



Organisation for Security and Cooperation in Europe
OSCE Presence in Albania

Human Dimension Department
Rule of Law Unit

As part of the Women's Access to Justice Project, the OSCE Presence in Albania has developed sample court forms for issuing emergency and regular protection orders.

The pre-printed forms have been modelled to reflect requirements of civil court protection orders as indicated by the law no.9669, dated 18 December 2007, "On Measures against Violence in Family Relations" that entered into force on 1 June 2007.

We hope that the forms will be a useful tool for judges in their continued efforts to guarantee effective protection to victims of domestic violence.

COURT DECISION FOR PROTECTION ORDER

1. THE DISTRICT COURT OF: _____
(Provide district court name and address, and judicial secretary)

CASE No.: _____
DECISION No.: _____

2. PETITIONER¹

Vs.

3. RESPONDENT

(Name, father's name, surname)

(Permanent/temporary residence address)

Telephone: _____
Represented by:

(Name of legal or other representative, if any)

(Address of representative)

Telephone: _____

(Name, father's name, surname)

Permanent residence address:

_____ Telephone: _____

Temporary residence address:

_____ Telephone: _____
Name of legal or other representative if any

4. The names and dates of birth of the persons protected are:
(name, father's name, surname)

5. The petitioner requested protection as follows (tick more than one if applicable):

____ Respondent not to commit a domestic violence act against persons mentioned above

____ Respondent refrain from threatening persons mentioned above

____ Respondent not to harm, harass, contact or communicate with the persons mentioned above

____ Respondent to be leave residence (address) _____ by (time) _____ and not to return without subsequent court authorization

____ Respondent not to approach closer than _____ (distance) persons mentioned above

¹ The petitioner may be the victim or other persons authorized to request a protection order on behalf of the victim as indicated in Article 13, section 1 and 2 of the law no. 9669, dated 18 December 2006, "On measures against violence in family relations". E.g. victim's legal representative, police/prosecutor or, in the case of minor victims, relatives of the minor, or representatives of social services as well as licensed victim protection centers.

_____ Respondent not to go to:

- School (name) of: _____, at (address) _____
- Kindergarten (name) of: _____, at (address) _____
- Work (name) of: _____, at (address) _____
- Home (name) of: _____, at (address) _____

_____ Respondent to contact (name of child) _____ only (when, day of week, time limits) at (place) _____ or by (means of contact)

_____ Prohibit respondent to enter or stay at residence of (name) _____ at (address) _____

_____ Authorize (agency name) _____ to accompany (who) _____ to victim's residence and accompany removal of their personal belongings

_____ Respondent to hand over all weapons to (name of institution/officer) _____

_____ Respondent to allow petitioner to possess the common residence at (address): _____

_____ Respondent to pay monthly (amount) _____ to (name) _____ for rent

_____ Respondent to pay monthly (amount) _____ to (name) _____ as support obligation for persons mentioned above

_____ Respondent to refrain from disposing of marital property

_____ Removing parental responsibility of respondent over their children until further order of a court (names): _____

_____ Granting temporary custody rights over their children (names) _____ to the petitioner

_____ Ordering social services (names) _____ to provide the following to the persons above (list services that victim wants) _____

_____ Order respondent's employer (name) _____ to pay monthly (amount) _____ to (whom) _____

_____ Ordering the perpetrator to participate in rehabilitation programmes and ordering programme to report weekly to the court as to respondent's participation

6. The opinion of the attorney if one participated was that the protection order should be granted under the law.

7. PURSUANT TO ARTICLE 310 OF THE CIVIL PROCEDURE CODE, THE COURT FINDS THE FACTS AND LAW AS FOLLOWS:

The petitioner has presented facts that on the following dates:

at the following places:

acts or omissions occurred constituting domestic violence as defined under Article 3 section 1 and 2 against the following persons:

Based on these incidents, petitioner fears that the security, health or well-being of the mentioned persons is in danger from the respondent.

8. The evidence presented by the petitioner included the following: (check all that apply)

- _____ Police case number: _____
- _____ Copy of police report
- _____ Medical report
- _____ Medico-legal act of expertise
- _____ Certificates from DV service providers (list): _____
- _____ Expert evaluation (list): (e.g. psychologist, pet specialist etc.) _____
- _____ Witness statements (list): _____
- _____ Other evidence (list): (e.g. victim's diary, children's paintings, pictures of injuries, e-mail communications, SMS, etc.) _____
- _____ Tape recordings
- _____ Testimony

9. Pursuant to law no. 9669, dated 18 December 2006, "On measures against violence in family relations", Article 9 upon the Petitioner's request and having reasonable grounds to find, pursuant to Article 17, that:

- There is sufficient basis to believe that the respondent may commit an act of family violence;
- Issuance of the emergency protection order is necessary to protect the security, health and welfare of the victim or their family members who are protected through this order.

10. IT IS THEREFORE ORDERED THAT THE RESPONDENT:

(check more than one if applicable)

- _____ Respondent not to commit a domestic violence act against persons mentioned above
- _____ Respondent refrain from threatening persons mentioned above
- _____ Respondent not to harm, harass, contact or communicate with the persons mentioned above
- _____ Respondent to be leave residence(address) _____ by (time) _____ and not to return without subsequent court authorization
- _____ Respondent not to approach closer than _____ (distance) persons mentioned above
- _____ Respondent not to go to:
 - School (name)of: _____, at (address) _____
 - Kindergarten (name) of: _____, at (address) _____
 - Work (name) of: _____, at (address) _____
 - Home (name) of: _____, at (address) _____
- _____ Respondent to contact (name of child) _____ only (when, day of week, time limits) at (place) _____ or by (means of contact) _____
- _____ Prohibit respondent to enter or stay at residence of (name) _____ at (address) _____
- _____ Authorize (agency name) _____ to accompany (who) _____ to victim's residence and accompany removal of their personal belongings
- _____ Respondent to hand over all weapons to (name of institution/officer) _____

_____ Respondent to allow petitioner to possess the common residence at (address):

_____ Respondent to pay monthly (amount) _____ to (name) _____ for rent

_____ Respondent to pay monthly (amount) _____ to (name) _____ as support obligation for persons mentioned above

_____ Respondent to refrain from disposing of marital property

_____ Removing parental responsibility of respondent over their children until further order of a court (names): _____

_____ Granting temporary custody rights over their children (names) _____ to the petitioner

_____ Ordering social services (names) _____ to provide the following to the persons above (list services that victim wants) _____

_____ Order respondent's employer (name) _____ to pay monthly (amount) _____ to (whom) _____

_____ Ordering the perpetrator to participate in rehabilitation programmes and ordering programme to report weekly to the court as to respondent's participation

11. This protection order remains in effect until 12 months from the date it is released.

12. The respondent has a right to appeal this protection order within fifteen (15) days of its approval or notification to the parties.

13. Expenses for said proceedings are to be paid by the respondent pursuant to Article 14, section 4 of the law no. 9669, dated 18 December 2006, "On measures against violence in family relations".

NOTICE TO THE PARTIES

THIS ORDER APPLIES IMMEDIATELY TO THE RESPONDENT AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING, OR UNTIL THE EXPIRATION DATE OF THE ORDER. NO PRIVATE AGREEMENT BETWEEN THE PARTIES CAN MODIFY THIS ORDER.

CARRYING OUT ACTS WITH THE INTENT OF PREVENTING OR OBSTRUCTING THE ENFORCEMENT OF THIS ORDER CONSTITUTES A CRIMINAL OFFENCE PURSUANT TO ARTICLE 320 OF THE CRIMINAL CODE, AND IS PUNISHABLE BY A FINE OR UP TO TWO YEARS OF IMPRISONMENT².

Time: _____

Date: _____

JUDGE

² See Article 17, section 3 (c) of the law no. 9669, dated 18 December 2006, "On measures against violence in family relations".

EXECUTION ORDER

Pursuant to Article 23, section 1 this order is an executive title from the moment it is declared by the court or notified to the parties.

CERTIFICATE OF SERVICE

The undersigned being duly qualified by law certifies that:

- Two copies of the order were given to the petitioner;
- A copy of the order was served on the respondent pursuant to Article 316 of the Civil Procedure Code;
- The court sent or delivered within 24 hours a copy of the emergency protection order to the following persons:
 - The petitioner and other persons protected in the order;
 - Petitioners under the meaning of Article 13 of the law;
 - The prosecutor if s/he presented the petition;
 - Social services department of the municipality or commune of the location where the victim or other persons mentioned in the order reside temporarily or permanently;
- The police unit of the location where the victim or other persons mentioned in the protection order reside temporarily or permanently