

Press release

On July 1 the legal provisions introducing restraining in the Hungarian law come into force

As of July 1, 2006 restraining, as a new legal instrument became part of the Hungarian law. The provisions on restraining order were introduced into the Hungarian legal system as part of the law on criminal procedure. The NGOs issuing this press release once again wish to express their concerns and disappointment about this piece of legislation accepted by the Hungarian Parliament as they believe this legal measure is not suitable for the protection of victims.

Who can apply for a restrictive order?

Any person can apply for a restrictive order who needs protection during the course of a criminal procedure, i.e. who has either reported a crime to the police, or who suffered an assault where an *ex officio* criminal procedure was started against the assailant (this latter is applicable in cases of serious bodily harm).

How long does restriction apply and who can issue it?

Restriction may last from 10 to a maximum of 30 days and is issued by the criminal judge who is responsible for the criminal procedure. There is no legal possibility for the prolongation of the order for restriction.

What are our main concerns regarding this legal measure?

- This law amendment introduces restriction into the Hungarian legal system without linking it to the phenomenon of domestic violence in general. In fact in the text of the law there is no mention of the term “domestic violence” at all.
- Restriction will only be applicable in cases where there is an ongoing criminal procedure. This means that persons who due to the continuous threats do not have the possibility or the courage to file charges will not be able to make use of this protective measure. Furthermore this law will not offer protection for those who face certain types of violence that are not classified in the Hungarian Criminal Code (e.g. dangerous threats or stalking).
- There is no deadline or time span specified for the judge until which to issue a restrictive order.
- Criminal procedures in Hungary do not come to an end in 30 days so it is most likely that the perpetrator on returning to the home will continue or even escalate the violent behavior.

- This law provides no room for immediate police intervention (which is a common element of all working systems in other countries.)
- It is not specified how the perpetrator would receive the notification ordering him/her to leave the home and who would actually enforce the order (i.e. who would confiscate the perpetrator's keys, lead the perpetrator out of the flat, as well as take the perpetrator away in case s/he arbitrarily returns).
- This law does not specify other important details about restriction (what is the distance that the restriction covers, does it also include the children or other relatives of the plaintiff, etc.).

The main point of any restrictive order is to guarantee *immediate* and *unconditional* safety for victims of battering. With this legislative act the Hungarian Parliament created a legal measure that is unprecedented in international legislation insofar that it only protects a minimal segment of the population in need of this instrument (and even they are given protection in a limited way and for short time only). Furthermore this law does not take into consideration either the human rights of victims of domestic violence, or relevant international legal principles and recommendations and best practices of other countries, or critical input from the undersigned local NGOs that had voiced their concerns several times during the legislative process. As it would be inappropriate to make Hungarian victims of domestic violence believe the often-heard myth that they will from now on be able to make use of a protective order, we hereby ask representatives of the press to inform both local and international communities about this new legislation in the light of the above.

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