

QUESTIONNAIRE

décembre / December 2012



**RECONNAISSANCE ET EXÉCUTION DES ORDONNANCES DE PROTECTION RENDUES PAR
DES JURIDICTIONS CIVILES ÉTRANGÈRES :
QUESTIONNAIRE À L'ATTENTION DES ORGANISATIONS NON GOUVERNEMENTALES**

établi par le Bureau Permanent

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**RECOGNITION AND ENFORCEMENT OF FOREIGN CIVIL PROTECTION ORDERS:
QUESTIONNAIRE FOR NON-GOVERNMENTAL ORGANISATIONS**

drawn up by the Permanent Bureau

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INTRODUCTION TO THE QUESTIONNAIRE

In 2011 the topic of “the recognition of foreign civil protection orders made, for example, in the context of domestic violence cases”¹ was added as a new item to the work programme of the Hague Conference on Private International law (< www.hcch.net >). The Permanent Bureau of the Hague Conference has conducted preliminary background research on this topic² with a view to begin an assessment as to whether a new international treaty (*i.e.*, a new Hague Convention) or other instrument should be developed in order to ensure the recognition and enforcement of civil protection orders across international borders. Civil protection orders may include, for example, “no contact” and housing exclusion orders in cases of domestic violence, “stay-away” orders in cases of stalking, and other injunctions to protect victims or potential victims from crime or other harmful interpersonal behaviour.³

The Permanent Bureau has circulated a [Questionnaire](#) to Members of the Organisation in order to obtain further information on legislation and to assess the need for and feasibility of an international instrument in this area. The input of non-governmental organisations which might have experience in this field would also be very beneficial. Your responses to this Questionnaire, sharing any information you may have based on expertise you or your organisation may have, would be a valuable contribution to the current assessment.

The Permanent Bureau kindly requests that your answers be submitted (in either English or French) as soon as possible, but in any case by **1 February 2013**, in order to allow the Permanent Bureau sufficient time to analyse information received for the attention of the governing Council of the Hague Conference that will meet in early April 2013. Responses should be sent by e-mail to < secretariat@hcch.net > with the following heading and indication in the subject field: “NGO Questionnaire concerning the recognition and enforcement of foreign civil protection orders — [name of non-governmental organisation].”

Should you have any questions about this Questionnaire, please do not hesitate to contact Philippe Lortie, First Secretary, or Maja Groff, Senior Legal Officer, at < secretariat@hcch.net >. We are grateful for your time and assistance on this important project.

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2517 KT The Hague • The Netherlands
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<http://www.hcch.net>

Identification

Name of your organisation: Domestic Violence Intervention Centre Vienna - WAVE Focal Point for Austria

Country / Countries where based: Austria

Website of organisation, if applicable: www.interventionsstelle-wien.at; WAVE. www.wave-network.org

For follow-up purposes:

Name and title of contact person: Rosa LOGAR

Telephone number: 0043 / 664 311 94 58

E-mail address: rosa.logar@interventionsstelle-wien.at

¹ Conclusion and Recommendation No 23 of the 5-7 April 2011 Meeting of the Council on General Affairs and Policy of the Conference (available on the Hague Conference website at < www.hcch.net > under “Work in Progress” then “General Affairs”).

² “Recognition and Enforcement of Foreign Civil Protection Orders: A Preliminary Note,” Prel. Doc. No 7 of March 2012 for the attention of the Council of April 2012 on General Affairs and Policy of the Conference (available on the Hague Conference website at < www.hcch.net > under “Work in Progress,” then “General Affairs”).

³ Please see Prel. Doc. No 7, *ibid.*, for examples of common protection order legal regimes and variations of these regimes in a variety of jurisdictions.

Part I. National protection order legislation

1. Please briefly describe any civil protection order regime(s) in your jurisdiction, and describe, in your view / the view of your organisation, its / their main positive and negative features, as applicable. (Please attach another sheet, if necessary.)

see document attached describing how the emergency barring order and the civil court protection order work in Austria and supplement each other

2. Please briefly list any other protection order regimes (e.g., under criminal law, under police laws, etc.) in your jurisdiction which are important in your view / the view of your organisation.

see document attached to point 1

3. Have law reforms in this field been recently conducted or are they planned for the future in your jurisdiction? If so, please briefly describe.

see document attached

4. In the experience of your organisation / in your professional experience, what are the main issues which arise in your jurisdiction with respect to the enforcement of civil protection orders? (e.g., what is being done well in your jurisdiction and what could be improved?)

The police emergency barring order is enforced immediately by the police and any violation of the order is sanctioned swiftly with a fine. This has been proven effective. The civil law protection order foresees the enforcement by the police which is also very important and ensures swift action. The sanctions for violations do not work so well, victims have to apply for sanctions and the enforcement procedure is lengthy and not very effective. Currently the respective ministries are preparing and improvement here with the violation of a civil law order becoming a criminal act (see document attached).

5. Please briefly list the main national or regional support facilities for victims of domestic violence (and / or any crimes or behaviours described in Question 9, below).

see document attached, chapter 4

Part II. Recognition and enforcement of foreign civil protection orders

6. In the experience of your organisation / in your professional experience, have you encountered problems of persons who are protected by a civil protection order in one State having this foreign protection order recognised and / or enforced in another State?

YES

NO

Not in a position to know

If YES, please describe: protection orders issued in Austria have until now not been recognized by other states

Part III. Views on a potential international convention in this area

7. Are there other situations of which you are aware where a new international Convention, which may include an international co-operation system, may be helpful to victims or potential victims of behaviours commonly covered by civil protection orders (e.g., domestic violence, stalking, etc.), for instance, in order to share information among national authorities across international boundaries, to provide information to at-risk persons regarding international travel, to help ensure a civil protection order will be recognised and enforced abroad, etc.?

- YES
 NO
 Not in a position to know

Comments: we think that a new international convention which includes an international co-operation system will be very helpful for victims of violence to ensure that the problem of violence is recognized and that proper protective and support measures are taken by the authorities in all countries involved; such an international Convention is necessary to guarantee the right of victims and potential victims to the protection of their life, health and freedom. This is especially important in countries which are not members of the EU (within the EU the mutual recognition of protection orders is being planned through the implementation of the European Protection Orders in criminal and civil matters).

- 8.** If the Hague Conference were to develop a new international Convention in this area, in your view what would be the most desirable features of this new instrument? (Please check all which apply.)
- a. Immediate, *prima facie*, enforceability of foreign civil protection orders by enforcement officials
 - b. An international civil protection order multilingual certificate which must be applied for in the State of origin in order to be internationally enforceable
 - c. Co-operative mechanisms including an international database registering enforceable civil protection orders
 - d. A Convention which covers civil protection orders issued by courts and by administrative and other authorities
 - e. A Convention that provides that enforcement officers have liability protection for good faith actions
 - f. A Convention which addresses a broad scope of types of civil protection orders (e.g., including those addressing the types of behaviours listed in Question 10, below)
 - g. Other features. Please specify:

Further comments:

- 9.** If the Hague Conference were to develop a new international Convention in this area, in your view which behaviours / situations should be covered or targeted by such a Convention? (Please check all which apply.)
- a. Domestic violence
 - b. Sexual assault
 - c. Dating violence
 - d. Stalking
 - e. Forced marriage
 - f. So-called "honour crimes"
 - g. Human trafficking
 - h. All of the above
 - i. Other behaviours / situations. Please specify: Partner violence (couples which are not married and do not live together - they often do not fall under "domestic")

Please provide any comments on your above choices:

- 10.** Are you / is your organisation of the view that the Hague Conference should develop a new international Convention (or other mechanisms) for the recognition and enforcement of foreign civil protection orders (i.e., so that a person protected by a protection order in one State can quickly have that order recognised and enforced in a foreign State)?

- YES
 NO
 Not in a position to know

Comments:

11. If desired, please give any comments the models described in [Preliminary Document No 7](#) (Section 4)⁴ or on any other existing model for a possible future Convention in this field (e.g., based on current national or regional instruments or otherwise):

12. Please attach any other information or resource documents to this Questionnaire which you consider may be useful for the current assessment.

⁴ See Permanent Bureau, Prel. Doc. No 7, *supra*, note 2.