; police officers or members of the judiciary should be aware of the victim's problems and behave adequately.
- It is suggested that a curricula in law schools or police academies should be supplemented with **modules concerning domestic violence**, with the objective of drawing the students' attention to many important issues connected with this subject; various tertiary level courses preparing students to work with people should include in their curricula modules on interpersonal communication and gerontology.
- It is suggested that within the institutions helping victims of domestic violence, **employees should be selected for this job, who want to do it, who see the essence of the problem and will perform their duties conscientiously and with dedication**
- It has been suggested for consideration that regulations should be introduced to **hold accountable** those who neglect their professional duties or fail to perform them conscientiously; this applies first of all to police officers, health care workers and members of the judiciary; such regulations may lead to improvements in their performance.
- It would be reasonable to consider **systemic joining of cases**, i.e. if a victim of domestic violence testifies in a criminal investigation against her intimate partner, it should be possible to use her testimony in a divorce case, which would save her the stress and the need to discuss difficult topics.

- **Screening tools** should be prepared – simple procedures for various situations, simple tools helping to decide if a situation is threatening to the victim, if the victim has special needs, etc.; in Poland such tools have been prepared by the Ministry of Justice with help from the Council on Victims; *one of the forms evaluates needs* (with respect to health problems, language, accommodation, etc.); the form is completed by a police officer or prosecutor to whom a crime is reported; *the second form is used in aid institutions* (Social Aid Centres, Crisis Intervention Centres) and assesses the needs (with respect to finances, accommodation, psychology) of people approaching these institutions with reports of possible criminal acts; such forms may help in assessing the situation of the victim and defining further action; however, the existing forms are not used.
- In general, it should be stated that Polish law is good, but there are problems with its implementation; various acts and regulations regulate various issues connected with domestic violence, but using them requires knowledge of them or inquisitiveness to find them – perhaps **a compilation should be prepared** including various legal documents, which would be of help to professionals handling these problems and the victims themselves.
- Measures should be considered which would **shorten the length of criminal proceedings involving cases of domestic violence**, as well as solutions which would **take the burden of proof of the victim** – it seems that with the current solutions it is the victim, not the perpetrator who is stigmatised and treated with suspicion, which is not right.
- It seems reasonable that **financial support and accommodation should be provided for female victims of domestic violence** – this would make them less financially dependent on the perpetrators and help them become independent.
- No effort should be spared in **educating the society about the problem of domestic violence** – educational campaigns are needed, which would improve people’s knowledge about the forms of help available to victims of domestic violence and break the stereotypes surrounding this problem.



The coordinator of the project was Institut für Konfliktforschung (IKF, Austria).

Other partners:

ZOOM - Gesellschaft für prospektive Entwicklungen e.V. oraz die Deutsche Hochschule für Polizei (DHPol) (Germany),

CESIS – Centre for Studies for Social Intervention (Portugal)

Safe Ireland (Ireland)

And University of Białystok (Poland)

Project's website:

www.snap-eu.org

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Białystok , September 2016