



### 1. Project title

Provisions of the Act of 30 April 2020 amending the Act - Code of Civil Procedure and certain other acts (Journal of Laws, item 956).

### 2. Main theme

On the basis of the introduced provisions, the Police received a new right in the form of the possibility of issuing an order to immediately leave the jointly occupied apartment and its immediate surroundings against a person using domestic violence, or a ban on approaching the apartment and its immediate surroundings. The order or the ban is valid for a period of 14 days, with the possibility of extending its duration by the court.

### 3. Project purpose and outcome (in two sentences)

- A change in the law concerning the introduction into the legal order of comprehensive solutions regarding the quick isolation of a person affected by violence from the perpetrator of violence, in situations where it poses a threat to the life or health of household members.
- The tool is used by policemen in their daily service, and above all, it allows to ensure the safety of people suspected of having been affected by domestic violence.

### 4. Project submitter (Member State), project leader(s) and project partner(s)

Poland – the application concerns a government project of changes in the law and not a project of preventive measures, therefore the indication of the leader and partners is not applicable.

### 5. Links to the project's website or online reports/publications (preferably in English)

Not applicable.

## 6. Short summary of the project (**max. 100 words**)

According to the new regulations, a police officer has the right to issue an order or a ban in both situations:

- during an intervention in a shared flat or its immediate surroundings, as well
- in connection with receiving information about the use of domestic violence (in particular as a result of being reported by a person affected by violence in the family, probation officer or employee of an organizational social welfare unit, in connection with the performance of statutory duties).

Before making a decision to issue an order or a ban, a policeman must perform an obligatory assessment of the risk to the life or health of a person affected by domestic violence. However, this assessment is made separately for an adult and separately for a child. To assess this risk, there are dedicated questionnaires for its estimation, containing criteria specified by the legislator.

In addition, in order to determine the legitimacy of issuing an order or a ban, the Police may perform other activities, in particular, interview a person reporting domestic violence or a person affected by such violence as a witness.

The order or the ban may be issued cumulatively and is immediately enforceable. Policeman in the issued order or ban, specifies, inter alia, the area or distance from the shared flat that the perpetrator of domestic violence is obliged to keep.

## 7. Project description

It should be emphasized that any policeman who learns about the use of domestic violence will be obliged to issue an order or a ban.

The order or ban is immediately delivered to both the person against whom it was issued, as well as the person affected by domestic violence. The person to whom the order or ban will be issued receives an instruction on the rights and obligations and a list of facilities providing accommodation.

It should be noted that despite the refusal to accept the order or ban by the person using domestic violence, the service of the obligation is considered complete.

An order or a ban may also be issued in the absence of a person using domestic violence while the Police performs activities in a shared flat or its immediate vicinity. In such a situation, the policeman places an appropriate notification on the door of the shared flat.

A copy of the issued order or ban is immediately delivered to the public prosecutor, and the fact of issuing an order or prohibition is additionally notified to the locally competent interdisciplinary team referred to in the provisions of the Act on Counteracting Domestic Violence, and when minors live in the apartment - also the locally competent guardianship court.

The act of leaving the jointly occupied apartment and its immediate surroundings by a person using domestic violence against whom an order or a ban has been issued takes place in the presence of the intervening policemen and requires the preparation of a protocol.

The person against whom an order or a ban is issued has the right to take with him / her only personal and work-related items and domestic animals owned by him.

The legislator has guaranteed the person against whom an order or ban is issued the possibility of removing the property which is his / her property at a later date. However, this right was limited to one time, in the presence of a police officer and after making an appointment with a person affected by domestic violence.

The person to whom the order or ban will be issued is additionally obliged to indicate the declared place of stay to the Police and, if possible, a telephone number, and is obliged to inform about each change in the above scope. Fulfilling these obligations is important not only in the context of the correct delivery of correspondence, but also due to the obligation imposed on the Police to check whether the ban or order is respected.

Along with the granting of a new power to the Police, the legislator provided sanctions for persons who will not comply with the issued, inter alia, ban or order by the Police. By the amendment to the Act of May 20, 1971 - Code of Petty Offenses, a new type of prohibited act has been added (Article 66b), providing the penalty of arrest, restriction of liberty or a fine for failure to comply with the by the Police, order or ban.

The order or ban expires after 14 days from their issue, unless during their validity the court provides security in cases involving the obligation of a person using domestic violence to leave the jointly occupied apartment and its immediate surroundings or prohibiting approaching the apartment and its immediate surroundings.

Liabilities also lose power in the event that the abuser against which the order or ban has been issued will be detained in connection with the suspicion of committing a crime, and then a preventive measure in the form of temporary arrest or ordering to temporarily leave the premises shared with the aggrieved party will be applied.

It should be noted that the issues related to the issuance of the order or ban are subject to judicial control, because the person who uses domestic violence against whom they were issued has the right to appeal to the district court competent for the location of the jointly occupied apartment. On the other hand, if it is found that an order or a ban is unfounded, illegal or incorrect, the court notifies the superior of the policeman who issued the order or prohibition about this fact.

## 8. Project objectives

Introduction into the legal order of comprehensive solutions regarding the quick isolation of a person affected by violence from the perpetrator of violence, in situations where it poses a threat to the life or health of household members.

## 9. Project outcome

The table below presents data illustrating the number of orders issued by the Police to immediately leave the jointly occupied apartment and its immediate surroundings, or a ban on approaching the apartment and its immediate surroundings, from the moment the act became effective, i.e. from November 30, 2020 to March 31, 2021.

	The scope of data		30.11.2020 – 31.12.2021	01.01.2021 – 31.01.2021	01.02.2021 – 28.02.2021	01.03.2021 – 31.03.2021	Sum
			1	2	3	4	(1-4)
1.	Number of orders issued	a)	18	32	24	24	98
2.	Number of bans issued	b)	43	47	33	33	156
3.	Number of orders and bans issued together	c)	194	177	188	169	728
4.	Sum (a-c)		255	256	245	226	982

Data generated as of April 8, 2021 from the Analytical System the KSIP.

## 10. Start and end project, timescales and key milestone dates

The regulations entered into force on November 30, 2020.

## 11. Funding (total budget and type of funding (e.g. ISEC, EUCPN Fund,...))

Not applicable.

## 12. Evaluation

Not applicable.

## 13. Contact details project

If you need more information, please contact the National Representative in EUCPN.