**Annex to Part IV. point 1.1. of the Draft Country Profile**

In Hungary there are both civil and criminal protective measures. Their main characteristics are the following:

1. civil protective measures

In Hungary there are two types of civil protective measures, the **temporary preventive stay away measure** and the **preventive stay away measure**, these are used in case of violence between relatives.

*Violence* can be committed by the following two ways:

* by an act by which the abuser seriously and directly endangers the dignity, life, right of sexual self-determination, physical and psychological health of the victim,
* by a default by which the abuser seriously and directly endangers the dignity, life, physical and psychological health of the victim.

*Relatives* in this context are the following:

The spouse, the registered partner, the lineal relative; the step, foster and adoptive child; the step, foster and adoptive parent; the brother/sister; the de facto partner; the spouse and registered partner of a lineal relative; the fiancé, the fiancée, the lineal relative, brother/sister of the spouse and the registered partner; the spouse and registered partner of the brother/sister, the ex-spouse, the ex-registered partner, the guardian, the person under guardianship, the custodian, the ward.

The temporary preventive stay away measure and the preventive stay away measure, they both impose the following obligations to the abuser:

* to stay away from the victim,
* to stay away from the home of the victim,
* to stay away from an other person designated in the decision,
* to abstain from coming in touch with the victim directly or indirectly.

These both types of preventive stay away measures loose their effect, if in a criminal proceeding the court established a stay away measure.

The **temporary preventive stay away measure** is established in an administrative proceeding by the police *ex officio* or upon a notification. This measure is established by the police immediately on the spot and is in effect for 72 hours. In parallel the police inform the local court about this measure and initiate the establishing of a preventive stay away measure.

The **preventive stay away measure** is established in an out-of-court proceeding by the civil court. This proceeding is initiated on request or *ex officio* upon notice of the police having established a temporary preventive stay away measure. It is in effect for maximum 30 days. [Actually the reason of this measure is to give time to the victim to think over whether he/she wants to initiate a criminal proceeding against the abuser.]

The breach of the temporary preventive stay away measure and the preventive stay away measure constitutes a minor offence which can be punished by custody (for 1-60 days) or fine (max. 150 000 HUF).

1. criminal protective measures

In criminal proceedings **stay away measure** can be ordered by a court in the case of the funded suspicion of criminal offence which is punishable by imprisonment and the issue of preliminary warrant is not needed but it is profoundly presumed that the accused person would

* prevent, encumber or endanger of taking evidence by influencing or intimidation of the injured witness, or
* carry out the attempted or arranged criminal offence, or commit to the injury of the injured person a new criminal offence which is punishable by imprisonment.

The stay away measureimposes the following obligations to the accused person:

* to leave a certain flat and stay away from that for a certain period which is defined by the court,
* to stay away from a certain person, from his/her home, workplace, educational or health institute, place for practicing religion attended by him/her regularly,
* to abstain from coming in touch with a certain person directly or indirectly.

The **stay away measure** is established by the criminal court and is in effect for 10-60 days. This proceeding is initiated on request or *ex officio*.

In case of breach of the stay away measure the court can issue a preliminary warrant or impose a fine.

Both the **temporary preventive stay away measure** and the **preventive stay away measure** would fall under the Regulation (EU) 606/2013 on mutual recognition of protection measures in civil matters, but the **stay away measure** would fall under Directive 2011/99/EU of 13 December 2011 on the European protection order.