

This leaflet was created to provide information for women and children victims of domestic violence.

WHERE CAN YOU TURN WHEN YOU HAVE BECOME A VICTIM OF VIOLENCE?

Police Activities

If you or your child has become a victim of violence, you may turn to the police for protection. You may request the police to appear at the site of the violence without having to say your name by calling the toll-free **Telephone Witness** line of the police at 06-80-555-111 from 8 a.m. to 8 p.m. on working days.

The decree of the National Police Chief taken on 27 March 2003 (13/2003.) provides **methodological guidelines** for police intervention in domestic violence cases. Among other provisions, the guidelines prescribe that “Where a report concerning a violent act against a person in a domestic violence case is received, the police officer shall appear at the site without delay.” If you find that the officer on duty taking your report is reluctant to act, call his or her attention to the relevant provision of the National Police Chief’s decree, and ask for the officer’s name and badge number to be able to make a complaint later. The police officer arriving at the site must take measures to stop the illegal state of affairs, must ensure that any injured persons are taken care of, and must inform the involved parties of accessible legal redress, support services and/or organisations, shelters. Police officers proceed in a proper manner if they hear the parties and other persons present separately.

Where law so provides, the police must take the abuser away, take him under custody and must initiate his preliminary arrest. The abuser is taken away mostly where he would expose his family to further physical abuse or would otherwise intimidate the witnesses if he were left free to go. The victim must be notified of the end of the custody in all cases in advance. The police must inform the victim of domestic violence of her rights, obligations, the possible measures applicable in order to ensure her safety, of the state of affairs in her case (case number, competent authority, person in charge etc.), possibilities of alleviating her damages and of contacts to support organisations.

Making a report to the police

Most criminal acts occurring in a domestic violence case are to be investigated **at the victim’s request**. This means that the victim must report the criminal act within a maximum of 30 days after it is perpetrated. If the crime has been committed against your child who is below 14 years, you can report it for him or her. Between 14 and 18 years, either you or your child can make a report. There are no strict rules on the form of the report but it must contain your statement that you are requesting a criminal procedure against the perpetrator. You can file a report not only in speech but also in writing, and it is worth sending the report as registered mail to the competent police headquarters or court. In cases of minor injury, trespassing, intruding on privacy, breach of mail secrecy, libel, slander or defamation, rape, violence against decency, defloration, theft, demolition, illegal acquisition and illegal acquisition of vehicle, the proceedings are started at the victim’s request.

Obtaining a medical report

If you have suffered injuries as a result of the abuse, it is worth turning to a doctor immediately and to have a medical report taken. This is necessary not only to take care of the injuries but also because this will make it easier to prove the acts later. It is worth having a medical examination taken even if you cannot or do not want to make a criminal report on the specific injury. This is important because in a later divorce case or other family law case or a custody authority procedure etc. you can use the medical report as evidence. The doctor conducting the examination is not obliged to issue a report, he or she will only do so upon the express request of the injured person or the injured person’s next of kin. If the doctor refuses to issue a medical report, you can make a complaint at the National Health and Forensic Health Service (ÁNTSZ). In 2007, the fee for issuing a medical report is HUF 3000, but it need not be you who takes the report, because the police, the prosecutor’s office or the court can request one free of charge during the procedure.

The financial services of the Victim Support Service

Immediate financial aid is available when you are in a crisis situation because you are not in a state to provide

yourself with lodging, clothing, food, travel, medication etc. as a result of the abuse. The conditions to qualify for a maximum of HUF 68,069 (in 2007) are that the abuse is regarded as a criminal offence and that you submit the application for the aid to the competent Victim Support Office of the Office of Justice, of which you can receive information at the toll-free number: 06-80-244-444.

Alleviation of damages by the state is a further possibility if you are a victim of a grave criminal offence endangering your life, bodily integrity or health. You may receive an alleviation of damages if your per capita net income does not exceed HUF 136,138 for 2007. The application must be submitted to the victim support service within three months of the criminal act together with a detailed documentation of the damages. Further, it is necessary for proceedings to have been started on grounds of the crimes perpetrated against the victim, whether at the victim’s or at some authority’s request. The sum received as alleviation of damages can be up to HUF 1,021,035 in lump sum or as a monthly allowance.

THE APPLICATION OF RESTRAINING ORDER

What is the restraining order?

Since 1 July 2006, victims have had the possibility to request that the abuser be kept from the victim for a defined period. This is called restraining, whose details are set out in Sections 138/A to 139 of Act XIX of 1998 on Criminal procedure.

When can it be issued?

A restraining order can only be issued where there is a criminal proceeding for a crime that can be punished with imprisonment. Thus it may not be requested if the victim does not report the crime, because she is afraid or because of some other reason, nor when the abuse counts as a minor offence or not even an offence. Restraining can be applied when no preliminary arrest is necessary against the abuser but there are well-founded reasons to believe that he would endanger the evidencing of the case by intimidating or influencing the injured party, or would commit further crimes against her.

In cases where the criminal proceedings are started at the claimant's request, restraining can be ordered only after that request has been submitted.

Who may order it?

You and the prosecutor may apply for a restraining order to the competent court. The law does not provide for a deadline within which the judge must decide on the restraining order. The police officer arriving at the site cannot issue a restraining order; it is only the judge who can do so. In 2006, applicants have been able to request a restraining order by paying a stamp duty of HUF 5000. Where the perpetrator is on probation or under suspended imprisonment, the court or the prosecutor may issue a restraining order as a behavioural rule.

For how long is it valid?

The provision on the period of validity of the restraining order differs considerably from international best practice, because in Hungary, the judge may issue a restraining order from a minimum of ten to a maximum of thirty days. Following the maximum of thirty days, it is not possible to lengthen the period of the restraining order, but another application may be submitted. Where a restraining order has been issued in a case, the criminal proceedings will be conducted urgently.

What does it provide?

The decision of the court also defines the contents of the restraining order. That is the period for which the respondent has to leave any joint apartment or keep away from any other institution, e.g. hospital, school, workplace. During the time of the restraining order, the abuser may not contact the protected person neither directly nor indirectly, thus for instance may not phone her, text her or send her an e-mail. At the same time, the law does not provide for the distance of restraining, and whether it applies to the injured party's children and other family members. Neither is it provided for in the law in what manner the abuser is informed of the restraining order taken against him, and which authority is to remove him from the apartment, or is to prevent him from avenging this on his family.

The parent's custodial rights are suspended; in addition, visitation is prohibited where the restraining order is issued because of a crime against the children.

What happens if the abuser disregards the restraining order?

If the abuser disregards the restraining order, the court decides if he is to be placed under preliminary arrest or will only be fined.

We have been informed of fifteen cases of the restraining order that were issued within criminal proceedings by December 2006. We have no information on the circumstances under which they were issued.

The information contained in this leaflet is not complete. If you need further information on intimate partner violence or abuse, call the toll-free hotline of NANE Women's Rights Association 06-80-505-101 from 6 p.m. to 10 p.m. every day except Wednesday. With your legal questions, turn to the legal aid service of the Habeas Corpus Working Group 06-30-99-65-666 every Wednesday from 4 p.m. to 6 p.m. or jogsegely@habeascorpus.hu. (These services are available in Hungarian.)

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What you can do

if you become a victim of domestic violence

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Supported the by the Daphne Programme of the European Union,
the Self-Government of Budapest,
the National Civil Fund, and
Open Society Institute Budapest Foundation