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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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**DRAFT COUNTRY PROFILE – REVISED**

**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): | - SPAIN - |
| **Information for follow-up purposes** | |
| Name and title of contact person: | - - |
| Name of Authority / Office: | - MINISTRY OF JUSTICE - |
| Telephone number: | - - |
| E-mail address: | - - |

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: - 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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| 1.2. 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: - enter text here - |
| No |
| Please specify how enforcement takes place: - enter text here - |
| 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: - enter text here - |
| Other |
| Please specify: - In case of breach of the protection measures the Spanish Legislation provides for a wide range of civil and criminal responsibilities depending on the specific nature of the measure and the case. - |
| 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: - enter text here - |
| 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: -In cases of domestic violence the so called: Observatorio estatal de violencia contra la mujer" is in charge of collecting statistical data and in judicial cases the Spanish General Council of the Judiciary is in charge of collecting official statistical data. - |
| No |
| 2.5 Are security bracelets, GPS tracking devices or other technology used to assist with the enforcement of protection orders? | Yes |
| Please specify: - We have for domestic violence cases a system called: Domestic Violence GPS Proximity Notification System, DV. This GPS tracking devices system is governed by a Protocol dated 08/07/2009 and can be imposed or used to assist with the enforcement of civil protection orders as a protective measure under article 64.3 Gender Violence Act 1/2004 and under provisions of article 48.4 Spanish Criminal Code as an accessory punishment. - |
| 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: - 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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| 1.2. 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: - It depends on the specific legal provision to be applied and their requeriments to obtain exequátur in each case - |
| 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: - enter text here - |
| Other |
| Please specify: - When a foreign protection order has been recognized in Spain, remains assimilated to national orders so the same pemalties are applicable to both orders in case of breaching. - |
| 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: - enter text here - |
| 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: - When a foreign protection order has been recognized in Spain, remains assimilated to national orders so the same GPS tracking devices or other technology can be used in both cases. |
| 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: -Rules of private international law can be located within articles 8 to 12 Spanish Civil Code. Aside from EU legislation and specific legal international instruments in force in Spain, the general rules concerning exequatur are described in arts 951 to 958 Civil Procedure Rule, currently to be modified in the near future according draft bill on International Judicial Cooperation in civil matters. Over exequatur there are also domestic specific legislation as in Act 54/2007 on International Adoption or as in Act 20/2011 concerning Civil Registry. - |
| Please list relevant Internet weblink(s), if available: - ttp://www.mjusticia.es; http://www.poderjudicial.es; http://www.prontuario.org.- |
| Please comment on special features, if any, found in these laws which seek to quickly protect persons at-risk in cross-border settings:   - Apart from specific Conventions under the Hague Conference, within the E.U. área the Regulations Brussels I, Brussels II a and 4/2009, for example, are good instruments providing protection to persons at risk in cross border situations. - |
| 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: - 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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| 2.2. 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: - It depends on the relevant international instrument to be applied in each case - |
| 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:   - Only according specific legal instruments inside European Union there are these kind of forms. - |
| No |
| 3.4. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| Please specify: - enter text here - |
| 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: - It depends on the international instrument implimented - |
| 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: - It depends on the international instrument implimented - |
| 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: - It depends on the international instrument implimented - |
| 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:   - It depends on the international instrument implimented - |
| 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: - All depending on international legal instrument implimented- |
| 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: - It depends on the specific legal instrument to be implemented - |
| 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: - It depends on the specific legal provision applicable to each recognition and enforcement procedure. The general basis are in article 954 Civil Procedure Rule. - |

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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: - There is no consensus if Hague Convention 19.10.1996 should be applicable in these cases. Other legal instruments in the EU should be applicable (Regulation 2201/2003, Regulation 4/2009, etc.) and in absence of international legal provisions, the domestic general regulation of exequatur should be implimented - |
| Recognition and enforcement of foreign protection orders under domestic law (including rules of private international law) |
| Please specify: - - |
| 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: - Probably but as it was said there is no consensus if Hague Convention 19.10.1996 should be applicable in these cases.In Spain, the applicaton of the Convention 19.10.1996 is also condicioned by article 64 Regulation 2201/2003. |
| 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): | - COVERING THE RECOGNITION AND ENFORCEMENT OF FOREIGN PROTECTION ORDERS:  Aside from EU instrument cited below we have the followings among others: Hague Convention 19.10.1996, Bilateral Conventions between Spain and Argelia, Tunisia, Israel and Mauritania dated 24.02.2005, 30.05.1989, 24.9.2001 and 12.09.2006 cover provisional measures concerning maintenance claims. Bilateral Conventions between Spain and Brasil, Bulgaria, China and Uruguay dated 13.04.1989, 23.05.1993, 2.05.1992 and 4.11.1987 cover provisional measures in general.  In Spain, the applicaton of the Convention 19.10.1996 is condicioned by article 64 Regulation 2201/2003. If Convention 19.10.1996 is applicable, it allows court dealing with the return application to take urgent / provisional protective measures (e.g., contact orders and orders which help to ensure a safe return) and the convention improves arrangements for contact between child and non-custodial parent and provides for the recognition of such measures in the country to which the child is returned (Art. 23). Under this Convention any country where a child is present may take necessary emergency or provisional measures of protection (Art.11) that are considered as any judicial or administrative decision affecting or safeguarding the child.  DEALING MORE GENERALLY WITH CIVIL PROTECTION ORDERS:  Council of Europe Convention on preventing and combating violence against women and domestic violence.  European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children CETS No.: 105  Bilateral Convention Spain Morocco dated 30.05.1997 on legal assistance, recognition and enforcement of custody rights and access rigts judgements and restitution of children.  Bilateral Convention Spain-El Salvador dated 7.11.2000 on jurisdiction, recognition and enforcement of civil judgments that allows adopting provisional measures on occasion of a procedure of recognition or enforcement.  Bilateral Convention Spain-Romania 17.11.1997 on jurisdiction, recognition and enforcement of civil judgments that allows adopting provisional measures on occasion of a procedure of recognition or enforcement.  - |
| 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: | - Spain is involved in a regional system that includes specific instruments like Brussels I, Brussels IIa, Regulation 606/2013 and Regulation 4/2009 for instance, and a Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order. Both last legal instruments combined with the Directive 2012/29/EU dated 25 October 2012 on protection of victims of crime are intended to be an appropiate solution within EU scope in matters outside the scope of Brussels II a for example - |

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: Spain is listed by General Secretary United Nations in the field of violence against women within 86 countries that have developed domestic laws or practices allowing the issuance of protection orders.  Concerning date and title of legislation in force it can be cited among others the Civil and Criminal Codes, the Civil and Criminal Procedural Laws, the Act 35/1995 to help victims of violent crimes and against sexual freedom (Ley 35/1995, de 11 de diciembre, de ayudas y asistencia a las víctimas de delitos violentos y contra la libertad sexual), the Act 27/2003, 31st July, regulating protection order for domestic violence victims (Ley 27/2003, de 31 de julio, reguladora de la Orden de protección de las víctimas de la violencia doméstica) and the Organic Act 1/2004, 28 December, of protection measures against gender violence (Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género).  In Spain we already have a civil broad protection order regime in force covering married and unmarried couples, even formerly married and cohabitating couples, both heterosexual and same sex as well as petitions on behalf of children. Our civil protection orders are available in both civil and criminal proceedings.  Within article 544 ter Criminal Procedure Law and articles 61 to 69 Organic Act 1/2004, 28 December, of protection measures against gender violence, there are judicial protection measures comprehending criminal measures, that will last according the judicial resolution establishing them, and civil measures with a 30 days lifetime, and in case of a subsequent family procedure, of another 30 days lifetime after the civil claim was issued allowing in that way to family judge to hold them up or to overturn them.  Concerning types of protection orders we have available domestic exclusion orders removing an alleged abuser from home and no contact orders, for example prohibiting an alleged abuser from contacting, approaching, harassing the victim and other actions. To make it clear, there are available in Spain protection orders not to enter certain places, not to enter into contact, not to approach, and even to attribute exclusive use of common housing of two people to the protected person. A broad range of protection orders concerning provisional or precautionary measures in general to protect children, in parental responsibility cases, are available even as an open list.  Concerning, for example, protection measures described in Article 2 Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters, all of them are covered in the current Spanish legislation which contains specific provisions on prohibitions from entering certain localities, places or defined areas where the protected person resides, works or that he or her visits; on prohibition or restriction on entering into contact, in any form, with the protected person, on prohibition or restriction on approaching the protected person closer than a prescribed distance, and on decisions attributing the exclusive use of the common housing of two persons to the protected person. An important topic to be pointed out concerning Regulation 606/2013 implies that measures established under Regulation 606/2013 and outside scope Regulation 2201/2003, are unknown in Spain because such orders in Spain only can be adopted in criminal cases and outside the scope of Regulation 606/2013.  It was already explained during the preparatory work for Directive 2011/99/UE that the Spanish criminal justice system provides for the issue of a protection order in cases of gender violence, with a range of measures which confer full protection and can include provisional measures under civil and criminal law, as well as social assistance and protection measures.  Among the civil measures, the following ones could be mentioned as a belts and braces approach: use of habitual residence, maintenance obligations, parental visiting rights, etc. In Spain, offenders can be deprived of the right to reside in or enter specific localities, or prohibited from approaching or communicating with the victim or certain members of the victim's family. This applies not only to cases of domestic violence but also, depending on the seriousness of the case or the danger represented by the offender, to crimes involving murder, abortion or injury, crimes against personal freedom, torture, and crimes against moral integrity, sexual offences, attacks on personal privacy and the right to protection of one's own image and offences against the inviolability of the home, a person's good name, property and the socio-economic order, and can last up to 10 years in the case of serious offences and up to five years in the case of less serious offences. Such prohibitions can also be imposed in cases of suspended custodial sentences and as a security measure.  It is important to point out that in Spain protective measures and obligations which are included in the scope of Brussels II bis are possible to be taken in criminal and in civil proceedings by the judge in charge of the case under Article 158 Civil Code to secure the effectiveness of child support in case parents do not provide it, measures to avoid children damages in case of transfer from one parent to another patria potestas or measures to avoid a risk of international child abduction such as seizing passports, ne exeat clauses and so on.  The Spanish criminal justice system, as it was said, provides for the issuance of a protection order in cases of gender violence, with a range of measures which confer full protection and can include provisional measures under civil and criminal law, as well as social assistance and protection measures.  With the exception of domestic violence judges that are able to adopt both civil (e.g. use of habitual residence, parental visiting rights, etc.) and criminal protective measures at the same time, in theory, protective measures should be ordered by a civil judge regarding civil protective measures and by a criminal judge regarding criminal protective measures.  Nevertheless, outside the scope of Brussels II bis issues it is difficult in non domestic violence issues that a civil judge can ordered civil protective measures for victims (e.g. use of habitual residence, maintenance obligations, and so on).  According:"OBERVATORIO ESPAÑOL CONTRA LA VIOLENCIA DE GÉNERO Y DOMÉSTICA", these are the main features of the spanish protection order in these cases: (In Spanish language)  La Orden de Protección es una resolución judicial que consagra el “estatuto de protección integral” de las víctimas de violencia doméstica, mediante la adopción, por un mismo órgano jurisdiccional, de medidas cautelares penales y civiles, activando otras medidas de asistencia social.  Qué es la orden de protección  La Ley 27/2003, de 31 de julio, que regula la Orden de protección de las víctimas de la violencia doméstica pretende que a través de un rápido y sencillo procedimiento judicial ,ante el Juzgado de Instrucción, las victimas de violencia domestica pueda obtener un estatuto integral de protección que comprende medidas civiles, penales y asistenciales y de protección social.  La Orden de Protección es una resolución judicial que, en los casos en que existan indicios fundados de la comisión de delitos ó faltas de violencia domestica y exista una situación objetiva de riesgo para la víctima, ordena su protección mediante la adopción de medidas cautelares civiles y/o penales, además de activar las medidas de asistencia y protección social necesarias, por remisión de la Orden de Protección a los Puntos de Coordinación de las Comunidades Autónomas.  1.- Medidas  1. MEDIDAS PENALES:  a. Privativas de libertad  b. Orden de alejamiento  c. Prohibición de comunicación  d. Prohibición de volver al lugar del delito ó residencia de la victima  e. Retirada de armas u otros objetos peligrosos  2. MEDIDAS CIVILES:  a. Atribución del uso y disfrute de la vivienda  b. Régimen de custodia, visitas, comunicación con los hijos  c. Prestación de alimentos  d. Medida de protección al menor para evitar un peligro ó perjuicio  3. MEDIDAS DE ASISTENCIA Y PROTECCIÓN SOCIAL: establecidas en el ordenamiento jurídico, tanto estatal como autonómico.  2.- Quien puede solicitarla  1. La víctima  2. Cualquier persona que tenga con la víctima alguna de las relaciones del articulo 173 del C.P.  3. El Ministerio Fiscal  4. El juez de oficio puede acordarla  5. Las entidades u organismos asistenciales, públicos ó privados que tuviesen conocimiento de la existencia de alguno de los delitos ó falta de violencia domestica , deberán ponerlos inmediatamente en conocimiento del Juez de Guardia ó Fiscal con el fin de que pueda incoar el Juez ó instar el Fiscal el procedimiento para la adopción de la orden de protección. En el supuesto de indicio de infracción penal por violencia contra las mujeres, en el ámbito referido en la Ley Integral, se deberá comunicar al Juez/a de Violencia sobre la Mujer (el Juez/a de Instrucción en funciones de guardia actúa en estos casos sólo fuera de las horas de audiencia de aquél/la).  IMPORTANTE.- Las medidas civiles deben pedirse expresamente :  1.Por la victima ó su presentante legal  2.Por el fiscal, cuando existan hijos/as menores ó incapaces  SOLICITUD.- Existe un modelo de solicitud aprobado por la Comisión de Seguimiento que se encuentra a disposición de las victimas en todos los lugares y servicios sociales donde puede presentarse. Se trata de un modelo normalizado, sencillo, de fácil accesibilidad. Se ha actualizado con efectos de 1 de enero de 2007.  3.- Donde puede solicitarse  1. Ante el juez  2. Ante el fiscal  3. Ante las Fuerzas y Cuerpos de Seguridad - la policía, guardia civil, policías autonómicas ó Locales. Estas realiza el correspondiente atestado para la acreditación de los hechos  4. En las Oficinas de Atención a las victimas  5. En los servicios sociales ó instituciones asistenciales dependientes de las Administraciones Publicas  6. En los Servicios de orientación Jurídica de los Colegios de Abogados  4.- Trámite  La solicitud deberá ser remitida de forma inmediata al Juez de Guardia o al Juez de Violencia sobre la Mujer, durante las horas de audiencia, si éste resulta competente.  En el juzgado de guardia, recibida la solicitud, el Juez convoca a una audiencia urgente a:  1.La víctima  2. Al solicitante si es distinto de la victima  3. Al agresor  4. Al Fiscal  • La audiencia :  Habrá de celebrarse EN UN PLAZO MÁXIMO DE 72 HORAS.  La declaración se hará por separado.  • Durante la misma, el Juez adoptará las medidas necesarias para evitar la confrontación entre el agresor y la víctima, sus hijos y los restantes miembros de la familia.  Celebrada la audiencia el Juez dicta EL AUTO en el que, de ser estimatorio, acuerda medidas de protección a la víctima.  LAS MEDIDAS que puede adoptar el juez son, entre otras:  • Medidas penales:  a. Privativas de libertad  b. Prohibición de aproximación (orden de alejamiento)  c. Prohibición de comunicación  d. Prohibición de volver al lugar del delito ó residencia de la victima  e. Retirada de armas u otros objetos peligrosos  • Medidas civiles (hay que solicitarlas expresamente)  f. Atribución del uso y disfrute de la vivienda  g. Régimen de custodia, visitas , comunicación con los hijos  h. Prestación de alimentos  i. Medida de protección al menor para evitar un peligro ó perjuicio  Las medidas civiles tienen una vigencia ó duración de 30 DIAS. Si dentro de este plazo fuese incoado a instancia de la victima ó su representante legal un proceso de familia ante el Juez competente, las medidas adoptadas en la orden de protección permanecerán en vigor durante los treinta días siguientes a la presentación de la demanda. En estos 30 días el Juez civil de Familia o el Juez de Violencia sobre la Mujer debe ratificarlas, modificarlas ó dejarlas sin efecto.  La orden de protección será inscrita en el REGISTRO Central para la protección de las victimas de la violencia domestica, donde se deberá hacer constar igualmente si queda sin efecto.  El auto de orden de protección se comunica a:  1. Las partes, agresor y Fiscal  2. La victima  3. Las administraciones públicas (Punto de coordinación)  4. La Policía ó Fuerza de Seguridad  La orden de protección confiere a la víctima:  • UN ESTATUTO INTEGRAL DE PROTECCIÓN que comprenderá las medidas civiles y penales y las medidas asistenciales y de protección social establecidas en el ordenamiento jurídico. Podrá hacerse valer ante cualquier autoridad y Administración Pública.  Implica el derecho de la victima a ser informada permanentemente sobre la situación procesal del agresor y su situación penitenciaria.  5.- Registro central para la protección de las víctimas de la violencia doméstica  El Real Decreto 355/2004 de 5 de Marzo (BOE de 25 de marzo de 2004) -posteriormente derogado por el Real Decreto 95/2009, de 6 de febrero, por el que se regula el Sistema de registros administrativos de apoyo a la Administración de Justicia- reguló el funcionamiento del Registro Central.  El Real Decreto 513/2005 permite el acceso de las Comunidades Autónomas, a través de los Puntos de Coordinación designados por cada una de ellas, al Registro Central, con la finalidad de garantizar el cumplimiento de las medidas de protección, provisionales o definitivas, acordadas por los órganos jurisdiccionales en el ámbito de sus competencias. Con posterioridad, el Real Decreto 660/2007, de 25 de mayo, ha permitido el acceso de las delegaciones y subdelegaciones del Gobierno a la información necesaria para garantizar el efectivo cumplimiento de las medidas de protección, provisionales o definitivas.  Este Registro gestionado por el Ministerio de Justicia es una base de datos informatizada de ámbito nacional que contiene las penas y medidas de seguridad impuestas en sentencias por delito o faltas y medidas cautelares y órdenes de protección acordadas en procedimientos penales por violencia doméstica.  Facilita información a:  • Juzgados penales y de familia  • Ministerio Fiscal  • Policía Judicial  • Comunidades Autónomas  • Las delegaciones y subdelegaciones del Gobierno  Para:  • Tramitar las causas penales y civiles.  • Adoptar, modificar, ejecutar y hacer seguimiento de medidas de protección y asistenciales  La consulta de la información puede hacerse:  a. Por datos del denunciado ó de la victima  b. Por datos del procedimiento  - |
| Please list any Internet weblink(s) to the legislation or case law, if available:   - http://www.mjusticia.es  http://www.poderjudicial.es  http://www.prontuario.org - |
| 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: - The Spanish system protecting domestic violence victims has created under article 23 Act 1/2004, among other legal provisions at many territorial levels, a specific protection order that serves as habilitant title to ask for specific rights concerning employment, social security, health, etc. These comprehensive protection orders in gender violence cases offer an esential protection that goes beyond mere civil and criminal fields. - |
| * 1. If protection order regime(s) exist in your State / jurisdiction, are modifications of the existing regime(s) contemplated? | Yes |
| Please specify: - We already have on the move different legal drafts affecting in the near future protection orders legal regulation, both civil and criminal. Among these draft bills can be cited the following:  o Proyecto de Ley de reconocimiento mutuo de resoluciones en materia penal en cuanto desarrolla la Directiva 2011/99/UE de la orden europea de protección penal incorporándola al derecho español.  o Proyecto de Ley de estatuto de la víctima del delito de 1 de agosto de 2014 que traspone la Directiva 2012/29/UE, la directiva 2011/92/UE, y la Directiva 2011/36/UE.  o Proyecto de Ley de Jurisdicción Voluntaria de 1 de agosto de 2014 en cuanto regula de forma novedosa la tramitación interna del proceso de sustracción internacional de menores.  o Proyecto de Ley de asistencia jurídica gratuita de 21 de febrero de 2014.  o Anteproyecto de Ley de Cooperación Jurídica Internacional de 4 de julio de 2014 en cuando modifica el proceso interno nacional de exequátur.  o Diversas modificaciones en marcha del Código Penal, de la Ley Orgánica del Poder judicial y del Código Civil sobre custodia compartida.  At the level of the European Union and concerning Regulation (EU) No 606/2013 on mutual recognition of protection measures in civil matters (devoted to gender violence victims and others), in application on 11.01.2015, several questions should be pointed out because there are not in Spain civil protection orders as the ones described in the Regulation 606/2013 that does not oblige the Member States to modify their national systems so as to enable protection measures to be ordered in civil matters, or to introduce protection measures in civil matters for the application of the Regulation. Criminal protection orders are outside Regulation 606/2013 and covered by Directive 2011/99/UE and the Regulation nº 606/2013 simply complements Directive 2012/29/UE. Furthermore, Regulation 606/2013 cannot affect scope of Regulation 2201/2003 so it is clear that in Spain protection measures concerning parental responsibility are excluded of the system created by Regulation 606/2013 and regulated under article 158 Spanish Civil Code. - |
| 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**:**  - 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: - Under the application of article 158 Spanish Civil Code whatever protective measure is possible under the consideration of the judge in charge of the case. - |
| 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: - Even the children - |
| 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 : - Cases concerning children in a broad range - |
| 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: As it was explained above and within article 544 ter Criminal Procedure Law and articles 61 to 69 Organic Act 1/2004, 28 December, of protection measures against gender violence, there are judicial protection measures comprehending criminal measures, that will last according the judicial resolution establishing them, and civil measures with a 30 days lifetime, and in case of a subsequent family procedure, of another 30 days lifetime after the civil claim was issued allowing in that way to family judge to hold them up or to overturn them. - |
| Have a maximum duration |
| Please specify: - Certain civil measures taken in criminal proceedings can last up to 10 years in the case of serious offences and up to five years in the case of less serius offences - |
| 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: - It depends on a broad range of factors. In urget cases and in cases of domestic violence protection orders can be obtained almost always immediatly - |
| 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: - In general the adoption of any provisional measure is preceded of an initial hearing except in cases of emergency. Under article 158 Spanish Civil Code, the Judge, ex officio or at the request of the child, of any relative or of the Public Prosecutor, shall order: 1. Suitable measures to ensure the provision of support, and to provide for the future needs of the child by his parents, in the event of breach of such duty. 2. Adequate provisions to prevent harmful disturbance to the children in cases of change of the holder of custody. 3. Necessary measures to prevent the abduction of underage children by one of the parents or by third parties and, in particular, the following: a) Prohibition to exit national territory, save with a prior judicial authorisation. b) Prohibition to issue a passport to the minor, or removal thereof if one should already have been issued. c) Submission to prior judicial authorisation of any change of domicile of the minor. 4. Generally, other provisions deemed suitable, to remove the minor from danger or to prevent any damages to him. All these measures may be adopted within any civil or criminal proceedings, or in voluntary jurisdiction proceedings.- |
| 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: - enter text here - |
| 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: - It depends on the conflicts of law rules and international instrument to be implemented just in case - |

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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:   - It can be used a standard form in cases of domestic violence available in a broad range of institutions - |
| 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. | - enter text here - |
| 6.4. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| Please specify: - enter text here - |
| 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: - enter text here - |
| 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: - enter text here - |

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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: - enter text here - |
| 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: | - COVERING THE RECOGNITION AND ENFORCEMENT OF FOREIGN PROTECTION ORDERS:  Aside from EU instrument cited below on question 10.3, we have the followings among others: Hague Convention 19.10.1996, Bilateral Conventions between Spain and Argelia, Tunisia, Israel and Mauritania dated 24.02.2005, 30.05.1989, 24.9.2001 and 12.09.2006 cover provisional measures concerning maintenance claims. Bilateral Conventions between Spain and Brasil, Bulgaria, China and Uruguay dated 13.04.1989, 23.05.1993, 2.05.1992 and 4.11.1987 cover provisional measures in general.  In Spain, the applicaton of the Convention 19.10.1996 is condicioned by article 64 Regulation 2201/2003. If Convention 19.10.1996 is applicable, it allows court dealing with the return application to take urgent / provisional protective measures (e.g., contact orders and orders which help to ensure a safe return) and the convention improves arrangements for contact between child and non-custodial parent and provides for the recognition of such measures in the country to which the child is returned (Art. 23). Under this Convention any country where a child is present may take necessary emergency or provisional measures of protection (Art.11) that are considered as any judicial or administrative decision affecting or safeguarding the child.  DEALING MORE GENERALLY WITH CIVIL PROTECTION ORDERS:  Council of Europe Convention on preventing and combating violence against women and domestic violence.  European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children CETS No.: 105  Bilateral Convention Spain Morocco dated 30.05.1997 on legal assistance, recognition and enforcement of custody rights and access rigts judgements and restitution of children.  Bilateral Convention Spain-El Salvador dated 7.11.2000 on jurisdiction, recognition and enforcement of civil judgments that allows adopting provisional measures on occasion of a procedure of recognition or enforcement.  Bilateral Convention Spain-Romania 17.11.1997 on jurisdiction, recognition and enforcement of civil judgments that allows adopting provisional measures on occasion of a procedure of recognition or enforcement.  - |
| 10.2. Please provide relevant Internet weblink(s), if available: | - Web pages previously cited of Ministry of Justice and the General Council of the Judiciary and http:www.prontuario.org - |
| 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: | - Spain is involved in a regional system that includes specific instruments like Brussels I, Brussels IIa, Regulation 4/2009, and Regulation of the European Parliament and of the Council on Mutual Recognition of Protection Measures in Civil Matters nº 606/2013 in application on 11.01.2015, and a Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order. Both last legal instruments combined with the Directive 2012/29/EU dated 25 October 2012 on protection of victims of crime are intended to be an appropiate solution within EU scope in matters outside the scope of Brussels II a for example - |

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: - Yes in a global sense but can be provided ex officio if needed in urgent cases - |
| * 1. If legal representation is required in proceedings, can those other than lawyers represent the parties? | Yes |
| Please specify: - People in charge of representing people in Spain are so called "Procuradores" - |
| 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: - Legal assistance can be free or reduced depending on the case and circumstances involved - |

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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: - It depends on the international instrument to be implemented - |
| 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: - Expert evidences ust in case - |
| * 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: - enter text here - |
| No |
| * 1. Can your State / jurisdiction accept an application and related documents transmitted by electronic means? | Yes |
| Please specify: - enter text here - |
| 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. | - The general grounds envisaged in the Civil Procedure rule or in specific national or international legislation - |
| * 1. Is leave to appeal required? | Yes |
| No |
| In certain circumstances |
| Please specify: - enter text here - |
| * 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: - The general time limit envisaged in the Civil Procedure rule unless there are other in specific national or international legislation - |
| 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: - Probably longer than 3 months.- |

**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: - Consejo General del Poder Judicial. El Observatorio contra la violencia doméstica y de género - |
| 1. Description of services offered: (In Spanish Language) -Qué es? 2. El Observatorio contra la Violencia Doméstica y de Género es una institución creada en el año 2.002, cuya finalidad principal consiste en abordar el tratamiento de estas violencias desde la Administración de Justicia. Está integrado actualmente por el Consejo General del Poder Judicial, el Ministerio de Justicia, el Ministerio de Igualdad, la Fiscalía General del Estado, las CCAA con competencias transferidas en Justicia y el Consejo General de la Abogacía Española. 3. El Observatorio contra la Violencia Doméstica y de Género es un instrumento de análisis y de actuación que, en el ámbito de la Administración de la Justicia, promueve iniciativas y medidas dirigidas a erradicar el problema social de la violencia doméstica y de género. 4. ¿Cuándo nace y quiénes lo integran? 5. El convenio de constitución del Observatorio fue suscrito el 26 de septiembre de 2002. En la actualidad está integrado por las siguientes instituciones: el Consejo General del Poder Judicial (CGPJ), que ostenta la Presidencia, el Ministerio de Justicia, el Ministerio de Igualdad, la Fiscalía General del Estado, las Comunidades Autónomas con competencias en materia de justicia, a través de turnos rotatorios anuales, y el Consejo General de la Abogacía Española. 6. ¿Dónde tiene su sede? 7. La sede del Observatorio se encuentra en la calle del Marqués de la Ensenada, número 8, de Madrid, en el edificio del Consejo General del Poder Judicial. 8. ¿Cuáles son sus objetivos? 9. Entre los diferentes objetivos que justificaron la constitución del Observatorio destacan los siguientes: 10. • Aumentar la eficacia de las actuaciones en el ámbito de la Administración de Justicia, para la erradicación de estas violencias. 11. • Mejorar la coordinación entre las instituciones, participando en la elaboración de protocolos de actuación. 12. • Realizar estudios y análisis de las resoluciones judiciales así como propuestas de mejoras y reformas legislativas. 13. • Seguimiento estadístico del fenómeno en el ámbito judicial. 14. • Diseñar e impulsar un plan de formación especializada de los miembros de la carrera judicial y fiscal y demás personal al servicio de la Administración de Justicia. 15. ¿Cómo funciona? 16. Mediante reuniones periódicas de las instituciones que lo integran. También, a través de reuniones del Observatorio con asociaciones de mujeres y colectivos afectados así como organismos e instituciones involucrados en esta materia. 17. ¿Para qué sirve? 18. La utilidad del Observatorio está relacionada con los objetivos fijados en el documento constitutivo: 19. • Recopila y analiza los datos obtenidos de las estadísticas judiciales, tales como número de denuncias, órdenes de protección, sentencias, víctimas... 20. • Promueve análisis, estudios e investigaciones acerca de la respuesta judicial. 21. • Elabora conclusiones y recomendaciones sobre la evolución de la violencia de género. 22. • Concede premios anuales de reconocimiento a la persona, institución o asociación que más haya destacado en la erradicación de la violencia doméstica y de género. 23. Y, especialmente, es un instrumento para mejorar la coordinación de las instituciones que lo forman y abordar las diferentes iniciativas que se propongan para erradicar, desde la Administración de Justicia, la violencia doméstica y de género. - |
| c. Address:  d. Telephone:  e. Fax:  f. E-mail: |
| g. Website: - http://www. poderjudicial.es - |
| 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)