

# TEMPLATE POLICY PAGE

Category:	Domestic Violence
Country:	Germany
Year:	/

Main policy page:	Policies in attachments.
Relevant legislation:	<p style="text-align: center;"><b>Act on Protection against Violence (Gewaltschutzgesetz - GewSchG)</b></p> <p style="text-align: center;">(Article 1 of the Act to Improve Civil Law Protection against Violent Acts and Stalking as well as to Facilitate Relinquishment of the Marital Home in the Event of Separation of 11 December 2001 (Federal Law Gazette, Part I, p. 3513))</p> <p style="text-align: center;"><b>Section 1</b></p> <p style="text-align: center;"><b>Judicial measures to protect against violence and stalking</b></p> <p>(1) If a person unlawfully physically assaults, impairs the health of or encroaches upon the freedom of another with intent, the court must, on application by the aggrieved person, take the measures necessary to prevent further such acts of trespass. The imposition of measures should be for a limited period; the period of time may be extended. In particular, the court may order that the perpetrator refrain from</p> <ol style="list-style-type: none"><li>1. entering the dwelling of the aggrieved person,</li><li>2. coming within a certain proximity of the dwelling of the aggrieved person,</li><li>3. visiting other places to be specified which are frequented by the aggrieved person,</li><li>4. establishing contact with the aggrieved person, including by means of telecommunications,</li><li>5. bringing about a meeting with the aggrieved person, to the extent that this is not necessary in order to exercise legitimate interests.</li></ol> <p>(2) Subsection (1) shall apply <i>mutatis mutandis</i> if</p> <ol style="list-style-type: none"><li>1. a person has unlawfully threatened another with physical assault, impairment of their health or encroachment upon their freedom, or</li><li>2. a person unlawfully and with intent<ol style="list-style-type: none"><li>a) enters the dwelling of another person or that person's fenced-in property or</li><li>b) unreasonably harasses another person in that he repeatedly stalks that person against that person's expressly stated wishes or hounds that person by means of telecommunications.</li></ol></li></ol> <p>In the case referred to in the first sentence, no. 2 (b), it shall be deemed that</p>

unreasonable harassment has not taken place if the act serves to exercise legitimate interests.

(3) In the cases referred to in subsection (1) first sentence, or in subsection

(2) the court may also impose measures pursuant to subsection (1) if a person committed the act in a state of pathological disturbance of mental functioning rendering him incapable of the free exercise of will, that person

having temporarily placed himself in this state as a result of consumption of alcoholic beverages or similar substances.

## **Section 2**

### **Relinquishment of a jointly used dwelling**

(1) If, at the time an act pursuant to section 1 subsection (1), first sentence,

also in conjunction with subsection (3), was committed, the aggrieved person maintained a household jointly with the perpetrator intended to be permanent in nature, the aggrieved person may demand of the perpetrator that he relinquish the jointly used dwelling for sole use.

(2) The duration for which the dwelling is relinquished shall be made subject to a time-limit if the aggrieved person and the perpetrator jointly enjoy ownership, a heritable building right, or a right in respect of the plot of land on which the dwelling is located, or if the aggrieved person rented the dwelling jointly with the perpetrator. If the perpetrator, either solely or jointly with a third party, enjoys ownership, a heritable building right or a usufructuary right in respect of the plot of land on which the dwelling is located, or if he rented the dwelling either solely or jointly with a third party, the court shall limit the relinquishment of the dwelling to the aggrieved person to a period not exceeding six months. If the aggrieved person has been unable to secure suitable alternative living accommodation on reasonable terms within the period set by the court in accordance with the second sentence, the court may extend the period for a maximum of a further six months unless this is opposed by overriding interests of the perpetrator or the third party. The first to third sentences shall apply *mutatis mutandis* in respect of dwelling ownership, a permanent dwelling right and a dwelling right *in rem*.

(3) Entitlement pursuant to subsection (1) shall not exist,

1. where there is no reason to fear that there will be further acts of trespass,

unless it cannot be reasonably expected of the aggrieved person that he continue to live with the perpetrator in the light of the severity of the act or

2. if the aggrieved person does not demand of the perpetrator in writing, within three months of commission of the act, that he relinquish the dwelling, or

3. to the extent that relinquishment of the dwelling to the aggrieved person is opposed by interests of the perpetrator of particular

	<p>significance.</p> <p>(4) If the dwelling has been relinquished to the aggrieved person for his use, the perpetrator shall refrain from doing anything which might make more difficult or prevent the exercise of the right of use.</p> <p>(5) The perpetrator may demand remuneration from the aggrieved person for use of the dwelling to the extent that this is equitable.</p> <p>(6) If, at the time a threat pursuant to section 1 subsection (2) first sentence, no 1, also in conjunction with subsection (3), was made, the person threatened maintained a household jointly with the perpetrator intended to be permanent in nature, the person threatened may demand that the jointly used dwelling be relinquished if this is necessary to prevent undue hardship. It can also be deemed that there is undue hardship if the well-being of children living in the household is prejudiced. Subsections (2) to (5) shall otherwise apply <i>mutatis mutandis</i>.</p> <p style="text-align: center;"><b>Section 3</b></p> <p style="text-align: center;"><b>Scope of application; conflict of laws</b></p> <p>(1) If, at the time an act pursuant to section 1 subsection (1) or subsection (2), first sentence, was committed, the aggrieved or threatened person was subject to parental custody, guardianship or curatorship, the provisions applicable to the relationship of custody, guardianship or curatorship shall take the place of sections 1 and 2 in relation to the parents and the persons entitled to custody.</p> <p>(2) Rights of the aggrieved person going beyond this shall not be affected by this Act.</p> <p style="text-align: center;"><b>Section 4</b></p> <p style="text-align: center;"><b>Penal provisions</b></p> <p>A person who acts in contravention of a specific enforceable order under section 1 subsection (1), first or third sentence, each also in conjunction with subsection (2), first sentence, shall be punished by imprisonment of up to one year or by a fine. Criminal liability pursuant to other provisions shall remain unaffected.</p>
<b>Trends:</b>	/
<b>Contacts:</b>	<p><b>National organisations:</b></p> <p><b>Hilfetelefon Gewalt gegen Frauen</b> Available round the clock, 365 days a year, free of charge, in many languages: the Violence against women support hotline offers victims a way of receiving competent advice securely, anonymously and</p>

regardless of disability whenever they need. Female highly qualified counsellors provide women with confidential support and if needed can help them find appropriate local support options in their area. This support service thus caters to a concrete social need and plays an important role in directing victims, relatives of victims, friends and professionals to appropriate support resources.

Hilfetelefon Gewalt gegen Frauen

Tel.: 08000 116 016

[www.hilfetelefon.de](http://www.hilfetelefon.de)

### **Frauenhauskoordinierungsstelle e.V.**

The Frauenhauskoordinierungsstelle (coordinating office for women's shelters) addresses women's shelters and the interested public. It aims at supporting women's shelters via information, exchange and coordination of cooperation. Furthermore it supports the gathering and processing of the women's shelters personnel and is an important actor in the political and legislative debate. The Frauenhauskoordinierung e.V. is a member of the Federal Working Group against Domestic Violence.

Frauenhauskoordinierung e.V.

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### **Bundesverband Frauenberatungsstellen und Frauennotrufe (BFF) e.V.**

The BFF (Federal Association of Women's counselling centres and Women's emergency lines) is the roof organisation of counselling centres for women affected by violence and emergency lines for women. These two institutions are the most common forms of ambulant support for female victims of violence. They offer low threshold support to overcome violence. The BFF is member of the Federal Working Group against Domestic Violence.

Bundesverband Frauenberatungsstellen und Frauennotrufe

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### **Zentrale Informationsstelle autonomer Frauenhäuser (ZIF)**

The information centre for autonomous women's shelters provides the exchange of information between its members. It is an independent organization organizing networking of autonomous women's shelters, campaigns against violence against women, organizes conferences and

	is a member of the Federal Working Group against Domestic violence.
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Zentrale Informationsstelle Autonomer Frauenhäuser

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**Completed template to be sent to the EUCPN Secretariat at [eucpn@ibz.eu](mailto:eucpn@ibz.eu).**