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**PROJET DE PROFIL D’ÉTAT – RÉVISÉ**

**ORDONNANCES DE PROTECTION RENDUES PAR DES JURIDICTIONS NATIONALES ET ÉTRANGÈRES : LÉGISLATION, RECONNAISSANCE ET EXÉCUTION, ET AUTRES RESSOURCES**

*proposé par le Bureau Permanent*

**\* \* \***

**DRAFT COUNTRY PROFILE – REVISED**

**NATIONAL AND FOREIGN PROTECTION ORDERS: LEGISLATION, RECOGNITION AND ENFORCEMENT AND OTHER RESOURCES**

*proposed by the Permanent Bureau*

*Document préliminaire No 4 B (révisé) de juin 2014 à l’attention*

*du Conseil d’avril 2014 sur les affaires générales et la politique de la Conférence*

*Preliminary Document No 4 B (revised) of June 2014 for the attention*

*of the Council of April 2014 on General Affairs and Policy of the Conference*

**PROJET DE PROFIL D’ÉTAT – RÉVISÉ**

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**NATIONAL AND FOREIGN PROTECTION ORDERS: LEGISLATION, RECOGNITION AND ENFORCEMENT AND OTHER RESOURCES**

*proposed by the Permanent Bureau*

**FOREWORD TO THE DRAFT COUNTRY PROFILE –**

**NATIONAL AND FOREIGN PROTECTION ORDERS: LEGISLATION, RECOGNITION AND ENFORCEMENT AND OTHER RESOURCES**

This Draft Country Profile was prepared in the light of a mandate given by the 2013 Council on General Affairs and Policy of the Hague Conference on the topic of “Recognition and enforcement of foreign civil protection orders”:

“The Council welcomed the work carried out by the Permanent Bureau and invited it to continue exploratory work, including further comparative research (such as a country profile) and investigation on the feasibility of a future instrument. The Permanent Bureau may, resources allowing, convene an Experts’ Group to assist in carrying out this work.”[[1]](#footnote-1)

Country Profiles have been developed under a number of Hague Conventions.[[2]](#footnote-2) However, the Country Profiles have in general been elaborated subsequent to the adoption or entry into force of a particular instrument. Contracting States, national authorities and others who are involved in the operation of Hague Conventions have found the Country Profile to be an invaluable tool to facilitate access to information on foreign law and procedures, as well as to other national information in relation to a specific Convention, with the goal of facilitating the effective operation of the instrument.

The objectives of this Draft Country Profile are two-fold. Firstly, if completed by individual States or jurisdictions, it will provide a comparative overview of this area of the law. The information sought on domestic law in the Draft Country Profile is based on responses received from Members of the Hague Conference to a 2012 Questionnaire on civil protection orders.[[3]](#footnote-3) Secondly, the Draft Country Profile seeks to provide necessary information for States, relevant governmental authorities (*e.g.*, members of the judiciary, enforcement officials), and also to individuals / members of the public, in order to facilitate the cross-border recognition and enforcement of foreign protection orders and international co-operation in this respect. A later version of this Draft Country Profile could be used as an implementation or operational tool in the context of either a binding or a non-binding international instrument or mechanisms on the subject of protection orders.

The initial version of the Draft Country Profile was produced as a discussion document for the attention of the meeting of the Experts’ Group on Recognition and Enforcement of Foreign Civil Protection Orders (12-13 February 2014). Specific sections of the Draft Country Profile were referred to in the agenda of the meeting in order to facilitate discussion among the experts.

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| **Identification** | |
| Name of State (or territorial unit, where applicable): | Austria |
| **Information for follow-up purposes** | |
| Name and title of contact person: | - Christian Rauscher, Dr. |
| Name of Authority / Office: | - Federal Ministry of Justice, Vienna |
| Telephone number: | - +43 1 52152 2282 |
| E-mail address: | - christian.rauscher@justiz.gv.at |

DRAFT COUNTRY PROFILE – national and FOREIGN PROTECTION ORDERS: legislation, recognition and enforcement and other resources

**PART I: CENTRAL AUTHORITIES[[4]](#footnote-4)**

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| --- |
| 1. CENTRAL AUTHORITY contact details |
| a. Organisation:  b. Address:  c. Territorial or personal extent of functions, if applicable:  d. Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 2. OTHER cENTRAL AUTHORITY (IF APPLICABLE) |
| Please attach additional pages if there are more than two designated Central Authorities in your State  a. Organisation:  b. Address:  c. Territorial or personal extent of functions, if applicable:  d Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 3. LANGUAGE REQUIREMENTS | |
| 1. Does your State / jurisdiction require that any application and related documents submitted be accompanied by a translation? If so, in what language? | * Yes * Into official language of your State / jurisdiction. Please specify: * Into another language. Please specify: * No |

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| 1. If your State / jurisdiction has more than one official language in its territory and cannot, for reasons of internal law, accept for the whole of your State / jurisdiction documents in one of those languages, please specify the language in which documents or translations shall be drawn up for submission in the specified parts of its territory. |  |

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| 4. central AUTHORITY OPERATION | |
| Please provide answers for each Central Authority if there is more than one designated in your State (attach additional pages) | |
| 1. What are the working days and hours of the Central Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| 1. Can the Central Authority be accessed outside of working hours in case of emergency? | * Yes   Please specify contact details, if different from above:   * No |

**PART II: ENFORCEMENT[[5]](#footnote-5) OF NATIONAL PROTECTION ORDERS RENDERED BY JUDICIAL, ADMINISTRATIVE OR OTHER COMPETENT AUTHORITIES**

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| 1. COMPETENT ENFORCEMENT AUTHORITIES |
| 1.1. contact details of COMPETENT AUTHORITY that is responsible for the enforcement of NATIONAL protection orders |
| Police officers |
| Bailiffs |
| Administrative Authority |
| Other. |
| Please specify: - district courts |
| a. Organisation: - The data of Austrian district courts can be derived from the European E-Justice Portal |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d. Telephone: |
| e. Fax: |
| f. E-mail: |
| g. Website: |
| h. Contact person(s): |
| i. Language(s): |

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| 1.2. contact details of OTHER competent AUTHORITY that is responsible for the enforcement of NATIONAL protection orders (IF APPLICABLE) |
| Please attach additional pages if there are more than two Competent Enforcement Authorities in your State / jurisdiction  Police officers |
| Bailiffs |
| Administrative Authority |
| Other |
| Please specify: - enter text here - |
| a. Organisation: - enter text here - |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d Telephone: |
| e. Fax: |
| f. E-mail: |
| g. Website: |
| h Contact person(s): |
| i. Language(s): |

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| 1.3. competent ENFORCEMENT AUTHORITIES OPERATION | |
| Please provide answers for each Competent Enforcement Authority if there is more than one in your State / jurisdiction (attach additional pages) | |
| a. What are the working days and hours of the Competent Enforcement Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| b. Can the authority be accessed outside of working hours in case of emergency? | * Yes   Please specify contact details, if different from above:   * No |

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| 1.4. organisations / bodies PROVIDING ASSISTANCE TO APPLICANT | |
| Are there other organisations / bodies that will help the intended protected person with enforcement of a protection order?  (Please also see Annex I) | * Yes. Please specify, with full contact details: * No |

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| **2. DOMESTIC PROTECTION ORDER CONDITIONS OF ENFORCEMENT** | |
| 2.1. Can domestic protection orders be enforced on the simple presentation of the protection order to the enforcement officer? | Yes, the protection order itself (*i.e.*, the decision establishing the protection order) |
| Comments: - This is possible if a police station was - prior to the enforcement situation - entrusted with the enforcement of the order by the district court which issued this order. Such entrustment usually takes place immediately after issuance of court orders which qualify for direct enforcement by the police e.g. a prohibition on entering the home of the protected person. Also a bailiff of the court can be entrusted. |
| No |
| Please specify how enforcement takes place: -Some protection orders do - by their very nature - not qualify for direct enforcement by the police or a bailiff e.g. a prohibition of contact with the protected person by telephone, electronic or ordinary mail, fax or any other means of communication. In case of violation of such an order the protected person has to apply formally for enforcement by the court. Enforcement in such cases usually takes place by coercive penalties issued by the court. |
| 2.2. What kinds of penalties are applicable for breach of protection orders in your State / jurisdiction? (Please check all which apply and specify whether considered civil, criminal or other type of sanction) | Arrest (and detention / imprisonment) |
| Please specify: - enter text here - |
| Pecuniary measures |
| Please specify: - Coercive penalties imposed on the violater of an order aimed at discouraging further violations. |
| Other |
| Please specify: - The application of immediate executive force by the police or a bailiff. |
| 2.3. Do enforcement officers have liability protection for good faith actions or omissions taken in furtherance of enforcement of protection orders? | Yes |
| Please specify: - In principle not the enforcment officer himself is liable for damages inflicted by acts of sovereignty as liability lies with the public entity he is working for ("Amtshaftung"). Recourse claims by this entity against the officer are only possible if there was deliberate action or cross negligence involved one the side of the officer. + I6 |
| No |
| 2.4. Does your State / jurisdiction utilise national, regional or local registers or electronic database(s) which register enforceable protection orders for the benefit of law enforcement officials or other authorities? | Yes |
| Please specify: |
| No |
| 2.5 Are security bracelets, GPS tracking devices or other technology used to assist with the enforcement of protection orders? | Yes |
| Please specify: - |
| No |

**PART III: ENFORCEMENT OF FOREIGN PROTECTION ORDERS RENDERED BY JUDICIAL, ADMINISTRATIVE OR OTHER COMPETENT AUTHORITIES**

**The responses to questions in Section 1 are the same as for Part II, Section 1 (if so, please go to Part III, Section 2)**

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| 1. COMPETENT Enforcement AUTHORITIES |
| 1.1. contact details of COMPETENT AUTHORITY that is responsible for the enforcement of FOREIGN protection orders |
| Police officers |
| Bailiffs |
| Administrative Authority |
| Other |
| Please specify: - District courts, which can entrust police officers or bailiffs (no immediate enforcement by police or bailiffs on presentation of the foreign order) |
| a. Organisation: - The data of Austrian district courts can be derived from the European E-Justice Portal |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d. Telephone: |
| e. Fax: |
| g. Website: |
| h. Contact person(s): |
| i. Language(s): |

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| 1.2. contact details of OTHER competent AUTHORITY that is responsible for the enforcement of FOREIGN protection orders (IF APPLICABLE) |
| Please attach additional pages if there are more than two Competent Enforcement Authorities in your State / jurisdiction |
| Police officers |
| Bailiffs |
| Administrative Authority |
| Other |
| Please specify: - enter text here - |
| a. Organisation: - enter text here - |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d. Telephone: |
| e. Fax: |
| g. Website: |
| h. Contact person(s): |
| i. Language(s): |

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| 1.3 competent ENFORCEMENT AUTHORITIES OPERATION | |
| Please provide answers for each Competent Enforcement Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| a. What are the working days and hours of the Competent Enforcement Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| b. Can the authority be accessed outside of working hours in case of emergency? | * Yes   Please specify contact details, if different from above:   * No |

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| 1.4. organisations / bodies PROVIDING ASSISTANCE TO APPLICANT | |
| Are there other organisations / bodies that will help the intended protected person with enforcement of a protection order?  (Please also see Annex I) | * Yes. Please specify, with full contact details: * No |

**The responses to the questions in Section 2 are the same as for Part II, Section 2 (if so, please go to Part IV)**

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| **2. FOREIGN PROTECTION ORDER CONDITIONS OF ENFORCEMENT** | |
| 2.1. Can foreign protection orders be enforced on the simple presentation of the foreign protection order or the standard enforcement certificate published by the Hague Conference to the enforcement officer? Please specify whether prior registration of the foreign order is required. | 🞎 Yes, the standard Enforcement Certificate published by the Hague Conference |
| Yes, the foreign protection order itself (*i.e.*, the decision establishing the protection order) |
| Comments: - enter text here - |
| No |
| Please specify how enforcement takes place:  - protection orders from other EU-Member States: refer to Regulation (EC) No 44/2001 (Regulation Brussels I) and, as of 11.1.2015, Regulation (EU) No 606/2013 of 12.6.2013 on the mutual regognition of protection measures in civil matter. - protection orders from third states: enforcement treaty with Turkey of 23.5.1989, enforcement treaty with Tunesia of 23.6.1977, Iceland, Norway and Switzerland: Lugano-Convention 2007 |
| 2.2. What kinds of penalties are applicable for breach of foreign protection orders in your State / jurisdiction? (Please check all which apply and specify whether considered civil, criminal or other type of sanction). | Arrest (and detention / imprisonment) |
| Please specify: - enter text here - |
| Pecuniary measures |
| Please specify: - Coercive penalties imposed on the violater of an order aimed at discouraging further violations. |
| Other |
| Please specify: - The application of immediate executive force by the police or a bailiff. |
| 2.3. Do enforcement officers have liability protection for good faith actions or omissions taken in furtherance of enforcement of foreign protection orders? | Yes |
| Please specify: - - In principle not the enforcment officer himself is liable for damages inflicted by acts of sovereignty as liability lies with the public entity he is working for ("Amtshaftung"). Recourse claims by this entity against the officer are only possible if there was deliberate action or cross negligence involved one the side of the officer. + I6 |
| No |

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| 2.4. Does your State / jurisdiction utilise national, regional or local registries or electronic database(s) which register enforceable foreign protection orders for the benefit of law enforcement officials or other authorities? | Yes |
| Please specify: - enter text here |
| No |
| 2.5 Are security bracelets, GPS tracking devices or other technology used to assist with the enforcement of foreign protection orders? | Yes |
| Please specify: - enter text here |
| No |

**PART IV: RECOGNITION AND DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR ENFORCEMENT OF FOREIGN PROTECTION ORDERS**

|  |  |
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| 1. relevant legislation | |
| Does your State / jurisdiction currently have laws (including rules of private international law) by which protection orders from foreign States are recognised and declared enforceable or registered for enforcement in your jurisdiction? | Yes |
| Please describe: - refer to answers to question 2.1 of part III above |
| Please list relevant Internet weblink(s), if available:  - enforcement contract with Turkey: http://www.ris.bka.gv.at/Dokumente/BgblPdf/1992\_571\_0/1992\_571\_0.html enforcement contract with Tunesia: http://www.ris.bka.gv.at/Dokumente/BgblPdf/1980\_305\_0/1980\_305\_0.html |
| Please comment on special features, if any, found in these laws which seek to quickly protect persons at-risk in cross-border settings:   - Please refer to Regulation (EU) No 606/2013 which is specifically designed to providing swift protection. |
| No (if not, continue to Part IV, Section 7) |

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| 2. COMPETENT AUTHORITIES |
| 2.1. contact details of COMPETENT AUTHORITY that is responsible for recognition and DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR enforcement of foreign protection orders |
| Judicial Authority  Administrative Authority  Other Authority  a. Organisation: - district courts  b. Address:  c. Territorial or personal extent of functions, if applicable:  d. Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 2.2. contact details of OTHER competent AUTHORITY that is responsible for recognition and DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR enforcement of foreign protection orders (IF APPLICABLE) |
| Please attach additional pages if there is more than one designated Competent Authority in your State / jurisdiction |
| Judicial Authority |
| Administrative Authority |
| Other Authority |
| a. Organisation: - enter text here - |
| b. Address: |
| c. Territorial or personal extent of functions, if applicable: |
| d Telephone: |
| e. Fax: |
| f. E-mail: |
| g. Website: |
| h. Contact person(s): |
| i. Language(s): |

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| 2.3. LANGUAGE REQUIREMENTS for applications to competent authorities | |
| Please provide answers for each Competent Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| 1. Does your State / jurisdiction require that a foreign application and related documents for recognition and declaration of enforceability or registration for enforcement be accompanied by a translation? If so, in what language? | * Yes   + Into official language of your State / jurisdiction. Please specify:   + Into another language. Please specify: * No |
| 1. If your State / jurisdiction has more than one official language in its territory and cannot, for reasons of internal law, accept for the whole of your State / jurisdiction documents in one of those languages, please specify the language in which documents or translations shall be drawn up for submission in the specified parts of its territory. |  |

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| 2.4. cOmpetent AUTHORITIES OPERATION | |
| Please provide answers for each Competent Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| 1. What are the working days and hours of the Competent Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| 1. Can the authority be accessed outside of working hours in case of emergency? | 🞏 Yes  Please specify contact details, if different from above:   * No |
| 2.5. organisations / bodies PROVIDING ASSISTANCE TO APPLICANT | |
| Are there other organisations / bodies that will help with an application for the recognition and enforcement of a foreign protection order?  (Please also see Annex I) | * Yes. Please specify, with full contact details: * No |

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| **3.** **NECESSARY INFORMATION FOR APPLICATIONS FOR RECOGNITION AND DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR ENFORCEMENT OF FOREIGN PROTECTION ORDERS** | |
| 3.1. What information is required to be included in an application for recognition and declaration of enforceability or registration for enforcement of a foreign protection order? (Please check all which apply) | About the protected person (applicant):   * Full name * Date and / or place of birth * Personal identification number (such as social security or passport number) * Mailing address * Telephone, e-mail and other contact details * Nationality / nationalities * Other. Please specify:   About the person causing the risk (respondent):   * Full name * Date and / or place of birth * Personal identification number (such as social security or passport number) * Mailing address * Telephone, e-mail and other contact details * Nationality / nationalities * Other. Please specify:   About the issuing Authority:   * Name * Mailing address * Telephone, e-mail and other contact details * Internal reference number of the case * Other. Please specify:   About the protection order:   * Information on the types of the measures included in the protection order * Date of effect of the protection order * Duration of the protection order * Names of the parties to the protection order * Renewability of the protection order * Other. Please specify:   Other information:  Please specify: |
| 3.2. What documents are required for recognition and declaration of enforceability or registration for enforcement of a foreign protection order? (please check all which apply) | A complete text of the order |
| A complete copy of the order certified by the competent authority in the State of origin |
| An abstract or extract of the order drawn up by the competent authority of the State of origin, in lieu of the complete text of order |
| A document stating that the decision is enforceable in the State of origin |
| If the protection order was rendered in default of appearance in the State of origin, a document or documents attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard, or that the respondent had proper notice of the decision and the opportunity to challenge or to appeal it on fact and law |
| Any other relevant document |
| Please specify: - The necessity of providing documents depends on which legal instrument (cf above) is applicable in a given case. Please refer to the abovementioned instruments. |
| 3.3. Does your State / jurisdiction have a prescribed or preferred form for an application to recognise and enforce a protection order? | * Yes, the standard form published by the Hague Conference |
| Yes |
| Please attach a copy of the form or provide a website link or both: |
| No |
| 3.4. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| Please specify: - This is possible in the framework and under the conditions of the so called "Elektronischer Rechtsverkehr" |
| No |
| 3.5. What is the average expected time from the submission of the application to the finalisation of the recognition and declaration of enforceability or registration for enforcement procedure (excluding appeals)? | Within 24 hours |
| Within 2 to 3 days |
| Up to 1 week |
| 1 to 4 weeks |
| 4 to 6 weeks |
| Other |
| Please specify: - enter text here - |
| 3.6. Can the merits of the protection order be reviewed in recognition and declaration of enforceability or registration for enforcement procedures? | Yes |
| Please specify: - enter text here - |
| No |
| 3.7. Is recognition and declaration of enforceability or registration for enforcement of a severable part of a foreign protection order possible in your State / jurisdiction? | Yes |
| Please specify: If the order can be divided, this is possible. |
| No |

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| **4. eligible APPLICANTs for recognition and enforcement** | |
| Who can apply for the recognition and enforcement of a foreign protection order? (check all which apply) | The intended protected person |
| A representative or advocate of the intended protected person. |
| Please specify any criteria:   - enter text here - |
| Any interested party |
| Other |
| Please specify: - enter text here - |

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| **5. TYPES AND FEATURES OF PROTECTION ORDERS WHICH MAY BE RECOGNISED AND ENFORCED IN YOUR STATE / JURISDICTION** | |
| * 1. Foreign protection orders addressing what types of behaviours can be recognised and enforced in your State / jurisdiction? (please check all which apply) | Contacting or communicating with the protected person |
| in person |
| by way of a third party |
| by mail |
| by e-mail |
| by phone |
| by other means. |
| Please specify: - enter text here - |
| Approaching or being in physical proximity to the protected person |
| Distance requirement? - enter text here - |
| General harassment of the protected person |
| Molestation / annoyance of the protected person |
| Staying away from a certain place |
| Please describe: - enter text here - |
| Forwarding or disseminating personal data or photos of the protected person |
| Possession of weapons |
| Behaviours at the discretion of the judge or other competent authority in an individual case |
| Encouraging others to engage in behaviour against the protected person where, if the behaviour was undertaken by the respondent, would be prohibited by a protection order |
| Other specific behaviours |
| Please specify: - enter text here - |
| * 1. Protection orders for the benefit of what categories of protected persons can be recognised and enforced in your State / jurisdiction? (please check all which apply) | Married persons |
| Formerly married persons |
| Divorcing persons |
| Women only |
| Unmarried couples |
| Family members |
| Roommates / housemates |
| Children of the intended protected person |
| Other relatives of the intended protected person |
| Persons who are not in any kind of intimate or cohabitation relationship |
| Other individuals |
| Please specify: - enter text here - |
| * 1. Against whom can foreign protection orders be recognised and enforced in your State / jurisdiction? (please check all which apply) | An individual perpetrator or potential perpetrator |
| Family members of the principal perpetrator or potential perpetrator |
| Other individuals |
| Please specify: - enter text here - |

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| * 1. Can supplementary matters included in a foreign protection order, which may or may not be directly related to the immediate safety of the protected person, also be recognised and enforced in your State / jurisdiction? | Yes: |
| Temporary maintenance orders |
| Temporary child custody orders |
| Protection of property |
| Mandatory counselling |
| Monetary reimbursement of damages to the protected person |
| Seizure of property of the respondent |
| Other |
| Please specify: - enter text here - |
| No |
| * 1. Foreign protection orders of what duration can be recognised and enforced in your State / jurisdiction? (please check all which apply) | Orders which have a minimum duration |
| Please specify: - enter text here - |
| Orders which have a maximum duration |
| Please specify: - enter text here - |
| Orders which are of a fixed duration |
| Please specify: - enter text here - |
| Orders which are of a duration according to judicial / other instituting authority’s discretion |
| Orders which are renewable |
| Please describe: - enter text here - |
| Orders which are not renewable |
| Please describe: - enter text here - |
| Lifetime or indefinite orders |
| * 1. Does your State / jurisdiction recognise and enforce foreign protection orders considered to be of an interim or emergency nature (in contrast to more permanent orders)? | Yes |
| Please describe any specific treatment of these types of orders: - enter text here - |
| No |

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| 6. grounds for refusal of recognition AND DECLARATION OF ENFORCEABILITY OR REGISTRATION FOR ENFORCEMENT of a foreign protection order | |
| What are the grounds for refusal of recognition and declaration of enforceability or registration for enforcement of a foreign protection order? (please check all which apply) | Review of jurisdictional grounds of issuing competent authority |
| Please specify: - enter text here - |
| The recognition and / or enforcement is manifestly incompatible with the public policy (“*ordre public*”) of your State / jurisdiction |
| The protection order was obtained by fraud in connection with a matter of procedure |
| Proceedings between the same parties and having the same purpose are pending before an authority of your State / jurisdiction and those proceedings were the first to be instituted |
| The protection order is incompatible with an order rendered between the same parties and having the same purpose, either in your State / jurisdiction or in another State, and this latter order fulfils the conditions necessary for recognition and declaration of enforceability or registration for enforcement in your State / jurisdiction |
| In a case where the protection order was rendered in default of appearance in the State of origin, the respondent had neither proper notice of the proceedings and an opportunity to be heard, nor proper notice of the order and the opportunity to challenge or appeal it on fact and law |
| Other |
| Please specify: - enter text here - |

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| 7. PROTECTION ORDERS IN THE CONTEXT OF THE 1980 CHILD ABDUCTION CONVENTION AND THE 1996 CHILD PROTECTION CONVENTION | |
| 7.1. Is your State is a Party to the 1980 Child Abduction Convention?  *(Convention of 25 October 1980 on the Civil Aspects of International Child Abduction)* | Yes |
| No |
| 7.2. If your State is a Party to the 1980 Child Abduction Convention, please indicate the mechanisms that are used in your State / jurisdiction to recognise and enforce a protection order made in a foreign State to protect an accompanying parent upon the return of a child under the 1980 Child Abduction Convention(please check all which apply). | Mirror orders |
| Voluntary undertakings |
| Recognition and enforcement of foreign protection orders under another international instrument |
| Please specify: - Regulation Brussels IIbis, when in force Regulation No 606/2013 |
| Recognition and enforcement of foreign protection orders under domestic law (including rules of private international law) |
| Please specify: - 1996 Child Protection Convention |
| Other |
| Please specify: - enter text here - |

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| 7.3. If your State is also a Party to the 1996 Child Protection Convention *(Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children),* are provisions of this Convention (*e.g.*, Art. 11 relating to necessary measures of protection in cases of urgency) utilised in order to protect an accompanying parent when a return order of a child is issued under the 1980 Child Abduction Convention by a competent authority in your State / jurisdiction? | Yes |
| Please specify: -clear in theory; no practice known |
| No |

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| 8. BILATERAL, REGIONAL AND INTERNATIONAL INSTRUMENTS | |
| 8.1. Please list any additional bilateral, regional, and international instruments or co-operation mechanisms that currently or will in the future bind your State or jurisdiction, which cover the recognition and enforcement of foreign protection orders (in addition to legislation listed in Part IV, Section 1): | - answer to question 8 to be prepared by the Commission (General Questions on 7.7.14) |
| 8.2. Please comment on special features, if any, found in these instruments or co-operation mechanisms which seek to quickly protect persons at risk in cross-border settings: | - answer to question 8 to be prepared by the Commission (General Questions on 7.7.14) |

part V: protection order regimes / types of orders available in your State / jurisdiction and applicationS for establishment of National protection orders

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| 1. Relevant legislation on NATIONAL protection orders | |
| * 1. Does your State / jurisdiction currently have protection order regime(s) in force?   (Please attach additional pages if there is more than one type of protection order available in your State / jurisdiction) | No |
| Yes |
| Pleaseprovide a reference to the protection order regime, with the date and title of legislation(s) or a reference to relevant case law: - Sections 382b to 382e and Section 382g of the Enforcement Code (Exekutionsordnung) |
| Please list any Internet weblink(s) to the legislation or case law, if available:   - www.ris.bka.gv.at |
| The protection order regime, from the perspective of your State / jurisdiction, is considered to be of the following character: - enter text here - |
| Civil |
| Administrative |
| Criminal |
| Other |
| Please specify: - enter text here - |
| * 1. If protection order regime(s) exist in your State / jurisdiction, are modifications of the existing regime(s) contemplated? | Yes |
| Please specify: - enter text here - |
| No |
| * 1. If there is no protection order regime in force in your State / jurisdiction, are there plans to legislate in this area in the future? | Yes |
| Please specify: - enter text here - |
| No |

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| 2. COMPETENT AUTHORITIES RESPONSIBLE FOR establishing national PROTECTION ORDERS | |
| 2.1. Which courts or authorities are competent to issue protection orders? (please check all which apply) | Family courts |
| Courts of general jurisdiction |
| Specialised domestic violence courts |
| Civil courts |
| Criminal courts |
| Administrative authorities. |
| Please specify: - enter text here - |
| Police authorities |
| Other |
| Please specify: - enter text here - |
| Comments: - enter text here - |

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| **2.2 CONTACT DETAILS OF COMPETENT AUTHORITY RESPONSIBLE FOR ESTABLISHING NATIONAL** **PROTECTION ORDERS** |
| a. Organisation:  b. Address:  c. Territorial or personal extent of functions, if applicable:  d Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 2.3. contact details of OTHER competent AUTHORITY RESPONSIBLE FOR ESTABLISHING NATIONAL PROTECTION ORDERS (IF APPLICABLE) |
| Please attach additional pages if there is more than one designated Competent Authority in your State / jurisdiction  a. Organisation:  b. Address:  c. Territorial or personal extent of functions, if applicable:  d Telephone:  e. Fax:  f. E-mail:  g. Website:  h. Contact person(s):  i. Language(s): |

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| 2.4. organisations /bodies PROVIDING ASSISTANCE TO APPLICANT | |
| Are there organisations / bodies that will help applicants with filing applications for the establishment of a protection order?  (Please also see Annex I) | * Yes. Please specify, with full contact details: * No |

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| 2.5. LANGUAGE REQUIREMENTS FOR applications to competent authorities (ESTABLISHMENT APPLICATIONS) | |
| 🞏 The responses to questions in this Section are the same as for Part IV, Section 2.3 (if so, please go to next Section) | |
| Please provide answers for each Competent Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| a. What language does your State / jurisdiction require for any application and related documents for establishment of a protection order? | * Official language of your State / jurisdiction. Please Specify: * Other languages are accepted. Please specify: |
| b. If your State / jurisdiction has more than one official language in its territory and cannot, for reasons of internal law, accept for the whole of your State / jurisdiction documents in one of those languages, please specify the language in which documents or translations shall be drawn up for submission in the specified parts of its territory. |  |

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| 2.6. cOmpetent AUTHORITIES OPERATION | |
| 🞏 The responses to questions in this Section are the same as for Part IV, Section 2.4 (if so, please go to next Section) | |
| Please provide answers for each Competent Authority if there is more than one designated in your State / jurisdiction (attach additional pages) | |
| a. What are the working days and hours of the Competent Authority? | Days of the week open:  Opening time:  Closing time:  Shutdown periods (*e.g.,* public holidays, court closures): |
| b. Can the Competent Authority be accessed outside of working hours in case of emergency? | * Yes   Please specify contact details, if different from above:   * No |

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| **3. TYPES AND FEATURES OF DOMESTIC PROTECTION ORDERS** | |
| 3.1. What types of behaviours do protection orders in your State / jurisdiction obligate an individual to refrain from or to do? (please check all which apply) | Contacting or communicating with the protected person |
| in person |
| by way of a third party |
| by mail |
| by e-mail |
| by phone |
| by other means. |
| Please specify**:**  - any other conceivable means e.g. via a social network on the internet. |
| Approaching or being in physical proximity to the protected person |
| Distance requirement? - enter text here - |
| General harassment of the protected person |
| Molestation / annoyance of the protected person |
| Staying away from a certain place |
| Please describe: - enter text here - |
| Forwarding or disseminating personal data or photos of the protected person |
| Possession of weapons |
| Behaviours at the discretion of the judge or other competent authority in an individual case |
| Encouraging others to engage in behaviour against the protected person where, if the behaviour was undertaken by the respondent, would be prohibited by a protection order |
| Other specific behaviours |
| Please specify: - any other conceivable behaviour which interferes with the private sphere of the protected person. |
| 3.2. For whom are protection orders available (*i.e.*, who are the intended protected persons)? (please check all which apply) | Married persons |
| Formerly married persons |
| Divorcing persons |
| Women only |
| Unmarried couples |
| Family members |
| Roommates / housemates |
| Children of the intended protected person |
| Other relatives of the intended protected person |
| Persons who are not in any kind of intimate or cohabitation relationship |
| Other individuals |
| Please specify: - enter text here - |
| 3.3. Against whom are the protection orders available? (please check all which apply) | An individual perpetrator or potential perpetrator |
| Family members of the principal perpetrator or potential perpetrator |
| Other individuals |
| Please specify: - enter text here - |
| 3.4. Please indicate who in your State / jurisdiction is able to apply for / initiate the establishment of a protection order (please check all which apply). | The intended protected person (*i.e*. the victim or potential victim who will be protected by the order) |
| Family member(s) of the protected person |
| Please specify: - enter text here - |
| Public prosecutor |
| Police officials |
| A judge *ex officio* |
| Other public authority or official |
| Please specify: - enter text here - |
| Other advocate for the protected person |
| Please specify: - enter text here - |
| Other |
| Please specify: - enter text here - |
| 3.5. If possible, please indicate the actions or potential actions in response to which the protection orders are put in place (please check all which apply). | Domestic and family violence |
| Sexual assault |
| Dating violence |
| Stalking |
| Forced marriage |
| So-called “honour crimes” |
| Human trafficking |
| Other general criminal or harmful behaviour |
| Other behaviours / situations |
| Please specify : - enter text here - |
| 3.6. Can supplementary matters, which may or may not be directly related to the immediate safety of the protected person, be included in a protection order? | Yes; |
| Temporary maintenance orders |
| Temporary child custody orders |
| Protection of property |
| Mandatory counselling |
| Monetary reimbursement of damages to the protected person |
| Seizure of property of the respondent |
| Other |
| Please specify: - enter text here - |
| No |
| 3.7. Please specify whether the protection orders (which are *not* of an interim or emergency nature) in your State / jurisdiction (please check all which apply): | Have a minimum duration |
| Please specify: - enter text here - |
| Have a maximum duration |
| Please specify: - enter text here - |
| Are of a fixed duration |
| Please specify: - enter text here - |
| Are of a duration according to judicial / other instituting authority’s discretion |
| Are renewable |
| Please describe: - enter text here - |
| Are not renewable |
| Please describe: - enter text here - |
| Lifetime or indefinite orders |
| 3.8. Generally, what is the expected time from the submission of an application to a final order (excluding appeals)? | Within 24 hours |
| Within 2 to 3 days |
| Up to 1 week |
| 1 to 4 weeks |
| 4 to 6 weeks |
| Other |
| Please specify: - enter text here - |
| 3.9. Does your State / jurisdiction offer protection orders considered to be of an interim or emergency nature (in contrast to more permanent orders)? | Yes |
| Please describe the main features of these orders, including information as to when the respondent is notified and has an opportunity to be heard and / or challenge such an order and until when these orders are effective: - enter text here - |
| No |

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| 4. Availability of protection orders for visitors to your State / jurisdiction | |
| Can an individual in need of protection while temporarily visiting your State / jurisdiction obtain a protection order in your State / jurisdiction for the duration of his / her visit? | Yes |
| Please specify: - lege non distiguente |
| No |
| Comments: - enter text here - |

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| 5. Jurisdictional Grounds and law applicable to protection orders in your State / jurisdiction | |
| 5.1. Please specify the grounds upon which domestic competent authorities may assume jurisdiction for the establishment of protection orders (check all which apply). | Physical presence in the State / jurisdiction of the person seeking protection |
| Future physical presence in the State / jurisdiction of the person seeking protection |
| Physical presence of the defendant in the State / jurisdiction |
| Other |
| Please specify: - enter text here - |
| Comments: - enter text here - |
| 5.2. Please specify what law will be applicable to the establishment of a protection order in your State / jurisdiction. | Law of the forum |
| Other law |
| Please specify, indicating relevant conflict of law rules: - enter text here - |

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| 6. necessary information for appLICATIONs FOR establishment of NATIONAL protection orders | |
| 6.1. Does your State / jurisdiction have a prescribed or preferred form for an application to establish a protection order? | * Yes, standard form for establishment published by the Hague Conference |
| Yes |
| Please attach a copy of the form or provide a website link or both:   - enter text here - |
| No |
| 6.2. What information is required to be included in an application to establish a protection order? | About the applicant:  🞎 Full name   * Date and / or place of birth * Personal identification number (such as social security or passport number) * Mailing address * Telephone, e-mail and other contact details * Nationality / nationalities * Other. Please specify:   About the respondent:   * Full name * Date and / or place of birth * Personal identification number (such as social security or passport number) * Mailing address * Telephone, e-mail and other contact details * Nationality / nationalities * Other. Please specify:   Other information:  Please specify: |
| 6.3. What documents are required for an application to establish a protection order? Please specify. | - The applicant has to provide prima facie evidence of the factual prerequisites stipulated by the law for the protection measure in question e.g. that he or she was seriously threatened by another person. |
| 6.4. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| Please specify: - In the framework and according to the rules of the "Elektronischer Rechtsverkehr" |
| No |

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| 7. APPLICATIONS TO MODIFY protection orders | |
| 7.1. In addition to application contents specified in Section 6.2, what information is required in order to process an application to modify a protection order established in your State / jurisdiction? | About the applicant:  Please specify:  About the respondent:  Please specify: |
| 7.2. What documents are required for an application to modify a protection order established in your State / jurisdiction? (please check all which apply) | Complete text of the existing protection order |
| Other / additional documents |
| Please specify: - The applicant has to provide prima facie evidence of the factual prerequisites of the modified order. |
| 7.3. On what grounds can an application be filed for modification of a protection order established in your State / jurisdiction? (please check all which apply) | Changed circumstances of the protected person so as to justify the modification |
| Changed circumstances of the person causing the risk so as to justify the modification |
| Other |
| Please specify: Any other change of circumstances e.g. the development of new communication techniques wich could be utilised to harress or threaten the applicant in the future. |

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| 7.4. Does your State / jurisdiction have a prescribed or preferred form for an application to modify a protection order made in your State? | * Yes, standard form for modification published by the Hague Conference |
| Yes |
| Please attach a copy of the form or provide a website link or both:   - enter text here - |
| No |
| 7.5. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| No |

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| 8. RESPONDENT’S RIGHTS | |
| Please answer questions in this section for the protection order regimes in your State / jurisdiction which are not considered to be of an interim or emergency nature (covered in Section 3.9., above) | |
| 8.1 Does the respondent have an opportunity to be heard in proceedings for protection orders in your State / jurisdiction? | Yes, always |
| It depends upon the particular case and is at the discretion of the judge / authority hearing the case |
| Please specify: In case of imminent danger threatening the respondent is not given an oppurtunity to be heard before the protection order is issued. |
| Other |
| Please specify: - enter text here - |
| 8.2 Is the respondent given notice when a protection order is rendered or modified? | Yes |
| No |
| Comments: - enter text here - |
| * 1. Please describe any other important features of respondent rights. | - enter text here - |

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| **9. APPLICANT’S RIGHTS AND SUPPLEMENTARY SERVICES** | |
| 9.1. Does the intended protected person have an opportunity to be heard in proceedings for protection orders in your State / jurisdiction? | Yes, always |
| It depends upon the particular case and is at the discretion of the judge / authority hearing the case |
| Please specify: - enter text here - |
| Other |
| Please specify: - enter text here - |
| 9.2. Is the protected person or his / her representative given notice when a protection order is rendered or modified? | Yes |
| No |
| Comments: - enter text here - |

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| 9.3. Are there any support services available in your State / jurisdiction for victims of domestic violence or other crimes / behaviours (*e.g.*, such as those described in Section 3.5., above)? | Yes. Please complete Annex I describing services and providing contact details. |
| No |
| If existent, are these services also available for non-nationals or non-residents of your State / jurisdiction? (*i.e.*, are they also available to foreigners?) | Yes |
| No |
| Comments: - enter text here - |

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| 10. BILATERAL, REGIONAL AND INTERNATIONAL INSTRUMENTS generally addressing protection orders[[6]](#footnote-6) | |
| 10.1. Please list any bilateral, regional, and international instruments or co-operation mechanisms that currently or will in the future bind your State or jurisdiction, which address protection orders generally: | - answer to question 10 to be prepared by the Commission (General Questions on 7.7.14) |
| 10.2. Please provide relevant Internet weblink(s), if available: | - answer to question 10 to be prepared by the Commission (General Questions on 7.7.14) |
| 10.3. Please comment on special features, if any, found in these instruments or co-operation mechanisms which seek to quickly protect persons at risk in cross-border settings: | - answer to question 10 to be prepared by the Commission (General Questions on 7.7.14) |

part VI: other general information on NATIONAL protection orderS and recognition and enforcement of FOREIGN protection orderS

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| 1. Legal representation and assistance | |
| * 1. Is legal representation required in proceedings concerning national protection orders or for the recognition and enforcement of a foreign protection order? | Yes |
| No |
| No, but recommended. |
| Comments: - enter text here - |
| * 1. If legal representation is required in proceedings, can those other than lawyers represent the parties? | Yes |
| Please specify: - enter text here - |
| No |
| * 1. Is free or reduced rate legal assistance available to an applicant for a protection order or for its recognition and enforcement in your State / jurisdiction? | Yes, free legal assistance |
| Yes, reduced rate legal assistance |
| No |
| Comments: - enter text here - |

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| * 1. If free or reduced rate legal assistance is not available, in what other ways can your State / jurisdiction assist an applicant financially? | There is a system of costs ordering the respondent to pay |
| Pro bono legal assistance |
| Other |
| Please specify: - enter text here - |
| Not at all |
| * 1. Is free or reduced rate legal assistance available to the respondent? | Yes, free legal assistance |
| Yes, reduced rate legal assistance |
| No |
| * 1. Please indicate on what basis free or reduced rate legal assistance may be available. | Income of the applicant |
| Please specify: - enter text here - |
| Assets of the applicant |
| Please specify: - enter text here - |
| Age of the applicant |
| Please specify: - enter text here - |
| Country of residence of the applicant |
| Please specify: - enter text here - |
| Likelihood of success of the proceedings |
| Other |
| Please specify: - enter text here - |
| * 1. Which costs are covered by free or reduced rate legal assistance? | Translation |
| Interpretation |
| Service of documents |
| Court fees |
| Lawyer fees |
| Other |
| Please specify: - enter text here - |
| * 1. Does your State / jurisdiction have a prescribed or preferred form for an application for free or reduced rate legal assistance? | Yes |
| Please attach a copy of the form or provide a website link or both: - http://justiz.gv.at/web2013/html/default/2c948485246bff6f0124b9a7617e4146.de.html |
| No |
| * 1. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| Please specify: - In the framework and according to the rules of the "Elektronischer Rechtsverkehr" |
| No |

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| 2. challenges / Appeals | |
| * 1. Can the establishment of a domestic protection order or the recognition and / or enforcement of a foreign order be appealed? | Yes |
| Please specify how many levels of appeal exist and to which court(s) / authority(ies) an appeal may be made:   - enter text here - |
| No |
| Comments: - enter text here - |
| * 1. Who can initiate the appeal process? | Either applicant or respondent |
| Other |
| Please specify: - enter text here - |
| * 1. On what grounds can an appeal be initiated? Please specify. | - enter text here - |
| * 1. Is leave to appeal required? | Yes |
| No |
| In certain circumstances |
| Please specify: - Revisionsrekurs?? |
| * 1. Can the establishment of a domestic protection order or the recognition and / or enforcement of a foreign order be suspended (*i.e.*, ‘stayed’) pending an appeal? | Yes, a protection order or recognition and enforcement is *automatically* suspended pending an appeal |
| Yes, a protection order or recognition and enforcement can be suspended pending an appeal at the request of either party |
| Yes, a protection order or recognition and enforcement can be suspended pending an appeal at the request of either party and after determination by the judge / authority |
| Please specify : - enter text here - |
| No |
| Comments: - enter text here - |
| * 1. Is there a time limit by which an appeal must be filed? | Yes |
| The time limit: - enter text here - |
| From when the time limit starts to run (*e.g.*, from the date of the order, from the date the parties were notified of the order, etc.): - enter text here - |
| No |
| * 1. Generally, what is the expected time within which appeals are filed and decided? | Less than 1 month |
| 1 to 3 months |
| Longer than 3 months |
| Comments: - enter text here - |

**ANNEX I**

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| support services available for victims of domestic violence and other CRIMINAL OR HARMFUL BEHAVIOURS (*e.G.*, see Part V, Section 3.5) in your state / jurisdiction |
| Please attach additional pages as necessary if there are more organisations that offer support services for victims in your State / jurisdiction |
| 1. contact details of organisation offering support services |
| a. Organisation: - xxxxxxxxxxxxxxxxx |
| b. Description of services offered: - enter text here - |
| c. Address:  d. Telephone:  e. Fax:  f. E-mail: |
| g. Website: - enter text here - |
| h. Contact person(s):  i. Language(s): |
| 2. contact details of organisation offering support services |
| a. Organisation: - enter text here - |
| b. Description of services offered: - enter text here - |
| c. Address:  d. Telephone:  e. Fax:  f. E-mail: |
| g. Website: - enter text here - |
| h. Contact person(s):  i. Language(s): |
| 3. contact details of organisation offering support services |
| a. Organisation: - enter text here - |
| b. Description of services offered: - enter text here - |
| c. Address:  d. Telephone:  e. Fax:  f. E-mail: |
| g. Website: - enter text here - |
| h. Contact person(s):  i. Language(s): |

1. Conclusion and Recommendation No 9 of the Conclusions and Recommendations of the Council on General Affairs and Policy of the Conference (9-11 April 2013) (available on the Hague Conference website at < www.hcch.net > under “Work in Progress” then “General Affairs”). [↑](#footnote-ref-1)
2. For example, in relation to the *Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (developed during the negotiations of the Convention), the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* and the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (available on the Hague Conference website at < www.hcch.net > under “Conventions”). [↑](#footnote-ref-2)
3. “Questionnaire on the Recognition and Enforcement of Foreign Civil Protection Orders,” Prel. Doc. No 4 A of November 2012 for the attention of the Council of April 2013 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”). [↑](#footnote-ref-3)
4. The areas marked in dark grey highlight could be utilised under a possible future Convention or other international co-operation mechanisms on protection orders. [↑](#footnote-ref-4)
5. *I.e.*, including the application or threat of sanctions for the violation or potential violation of a protection order. [↑](#footnote-ref-5)
6. *E.g.*, the *Council of Europe* *Convention on preventing and combatting violence against women and domestic violence* (adopted 7 April 2011). Art. 53(1) of this Convention requires that all States Parties “ensure that appropriate restraining orders or protection orders are available to victims of all forms of violence covered by the scope of [the] Convention.” [↑](#footnote-ref-6)