

ALBANIAN JUDICIAL BENCHBOOK ON PROTECTION ORDERS



USAID
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ALBANIAN JUDICIAL BENCHBOOK ON PROTECTION ORDERS

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INTRODUCTION

In January 2006, 20,000 Albanians made clear that they thought domestic violence was a serious problem. For the first time, a citizens' petition was introduced into Parliament to pass a law to help the victims of domestic violence. Such laws are common in the world and in Europe. In fact, such a law is required if Albania is ever to become a member of the EU. On December 18, 2006, Parliament passed Law no. 9669, "On measures against violence in family relations"¹ (Domestic Violence Law).

The purpose of the law is to prevent and reduce domestic violence in all its forms and guarantee legal protection to victims of domestic violence by paying particular attention to the needs of children, the elderly, and the disabled (article 1). Under the new law, every part of society has a role in preventing violence. The law outlines the roles of the Ministry of Labour, Social Affairs and Equal Opportunities, of the Ministry of the Interior, of the Ministry of Justice, of the Ministry of Health, of the Ministry of Education and of implementing structures such as police departments, emergency rooms, and local government in the prevention of domestic abuse and the protection of its victims.

The courts play a major role in granting protection orders as a civil remedy. The law specifically empowers the judiciary to take protection measures for victims and ensures that the latter have access to quick, affordable, simple services (article 2).

¹ Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended by Law no. 9914, dated 12 May 2008, "On some additions to Law no. 9669, dated 18 December 2006, 'On measures against violence in family relations'".

The prosecutors are responsible for intervention in criminal actions. Social services, health services, and non-governmental organizations (NGOs) participate in a co-ordinated community response for the support, protection, and rehabilitation of victims of abuse.

The *Albanian Judicial Benchbook on Protection Orders* was designed to provide judges with a useful tool for interpreting and implementing the new law on domestic violence. The manual first outlines the specifics of the law and its connection with existing legislation. Then it provides guidance to the courts on how to implement the law effectively. The annexes include sample petitions for protection orders, sample protection orders, and detailed procedures for conducting protection hearings.

It is hoped that this manual will provide practical guidance to Albanian judges in their continued efforts to guarantee effective protection to victims of domestic violence, as well as to individuals, international actors and organizations working in this field.

What Is Domestic Violence?

Article 3 defines domestic violence as any act committed by one person against another when such persons are in a certain relationship and the act results in an injury. The same provision also defines domestic violence as any failure to act (i.e., omission) when there was a legal duty to do so.

Any of the following crimes from the existing criminal law may be considered domestic violence when committed between family members.

- Murder (articles 76 – 83, 85 of Penal Code)
- Threat (article 84)
- Wounding (article 88/b)
- Termination of pregnancy without consent (article 93)
- Denial of assistance (article 97)
- Causing of suicide (article 99)
- Abduction (article 109, 109/a)
- Trafficking (article 110/1 and Article 114/b, re minors 128/b)
- Trespassing (article 112)
- Forcing into and exploiting for prostitution (article 114)
- Insulting (article 119)
- Defamation (article 120)
- Limitation of the freedom of expression/speech, of movement or assembly (article 261)
- Violation of private life (article 121)
- Rape (articles 100-107)
- Other obscene acts (article 108)
- Abandonment (article 124)
- Denial of living means (article 125)

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- Illegal taking of child (article 127)
 - Coercion for cohabitation or termination of marriage (article 130)
 - Damage to property or economic well-being (articles 150-154)
 - Limitation on freedom to administer income (robbery/theft – (articles 139 and 134)
 - Serious intentional injury (article 88, 88/a)
 - Non serious intentional injury (article 89)
 - Other intentional injury (article 90)
 - Serious injury due to negligence (article 91)
 - Non serious injury due to negligence (articles 92)
 - Wrongful use of telephone (article 275)

The following actions also may be included as domestic violence if they cause injury:

- Holding monetary means
- Direct physical, psychological, sexual, and economic abuse of children
- Putting children in dangerous situations where they witness violence.

This action can only be blamed on the perpetrator of the violence, not the victim.

What Kind of Family Relations Qualify under the Law?

Under the law, members of the family are defined as

- Spouses or cohabitating partners, or former spouses or former cohabitating partners
- Brothers; sisters; and relatives of direct blood line, including adoptive parents and children
- Spouses or cohabitating partners of persons indicated in second bullet
- Persons related by direct blood line, including parents and adoptive children of the spouse or cohabitating partner
- Brothers and sisters of the spouse if they have been living together during the last three months
- Children of spouses or of cohabitating partners (article 3, section 3).

Is there More than One Type of Protection Order?

There are two types of protection orders:

Protection Order (articles 10,17).

The protection order is an order issued by the court providing certain protection measures for the victim(s) of family violence. It shall be granted after a hearing and a finding that (a) there is sufficient basis to believe that the respondent may commit an act of family violence and (b) the protection order is necessary to protect the security, health, and well-being of the victim(s).

Emergency Protection Order (articles 18, 19).

The emergency order is a temporary court order valid until a

regular protection order is issued. It shall be granted under the same conditions as the Protection Order except that the court has only 48 hours to reach a decision after the presentation of the petition. The law requires that a date be set for verification of the order within 20 days from its issuance. The perpetrator has only 5 days to appeal.

Who Can Ask for a Protection Order?

- The petition for protection orders may be presented by
 - The victim themselves
 - The victim's legal representative or attorney
 - The police/ prosecutor (article 13, section 1)

- The petition for protection orders on behalf of the minor may be presented by
 - The minor's parent or guardian
 - The minor's legal representative or attorney
 - Relatives of the minor
 - Representatives of the Social Services Office at the Municipality or Commune where the minor resides temporarily or permanently, when they have knowledge of the violence perpetrated
 - Domestic violence victim protection and rehabilitation centres and services recognized/licensed by the Ministry of Labour, Social Affairs and Equal Opportunities (article 13, section 2)

- The petition for emergency protection orders may be presented by
 - The victim herself or himself
 - The victim's legal representative or attorney

- The police/ prosecutor
- A family member of the victim
- Representatives of the Social Services Department of the municipality or commune where the victim temporarily or permanently resides, who have knowledge of domestic violence incidents that have occurred
- Domestic violence victim protection and rehabilitation centres and services recognized/licensed by the Ministry of Labour, Social Affairs and Equal Opportunities (article 13, section 3).

Any person who witnesses domestic violence may report it and ask the appropriate authority to take action (article 9).

The functions of the prosecutor are outlined in the Criminal Procedure Code (CPC) article 24 and do not include this type of intervention. However, according to CPC article 59, section 2, prosecutors can participate in private prosecutions and also appear in family law cases, so this law should be sufficient authorization for them to appear if necessary. The prosecutor is likely to file a petition only when they are already involved in a case and following it closely; e.g., when they are involved in a criminal case involving the same family.

Who Can Issue a Protection Order?

District courts, family sections, can issue a protection order (article 12).

Civil Procedure Code article 349 outlines the competence of judges in “Disputes in the Family,” which appears to be broad enough to encompass protection orders since they relate to

property and custody. Article 138 of the Family Code allows joinder of other requests, and article 139, taking of temporary measures. Most importantly, even if there is no petition for a protection order, the court has an obligation under Family Code article 2 to take action to prevent harm to the children. *Some judges argue that this article no longer applies since the passage of the Family Law Code. However, the Family Law Code does not deal with procedure, jurisdiction, or judicial authority.*

Family Law Code article 62 “Measures against violence,” reads:

A spouse who is subjected to violence has the right to request that the court order as an urgent measure the removal of the spouse that perpetrated violence from the marital residence.

Therefore, the court should suggest to the victim that he/she obtain a protection order or, to save further time for the court, should simply grant one pursuant to the obligations of articles 2 and 62 of the Family Law Code.

Whenever immediate help is requested, the petition may also be compiled and presented at the nearest police unit (article 14, section 2). *This procedure should only be used when there is no court available, or the court is too far for the petitioner to access it.* The police unit shall act in accordance with articles 104 through 108 of Law no. 9749, dated 4 June 2007, “On the State Police”. Article 104 allows the police to order a person to leave a locality or prohibit him to enter a locality if he presents a threat or disturbance. Article 106 allows the police to take protection measures if a person is a threat to his own safety or that of another person. Under article 108, weapons can be seized (See Annex B).

What Is the Timeline for Issuing a Protection Order?

A petition can be presented to the court at any time (article 14, section 2). When a petition is presented, the court has 15 days to set a hearing (article 16). When an emergency order is requested or needed, the court has 48 hours to make a decision (article 18). The existence of any other type of ongoing legal proceedings has no impact on the decision to issue a protection order (article 17, section 2).

What Types of Orders Can Be Made?

The following are the types of protection measures that can be ordered to protect the victim(s) (article 10):

1. Protection against domestic violence shall be ensured by/through
 - a) Immediately ordering the defendant (the perpetrator) to refrain from committing or threatening to commit an act of domestic violence against the petitioner (victim) or other family members of the victim as defined in article 3, section 3 of this law, or as named in the order.
 - b) Immediately forcing the defendant (perpetrator) to refrain from harming, harassing, contacting, or communicating with, directly or indirectly, the victim or any other family member as defined in article 3, section 3 of this law, or as named in the order.
 - c) Immediately removing the defendant (perpetrator) from the residence for a certain period of time determined in the court order and restricting his/her re-entrance without court authorization.

- ç) Immediately prohibiting the defendant (perpetrator) from being within a certain distance of the victim or family members as defined in article 3, section 3 of this law, or as named in the order.
- d) Immediately forbidding the defendant (perpetrator) to approach/go near the house, workplace, the original family residence or the future couple's residence or that of other persons and moreover the children's school or any other place commonly frequented by the victim, unless this happens for work-related reasons.
- dh) Immediately placing the victim and the minors in temporary shelters, always keeping in mind the best interest of the child.
- e) Limiting or prohibiting the defendant (perpetrator) from seeing the victim's child, based on appropriate conditions.
- ë) Prohibiting the defendant (perpetrator) to enter or stay in the temporary or permanent residence of the victim, or in any part thereof, regardless of any property or possession rights the perpetrator may have over these.
- f) Ordering a court authorized person (member of the police or bailiff) to accompany the victim or the defendant (perpetrator) to the victim's residence and to oversee removal of his/her personal belongings.
- g) Ordering the law enforcement officers to seize any weapons belonging to the perpetrator found during police checks, or ordering the perpetrator to surrender any weapons belonging to him/her.
- gj) Ordering the defendant (perpetrator) to allow the victim to possess the commonly used residence or part thereof.
- h) Ordering the defendant (perpetrator) to pay the rent for the permanent or temporary residence of the victim as well as paying support obligations to the victim, children, or

other members of the family for which the perpetrator is financially responsible

- i) So long as the protection order is in existence, the property regime shall be in accordance with the Family Code articles 57, 58 and 60.
- j) Transferring the temporary child custody rights to the victim and temporarily removing parental rights for the defendant (perpetrator). (This is to be carefully confronted with the Family Law provisions. See further discussion of this later.)
- k) Deciding and ordering - depending on the case (under the competence of the court) - the intervention of public or private social services nearest the place of residence of the victim or of organizations whose objective is to support and shelter subjects of domestic violence. (This should never be done without the knowing consent of the victim because it is often very dangerous.)
- l) Ordering the defendant (perpetrator) to effectuate a periodic payment in favour of cohabitating persons, who, as a result of the above-mentioned measure, remain deprived of living means. To secure the payment the court may order the employer (of the perpetrator) to transfer the payment directly to the beneficiary. This order shall be an executive title.
- ll) Referring the victim of domestic violence to rehabilitation programmes.
- m) Ordering the defendant (perpetrator) to participate in rehabilitation programmes; if the defendant is ordered to a rehabilitation programme, the programme managers are required to report weekly to the court on whether the perpetrator is attending and participating. If the defendant (perpetrator) is not, upon request of subjects named in article 13 of this law, the court will summon the defendant

and implement respective provisions of the Criminal Code for hindering execution of court orders.

2. Protection orders, by a court decision, may include several of the protection measures mentioned in paragraph 1.
3. Emergency protection orders, by a court decision, may contain several of the protection measures mentioned under point a through g of this article.
4. In implementing point g of this article, the court keeps in mind the following:
 - a) If the weapons have been seized, they will be returned only after the termination of the protection order and receipt of the court order.
 - b) If weapons have been seized and the person has a weapons authorization card, the court shall notify the appropriate administrative authority or shall suspend the card until termination of the protection order.

The court must be careful not to order remedies that do not exist; e.g., participation in a rehabilitation programme. Judges must be kept informed on what is available in the community so they can issue appropriate orders. If a respondent is ordered to a rehabilitation programme, the programme must meet certain requirements (see pages 35-40). Mediation is inappropriate since it can only be effective if completely voluntary. Likewise conciliation and confrontation (Civil Procedure Code, articles 171 and 240) are inappropriate in domestic violence cases.

Judges should also be careful not to order remedies that are ineffective per se, such as alcohol or drug treatment. These are not the reason for domestic violence and alone are not the solution. (See discussion on different approaches to offender's treatment, infra pages 39-40).

If the respondent is allowed to go to the residence and collect belongings, a law enforcement officer or bailiff should accompany him/her. (Specific language for such orders is indicated in the Annex C.)

If a divorce is pending or temporary orders have been issued, the orders should be consistent. But if there is any difference in the two orders, the protection order, because it is concerned with the safety of victims of violence, has higher priority than the family court orders. The parties will have to go court to reconcile the conflicting orders. But until then, the protection order prevails (article 17, section 2).

If weapons have been seized, they shall be returned by the police only after termination of the protection order and receipt of a court order stating that the weapons should be returned. After seizing the weapons, the court should suspend or revoke the Weapons Authorization Card until the termination of the protection order or further hearing. If the person is law enforcement or military, the administrative authority should be notified and take further action.

What Should Be in the Petition?

The language of the petition should follow the Civil Procedure Code article 154 with the additional information of the relationship between the victim and perpetrator, the facts, reasons for the petitioner's fears for his/her well-being, the specific protection measures requested, and the petitioner's signature (article 14).

Where is the Petition Filed?

The petition can be presented at any time to *any district court* (family section, where one exists). When immediate help is sought the person may also present the petition at the nearest police unit (article 14, section 2), and the police should follow Law no. 9749, dated 4 June 2007, “On the State Police”.

A lawyer should be available to prepare the petition and file it, pro bono (article 14, section 3). But if not, the petitioner may file the petition on pre-printed forms or by writing it by hand (Annex D). There are no court fees for the petitioner for filing the petition. *Judicial staff need to be clearly instructed that they must accept the petition without an advance fee.* If the petition is granted, fees can be assessed against the respondent. If the petition is rejected, fees can be assessed against the petitioner (article 14, section 4).

How Soon Is the Hearing?

For a regular protection order, the court must set the hearing within 15 days (article 16).

For an emergency protection order, the court must make a decision within 48 hours (article 18). *Failure of the postal system is not a reason to postpone the hearing. It is only required that the notification procedures be followed, not that the respondent appear. If the respondent disagrees with the order, an appeal is available for the respondent to be heard.*

What Evidence Can Be Taken at the Hearing?

Necessary evidence may be witness statements, police reports, medical reports, acts of expertise (expert witness declarations), examinations and statements/explanations by the parties, other documents issued by the social workers of the social services department at the municipality and commune, and documents issued by legal persons - i.e., legally registered non-profit organizations (NPOs) (article 15).

The Total Investigative Management System (TIMS) should be accessed to find out whether an arrest warrant has been issued against the respondent, whether he/she has previous convictions, or whether protection orders have been issued against him/her.

Confidentiality is very important for a victim of violence. Many victims will not seek help for fear that it will become known. Therefore the laws regarding confidentiality of victim information must be strictly adhered to (Criminal Procedure Code articles 59, 159, and 282-289, and Civil Procedure Code article 235).

The court must also be very careful in appointing an expert witness in domestic violence cases. Very few social workers, psychologists or other medical personnel have sufficient knowledge about domestic violence [See National Association of Social Workers, UNICEF, *Assessment of Health Care Workers Capacities to Address Gender Based Problems* (Tirana, 2006)]. Article 224/a of the Civil Procedure Code requires that the expert have specific knowledge in the field about which he/she is asked to testify (Civil Procedure Code articles 224/a-224/ç). Domestic violence is a very

specialized field and the court should make sure the expert has specialized training and experience in that area.

Who Can Testify at the Hearing?

While examining the petition the court may hear testimony from the following persons:

- The victim or her/his legal representative or attorney
- The perpetrator or his/her legal representative or attorney
- The prosecutor, when he/she filed the petition
- The representative of the social services department at the municipality or commune of the temporary or permanent residence of the petitioner when the petitioner is a minor, or when the petitioner is legally incapacitated, or when the domestic violence affects these categories/persons
- Health centres and rehabilitation centres employees who assisted the victim because of domestic violence
- Witnesses deemed necessary by the court (articles 16, 18).

Under article 235 of the Civil Procedure Code, the spouses, if still married, children, parents, and other relatives cannot be questioned unless the case is directly related to family problems, which is the case with domestic violence.

What if the Hearing Is for Verification of the Emergency Protection Order?

The only difference is that at the conclusion of the hearing, the Court decides whether the existing order shall be withdrawn or terminated because there is no evidence to support it. The court

can issue a protection order and may change the protection measures in the order (article 20).

When Should the Court Grant the Petition?

The court shall issue an order if it finds that there is sufficient basis to believe that the perpetrator may commit an act of family violence or that issuance of the protection order is necessary to protect the security, health, or well-being of the victim or related family members. The order can be issued only against the respondent (article 17, section 1).

Regardless of any other order or decision issued by another court or institution, the court shall issue the protection order if the requirements of this law have been met (article 11 and article 17, section 2).

It will be the responsibility of the Court to ensure that persons who receive information about domestic violence and should implement the law, but fail to do so, shall be held administratively and/or criminally responsible under articles 248 or 251 of the Criminal Code (article 8, section 5).

What Language Must Be in the Decision?

In addition to what is required by Civil Procedure Code 310, language that must be in the decision includes (article 17, section 3):

- a. The protection measures ordered by the court;
- b. Time limits for the protection order with a maximum of 12 months and the possibility of extension;

- c. A statement that violation of the protection order shall be a criminal offence under Criminal Code 320;
- ç. A statement that there is a right to appeal within 15 days.

If it is an emergency protection order, it must indicate (article 19, section 3):

- a. The measure determine by the Court;
- b. Time limits for the order, which expires at the time a regular protection order is issued;
- c. A statement that violation of the protection order shall be a criminal offence under Criminal Code 320;
- ç. That the appeal time is 5 days;
- d. The date for the verification of the emergency protection order, which should be no later than 20 days from date of issuance.

Is there an Appeal, Amendment, or Termination Procedure?

The appeal time for a protection order is 15 days (article 17, section 3 (ç)). The appeal time on an emergency protection order is 5 days (article 19, section 3 (ç)). An appeal does not affect the implementation of the order, which goes into effect immediately (article 21, section 3).

The only way to amend or terminate the order is to file an appeal. The behaviour of the parties or any alleged agreement between them cannot change a court order. The victim or his/her representative or the prosecutor, when he/she presented the petition, may present a request for termination or amendment of the order only when there is a fundamental change in circumstances (article 22). The

request is to be heard the same as the original protection order with a hearing, evidence, and testimony (article 22, section 5). The request does not suspend the protection order, which remains effective (article 22, section 3).

After the hearing, the court may keep the protection order in place, amend it if circumstances have fundamentally changed, or terminate it if the protection measures under the law are no longer needed because of the fundamental change of circumstances. The court should be very careful when amendment or termination is requested by *the petitioner* because the respondent could be threatening the victim to withdraw the order. When the petition was presented by the police or prosecutor, the victim's wish to drop the case does not have any effect (article 13, section 4 and article 16, section 3).

The protection order terminates automatically on the termination date, unless 15 days or more prior to that date, the victim requests a continuation of the order (article 22, section 4). The court then decides upon the request by holding a hearing, examining evidence, and hearing testimony. After the hearing, the court can certify the termination on the original date or continue the protection order if there is basis to believe the respondent may commit an act of family violence and the order is necessary for protection.

Once the Order Is Issued, Who Is Notified?

After issuing the protection order, the order enters into force immediately and the application begins, regardless of the notification or lack of it to the respondent. The respondent who failed to appear shall be notified immediately of the order (article

17, section 4, 5 and article 19, section 4, 5). Within 24 hours, the court shall send copies of the protection order to

- a. The victim and other persons mentioned in the protection order
- b. The prosecutor, when he or she presents the request
- c. Social services department of the municipality or commune of the location where the victim or other persons mentioned in the protection order reside temporarily or permanently
- ç The police department of the location where the victim or other persons mentioned in the protection order reside temporarily or permanently

When Does the Order Go into Effect?

The judicial decision regarding either an emergency or regular protection order is an executive title from the moment it is declared by the court and shall be carried out immediately pursuant to articles 510 *et seq* of the Civil Procedure Code (article 23, section 2).

The court should issue an execution order under article 511 at the same time that it issues the protection order to facilitate immediate implementation and save time and effort for the victim and the court (article 19, section 6 and article 23, section 1 and 2).

Who Has to Implement the Order?

The order is to be carried out immediately by bailiffs, police departments, local governments, and the respondent (article 23, section 2, 3, 5). Social workers and law enforcement shall take all necessary steps to ensure immediate and continuous enforcement of the protection measures ordered.

The information that a protection order has been issued should be entered into the TIMS database or another tracking system so that police, prosecutors and other judicial officers will know of the existence of the order to guarantee protection to the victim.

What Happens if the Protection Order Is Violated?

Forced execution of the court order shall be carried out by the Bailiff services. If the respondent refuses to comply voluntarily, authorities shall proceed with forced implementation/execution according to Civil Procedure Code article 606, section 3, or Criminal Code articles 320 or 320/a. If the respondent does not comply with the order, the bailiff can order the civil penalty under Civil Procedure Code article 606, section 3 - 50,000 lekë. If the respondent actively interferes with or places obstacles in compliance with the order, the bailiff is obligated to report that to the prosecutor, who then can apply articles 320 or 320/a of the Criminal Code. In addition, the police and prosecutor should bring criminal charges for any acts or inactions that are classified as criminal offences (articles 23, 24).

If a respondent has committed a criminal act, the excuse that he could not control himself is generally not a defense. However, the respondent is not criminally responsible if an actual mental illness such that completely makes him/her unable to control his/her actions/omissions, or to understand their consequences, is diagnosed. In this case the judge can order that the respondent be confined to a psychiatric hospital. If the diagnosed mental illness is such as to lower, but not fully to impair, the respondent's mental capacity, this must be considered by the judge, in determining the degree and the kind of punishment

(Criminal Code, article 17). Being drunk or under the influence of drugs is also not a defense (Criminal Code article 18) but, if accidental (which surely must be very rare indeed), is mitigating in determining punishment. If the respondent is purposely drunk, that is an aggravating circumstance. Violence in the family is a serious offence that should be more severely punished as indicated in Criminal Code article 50(e) when the act is committed against children, pregnant women, or other people who, for different reasons, cannot protect themselves; or (g) when the act is committed by taking advantage of family relations.

The Special Role of the Courts in Ending Domestic Violence

There are few things more important in the course of the legal proceedings that surround a domestic violence case than the manner in which the court conducts and projects itself, as this sends an important message about recognizing the importance of all aspects concerning domestic violence.

Setting the Tone

It is essential that the judge and staff set the tone for all proceedings. Sample forms for a petition for protection order and emergency protection order have been developed and are attached as Appendices D, E, and F. Parliament has made it clear in the law that it wants quick, affordable, simple procedures for the victims. Making forms available is one way to comply with the law. Court staff should make these available free of charge for victims. While court staff cannot give legal advice or assistance, they can provide such forms.

Cases should be called and heard promptly. Emergency orders must be decided within 48 hours, and regular orders must be decided within 15 days. In domestic violence cases, lives and safety are at risk, and cases should be heard promptly - this is why the law gives the petitioner the right to bring a petition at any time in any court. The court must examine the case at hand thoroughly. The bearing and attitude of court and staff should reflect the gravity of the matter. Attention should be given to the physical separation of the parties, including family and friends, to prevent coercion and intimidation.

Spectators and Witnesses

Frequently witnesses, friends, and supporters accompany both parties. Often these people are directly interested or involved in the proceedings. Frequently a new partner accompanies the respondent. Often a victim advocate will accompany the petitioner. Steps must be taken to establish ground rules for the conduct of all parties. The court may exclude prospective witnesses and order them not to communicate with each other (Civil Procedure Code article 237).

The court should begin the proceeding by announcing that outbursts and facial and body expressions of disbelief or anger, such as rolling of eyes and sighing, will not be tolerated. If the judge observes such conduct, he/she should stop the proceedings, admonish the person, and advise that a repeat of the conduct will result in removal from the courtroom (Civil Procedure Code article 178). If it happens again, the judge should remove the person from the court. The impact will likely be immediate.

Victims

Often petitioners will arrive at the courthouse with the respondent. Great caution should be exercised to prevent the respondent from exerting influence or intimidation on the petitioner. Frequently court houses are cramped and parties are often close to each other. The court should take steps to separate the parties as much as possible and put other persons such as attorneys or the judicial employee between them.

The court should be particularly mindful of the respondent glaring or looking angrily or threateningly at the petitioner. If the judge notices this behaviour, he/she should state it for the record and advise the respondent to not repeat it or be punished for contempt of court (Civil Procedure Code 178).

Many victims of domestic violence are reluctant to testify against their abusers. Victims may be reluctant to testify for the following reasons:

- The victim may be dissatisfied with the court system. This may be because the victim is not prepared for the implications of court proceedings, or court personnel have made the victim feel responsible for the abuse.
- The victim may be subject to physical retaliation or intimidation by the abuser.
- As with the Stockholm Syndrome, the abuser may be treating the victim well at this point and, hoping that this will continue, the victim declines to participate.
- Many victims partially or completely blame themselves for the abuse.
- The victim may be using the process as yet another attempt at convincing the abuser to stop the abuse. Research shows

that victims try many different methods to stop the abuse.

- Even when women victims do testify, they are often not believed. Many studies from around the world have shown that judges discount women's testimony about abuse.
- Generally the victim and abuser are the only eye witnesses. But courts know that eye witness testimony is very unreliable. That is why modern jurisdictions rely much more heavily on other types of evidence.
- Protection orders are court orders against the respondent for behaviour that is not allowed. As court orders, they cannot be changed by the agreement of the parties or any one party. Further, the victim is not covered by the order as she/he is not the person who committed the prohibited act (article 17).
- Fact finding in domestic violence cases presents no more challenges than in other types of cases. The court simply needs to understand the dynamics of domestic violence and know the law, as in any other case. The lethality rate is very high in domestic violence cases, and prompt judicial action is very important in preventing more serious crimes.

Ethics Issues

Although a judge must always maintain the neutral role of her/his position, that does not prevent the judge from taking care to ensure safety for all persons. Similarly, judges have a duty to know and understand the dynamics and laws relating to domestic violence, as they do with other crimes.

Court Safety

The court should take all steps to minimize contact between the petitioner and his/her allies and the respondent and his/her

allies. When the hearing is concluded, the respondent and his/her allies should be kept in the court room 15 minutes while the petitioner is escorted by a police officer out of the courtroom and to transportation.

At all times, the court has an obligation to maintain safety for court personnel and the public. A judicial employee can be present throughout the hearing. The victim has a right to be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse throughout the proceedings.

How Judges Can Help

The judge's demeanor demonstrates concern about the victim's circumstances and the underlying events. The judge should recognize that the victim might be overwhelmed by the process and unable to follow through with all necessary steps. The following are things that the judge should bear in mind to exercise his/her functions fairly:

- The judge must listen carefully.
- The initial step toward stopping the abuse is being able to identify it. Denial, rationalization, and minimization are coping methods often used by the abused person and those closest to him/her. The court must take whatever steps are possible to help the victim find safety.
- The victim must trust the judge. One of the effects of battering is that the victim's sense of trust is so eroded she/he no longer trusts anyone. For a victim living in an environment where a mistake in judgment could be lethal, there is no room for a mistake. The court must take a proactive approach so the victim can trust the court and the process. If the victim does not have an attorney, one

- should be appointed by the court (article 14, section 3).
- While a victim may understand the legal issues intellectually, she/he may be experiencing emotions that make it difficult to comprehend the options. A judge should take time to explain the options and ensure that the victim understands.
 - A victim may not want to make trouble and may appear very complacent even when she/he disagrees. A judge needs to take time to ask for specific details. A victim may tend to accept responsibility for things that are not her/his fault out of fear of further abuse. Frequently a victim will accept inaccuracies in the record for the same reason. A judge must make sure the record is clear and complete. The victim should be able to express objections without fear and, if necessary, without the perpetrator in the room.
 - A courtroom must be free of intimidation. It is easy to forget that the victim may have been exposed to years of intimidation. The court should create a courtroom atmosphere that shows zero tolerance for domestic violence. The judge can instruct the court clerk not to permit any intimidating behaviour during court breaks. Comments about the victim or jokes should not be permitted. Allowing this to happen sends a message of defiance and indicates that the respondent is immune to the court's authority (Civil Procedure Code article 178).

Confidentiality

The issue of the rights and duties of a domestic violence programme and medical personnel who may have treated a domestic violence victim have often arisen in other countries. Confidentiality provisions are found in Criminal Procedure Code

articles 59, 159, and 282-284, and Civil Procedure Code article 235. Confidentiality is very important to the victim, especially one with a new address, or those facilitating the escape, because the latter are often targeted by the perpetrator to prevent the victim having any options.

Best Practices to Stop Domestic Violence

Domestic violence is a behaviour learnt through observation, experience, reinforcement, culture, family, and community. It is rarely caused by genetics, substance abuse, illness, or problems in the relationship. Many batterers believe they have the right to make and enforce rules. Many victims routinely evaluate which rules they will follow depending on level of danger, available intervention, and likelihood of punishment for their abusers.

Domestic violence is about power and control. Violence is a choice, not an “out-of-control” behaviour. Stopping the violence requires a new response that considers the dynamics unique to domestic abuse. Common effects on the victim are low self-esteem, self blame, stress, blame, self-medication with alcohol or drugs, suicidal ideation, isolation from family and friends, minimizing or rationalizing the abuse, and, especially, fear.

Common perpetrator actions and traits include consistent attempts to control the victim, minimizing the violence, denying the actions, blaming the victim, low self-esteem, jealousy and possessiveness, intimidation, dependency on the victim, appearing presentable and even likeable in the public and court but behaving completely differently at home, substance abuse, promising it will never happen again and expressing remorse not really felt.

Goals in ordering protection are

- Stop the abuse and protect the victims
- Hold the perpetrator accountable
- Change the perpetrator's behaviour
- Create consequences for violation of court orders
- Make it clear that domestic violence is not tolerated by the society
- Prevent violence in the next generation

Holding the Respondent Accountable

As mentioned above, the court can use Civil Procedure Code article 606, section 3, Criminal Code article 320, and additional violations of any other criminal provisions that may have occurred when the protection order was violated, as methods to hold the respondent accountable. Because this is a family crime, the penalty should be aggravated as outlined in Criminal Code, article 50.

In order to determine appropriate methods of holding the perpetrator accountable and changing behaviour, the following are some facts the court might want to know to determine the best response:

- The respondent's criminal history. This should be available through the TIMS system when that is set up in all jurisdictions.
- Impact of the violence on the victim and the victim's wishes.
- History of abusive behaviour.
- Drug, alcohol, and mental health examinations.
- History of prior court contact by the family.
- Information about children, elderly, and disabled people living in the home.
- Lethality assessment on respondent. Lethality factors have

been useful in predicting dangerousness. Factors are

- If the victim is trying to separate from or divorce the respondent. If so, that increases the danger.
- Use of drugs or alcohol does not cause violence, but it often increases the severity of the violence, and thus the injury to the victim.
- Depression also does not cause the violence, but it can increase severity.
- Access to weapons, especially guns, is especially dangerous.
- Stalking is a symptom of obsession.
- Rage is used as an excuse to justify behaviour.
- Obsession - "If I can't have you, no one else can."
- Homicide or suicide threats should be taken seriously.
- Easy access to victim or children - often on court-ordered visitation.
- History of domestic violence, including to pets.
- Increasing isolation.
- Sexual assault - often a precursor to murder.
- Escalation of any of the above behaviors.

Offender Rehabilitation Programmes

Different types of programmes exist, each with a very different philosophy and practice. Victim safety should be the first concern and offender accountability the second. To make the issue clear, it should be noted that the vast majority of domestic violence is committed by male offenders against female victims. Around the world, approximately 95 percent of the abusers are male and 85 percent of the victims are female. Of the small percentage of female offenders, a large number of them are actually victims of domestic violence who have used violence to defend themselves or members of their family, especially children.

While there are a wide variety of programmes, most have a similar process. They begin with intake and assessment followed by orientation and establishment of rules and expectations. Many have an introduction to the underlying assumption of the programme. The batterer attends weekly sessions that focus on education, therapy, or both to identify the violent behaviors, encourage him/her to admit his/her violence, and motivate him/her to change.

Some programmes maintain contact with the victim to ascertain progress, some rely on victim advocates, and some do not contact the victim at all. The latter course is dangerous because there is no factual basis to determine if the abuser's behaviour has changed. Criteria for completion of the programme can range from simple attendance to writing a letter of accountability or taking other concrete steps. Simple attendance provides no assurance that behaviour has changed.

There are three broad categories of treatment philosophy. The point of analysis that highlights the difference in the three categories is the belief about the cause of domestic violence.

- *Pro-feminist.* The pro-feminist philosophy suggests that because our society has inherited centuries of attitudes and beliefs shaped by the assumption of men's superiority over women, the cause is located in the socialization of males and the continuing tolerance and support of male violence. The treatment is focused on confrontation of the attitudes and beliefs that support this behaviour and re-education of the perpetrator. This philosophy recognizes that this must be coupled with a strong legal system response that indicates zero tolerance for domestic violence.

- *Family systems approach.* The family systems approach locates the problem in the functioning of the family system. It sees all members of the family as contributing to the problem. The problem with this model is that it tends to blame the victim and focuses on couples counseling, which is recognized as dangerous to the victim at worst and ineffective at best, as the victim cannot freely disclose information for fear of retaliation. This approach is used less frequently and must be monitored closely to prevent the victim from increased danger.
- *Focus on individual pathology.* This approach locates the problem of abuse in the individual's constitution. Personality disorder and traumatic childhood experiences are seen as the cause of domestic violence. A psychodynamic or cognitive behavioral approach is used to intervene. A drawback to this perspective is that no psychological "type" has been identified to describe or explain violence or predict recidivism. The psychological characteristics of abusers range across the spectrum as do those of non-abusers. Perhaps as a result, focus is now on cultural factors as well as psychological.

The effectiveness of offender treatment programmes has not been proved. Only a few studies have found small improvements from attendance at such programmes. Further, these successes are based on reports of the abusers only. If the victims are asked to report about the behaviour of the abusers, the success rates are lower.

Women have reported that abusers in the classes have learned to abuse in a more sophisticated way so it cannot be reported to the police. As one prosecutor in Russia said, "Why would you

beat a woman when there are so many other ways to control her?” Additionally, while batterers consistently under-report their acts, victims are consistently over-optimistic about the abusers’ potential for change. It is also very difficult to estimate the degree of fear the victims feel, which may inhibit reporting of the abuse.

Some criteria of success the court should look for

- End of violence
- End of threats and intimidation
- Victims are and feel safe
- End of manipulative behaviour
- Egalitarian behaviour increases

A quality offender treatment programme will

- Be licensed
- Have regular contact with the court
- Make victim safety the first priority
- Make perpetrator accountability the second priority
- Have contact with the victim
- Understand the power-and-control perspective
- Work in a co-ordinated community response system
- Be at least 26 weeks long, and preferably 52
- Have joint male and female facilitators
- Have different programmes for female and male offenders

A quality offender treatment programme teaches

- Awareness of the tactics of power and control
- That only the offenders are responsible for the behaviour
- That the victim is never the cause of the behaviour
- That no one deserves to be abused
- That no one has the right to control another person
- That a partner is not property

- That abuse is a choice
- That abuse is a method of obtaining power and control over another
- That abuse is not an anger problem, an addiction problem, or a mental illness

A quality offender treatment programme should do the following

- Provide regular reports on batterers' behaviour to the court
- Have regular contact with the victim and/or advocates for the victim
- Meet regularly with the co-ordinated community response team

Some important lessons learned have come from experience with offender treatment programmes in other countries. First, anger management should never be ordered as it ignores the larger dynamics of domestic violence and the use of anger as a manipulative tool and control tactic. Anger management also supports the myth that the abuser "loses control." Years of experience show that is not so. The abuser clearly chooses when, where, and whom to abuse and can compose him/herself quickly when the police knock on the door. Second, couples counseling is so dangerous that many jurisdictions around the world have passed laws prohibiting it. The victim is at high risk of retaliation, and counseling continues the myth that somehow the victim is to blame for the abuse and condones the abuser's behaviour.

Third, substance abuse treatment may be necessary but it can be only a small part of the solution. Abusers continue their behaviour, whether they are drunk or sober. Drugs or alcohol may increase the severity of the abuse, but they are not the cause; stopping the use of drugs or alcohol does not necessarily stop the domestic violence.

Finally, a treatment programme alone cannot successfully change the offender's behaviour. Many experiences over time have taught the perpetrator that his behaviour was acceptable. The combined impact of the civil justice system, the criminal justice system, and society are all necessary to teach the opposite. Offender monitoring by the court has been shown to have a positive impact on changing behaviour. Judges' lectures from the bench have been effective in communicating zero tolerance for domestic violence and a strong social disapproval for acts of violence. The court system is central for solutions to domestic violence.

ANNEXES



ANNEX A**LAW NO. 9669, DATED 18 DECEMBER 2006,
“ON MEASURES AGAINST VIOLENCE
IN FAMILY RELATIONS”¹**

Based on articles 78 and 83 point 1 of the Constitution, upon
the proposal of 20 000 voters,

**THE PARLIAMENT
OF THE REPUBLIC OF ALBANIA****DECIDED:****CHAPTER I
GENERAL PROVISIONS****Article 1****Scope**

The purpose of this law is:

1. To prevent and reduce domestic violence in all its forms by appropriate legal measures.
2. To guarantee protection through legal measures to members of the family who are subject to domestic violence, paying particular attention to needs of children, the elderly, and the disabled.

¹ Law no. 9669, dated 18 December 2006, “On measures against violence in family relations”, as amended by Law no. 9914, dated 12 May 2008, “On some additions to Law no. 9669, dated 18 December 2006, ‘On measures against violence in family relations’”.

Article 2

Objectives

Objectives of this law are:

- a) To set up a co-ordinated network of responsible authorities for protection, support, and rehabilitation of victims; mitigation of consequences; and prevention of domestic violence;
- b) To direct efforts for the setup of responsible structures and authorities at the central and local level in support of victims and prevention of domestic violence;
- c) To empower the judiciary in taking protection measures against domestic violence;
- ç) To ensure/guarantee quick, affordable, and simple services to the victims of domestic violence provided by courts and other law enforcement agencies in compliance to the law.

Article 3

Definitions

Under the meaning of this law, unless specified otherwise in specific provisions thereof, by the following terms we shall understand:

1. “Violence” is any act or omission of one person against another, resulting in violation of the physical, moral, psychological, sexual, social, and economic integrity.
2. “Domestic violence” is any act of violence pursuant to point one of this one article committed between persons who are or used to be in a family relation.
3. “Members of the family” are:
 - a) Spouses or co-habiting partners or former spouses or former cohabiting partners;
 - b) Brothers, sisters, relatives of direct blood line, including adoptive parents and children;

- c) Spouses or co-habiting partners of persons indicated in paragraph b;
 - ç) Persons related by direct blood line, including parents and adoptive children of the spouse or of the cohabiting partner;
 - d) Brothers and sisters of the spouse if these have been living together during the last 3 months;
 - dh) Children of spouses or of co-habiting partners.
4. “Victim” is the person who has been subject to violence indicated in point 1 of this article.
 5. “Perpetrator” is the person sued before the competent authorities for committing violence in family relations.
 6. “Protection order” is an order issued by a court providing protection measures for the victim.
 7. “Emergency protection order” is a temporary court order valid until the court issues a protection order.

Article 4

Subjects

Subjects protected under this law are all persons indicated in article 3, section 3, of this law.

CHAPTER II RESPONSIBLE AUTHORITIES

Article 5

Responsible Authorities

1. The lead responsible authority under this law is the Ministry of Labour, Social Affairs and Equal Opportunities.

2. Other responsible authorities are:
 - a) Local government units;
 - b) Ministry of the Interior;
 - c) Ministry of Health;
 - ç) Ministry of Justice;
 - d) Ministry of Education and Science.

Article 6

Lead Responsible Authority Objectives

The lead responsible authority has the following duties:

- a) To develop and implement national strategies and programmes to offer protection and care to the victims of domestic violence;
- b) To finance and co-finance projects designed for the protection and consolidation of family and for the care of victims of domestic violence;
- c) To assist the set up of support structures and all of the necessary infrastructure to support and fulfil all the needs of the persons subject to domestic violence, including financial assistance as well as social and health services pursuant to the law;
- ç) To organize training sessions on domestic violence with social service, employees at any local government unit, police structures and employees of NPOs licensed to offer social services;
- d) To maintain statistical data on the level of domestic violence;
- dh) To support and supervise the set up of rehabilitation centres for domestic violence victims;
- e) To support and supervise the set up of rehabilitation centres for the perpetrators of domestic violence;
- ë) To license NPOs that will provide social services to victims and perpetrators;

- f) To take measures for educating the new generation with the mentality and the rules of a proper behaviour, as well as with the mentality of stopping violence in family relations;
- g) To take measures for creating centers to accommodate children, against whom violence was used or when their parents commit violence offences against each-other.

Article 7

Duties of other Responsible Authorities

1. The Ministry of the Interior has the following duties:
 - a) To set up special units at the police departments to prevent and combat domestic violence;
 - b) To train members of the police force to handle domestic violence cases.
2. The Ministry of Health shall set up necessary structures to provide healthcare in domestic violence cases at the emergency units and at the healthcare centres in municipalities and communes, with a view to:
 - a) Offering at any time medical and psychological help to domestic violence victims;
 - b) Carrying out necessary examinations at any time at respective public health institutions;
 - c) Recording domestic violence cases in the appropriate medical documentations, as approved by the Ministry of Health;
 - ç) Providing the victim with the respective medical report;
 - d) Guiding and referring the victim to other support and protection domestic violence services.
3. The Ministry of Justice has the following duties:
 - a) To train the medico-legal experts in recognizing, diagnosing, evaluating and reporting on domestic violence and child abuse injuries;

- b) To train the bailiffs on their duty to serve protection orders immediately and to ensure their implementation under Article 23 point 6 and to take appropriate action;
 - c) To budget for free legal assistance mandated under this act and ensure a sufficient number of trained lawyers to provide said assistance.
- 3/1. Ministry of Education and Science has the following duties:
- a) To draft educational programmes for high schools and universities on rules of behaviour in the family;
 - b) To prepare school texts and other complementary materials for educating pupils and/or students with the mentality of stopping violence in family relations.
4. Local authorities (municipalities, communes) have the following duties:
- a) To engage in setting up social services structures for domestic violence cases;
 - b) To install regional 24-hour toll free telephone line, which will then establish links to local units, police, medical emergency units and NPOs, thereby co-ordinating their actions;
 - c) To establish social and rehabilitation centres for victims and perpetrators and co-ordinate efforts with existing ones, giving priority to specialized centres in respective fields.

Article 8

Duties of all responsible authorities

1. Each of responsible authorities has the duty to set up the necessary structures and to nominate those individuals responsible for the implementation of this law. The Ministry of LSAEO shall supervise fulfilment of this obligation.

2. Responsible authorities shall respond to any report filed by the victim or other persons indicated by this law, for cases of violence or threat to use violence, including cases of violation of protection orders and emergency protection orders. These authorities keep due records and issue a copy to the victim or to the person accompanying them
3. Government authorities utilize reasonable means to protect the victim and prevent ongoing violence through:
 - a) Informing the victim or the person accompanying them on the measures to be taken according to the law and authorities they should refer to;
 - b) Informing the victim or the person accompanying them on existing social services and accompanying them to appropriate centres and institutions;
 - c) Providing for transportation of the victim and the person accompanying them to medical or social services centres;
 - ç) Providing them with the protection of a policeman in life endangering cases.
4. When there is reasonable doubt that the perpetrator has threatened to or has committed domestic violence or has violated a protection order, police authorities shall immediately verify and take note of this fact.
5. Persons who receive reporting because of their function or authority to implement this law and fail to act in its implementation shall be held administratively and/or criminally responsible, applying sanctions of article 248 and 251 of the Criminal Code.
6. Police authorities shall record their findings in a written report and start investigations upon their own initiative (*sua sponte*). The incident number for the report should be given to the victim. The police gives the incident number to the victim.

Article 9

Subjects who may report to responsible authorities

1. In the occurrence of a domestic violence act, the victim may address a request to the nearest police unit (to their residence or wherever they are), to their local government unit (municipality, commune), to public health centre in their residence or wherever they are situated or file a petition at the district court of their permanent or temporary residence or that of the perpetrator, to take the necessary measures.
2. In case they witness a domestic violence case, any person may present a request to the authorities mentioned above to take the appropriate measures.

CHAPTER III PROTECTION MEASURES

Article 10

Protection measures against domestic violence

1. Protection against domestic violence shall be ensured by/through:
 - a) Immediately ordering the defendant (the perpetrator) to refrain from committing or threatening to commit an act of domestic violence against the petitioner (victim) or other family members of the victim as defined in article 3, point 3, of this law or as named in the order;
 - b) Immediately forcing the defendant (perpetrator) to refrain from harming, harassing, contacting or communicating directly or indirectly with the victim or other members of their family as defined in article 3, point 3, of this law or as named in the order;

- c) Removing immediately the defendant (perpetrator) from the residence for a certain period of time, determined in the court order and restricting their re-entrance without court authorization;
- ç) Prohibiting immediately the defendant (perpetrator) to be within a certain distance to the victim or members of their family as defined in article 3, point 3, of this law or as named in the order;
- d) Immediately forbidding the defendant (perpetrator) to approach/get near the house, workplace, the original family residence or the future couple's residence or that of other persons and moreover the children's school or any other place commonly frequented by the victim, unless this happens for work-related reasons;
- dh) Immediately placing the victim and the minors in temporary shelters always keeping in mind the best interest of the child;
- e) Limiting or prohibiting the defendant (perpetrator) to see the victim's child based on appropriate conditions;
- ë) Prohibiting the defendant (perpetrator) to enter or stay in the temporary or permanent residence of the victim, or in any part thereof, regardless of any property or possession rights the perpetrator may have over these;
- f) Ordering a court authorized person (member of the police or bailiff) to accompany the victim or the defendant (perpetrator) to the victim's residence and to oversee removal of their personal belongings;
- g) Ordering the law enforcement officers to seize any weapons belonging to the perpetrator, found during police checks, or ordering the perpetrator to surrender any weapons belonging to them;
- gj) Ordering the defendant (perpetrator) to allow the victim to possess the commonly used residence or part thereof;

- h) Ordering the defendant (perpetrator) to pay the rent for the permanent or temporary residence of the victim as well as to pay support obligations to the victim, children or other members of the family under their responsibility;
- i) So long as the protection order is in existence, the property regime shall be in accordance with Family Code articles 57, 58 and 60;
- j) Transferring the temporary child custody rights to the victim and temporarily removing parental rights for the defendant (perpetrator);
- k) Deciding and ordering - depending on the case (under the competence of the court) - the intervention of public or private social services of their place of residence or of organizations whose objective is to support and shelter subjects of domestic violence
- l) Ordering the defendant (perpetrator) to effectuate a periodic payment in favour of cohabitating persons, who as a result of the above-mentioned measure, remain deprived of living means. To secure the payment the court may order the employer (of the perpetrator) to transfer the payment directly to the beneficiary. This order shall be an executive title;
- ll) Referring the victim of domestic violence to rehabilitation programmes;
- m) Ordering the defendant (perpetrator) to participate in rehabilitation programmes; if the defendant is ordered to a rehabilitation programme, the programme managers are required to report weekly to the court on whether the perpetrator is attending and participating. If the defendant (perpetrator) is not doing so, upon request of subjects provided in article 13 of this law, the court will summon the defendant and implement respective

- provisions of the Criminal Code for hindering execution of court orders.
2. Protection orders, by a court decision, may include several of the protection measures mentioned in point 1 of this article
 3. Emergency protection orders, by a court decision, may contain several of the protection measures mentioned under point a through g of this article
 4. In implementing point g of this article the court keeps in mind:
 - a) If the weapons have been seized, they will be returned only after the termination of the protection order and receipt of a court order;
 - b) If weapons have been seized and the person has a weapons authorization card, the court shall notify the appropriate administrative authority or shall suspend the card until termination of the protection order.

Article 11

Effects of the protection order

Notwithstanding any other order or decision issued by the court or any other institution, a protection order containing the above-mentioned measures shall be issued by the court in the cases provided by this law.

The protection order or the emergency protection order upon its issuance or expiration shall not permanently affect property or custody rights.

CHAPTER IV JUDICIAL PROCESS FOR PROTECTION ORDERS

Article 12

Competent authority to issue protection orders for domestic violence cases

1. The competent authority to issue protection orders in domestic violence cases is the district court, family section. The court issues protection orders or emergency protection orders to establish the security measures mentioned under article 10 of this law.
3. The interested party may, depending on the case, request the court, in conformity with this law, the issuance of a protection order without prior request for an emergency protection order.
4. After the court has issued an emergency protection order, the interested party may request issuance of a protection order as provided by this act. The subsequent protection order serves to reconfirm the continuance of the emergency protection order and provides for protection measures indicated in article 10 of this law.

Article 13

Subjects entitled to request for protection orders

1. The petition for protection orders may be presented by:
 - a) The victim themselves;
 - b) The victim's legal representative or attorney;
 - c) The police/prosecutor.
2. The petition for protection orders on behalf of the minor may be presented by:
 - a) The minor's parent or guardian;

- b) The minor's legal representative or attorney;
 - c) Relatives of the minor;
 - ç) Representatives of the social services office at the municipality or commune, where the minor resides temporarily or permanently, when they have knowledge of the violence committed;
 - d) Domestic violence victim protection and rehabilitation centres and services recognized/licensed by the Ministry of Labour, Social Affairs and Equal Opportunities.
3. The petition for emergency protection orders may be presented by:
- a) The victim him/herself;
 - b) The victim's legal representative or attorney;
 - c) The police/the prosecutor;
 - ç) A family member of the victim;
 - d) Representatives of the social services office of the municipality or commune, where the victim temporarily or permanently resides, who have knowledge of domestic violence incidents that have occurred;
 - dh) Domestic violence victim protection and rehabilitation centres and services recognized/licensed by the Ministry of Labour, Social Affairs and Equal Opportunities.
4. When the petition is presented by the police/prosecutor, the victim's wish to drop the case does not have an effect on the continuation of the judicial process.

Article 14

The form of the petition

1. The petition for protection and emergency protection orders shall also contain the following:
- a) Personal data on the family or blood relations between the victim and perpetrator;

- b) A clear presentation of the facts and circumstances in which the domestic violence incident occurred, including the reasons why the petitioner fears their security, health or well-being is in danger from the defendant (perpetrator) as mentioned under article 3 points 1 and 2 of the present law;
 - c) Specific protection measures requested;
 - ç) Petitioner's signature.
2. The petition for protection orders may be presented at any time to the court by the persons who are legitimized to do so. Whenever immediate help is requested the petition may also be compiled and presented at the nearest police department and the police officer shall act in conformity with the Law on the State Police.
 3. The petitioner is assisted by a lawyer free of charge for the preparation of the petition, completing the necessary documents and filing them in the court.
 4. The petitioner is exempt from court taxes/fees. Upon issuance of the protection order, court expenses are charged on the party who committed domestic violence. When the petition is not sustained the petitioner is required to pay for court expenses.
 5. Petitions shall be recorded in a special register to the date of their completion.

Article 15

Evidence during the hearing

1. Necessary evidence may be: witness statements, police reports, medical reports, acts of expertise (expert witness declarations) examinations and statements/explanations by the parties, other documents issued by the social workers of the social services department at the municipality and

- commune, documents issued by legal persons (NPOs) registered pursuant to legislation in force.
2. When the data in the petition point out that police departments, local government offices or health centres possess written proof of the occurrence of domestic violence, these shall immediately issue a certified copy thereof (with official seal) upon the request from the petitioner or from the court. Failure to issue such a document causes responsible persons to be sanctioned according to the Administrative Procedures Code.
 3. When the court does not possess all evidence mentioned in paragraph 2 of this article, it assesses the situation based on the description of circumstances and facts regarding occurrence of domestic violence and takes a decision regarding the petition presented by the party.

Article 16

The hearing for protection orders

1. The court establishes a hearing with regard to a protection order within 15 days from the filing of the petition.
2. While examining the petition, the court may hear testimony from the following persons:
 - a) The victim, her/his legal representative or attorney;
 - b) The defendant, his/her legal representative or attorney;
 - c) The prosecutor, when he or she filed the petition;
 - ç) Representatives from the police;
 - d) The representative of the social services department at the municipality or commune of the temporary or permanent residence of the petitioner when the petitioner is younger than 18, when the petitioner is legally incapacitated or when the domestic violence affects these categories/persons;

- dh) Health centres employees services and rehabilitation centres employees, who assisted the victim because of domestic violence;
 - e) Witnesses deemed necessary by the court.
3. When the petition is presented by the police/prosecutor, the victim's wish to drop the case does not have an effect on the continuation of the judicial process.

Article 17

Court decision for protection orders

1. The court shall issue a protection order only against the defendant mentioned in the petition. This order may only include measures described in article 10 of this law. The court shall issue a protection order containing one or more of the measures provided in article 10, if it finds that:
 - a) There is sufficient basis to believe that the respondent may commit an act of family violence;
 - b) Issuance of the protection order is necessary to protect the security, health and well-being of the victim/s. Based on the court conviction, the protection order may include other persons, family or intimately connected to the victim that may become subjects to domestic violence.
2. A court shall not deny a protection order because of the existence of any other pending action involving any party.
3. The final decision to issue the protection order, which should meet the requirements of article 310 of the Civil Procedure Code, shall also contain:
 - a) The measure determined by the court;
 - b) Time limits for this protection order which should not exceed 12 months, but with a possibility of extension;
 - c) A remark that violation of a protection order shall be

- considered a criminal offence under article 320 of the Criminal Code;
- ç) A note on the right to appeal the protection order within 15 days from its approval or notification to the parties.
4. Issuance of protection order shall be notified immediately to the perpetrator who was not present at the hearing, according to article 316 of the Civil Procedure Code. The victim shall be provided with two copies of the original decision, one for own record and the other to present to the police if and when necessary.
 5. The court shall send within 24 hours a copy of the protection order to the following persons:
 - a) The victim and other persons mentioned in the protection order;
 - b) The prosecutor, when they present the request;
 - c) Social services department of the municipality or commune of the location where the victim or other persons mentioned in the protection order reside temporarily or permanently;
 - ç) The police department of the location where the victim or other persons mentioned in the protection order reside temporarily or permanently.

Article 18

The hearing for emergency protection orders

1. The court reaches a decision with regard to emergency protection orders within 48 hours from the presentation of petition.
2. In the hearing for the emergency protection order the court hears the following persons:
 - a) The victim, their legal representative or attorney;
 - b) The perpetrator, their representative or attorney;

- c) The prosecutor, if participating;
- ç) Other petitioners mentioned in article 13 of this law;
- d) Witnesses deemed necessary by the court.

Article 19

Issuance of emergency protection orders

1. The court issues the protection order including one or more measures described in article 10 of this law, if it finds that:
 - a) There is sufficient basis to believe that the defendant (perpetrator) has committed or threatened to commit an act of family violence;
 - b) The defendant (perpetrator) presents a direct and immediate threat to the security, health or well-being of the victim or of their family members;
 - c) Issuance of the emergency protection order is necessary to protect the security, health and welfare of the victim or their family members who are protected through this order.
2. A court shall not deny issuance of an emergency protection order because of the existence of any other pending judicial process involving any party.
3. The final decision to issue the protection order which shall meet the requirements of article 310 of Civil Procedure Code shall contain:
 - a) The measure determined by the court;
 - b) Time limits for this emergency protection order which expires at the moment a protection order issued by the court is implemented;
 - c) A remark that violation of an emergency protection order constitutes a criminal offence, pursuant to article 320 of the Criminal Code;
 - ç) A note on the right to appeal the order within 5 days from its approval or notification to the parties;

- d) The date for the verification of the emergency protection order, which should take place within 20 days from the issuance of the emergency protection order.
4. Issuance of emergency protection order shall be notified immediately to the perpetrator who was not present at the hearing, according to article 316 of the Civil Procedure Code. The victim shall be provided with two copies of the original decision, one for own record and the other to present to the police if and when necessary.
5. The court sends within 24 hours a copy of the emergency protection order to the following persons:
 - a) The victim and other persons mentioned in the emergency protection order;
 - b) Petitioners under the meaning of article 13 of this law;
 - c) Social services department of the municipality or commune of the location where the victim or other persons mentioned in the protection order reside temporarily or permanently;
 - ç) The police department of the location where the victim or other persons mentioned in the protection order reside temporarily or permanently.
6. The court decision issuing an emergency protection order is considered an executive title and shall be implemented immediately according to the Civil Procedure Code (article 510/e, 516/c and the following).

Article 20

The hearing for the verification of the emergency protection order

Once the hearing for the issuance of the emergency protection order terminates the court should proceed with the hearing for

the protection order based on the petition mentioned in article 16 of this law. At the end of the hearing the court may:

- a) Decide the withdrawal and termination of the effects of the emergency protection order issued previously by the court when there is no evidence to sustain it;
- b) Refuse to issue a protection order when evidence does not support the previously issued emergency protection order;
- c) Issue a protection order pursuant to article 17 of this law. This court decision may alter terms and conditions of the previously issued emergency protection order, as needed.

Article 21

The appeal

1. Special appeal may be filed against the decision for the emergency protection order pursuant to the Civil Procedure Code.
2. The court decisions on the protection order or on the emergency protection order may be appealed according to the time limits and rules set out in the Civil Procedure Code.
3. The appeal does not affect the implementation of the protection order or emergency protection order.

Article 22

Circumstances for amendment, termination or continuation of protection orders

1. In case of fundamental change in circumstances, the victim (or their representative), the perpetrator or if the prosecutor has been participating he/she may present the

request for termination or amendment of the protection order

2. Once this request for termination or amendment of the protection order is received the court examines it according to article 16 of the present law. At the end of the examination the court may:
 - a) Decide the protection order should stay in force;
 - b) Decide the protection order should be amended, if circumstances have fundamentally changed; or
 - c) Decide the termination of the protection order if the criteria established under article 10, section 1, are no longer valid because of fundamental change in the circumstances.
3. Presentation of the request for the amendment or termination of the protection order does not suspend the implementation of the protection order.
4. Fifteen days prior to expiration of the protection order, the victim or the person authorized by them may present the request for the continuation of the protection order. When no such request is presented the protection order terminates automatically on the expiration date.
5. Once the court receives the request for the continuation of the protection order, it examines it according to article 16 of this law. At the end of the process the court may:
 - a) Certify the termination of the protection order up to the expiration date; or
 - b) Decide the continuation of the protection order if the criteria of article 17 point 1 of this law are met.

Article 23

Implementation of judicial decisions

1. The judicial decision containing the emergency protection order is considered an executive title from the moment it is

declared by the court (or notified to the parties). The court shall issue an execution order at the same time that it issues an emergency protection order.

2. The judicial decision containing the protection order is an executive title and should therefore be carried out immediately by bailiffs according to the Civil Procedure Code, by police departments, local government authorities (municipality, commune) or the perpetrator voluntarily. The court shall issue an execution order at the same time that it issues a protection order.
3. Social workers and members of the police force shall take all necessary steps to ensure immediate and continuous implementation/execution of protection measures determined pursuant to article 10 of this law.
4. Institutions, shelters, service centres, NPOs licensed to offer services shall implement measures established by the court decision and shall co-ordinate their actions with the local government authorities and police departments, which are the direct implementers of these decisions.
5. Forced execution of the court order shall be carried out by the bailiff services office, pursuant to Civil Procedure Code provisions (articles 510 and the following).
6. When enforcement institutions, including perpetrators, notified of the court orders refuse to comply voluntarily according to sections 2 and 4 of this article, authorities shall proceed with forced implementation/execution pursuant to Civil Procedure Code provisions. In these cases sanctions established by article 320, 320/a of the Criminal Code as well as article 606/3 of the Civil Procedure Code shall apply against the persons who do not respect/abide by the court order.

CHAPTER V FINAL PROVISIONS

Article 24

Criminal Proceedings

Issuance of a protection order or emergency protection order does not inhibit interested parties to also initiate criminal proceedings with regard to acts or omissions that are classified as criminal offences.

Article 25

Secondary legislation

The Council of Ministers issues all the necessary secondary legislation to the implementation of this law within 3 months from its entry into force.

Article 26

Entry into force

This law shall enter into force on 1 June 2007.

Promulgated by the President of the Republic of Albania, Alfred Moisiu with decree no. 5182, dated 12 January 2007.

ANNEX B**LAW NO. 9749, DATED 4 JUNE 2007,
“ON THE STATE POLICE”***(excerpts)*

Article 104

Banishment from locality

In order to avert threat or to prevent the disturbance of public order or security, the Police officer may order the person to leave from the locality or may prohibit him to enter the locality, for as long as the threat or disturbance persists.

Article 106

Protective measures

1. Protective measures are taken against mentally ill persons, persons under the effect of drugs or alcohol, and persons who carry contagious diseases. In cases as such, the Police officer accompanies the person to the police premises, to medical institutions, rehabilitation centres or hands him over to the responsible person or custodian.
2. The Police officer takes the necessary measures for the protection of:
 - a) The person, whose state obviously indicates that he cannot control his actions or behaviour and for that reason may harm or endanger his own life or that of the others. Execution of the measure in the police premises lasts for as long as it is necessary, but no longer than 10 hours.
 - b) The minor who is no longer under supervision or has escaped from the parent or custodian, by returning him

- to the custodian or sending him to the minors welfare services, respecting the time limits specified in point (a).
3. In order to carry the responsibilities specified in point (1) of this article, the Police officer may conduct the physical search and examination of these persons.

Article 108

Impounding of objects

Objects are impounded or seized only in cases provided by law and in full compliance with respective legal procedures.

Outside the cases otherwise disciplined by law, objects may be impounded only if this is strictly unavoidable to avert imminent threats to public order and security. The officer who takes action provides the respective process-verbal which will be notified to the owner if known.

Objects are impounded only as long as it is strictly necessary. After that objects are returned to the owner if identified or identifiable with no delay. If within 90 days, or in the shorter term as may be required by the nature of the object, the owner cannot be identified or otherwise voluntarily fails to claim the restitution, impounded objects will be declared public property in compliance with the enacted legislation.

It is the responsibility of the Police to carry out ascertaining actions to identify the owner of the impounded property.

ANNEX C

SCRIPT FOR PROTECTION ORDER HEARING

A. Swearing In

The chairman of the court session, after he/she has been assured of the identity of the witnesses, makes them conscientious of the importance of the mission and of the oath taken before the court and makes known to them that they are obligated to tell the truth on what they know in relation to the case, and warns them on responsibility they bear for false testimony. In the meantime the court secretary reads the oath formula as follows: *Conscientious, I swear that I shall say the truth and only the truth.*

While standing, the witnesses answer “*I swear*” and wait outside the court room under instruction not to communicate with each other (Civil Procedure Code article 237)

On the record, the judicial officer shall announce the parties name and case number.

*This is case number _____, petitioner _____
versus respondent _____.*

B. Petition Review

Review the petition to assure that it contains all the information necessary to issue an order. Based on that review, you may want to ask the petitioner some of the following questions:

- *How is the respondent related to you?*
- *What acts did the respondent commit?*
- *When did these acts occur?*
- *Where did these acts occur?*
- *Who was present or witnessed these acts?*
- *Did this behaviour cause you to be afraid?*
- *Why do you think you need a protection order?*

Questions related to other protected parties:

- *How are you related to the other persons for whom you are requesting protection?*
- *What did the respondent do to them and when?*
- *If they are children – are you the parent or legal guardian of the children?*
- *Is/are the child/ren related to the respondent?*

C. Issuance of Order

Consider the requests by the petitioner when considering the terms (article 10)

- *Based upon the evidence provided, there is sufficient basis to believe that the respondent may commit an act of family violence; or*
- *Based upon the evidence provided issuance of the protection order is necessary to protect directly or indirectly the security, health and well-being of the victim.*
- *Based upon the evidence the court is including these other persons (named) who are family or intimately connected to the victim that may become subjects of domestic violence (article 17, section 1 (b)).*

- *I am granting the protection order and entering the following orders*
 1. *I am ordering that the respondent not commit any new crimes against you or the others mentioned in the order*
 2. *I am ordering that the respondent not contact you or the others in the order in any way.*

If petitioner asks for exclusive use of the residence:

- *Whose property is this?*
 - *Is this marital property?*
 - *Is your name on the lease?*
 - *If the property is a rental – do you understand that this order is not effective against the owner and I cannot order the landlord to allow you to stay unless the rent is paid?*
1. *Based on the evidence, I am granting exclusive use of the residence.*
 2. *Based on the evidence, I am ordering that the respondent not approach the house/workplace/school of petitioner. Respondent shall not approach any other specific place (insert name of specific place if there is one.) In addition, Respondent shall not at any time approach the petitioner within _____ meters.*
 3. *The respondent can return once with law enforcement officers to pick up personal belongings. Law Enforcement will not stand around and wait so this should be done quickly and you may want to gather up these things for the respondent to speed up the process.*
 4. *Based on the evidence, I am ordering that the petitioner have temporary custody of the minor children (state names and ages); that respondent have visitation with the joint children (specify); that the respondent pay (specify*

amount) for rent and support obligations of the family, that the respondent not sell the family property.

If the petitioner does not request exclusive use of the residence:

- Does the respondent know where you live?

If not, do not put the address on the documents for the safety of the petitioner.

I am ordering the respondent to not go near where you live but I am not going to put your address on the order or tell the respondent where you live.

If the petitioner requests protection for other locations:

- Does the respondent know where you work?

If not - I am ordering the respondent to not go near where you work but I am not going to put your address on the order or tell the respondent where you work.

If yes - I am ordering the respondent to not go near where you work.

- Do you and the respondent work at the same place?

If yes – I am ordering that the respondent not approach you in any way while at work and that the respondent remains at least 100 meters away from you at all times.

- *Does the respondent know where you or the children go to school?*

If not – I am ordering the respondent to not go near where you or the children go to school but I am not going to put that address on the order or tell the respondent where you or the children go to school.

If yes – I am ordering the respondent to not go near where you or the children go to school.

If the petitioner asked for any other locations to be put into the order:

- *Why do you think these other locations should be included?*

Then decide and use the same language as above.

D. Firearms

- Does the respondent have or have access to firearms?
- Has the respondent ever threatened you with firearms?
- Has the respondent ever threatened you with any other type of weapon/
- Has the respondent threatened your physical safety or that of the children, relatives, friends or pets?

Depending on the answer to these questions:

1. *The court finds that there is a credible threat to the safety of the petitioner or others.*

2. *I am ordering that the respondent not possess or purchase a firearm for the duration of the order and transfer any firearms owned or possessed to the local law enforcement within 24 hours of this order.*

E. Petitioner Advisories

- a. *The order is in effect for [STATE TIME LIMIT] - generally 12 months.*
- b. *The order goes into effect immediately.*
- c. *I am also issuing an order of execution so that if the respondent does not obey the order, you can bring the execution order to court immediately for the bailiff/ sheriff to enforce.*
- d. *If any information or conditions change during this time, you must return to the court to modify the order. You cannot change the order or get rid of it on your own.*
- e. *You will receive a copy of the order. You should make copies and carry one with you at all times.*

F. Hearing

- a. *The respondent has a right to request a hearing in 5 days (if an emergency order) or 15 days (if a regular order). If you move or change your telephone number, please be sure to tell the court so we can notify you if the respondent asks for a hearing.*
- b. *If the respondent asks for a hearing, we will notify you at your telephone number or address. If you have an attorney, we will notify the attorney.*

G. Violations

- a. Once the order is served, it is a crime for the respondent to violate the conditions in the order.*
- b. If you believe the respondent has violated the order, contact the police immediately.*
- c. Also bring your execution order to court.*

H. Safety

- a. The protection order does not guarantee your safety. You should take steps to protect yourself and your family.*
- b. Give a copy of the order to all the people and places listed in the order such as your landlord, school principal, at work etc.*
- c. Have a list of what agencies can help you and the telephone number to the nearest police.*
- d. You should make a safety plan with a local domestic violence agency.*
- e. Do you have any questions?*

SCRIPT FOR CONTESTED PROTECTION ORDER HEARING

- 1. This is the time set for the hearing on protection order number _____ with petitioner _____ and respondent _____.*
- 2. Is the petitioner ready?*
- 3. Is the respondent ready?*

4. Have the parties been sworn in? If not swear them in.
5. *First I would like to narrow the issues if possible. The court can amend the order, terminate the order or continue the order. What is it you are asking?*
6. If the respondent is asking to amend the order, find out what specific conditions the respondent is seeking to amend. If the respondent objects to something stated in the petition, explain the difference between the petition and the order and that the respondent is only bound by the order.
7. *First I will explain how this hearing will proceed. Since the petitioner asked for the protection, he/she will speak first. If the petitioner has documents or witnesses, he/she should present them. The respondent or attorney can ask questions of the petitioner. Then the respondent can speak. Then the petitioner or attorney can ask questions. If the respondent has any witnesses or documents, he/she should present them. I will also be able to ask questions.*
8. *At this time, I would like to ask all those who are going to be witnesses, except the parties, to wait outside the courtroom. We will call you when we need you (Civil Procedure Code article 238).*
9. Then call the petitioner to the stand. *State your name, spell for the record. What is your relationship to respondent? What happened and why do you think the order should be granted or maintained?*
10. Then ask the respondent if he/she has any questions.

11. Ask the petitioner if he/she has any witnesses.
12. Then call the respondent to the stand. *State your name, spell for the record. What is your relationship to the petitioner? What happened and why do you think the order should be amended or terminated?*
13. If the court finds that there is not sufficient cause to keep the order, the order is terminated.
14. If the court finds there is sufficient cause to keep or amend the order –
 - a. *Based upon the evidence provided, there is sufficient basis to believe that the respondent may commit an act of family violence; or*
 - b. *Based upon the evidence provided, issuance of the protection order is necessary to protect directly or indirectly the security, health and well-being of the victim.*
 - c. *Based upon the evidence the court is including these other persons (named) who are family or intimately connected to the victim that may become subjects of domestic violence (article 17, section 1 (b)).*
 - d. If amending any specific protection measures, state them specifically.
 - e. *The court also finds the respondent had actual notice of the hearing.*
 - f. *The respondent had an opportunity to appear and did appear and present evidence.*
15. Regardless of what order the court makes, you must consider the safety of the petitioner. Keep the respondent in the court room for 15 minutes to give the petitioner

time to leave the courthouse and be safely on the way before the respondent is released. If possible, have a police officer accompany the petitioner out of the courthouse and to whatever transportation he/she is using.

ANNEX D

**PETITION
FOR PROTECTION ORDER**

1. TO THE DISTRICT COURT OF: _____
(Provide district court name and address)

PETITION/CASE No: _____

2. PETITIONER¹

vs.

3. RESPONDENT

(Name, father's name, surname)

(Permanent/temporary residence address)

_____ Telephone: _____
Represented by:

(Name of legal or other representative, if any)

(Address of representative)

_____ Telephone: _____

(Name, father's name, surname)

(Permanent residence address)

_____ Telephone: _____

(Temporary residence address)

_____ Telephone: _____

4. Indicate name and address of victim(s) if different from petitioner (name, father's name and surname) _____

5. NOTE: If you fear your security or that of other people under your responsibility may be compromised by providing your address, please provide below another address that you wish to be used for purposes of the judicial proceedings:

Address: _____ Telephone: _____

Other contact details: _____

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¹ The petitioner may be the victim or other persons authorized to request a protection order on behalf of the victim as indicated in article 13, section 1 and 2 of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended by Law no. 9914, dated 12 May 2008, "On some additions to Law no. 9669, dated 18 December 2006, 'On measures against violence in family relations'". These persons could be the victim's legal representative, police/prosecutor or, in the case of minor victims, relatives of the minor, representatives of social services or licensed victim protection centers.

6. Object of petition: Issuance of protection order.

7. Legal basis: Law no. 9669, dated 18 December 2006, “On measures against violence in family relations”, as amended.

8. Explain what is the family relationship of victim with respondent. (according to the note below): Victim is _____ of the respondent.

NOTE: Members of family are (a) Spouses or cohabitating partners or former spouses or cohabitating partners, (b) Brothers, sisters, relatives of direct blood line, including adoptive parents and children, (c) Spouses of persons provided above, (d) Persons related by direct blood line, including parents and adoptive children of the spouse or the cohabitating partner, (e) Brothers and sisters of the spouse if these have been living together during the last 3 (three) months, (f) Children of spouses or cohabitating partner.

9. Additional information on the victim:

Date of birth	
Place of birth	
Civil status	
How many children	
How many children with respondent	
Profession	
Employment	
Citizenship	
Has title over the common residence?	
How many dependants	
Income	

10. Additional information on the respondent:

Date of birth	
Place of birth	
Civil status	
How many children	
How many dependants	
Profession	
Employment	
Employer’s address	
Citizenship	
Possesses or has access to the following weapons	
Has title over the common residence?	
Income	

11. Other ongoing processes involving the victim or their children and the respondent

Case name	Case number	Competent court

12. Facts and circumstances. Clearly and carefully explain facts and circumstances of domestic violence incidents between victim and respondent (attach additional sheets if necessary):

Incident no. 1

Date: _____

Place of incident: _____

Act or omission committed: _____

Against whom (list): _____

Effects on victim(s) (list): _____

Additional description of incident: _____

People present during the incident (list): _____

Incident no. 2

Date: _____

Place of incident: _____

Act or omission committed: _____

Against whom (list): _____

Effects on victim(s) (list): _____

Additional description of incident: _____

People present during the incident (list): _____

Incident no. 3

Date: _____

Place of incident: _____

Act or omission committed: _____

Against whom (list): _____

Effects on victim(s) (list): _____

Additional description of incident: _____

People present during the incident (list): _____

13. Explain reasons to clarify the damage to victim's security, health or well-being:

14. Evidence: (list here supporting evidence and attach documents to this petition)

_____ Police case number

_____ Copy of police report

_____ Medical report

_____ Medico-legal act of expertise

_____ Certificates from victim's social and rehabilitation centers

(list): _____

_____ Expert evaluation (list): (e.g. psychologist, pet specialist etc.)

_____ Witness statements (list): _____

_____ Other evidence (list): (e.g. victim's diary, children's paintings, pictures of injuries, e-mail communications, SMS, etc.) _____

15. Petitioner respectfully requests the Court to order protection for the following persons:

Name	Date of birth	Relationship to respondent
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

16. Petitioner respectfully requests the court to order the following measures in its protection order: (tick more than one if applicable)

- Respondent not to commit a domestic violence act against (names) _____
- Respondent refrain from threatening (names) _____
- Respondent not to harm, harass, contact or communicate with (names) _____
- Respondent to leave residence (address) _____
by (time) _____ and not to return without subsequent
court authorization
- Respondent not to approach closer than _____ (distance) persons
mentioned above
- Respondent not to go to:
- School (name) of: _____, at (address) _____
 - Kindergarten (name) of: _____, at (address) _____
 - Work (name) of: _____, at (address) _____
 - Home (name) of: _____, at (address) _____
- To relocate the following persons to: (a shelter/temporary residence)
_____ under the responsibility of (name of organization/
authority) _____
- Respondent to contact (name of child) _____ only (when, day of
week, time limits) at (place) _____ or by (means of contact) _____
- Prohibit respondent to enter or stay at residence of (name) _____
at (address) _____
- Authorise (position/authority) _____ to accompany
(who) _____ to victim's residence and accompany removal of
their personal belongings
- Respondent to hand over all weapons to (name of institution/officer) _____
- Respondent to allow petitioner to possess the common residence at
(address): _____
- Respondent to pay monthly (amount) _____ to (name) _____ for rent
- Respondent to pay monthly (amount) _____ to (name) _____ as support
obligation for persons mentioned above.
- Respondent to refrain from disposing of marital property
- Removing parental responsibility of respondent over the children (names) _____
- Granting temporary custody rights over the children (names) _____
to the petitioner
- Ordering social services (names) _____ to provide the following to the
persons above (list services that victim wants) _____

_____ Ordering respondent to pay the (amount) _____ periodically
(indicate) _____ to (whom) _____

OR ordering respondent's employer (name) _____ to
transfer periodically (indicate) _____ the payment (amount)
_____ to (whom) _____

_____ Involving the victim in rehabilitation programmes

_____ Ordering the perpetrator to participate in rehabilitation programmes and
ordering programme to report weekly to the court as to respondent's
participation

17. Duration of protection order _____

Petitioner name: _____ **Date:** _____

Petitioner signature: _____

Representative name: _____
(if applicable)

Representative signature: _____

ANNEX E

**PETITION
FOR EMERGENCY PROTECTION ORDER**

1. TO THE DISTRICT COURT OF: _____
(Provide district court name and address)

PETITION/CASE No: _____

2. PETITIONER¹

vs.

3. RESPONDENT

(Name, father's name, surname)

(Permanent/temporary residence address)

Telephone: _____
Represented by:

(Name of legal or other representative, if any)

(Address of representative)

Telephone: _____

(Name, father's name, surname)

(Permanent residence address)

Telephone: _____

(Temporary residence address)

Telephone: _____

4. Indicate name and address of victim(s) if different from petitioner (name, father's name and surname) _____

5. NOTE: If you fear your security or that of other people under your responsibility may be compromised by providing your address, please provide below another address that you wish to be used for purposes of the judicial proceedings:

Address: _____ Telephone: _____

Other contact details: _____

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¹ The petitioner may be the victim or other persons authorized to request an emergency protection order on behalf of the victim as indicated in article 13, section 3 of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended by Law no. 9914, dated 12 May 2008, "On some additions to Law no. 9669, dated 18 December 2006, 'On measures against violence in family relations'". These persons could be the victim's legal representative, police/prosecutor or, in the case of minor victims, relatives of the minor, representatives of social services or licensed victim protection centers.

6. Object of petition: Issuance of emergency protection order

7. Legal basis: Law no. 9669, dated 18 December 2006 “On measures against violence in family relations”, as amended.

8. Explain what is the family relationship of victim with respondent. (according to the note below):

Victim is _____ of the respondent

NOTE: Members of family are (a) Spouses or cohabitating partners or former spouses or cohabitating partners, (b) Brothers, sisters, relatives of direct blood line, including adoptive parents and children, (c) Spouses of persons provided above, (d) Persons related by direct blood line, including parents and adoptive children of the spouse or the cohabitating partner, (e) Brothers and sisters of the spouse if these have been living together during the last 3 (three) months, (f) Children of spouses or cohabitating partner.

9. Additional information on the victim:

Date of birth	
Place of birth	
Civil status	
How many children	
How many children with respondent	
Profession	
Employment	
Citizenship	

10. Additional information on the respondent:

Date of birth	
Place of birth	
Civil status	
How many children	
Profession	
Employment	
Employment address	
Citizenship	
Possesses or has access to the following weapons	
Has title over the common residence?	

11. Other ongoing processes involving the victim or their children and the respondent

Case name	Case number	Competent court

12. Facts and circumstances. Clearly and carefully explain facts and circumstances of domestic violence incidents between victim and respondent (attach additional sheets if necessary):

Incident no. 1

Date: _____

Place of incident: _____

Act or omission committed: _____

Against whom (list): _____

Effects on victim(s) (list): _____

Additional description of incident: _____

People present during the incident (list): _____

Incident no. 2

Date: _____

Place of incident: _____

Act or omission committed: _____

Against whom (list): _____

Effects on victim(s) (list): _____

Additional description of incident: _____

People present during the incident (list): _____

Incident no. 3

Date: _____

Place of incident: _____

Act or omission committed: _____

Against whom (list): _____

Effects on victim(s) list: _____

Additional description of incident: _____

People present during the incident (list): _____

13. Explain reasons to clarify the damage to victim's security, health or well-being:

14. Evidence: (list here supporting evidence and attach documents to this petition)

Police case number _____

Copy of police report _____

Medical report _____

Medico-legal act of expertise _____

Certificates from victim's social and rehabilitation centers

(list): _____

Expert evaluation (list): (e.g. psychologist, pet specialist etc.) _____

Witness statements (list): _____

Other evidence (list): (e.g. victim's diary, children's paintings, pictures of injuries, e-mail communications, SMS, etc.) _____

15. Petitioner respectfully requests the Court to order protection for the following persons:

Name	Date of birth	Relationship to respondent
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

16. Petitioner respectfully requests the court to order the following measures in its emergency protection order: (tick more than one if applicable)

- Respondent not to commit a domestic violence act against (names) _____
- Respondent refrain from threatening (names) _____
- Respondent not to harm, harass, contact or communicate with (names) _____
- Respondent to leave residence (address) _____ by (time) _____ and not to return without subsequent court authorization
- Respondent not to approach closer than _____ (distance) persons mentioned above
- Respondent not to go to:
- School (name) of: _____, at (address) _____
 - Kindergarten (name) of: _____, at (address) _____
 - Work (name) of: _____, at (address) _____
 - Home (name) of: _____, at (address) _____
- To relocate the following persons to: (a shelter/temporary residence) _____ under the responsibility of (name of organization/authority) _____
- Respondent to contact (name of child) _____ only (when, day of week, time limits) at (place) _____ or by (means of contact) _____
- Prohibit respondent to enter or stay at residence of (name) _____ at (address) _____
- Authorize (position/authority) _____ to accompany (who) _____ to victim's residence and accompany removal of their personal belongings
- Respondent to hand over all weapons to (name of institution/officer) _____

17. Duration of emergency protection order _____**Petitioner name:** _____ **Date:** _____**Petitioner signature:** _____**Representative name:** _____
(if applicable)**Representative signature:** _____

ANNEX F

**PETITION
FOR MODIFICATION OF A PROTECTION ORDER**

1. TO THE DISTRICT COURT OF: _____
(Provide district court name and address)

PETITION/CASE No: _____

2. PETITIONER¹

vs.

3. RESPONDENT

(Name, father's name, surname)

(Permanent/temporary residence address)

Telephone: _____
Represented by:

(Name of legal or other representative, if any)

(Address of representative)

Telephone: _____

(Name, father's name, surname)

(Permanent residence address)

Telephone: _____

(Temporary residence address)

Telephone: _____

4. Indicate name and address of victim(s) if different from petitioner (name, father's name and surname) _____

5. NOTE: If you fear your security or that of other people under your responsibility may be compromised by providing your address, please provide below an address that you wish to be used for purposes of the judicial proceedings:

Address: _____ Telephone: _____

Other contact details: _____

Form design © Council of Europe 2007. The use of this form does not imply the support of the Council of Europe for the cause or the arguments expressed.

¹ The petitioner may be the victim, his/her legal representative, the perpetrator or the prosecutor if he/she has participated in the process. See article 22, section 1 of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended by Law no. 9914, dated 12 May 2008, "On some additions to Law no. 9669, dated 18 December 2006, 'On measures against violence in family relations'".

6. Object of petition: Modification of protection order.

7. Legal basis: Law no. 9669, dated 18 December 2006, “On measures against violence in family relations”, as amended.

8. The court has previously issued (check and complete the appropriate):

_____ An emergency protection order, decision no. _____, date _____
 _____ A protection order, decision no. _____, date _____

9. The order indicated above expires on: _____

10. Petitioner requests that the Court modify the order indicated above because there has been a substantial change in the victim’s/petitioner’s circumstances. That change is (describe): _____

11. Because of the change in circumstances indicated above petitioner respectfully asks the Court to modify its previous order in the following elements (Circle and fill in the appropriate. Add elements as necessary):

- a. The subjects it protects, by adding/removing (name) _____, date of birth _____, relationship to respondent _____ on the list
- b. The protection measures, by modifying the amount of support obligations to (amount) _____ per month
- c. Extending the duration of the protection order up to (date) _____
- d. Other (specify): _____

12. Evidence: (list here supporting evidence and attach documents to this petition)

_____ Police case number _____
 _____ Copy of police report _____
 _____ Medical report _____
 _____ Medico-legal act of expertise _____
 _____ Certificates from victim’s social and rehabilitation centers
 (list): _____
 _____ Expert evaluation (list): (e.g. psychologist, pet specialist etc.) _____
 _____ Witness statements (list): _____
 _____ Other evidence (list): (e.g. victim’s diary, children’s paintings, pictures of injuries, e-mail communications, SMS, etc.) _____

Petitioner name: _____ **Date:** _____

Petitioner signature: _____

Representative name: _____
(if applicable)

Representative signature: _____

ANNEX G**COURT DECISION FOR PROTECTION ORDER**

THE DISTRICT COURT OF: _____
(Provide district court name and address, and judicial secretary)

CASE No.: _____

DECISION No.: _____

2. PETITIONER¹

vs.

3. RESPONDENT

(Name, father's name, surname)

(Permanent/temporary residence address)

_____ Telephone: _____
Represented by:

(Name of legal or other representative, if any)

(Address of representative)
_____ Telephone: _____

(Name, father's name, surname)

(Permanent residence address)

_____ Telephone: _____

(Temporary residence address)
_____ Telephone: _____

(Name of legal or other representative, if any)

4. The names and dates of birth of the persons protected are:
(name, father's name, surname)

5. The petitioner requested protection as follows (tick more than one if applicable):

_____ Respondent not to commit a domestic violence act against persons mentioned above

¹ The petitioner may be the victim or other persons authorized to request a protection order on behalf of the victim as indicated in article 13, section 1 and 2 of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended by Law no. 9914, dated 12 May 2008, "On some additions to Law no. 9669, dated 18 December 2006, 'On measures against violence in family relations'". E.g. victim's legal representative, police/prosecutor or, in the case of minor victims, relatives of the minor, or representatives of social services as well as licensed victim protection centers.

- ____ Respondent refrain from threatening persons mentioned above
- ____ Respondent not to harm, harass, contact or communicate with the persons mentioned above
- ____ Respondent to leave residence (address) _____ by (time) _____ and not to return without subsequent court authorization
- ____ Respondent not to approach closer than _____ (distance) persons mentioned above
- ____ Respondent not to go to:
- School (name) of: _____, at (address) _____
 - Kindergarten (name) of: _____, at (address) _____
 - Work (name) of: _____, at (address) _____
 - Home (name) of: _____, at (address) _____
- ____ Respondent to contact (name of child) _____ only (when, day of week, time limits) at (place) _____ or by (means of contact) _____
- ____ Prohibit respondent to enter or stay at residence of (name) _____ at (address) _____
- ____ Authorize (agency name) _____ to accompany (who) _____ to victim's residence and accompany removal of their personal belongings
- ____ Respondent to hand over all weapons to (name of institution/officer) _____
- ____ Respondent to allow petitioner to possess the common residence at (address): _____
- ____ Respondent to pay monthly (amount) _____ to (name) _____ for rent
- ____ Respondent to pay monthly (amount) _____ to (name) _____ as support obligation for persons mentioned above
- ____ Respondent to refrain from disposing of marital property
- ____ Removing parental responsibility of respondent over the children (names) _____ until further order of a court
- ____ Granting temporary custody rights over the children (names) _____ to the petitioner
- ____ Ordering social services (names) _____ to provide the following to the persons above (list services that victim wants) _____
- ____ Ordering respondent to pay the (amount) _____ periodically (indicate) _____ to (whom) _____
- OR ordering respondent's employer (name) _____ to transfer periodically (indicate) _____ the payment (amount) _____ to (whom) _____

_____ Ordering the perpetrator to participate in rehabilitation programmes and ordering programme to report weekly to the court as to respondent's participation.

6. The opinion of the attorney, if one participated, was that the protection order should be granted under the law.

7. PURSUANT TO ARTICLE 310 OF THE CIVIL PROCEDURE CODE, THE COURT FINDS THE FACTS AND LAW AS FOLLOWS:

The petitioner has presented facts that on the following dates: _____
at the following places: _____

_____ acts or omissions occurred constituting domestic violence as defined under article 3 section 1 and 2, against the following persons: _____

_____ Based on these incidents, petitioner fears that the security, health or well-being of the mentioned persons are put in danger by the respondent.

8. The evidence presented by the petitioner included the following: (check all that apply)

_____ Police case number _____
 _____ Copy of police report _____
 _____ Medical report _____
 _____ Medico-legal act of expertise _____
 _____ Certificates from victim's social and rehabilitation centers
 (list): _____
 _____ Expert evaluation (list): (e.g. psychologist, pet specialist etc.) _____
 _____ Witness statements (list): _____
 _____ Other evidence (list): (e.g. victim's diary, children's paintings, pictures of
 injuries, e-mail communications, SMS, etc.) _____
 _____ Tape recordings _____
 _____ Testimony _____

9. Pursuant to articles 9 and 17 of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended, upon the Petitioner's request and having reasonable grounds to find that:

- There is sufficient basis to believe that the respondent may commit an act of family violence;
- Issuance of the emergency protection order is necessary to protect the security, health and welfare of the victim or their family members who are protected through this order.

10. IT IS THEREFORE ORDERED THAT THE RESPONDENT:

(Check more than one if applicable)

- _____ Respondent not to commit a domestic violence act against (names) _____
- _____ Respondent refrain from threatening (names) _____
- _____ Respondent not to harm, harass, contact or communicate with (names) _____
- _____ Respondent to leave residence (address) _____
by (time) _____ and not to return without subsequent
court authorization
- _____ Respondent not to approach closer than _____ (distance) persons men-
tioned above
- _____ Respondent not to go to:
- School (name) of: _____, at (address) _____
 - Kindergarten (name) of: _____, at (address) _____
 - Work (name) of: _____, at (address) _____
 - Home (name) of: _____, at (address) _____
- _____ Respondent to contact (name of child) _____ only
(when, day of week, time limits) at (place) _____
_____ or by (means of contact) _____
- _____ Prohibit respondent to enter or stay at residence of (name) _____
at (address) _____
- _____ Authorize (agency name) _____ to accompany
(who) _____ to victim's residence and accompany removal of
their personal belongings
- _____ Respondent to hand over all weapons to (name of institution/officer) _____
- _____ Respondent to allow petitioner to possess the common residence at
(address): _____
- _____ Respondent to pay monthly (amount) _____ to (name) _____
for rent
- _____ Respondent to pay monthly (amount) _____ to (name) _____
as support obligation for persons mentioned above
- _____ Respondent to refrain from disposing of marital property
- _____ Removing parental responsibility of respondent over the children (names)
_____ until further order of a court
- _____ Granting temporary custody rights over the children (names) _____
to the petitioner
- _____ Ordering social services (names) _____ to provide the following
to the persons above (list services that victim wants) _____

_____ Ordering respondent to pay the (amount) _____ periodically
(indicate) _____ to (whom) _____
OR ordering respondent's employer (name) _____ to
transfer periodically (indicate) _____ the payment (amount)
_____ to (whom) _____
_____ Ordering the perpetrator to participate in rehabilitation programmes and
ordering programme to report weekly to the court as to respondent's
participation

11. This protection order remains in effect until (date)² _____.

12. The respondent has a right to appeal this protection order within fifteen (15) days of its approval or notification to the parties.

13. Expenses for said proceedings are to be paid by the respondent pursuant to article 14, section 4 of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended.

NOTICE TO THE PARTIES

THIS ORDER APPLIES IMMEDIATELY TO THE RESPONDENT AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING, OR UNTIL THE EXPIRATION DATE OF THE ORDER. NO PRIVATE AGREEMENT BETWEEN THE PARTIES CAN MODIFY THIS ORDER.

CARRYING OUT ACTS WITH THE INTENT OF PREVENTING OR OBSTRUCTING THE ENFORCEMENT OF THIS ORDER CONSTITUTES A CRIMINAL OFFENCE PURSUANT TO ARTICLE 320 OF THE CRIMINAL CODE, AND IS PUNISHABLE BY A FINE OR UP TO TWO YEARS OF IMPRISONMENT.³

Time: _____

Date: _____

JUDGE

² The protection order remains into effect up to 12 months from the date it is issued. See article 17, section 3 (c) of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended.

³ See article 17, section 3 (c) of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended.

EXECUTION ORDER

Pursuant to article 23, section 1, this order is an executive title from the moment it is declared by the court or notified to the parties.

CERTIFICATE OF SERVICE

The signatory being duly qualified by law certifies that:

- Two copies of the order were given to the petitioner;
- A copy of the order was served on the respondent pursuant to article 316 of the Civil Procedure Code;
- The court sent or delivered within 24 hours a copy of the emergency protection order to the following persons:
 - The petitioner and other persons protected in the order;
 - Petitioners under the meaning of article 13 of the law;
 - The prosecutor if he/she presented the petition;
 - Social services department of the municipality or commune of the location where the victim or other persons mentioned in the order reside temporarily or permanently;
 - The police unit of the location where the victim or other persons mentioned in the protection order resides temporarily or permanently.

ANNEX H**COURT DECISION
FOR EMERGENCY PROTECTION ORDER**

1. THE DISTRICT COURT OF: _____
(Provide district court name and address, and judicial secretary)

CASE No.: _____

DECISION No.: _____

2. PETITIONER¹

vs.

3. RESPONDENT

(Name, father's name, surname)

(Permanent/temporary residence address)

_____ Telephone: _____
Represented by:

(Name of legal or other representative, if any)

(Address of representative)

_____ Telephone: _____

(Name, father's name, surname)

(Permanent residence address)

_____ Telephone: _____

(Temporary residence address)

_____ Telephone: _____

(Name of legal or other representative, if any)

4. The names and dates of birth of the persons protected are:
(name, father's name, surname)

5. The petitioner requested protection as follows: (tick more than one if applicable)

_____ Respondent not to commit a domestic violence act against persons mentioned above

¹ The petitioner may be the victim or other persons authorized to request an emergency protection order on behalf of the victim as indicated in article 13, section 3 of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended by Law no. 9914, dated 12 May 2008, "On some additions to Law no. 9669, dated 18 December 2006, 'On measures against violence in family relations'".

- ____ Respondent refrain from threatening persons mentioned above
- ____ Respondent not to harm, harass, contact or communicate with the persons mentioned above
- ____ Respondent to leave residence (address) _____ by (time) _____ and not to return without subsequent court authorization
- ____ Respondent not to approach closer than _____ (distance) persons mentioned above
- ____ Respondent not to go to:
- School (name) of: _____, at (address) _____
 - Kindergarten (name) of: _____, at (address) _____
 - Work (name) of: _____, at (address) _____
 - Home (name) of: _____, at (address) _____
- ____ Respondent to contact (name of child) _____ only (when, day of week, time limits) at (place) _____ or by (means of contact) _____
- ____ Prohibit respondent to enter or stay at residence of (name) _____ at address) _____
- ____ Authorize (agency name) _____ to accompany (who) _____ to victim's residence and accompany removal of their personal belongings
- ____ Respondent to hand over all weapons to (name of institution/officer) _____

6. The opinion of the attorney, if one participated, was that the protection order should be granted under the law.

7. PURSUANT TO ARTICLE 310 OF THE CIVIL PROCEDURE CODE, THE COURT FINDS THE FACTS AND LAW AS FOLLOWS:

The petitioner has presented facts that on the following dates: _____ at the following places: _____

_____ acts or omissions occurred constituting domestic violence as defined under article 3 section 1 and 2, against the following persons: _____

Based on these incidents, petitioner fears that the security, health or well-being of the mentioned persons are put in danger by the respondent.

8. The evidence presented by the petitioner included the following: (check all that apply)

____ Police case number _____

_____ Copy of police report _____
 _____ Medical report _____
 _____ Medico-legal act of expertise _____
 _____ Certificates from victim's social and rehabilitation centers
 (list): _____
 _____ Expert evaluation (list): (e.g. psychologist, pet specialist etc.) _____
 _____ Witness statements (list): _____
 _____ Other evidence (list): (e.g. victim's diary, children's paintings, pictures of
 injuries, e-mail communications, SMS, etc.) _____
 _____ Tape recordings _____
 _____ Testimony _____

9. Pursuant to articles 9 and 19 of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended, upon the Petitioner's request and having reasonable grounds to find that:

- There is sufficient basis to believe that the respondent has committed or threatened to commit an act of family violence; or
- The respondent presents a direct and immediate threat to the security, health or well-being of the victim or of their family members; or
- Issuance of the emergency protection order is necessary to protect the security, health and welfare of the victim or their family members who are protected through this order,

10. IT IS THEREFORE ORDERED THAT THE RESPONDENT:

(tick more than one if applicable)

_____ Respondent not to commit a domestic violence act against (names) _____
 _____ Respondent refrain from threatening (names) _____
 _____ Respondent not to harm, harass, contact or communicate with (names) _____
 _____ Respondent to leave residence (address) _____
 by (time) _____ and not to return without subsequent
 court authorization
 _____ Respondent not to approach closer than _____ (distance) persons
 mentioned above
 _____ Respondent not to go to:

- School (name)of: _____, at (address) _____
- Kindergarten (name) of: _____, at (address) _____
- Work (name) of: _____, at (address) _____
- Home (name) of: _____, at (address) _____

_____ Respondent to contact (name of child) _____ only
 (when, day of week, time limits) at (place) _____
 or by (means of contact) _____
 _____ Prohibit respondent to enter or stay at residence of (name) _____
 at (address) _____
 _____ Authorize (agency name) _____ to accompany
 (who) _____ to victim's residence and accompany removal of
 their personal belongings
 _____ Respondent to hand over all weapons to (name of institution/officer)

11. This emergency order remains in effect for a maximum of 20 days, i.e., until the hearing for verification of the emergency protection order is held (article 19, section 3 (d)).

12. The respondent has a right to appeal this emergency protection order within five (5) days of its approval or notification to the parties.

13. A hearing shall be held for the verification of the emergency protection order on: _____ (within 20 days, article 19, section 3 (e)).

14. Expenses for said proceedings are to be paid by the respondent pursuant to article 14, section 4 of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended.

NOTICE TO THE PARTIES

THIS ORDER APPLIES IMMEDIATELY TO THE RESPONDENT AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING, OR UNTIL THE EXPIRATION DATE OF THE ORDER. NO PRIVATE AGREEMENT BETWEEN THE PARTIES CAN MODIFY THIS ORDER.

CARRYING OUT ACTS WITH THE INTENT OF PREVENTING OR OBSTRUCTING THE ENFORCEMENT OF THIS ORDER CONSTITUTES A CRIMINAL OFFENCE PURSUANT TO ARTICLE 320 OF THE CRIMINAL CODE, AND IS PUNISHABLE BY A FINE OR UP TO TWO YEARS OF IMPRISONMENT.²

² See article 19, section 3 (c) of Law no. 9669, dated 18 December 2006, "On measures against violence in family relations", as amended.

Time: _____

Date: _____

JUDGE

EXECUTION ORDER

Pursuant to article 23, section 1, this order is an executive title from the moment it is declared by the court or notified to the parties.

CERTIFICATE OF SERVICE

The signatory being duly qualified by law certifies that:

- Two copies of the order were given to the petitioner;
- A copy of the order was served on the respondent pursuant to article 316 of the Civil Procedure Code;
- The court sent or delivered within 24 hours a copy of the emergency protection order to the following persons:
 - The petitioner and other persons protected in the order;
 - Petitioners under the meaning of article 13 of the law;
 - Social services department of the municipality or commune of the location where the victim or other persons mentioned in the order reside temporarily or permanently;
 - The police unit of the location where the victim or other persons mentioned in the protection order resides temporarily or permanently.

ANNEX I

FOUNDATIONAL QUESTIONS

Because the victims of violence may be hesitant to testify, it is vital that other types of evidence be introduced to prove the violence. The following scripts are related to what those different types of evidence might be.

A. Diagram/Documents (Civil Procedure Code articles 246-252, 258-263)

Let me show you what has been marked for identification purposes as exhibit _____.

Do you recognize this exhibit?

What is it?

Did you prepare it?

When and where did you prepare it?

Is it drawn to scale?

Does it accurately reflect the relationships of objects?

Are distances and directions shown?

Is the exhibit in essentially the same condition as when you prepared it?

Offer the exhibit for introduction.

B. Photographs (Civil Procedure Code articles 278-280)

Let me show you what has been marked for identification purposes as exhibit _____.

Do you recognize this exhibit?

What is it?

Who took it?

When and where was it taken?

Does it accurately depict the scene at the time and place it was taken?

Offer the exhibit for introduction.

C. Tape Recording (Civil Procedure Code articles 278-280)

1. Tape Recording - Custodian of Records

Please state your name and job title.

Where do you work?

How long have you been employed as a _____.

What are your job responsibilities?

Do these responsibilities include tape recordings?

How did you make and obtain this tape?

Did you bring the tapes to court today?

Are you the custodian?

How are the calls maintained?

Are they recorded as they are made?

Do you make duplicate copies?

How do you make duplicate copies?

Let me show you what has been marked for identification purposes as exhibit _____.

Do you recognize this exhibit?

How do you recognize it?

What is it?

[Offer exhibit].

Can you tell me from what address this call was made?

Can you tell me from what phone number the call was made?

Can you tell me what date and time the phone call was made?

What officers were dispatched to that call?
What is the department incident report number?

2. Person who made the call

Play the tape
Ask them if it is their voice
Ask them if this accurately reflects the conversation
Offer for admission

3. Witness familiar with the callers voice

What is your name?
Do you know _____ (name of caller on tape)?
How long have you known _____?
How do you know _____?
Have you ever spoken to _____?
Would you recognize the voice on the telephone?
Did you listen to the cassette tape prior to trial?
Let me show you exhibit _____ and ask you to identify it.
Did you recognize anyone's voice on the tape?
Whose voice did you recognize?
Offer tape for admission.

4. Other tape recordings

Let me show you what has been marked for identification purposes as exhibit _____.
Do you recognize this exhibit?
What is it?
Were you present when it was made?
Who else was present when it was made?

When and where was it made?

Is the entire conversation recorded?

Prior to trial, at my request, did you listen to exhibit ___?

Was it accurate?

Were there any changes?

Do you know whose voices are on the tape?

Offer the exhibit.

Play for the court.

