



INTERNATIONAL LAW

Unique Instrument of Judicial Cooperation – The European Protection Order

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Abstract: *With an increasing number of violence cases, involving victims whose situation requires them to leave the state where they initially received protection from their aggressors, maintaining protective measures for these categories of individuals in the state where they come to live or establish residence remains a constant concern of the European Union bodies. Specifically, through a broad legal effort, Eurojust and the European Institute for Gender Equality, in collaboration with the European Judicial Network in criminal matters, the European Union Agency for Law Enforcement Training, and several organizations established at the European level known for their active role in combating violence, have consulted the Member States regarding the level of implementation, in 2025, of Directive 2011/99/EU on the European Protection Order (EPO). The information provided, particularly by the judicial institutions in each Member State directly involved in the implementation of the Directive, revealed that despite the long period since its entry into force and ratification by the Member States, its applicability is limited due to a lack of awareness about the issuance conditions even among judicial personnel, superficial victim information processes, logistical shortcomings, and language barriers. Therefore, even though European legislation in the field of victim protection has been continuously updated, each Member State must become more actively involved in the use of judicial instruments in this area. Judicial cooperation represents the solution for advancing to a higher level in victim protection, a cooperation that can be achieved either directly with Member States or by making unhesitant use of European bodies that can mediate or support this kind of cooperation.*

Keywords: *judicial cooperation; victim protection; European Protection Order; EU instruments; European cooperation bodies*

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1. Introduction

Fourteen years after the adoption of Directive 2011/99/EU of the European Parliament and of the Council on the European Protection Order¹, statistics (The joint report on the European Protection Order, 2025) from Eurojust and the European Institute for Gender Equality have revealed disappointing conclusions regarding the applicability of this European instrument for the protection of victims, as well as concerning the level of involvement, awareness, and implementation by legal professionals in the Member States – whether judicial system employees or officials responsible for the effective protection of individuals.

However, the recent adoption of Directive (EU) 2024/1385 of the European Parliament and of the Council on combating violence against women and domestic violence², as well as the European Union's ratification³ in 2023 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention)⁴, creates the premises for a more frequent use of this legal instrument.

At the same time, in their joint effort, Eurojust and the European Institute for Gender Equality have conducted a comprehensive, theoretical and practical evaluation of the applicability of the European Protection Order. This evaluation offers Member States not only the opportunity to understand the provisions and cases in which it can be used, but also the logistical means and European institutions they can turn to in order to implement the effects of this European judicial cooperation instrument.

A critical issue is the familiarization of judicial system professionals (judges, prosecutors, etc.) with the manner, timing, and persons for whom such an order can be issued or recognized. Awareness is a key factor both in the use of the cooperation instrument and in informing those who need protection about the possibility of resorting to this legal means. Furthermore, the lack of harmonization of legislation concerning the European Protection Order with the national laws of each Member State – namely, the need to adopt binding legal provisions that allow the competent authority of each state to take appropriate measures depending on the procedural stage in which they are adopted – again represents a point that should be addressed.

In concrete terms, it would be very difficult to adopt a European Protection Order issued by the issuing state through a procedure initiated before the start of judicial

¹ Published in OJ L 338, 21.12.2011.

² Published in OJ L 1385, 24.05.2024.

³ Not all Member States have ratified the Convention, with six of the 27 Member States refusing to do so (Bulgaria, Czechia, Hungary, Latvia, Lithuania, and Slovakia).

⁴ By Decisions (EU) 2023/1075 and (EU) 2023/1076, the European Union ratifies the respective Convention.

investigation or trial, as long as the legislation of the executing state does not include the possibility of taking such measures depending on the procedural stage of the case (van der Aa, 2012, pp. 183–204). At the same time, the costs of procedures represent an additional barrier in the process of adopting measures and issuing the order.

With approximately 75 million victims annually within the borders of the European Union¹ alone, most of whom are women², the European Protection Order asserts its necessity in the context where the freedom to travel within other states' territories, as well as relocation for various reasons (financial, family, professional, etc.), have become common phenomena accessible to all nationals of Member States—including perpetrators.

2. Reason for Adopting Legislation regarding the European Protection Order

Directive 2011/99/EU of the European Parliament and of the Council on the European Protection Order emerged following other legislative initiatives such as the Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens³, the European Parliament Resolution on equality between women and men in the European Union⁴, and the Council Resolution of 10 June 2011 on a roadmap for strengthening the rights and protection of victims, especially within criminal proceedings⁵.

Thus, in points 2.3.3 and 2.3.4 of the Stockholm Programme, the need to protect vulnerable groups—especially women and children, but also other victims of crime—is emphasized. The Council of Europe called on both the Commission and the Member States to improve legislation in this area and to provide support to victims through optimal means, highlighting the opportunity to create an appropriate legal instrument for the protection of victim⁶.

¹ Eurojust, Joint Report on the European Protection Order – 2025, p. 3.

² In the most recent Eurostat report on gender-based violence in the EU, published in 2024, it is stated that at least 27% of women have experienced some form of physical or psychological violence at least once in their lifetime. The report is available at: <https://ec.europa.eu/eurostat/documents/7870049/20555052/KS-01-24-012-EN-N.pdf/a31cd481-cc32-b744-1b7e-24d479ed3437?version=1.0&t=1733473455385>, accessed on 2 May 2025.

³ Published in OJ C 115/1, 04.05.2010.

⁴ Published in OJ C 341 E/35, 16.12.2010.

⁵ Published in OJ C 187/1, 28.06.2011.

⁶ The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens, p. 10, document available at: [https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52010XG0504\(01\)](https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52010XG0504(01)), accessed on 3 May 2025.

In the preamble of the Council Resolution of 10 June 2011 on a roadmap for strengthening the rights and protection of victims, especially within criminal proceedings, it is suggested that “a mechanism should be created to guarantee the mutual recognition between Member States of decisions concerning protective measures. (...) This mechanism should complement the one provided for by the European Parliament and Council Directive on the European Protection Order, regarding the mutual recognition of measures adopted in criminal matters, which is currently under discussion.” (Council Resolution of 10 June 2011 on a roadmap for strengthening the rights and protection of victims, especially within criminal proceedings, n.d.).

The European Parliament Resolution on equality between women and men in the European Union, made in 2010, referred to the high number of women who are victims of domestic violence and sexual abuse, suggesting the need to implement a directive to prevent and combat all forms of violence, including trafficking in women.

Practically, the birth of the Directive constituted a guarantee of the “freedom of movement and residence within the territory of the Member States, in accordance with Article 3(2) of the TEU and the provisions of Article 21 of the TFEU, meaning that any protection granted to a Union citizen on the territory of one Member State is maintained and continued in the territory of any other Member State to which the protected person moves or intends to move” (Vălcu, 2023, p. 89).

Since cases of violence have unfortunately not decreased since the adoption of the Directive¹, but have instead increased up to the present, this indicates that the fight against the phenomenon of violence must be a constant effort, focused on the needs of the victim, on spreading information to an extent that it reaches those who need guidance, so they can make use of all legal means to protect themselves.

3. European Protection Order – Content

As stated in the preamble of the Directive, the European Protection Order applies in situations where protection measures have already been adopted in a criminal case and is not applicable in civil matters. However, it is not necessary for a final conviction to exist in order to issue a European Protection Order, nor is the type of

¹ In the European Parliament Resolution on equality between women and men in the European Union, published in 2010, it was mentioned that between 20% and 25% of women experience physical violence at some point in their lives, and over 10% experience sexual violence. According to Eurostat statistics, as previously mentioned, this percentage has risen to 27%. The Resolution is available at: <https://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341E:0035:0042:RO:PDF>, accessed on 9 May 2025.

institution issuing the protective measure relevant; the measure may result from a decision by a civil, administrative, or criminal authority. Practically, the European Protection Order represents „a decision adopted by a judicial authority or its equivalent in one Member State regarding a protective measure, based on which a judicial authority or its equivalent in another Member State adopts the corresponding measure or measures under its own national law in order to continue ensuring protection of the protected person.”¹

The protective measure refers to a decision in criminal matters issued in the issuing state, which includes, in accordance with its own legislation, several restrictions or prohibitions against the offender. These coercive measures must fall within those specified in Article 5 of the Directive, which are presented in a minimal manner. In fact, the actual decision may contain other punitive measures against the person who poses a danger, aimed at protecting the victim. The Directive specifies that when an order is issued, at least one of the following restrictions or prohibitions should be present:

- a prohibition on entering certain localities, places, or defined areas where the protected person resides or visits;
- a prohibition or regulation of contact, in any form, with the protected person, including by telephone, electronic means, regular mail, fax, or any other means;
- a prohibition or regulation of approaching the protected person closer than a specified distance.²

From the logical-grammatical structure of the Directive’s text, it is clear that the legislator did not intend for the measures indicated to be cumulatively applied by the issuing state’s decision; it is sufficient for just one of the measures to be in place for the order to take effect.

Furthermore, the essence of the order, and indeed the specific purpose of its adoption, lies in the victim’s decision to relocate or change residence, or in already having a residence in another Member State of the European Union. At the same time, it is necessary to know the period during which the protected person will reside in the state that must recognize the order, or the time intervals if these are not consecutive, precisely so that the protective measure is effective. Last but not least,

¹ Directive 2011/99/EU of the European Parliament and of the Council on the European Protection Order, p. 2, document available at: <https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32011L0099>, accessed on 17 May 2025.

² Directive 2011/99/EU of the European Parliament and of the Council on the European Protection Order, p. 2.

the victim must submit a request to this effect for the issuance of a European protection order.

The procedure for issuing the order requires the existence, in each Member State, of a central authority to communicate with the other Member State, whether the issuing or the executing state, as the case may be, as well as a competent authority that either issues the order or executes it, depending on the given situation. Specifically, after the protected person requests the issuing state to institute a European protection order, and after the conditions previously mentioned are confirmed as met, as well as after hearing the person who may pose a potential danger, the order is issued in compliance with the form indicated by the Directive.¹ It is immediately transmitted to the competent authority in the executing state in order to recognize the measures as soon as possible. The executing state has the option to recognize the measures exactly as they were instituted if they are included in its legislation, or it may adopt similar measures if its legislation does not coincide. Equally, the executing state may adopt other measures of a criminal, civil, or even administrative nature to make the order as effective as possible. Immediately after taking the measures, the recognizing state informs the offender and the issuing state about the adopted measures as well as the possible consequences of violating the order.

However, there are also situations when the executing state may refuse to recognize and institute the order; the exceptions are listed in Article 10 of the Directive, and the decision remains at the discretion of the competent authorities, with regard to their own legislation. Among the cases of refusal are situations where the form of the order was not respected (incomplete information, failure to complete within the deadline after requests), or essential substantive conditions for issuance (lack of protection measures indicated in Article 5 of the Directive), or other elements that would prevent the adoption of the order (the person posing a danger has immunity on the territory of the executing state, measures adopted by the order constitute acts that are not crimes in the executing state, recognition would violate the principle of *ne bis in idem* etc.).

The issuing state is competent for renewing, modifying, or revoking the order or similar actions. However, in situations where, for example, the executing state discovers that the protected person no longer resides or has residency on its territory or that the period for which the measures were adopted has expired, it also has the competence to determine the termination of the protection order.

¹ Annex 1 of Directive 2011/99/EU of the European Parliament and of the Council on the European Protection Order contains the form that the European Protection Order must have at the time of issuance.

The protection order is not the most commonly used legal instrument for protection at the European level, a fact highlighted by the EU Strategy on Victims' Rights (2020–2025)¹, which states that by 2018 only 37 requests for recognition of protection orders had been made at the European level, with only 15 actually recognized. Therefore, through the reevaluation and revision of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support, and protection of victims of crime and repealing Council Framework Decision 2001/220/JHA², provisions related to the European Protection Order are also being considered.

However, in the report prepared in February 2025 by Eurojust and the European Institute for Gender Equality, it is stated that the order has proven effective in multiple cases involving domestic violence, human trafficking, or harassment, including through the use of electronic means. It has been requested primarily during the investigative phase, then to a lesser extent during the trial, with the fewest requests occurring during the execution of sentences³. In contrast to all the obstacles this legal instrument seems to face in its practical use, all Member States have implemented the European Protection Order in their national legislation, and many of them also apply in parallel the procedure through which a civil court issues a protection order (including Austria, Germany, Ireland, Luxembourg, Norway, and Romania).

4. The European Protection Order in Romania

The European legislation regarding the European Protection Order was transposed into our country through the adoption of Law no. 151/2016 on the European Protection Order, as well as for the amendment and completion of certain normative acts.⁴ From the very beginning of the law, the competent authorities for adopting the European Protection Order are specified: namely, the judicial authority handling the case in which a protective measure was taken that serves as the basis for issuing the order, as well as the authority competent to recognize, modify, or extinguish the effects of this legal instrument on the territory of our country, namely "the tribunal in whose jurisdiction the protected person resides or will reside, or has established or is about to establish their domicile or residence"⁵. Additionally, the legislator also

¹ Adopted on 24.06.2020, the document can be accessed at <https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52020DC0258>, site accessed on 20.05.2025.

² Published in the Official Journal L 315/57 on 14.11.2012.

³ Eurojust, *Joint Report on the European Protection Order – 2025*, p. 15.

⁴ Published in the Official Gazette no. 545 on 20.07.2016.

⁵ Article 3, paragraph (2) of Law no. 151/2016 on the European Protection Order, as well as for the amendment and completion of certain normative acts.

mentions the competence of the delegated judge for enforcement, but only if the case in which the protective measure was adopted resulted in a conviction, as well as the competence of the court that issued a decision to postpone the application of the sentence, in situations where such a decision was made in the case underlying the protective measure on which the order was based.

In the situation where a request is made for the issuance of a European Protection Order to the Romanian state, Article 4 of the law establishes a series of conditions, as follows:

- The person to be protected already lives or is about to live (either domicile or residence) on the territory of another Member State which will receive the order, recognize it, and subsequently enforce it;
- The person who needs protection is either the victim or a family member thereof, a status resulting from ongoing or concluded legal proceedings by a final court decision of conviction or postponement of the application of the sentence, and who benefits from one of the measures provided for in Article 4, paragraph (1), letter c) of Law no. 151/2016 regarding the European Protection Order, as well as for the amendment and completion of certain normative acts;
- The aggressor is either an accused, convicted person, or a person against whom a decision has been pronounced postponing the application of the sentence in the aforementioned criminal proceeding, and against whom one or more measures provided for in the following apply: Article 215 paragraph (2) letter b) or d) of Law no. 135/2010 on the Criminal Procedure Code, with subsequent amendments and completions¹; Article 221 paragraph (2) letter b) of the same normative act; Article 85 paragraph (2) letter e) or f) of Law no. 286/2009 on the Criminal Code, with subsequent amendments and completions,² imposed on the accused at the time of pronouncing the postponement of the sentence; Article 101 paragraph (2) letter d) or e), or Article 121 paragraph (1) letter c) or d), or Article 66 paragraph (1) letter l)-o), all from Law no. 286/2009 on the Criminal Code, with subsequent amendments and completions;
- The European protection order must be issued in order to eliminate a preexisting or future state of danger.

In the procedure for issuing the order, the court (whether it is the trial court itself, the preliminary chamber judge, the judge for rights and freedoms, or the delegated execution judge) or the prosecutor, at the request of the protected person, rules on the order through a motivated decision or ordinance, which can only be challenged

¹ Published in the Official Gazette no. 486 of 15.07.2010

² Published in the Official Gazette no. 510 of 24.07.2009

if they reject the request. The remedy in this latter case is an appeal, which can be filed within 3 days from the communication of the solution. The order is then communicated to the protected person, the person who constitutes a danger, as well as the executing state, in the format provided by Annex 1 of Law no. 151/2016 on the European Protection Order, as well as for the amendment and completion of certain normative acts, in accordance with the form of Directive no. 2011/99/EU of the European Parliament and of the Council on the European Protection Order.

In any situation involving modification of the measures on which the issuance of the order was based, restriction of its effects, revocation, or termination, the issuing authority has the competence to rule on all these matters, not the authority from the executing state. It is important to note that the legislator has also provided, in the transposition norm of the Directive, the situation in which, for example, the issuing authority of the order does not know the authority in the executing state competent for recognizing the order, in which case it can turn either to the European Judicial Network or to Eurojust. We add that, after reviewing the national jurisprudence concerning the procedure for issuing European protection orders, we have found a lack of use of this legal instrument by judicial bodies or courts, even though the number of cases under investigation or at the trial stage involving violent crimes is quite large. However, at least in the judgments of courts deciding on such cases, the possibility for the injured party to file a request for the issuance of the European protection order is mentioned, being among the few ways in which information is offered to the victim about/for this institution.

One possible excuse could be the fact that the protection order procedure in Romania is assigned to civil courts, with reference to the provisions of Law no. 217/2003 for the prevention and combating of domestic violence and to the provisions of Law no. 26/2024 regarding the protection order,¹ a procedure that also involves Police authorities and the prosecutor². Likewise, these civil rulings may also benefit from extraterritorial recognition under Regulation no. 606/2013 of the European Parliament and of the Council of 12 June 2013 on the mutual recognition of protection measures in civil matters³, in a manner similar to Directive no. 2011/99/EU of the European Parliament and of the Council on the European Protection Order.

In the situation where the Romanian state receives a request for the recognition of a European protection order on its territory, the competent authority, namely the tribunal within whose jurisdiction the protected person already lives, resides, or will live/establish residence, verifies whether the order meets the formal and substantive

¹ Republished in the Official Gazette no. 948 of 15.10.2020.

² Published in the Official Gazette no. 172 of 04.03.2024.

³ Published in the Official Journal L 181/4 of 29.06.2013.

conditions. The tribunal examines the request in a private session (in camera), urgently, summoning the protected person, the person who constitutes a danger, and the prosecutor, and the absence of any of the summoned parties does not prevent the trial or the adoption of a decision. The court rules by judgment, which can be appealed within 48 hours of communication, generally on the same grounds for refusal as those provided in Article 10 of the Directive.

After directly consulting some of the courts in the country, as well as the electronic databases centralizing national case law¹, it was found that the number of cases in which the Romanian state recognized requests for European protection orders issued by other EU member states is significantly higher.² Unfortunately, the findings from the joint report on the European protection order from February 2025 by Eurojust and the European Institute for Gender Equality were also confirmed, indicating that some judicial system employees are not familiar with the institution of the European protection order. Some of the responses received from the institutions questioned administratively referred instead to the European investigation order, despite the fact that the requests addressed to them explicitly included the legal provision regarding the European protection order.

Even so, the courts entrusted with judging these types of requests are familiar with the applicable legal provisions regarding the institution and the manner of its recognition. Thus, in a criminal decision rendered in 2021 by the Timișoara Court of Appeal, the court dismissed the appeal filed by a petitioner seeking the recognition as a European protection order of a criminal judgment also issued in 2021 by the Women's Violence Court No. 2 in Murcia, Spain. Specifically, the decision issued by the Spanish court imposed on the petitioner's husband a series of prohibitions, including requiring him to keep a distance of 500 meters from the petitioner, her home, workplace, or any other place she frequents, as well as prohibiting any contact – whether by phone, correspondence, or any other means – with the victim.

The Timișoara Tribunal, the court initially seised with the case, ruled that the petitioner's requests did not fall under the provisions regulated by Article 1 letter (a) of Law no. 151/2016; the measures taken in the Spanish judgment corresponded instead to the situations described in letter (b) of the same article, under which the Spanish state did not actually issue a European protection order. Therefore, the petitioner's request was found to be unfounded.

¹ <https://portal.just.ro/>, <https://www.rejust.ro/>, <https://sintact.ro/> - The query was conducted up to the date of 27.05.2025.

² The most recent decision issued in the matter is the criminal judgment pronounced on 13.02.2024 by the Olt Tribunal, through which a European protection order issued on 15.12.2023 by the Criminal Court No. 13 of Valencia, Spain, was recognized.

The Timișoara Court of Appeal, competent to hear the appeal, correctly distinguished between a criminal judgment in whose operative part a prohibition or protective measure was established and a protection order within the meaning of Law no. 151/2016. The Court stated that:

"The distinction also arises from the definitions provided by Law 151/2016 for these two concepts, which clearly show that a protection order is issued in connection with a protective measure, and thus can only be a subsequent act following the issuance by authorities of a protective measure through a criminal decision adopted in the issuing state. In the present case, the petitioner is in possession of a judgment by which, in Spain, a protective measure was imposed within a criminal proceeding that could form the basis for issuing a European protection order. However, the Spanish authorities did not opt to issue such an order and forward it to Romania for recognition. The Court notes that the provisions of Law 151/2016 regulate a procedure of mutual recognition of these decisions only within the framework of judicial cooperation between the two states – the issuing state and the executing state – through the use of a common procedure and standardized content forms."¹

Therefore, there are grounds to believe that this legal instrument could be used more frequently by Romanian authorities, with a greater involvement needed especially in the area of informing individuals who require support. At the same time, considering the high number of violent crimes committed in our country, as well as the number of people who either work abroad or relocate for various reasons, legal specialists employed in institutions competent in issuing these orders should become more engaged in adopting this type of protection order.

5. Conclusions

Thus, the European Protection Order represents a mechanism made available at the European level through which states can cooperate to combat violence. However, even though almost 14 years have passed since its adoption at the Union level and 9 years since its integration into national legislation, countries still hesitate to use it. Not only did the Eurojust Report from February 2025 identify the obstacles hindering the application of this legal instrument, but national case law also unfortunately reflects the same conclusions. The low number of recognized orders, as well as the even lower number of orders issued by the Romanian state, in the context where free movement across borders and easy relocation have become

¹ Decision no. 1054/2021 dated 15.10.2021, Timișoara Court of Appeal, decision available at <https://sintact.ro/#/jurisprudence/535664532/1/decizie-nr-1054-2021-din-15-oct-2021-curtea-de-apel-timisoara-recunoasterea-hotararilor-penale...?cm=RELATIONS>, site accessed on 26.05.2025.

increasingly widespread phenomena, lead to the conclusion that Romanian society is not very well informed about this legal institution. Victims do not know the specialists who could assist them in such matters, and ultimately, even those working within the authorities responsible in this area need more information to properly advise victims on benefiting from protection.

Even so, the legislation regarding protection orders, in general, has undergone several changes and updates over time in Romania. Currently, amendments to Law no. 217/2003 on the prevention and combat of domestic violence are being discussed. Essentially, as long as the Romanian legislator shows interest in protecting victims through the broadest possible range of measures, the fact that such measures are adopted by either a civil or criminal court does not have significant relevance. At the same time, it is beneficial for individuals in need of protection to have specialized knowledge of the full range of instruments they can turn to, so that their life, physical, or psychological health is not put at risk.

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