

## Fighting Domestic Violence - Tajikistan

### **4. Protection for domestic violence victims and relief granted**

## **Contents**

To generate table of contents, right-click here and select **Update Field**.

## **4.1 Civil protection orders**

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### **4.1.1 Are there civil protection orders available to victims of domestic abuse?**

Yes, under Article 21 of the LPDV from 2013 based on committing an act of domestic violence or the threat of it.

### **4.1.2 Who can petition for civil protection orders?**

Under Article 21(5) of the LPDV, the victim, parents or his or her legal representative can report domestic violence as grounds for the issuance of a civil protection order against an abuser. The civil protection order is issued by the head or deputy heads of the Department of Internal Affairs at the place where the domestic violence was committed or threatened and is issued within 24 hours from the time of the domestic violence incident, or from the time of filing statements about the incident of violence in a family, or from the time of the threat of its use by a person to committed violence against a member of their family.

### **4.1.3 Are there temporary custody of a child or child support orders?**

Under Article 18(2) of the LPDV, measures to prevent domestic violence include the deprivation of parental rights, cancellation of adoption, guardianship and guardianship in the manner prescribed in the legislation of the Republic of Tajikistan.

#### **4.1.4 Is there a provision to order the abuser to move out or stay away from places that the victims frequent?**

Under Article 21(2), the person against whom an order of protection is issued is obliged to fulfill all the conditions specified in it. In case of failure of these requirements, that person is liable for administrative repercussions in the manner prescribed by the relevant legislation.

A protection order against an abuser in domestic violence may include the following requirements (Article 21(7)):

- prohibition of any kind of violence against the victim, implementation of search and surveillance against the abuser's will
- prohibition of visits, negotiations and other relations restricting the rights and freedoms of the victim
- a recommendation for a timely return to the home
- prohibition of the use of alcoholic beverages and intoxicating substances for the period of the protective order

#### **4.1.5 Are there any other types of emergency, preventive and civil protection orders?**

Other types of orders include an "educational conversation" with the abuser and the victim to identify the causes and conditions that contributed to the incident of domestic violence, and explain the social and legal consequences (Article 20 of the LPDV); administrative detention to ensure the safety of the victim (Article 22 of the LPDV); implementation of detention measures provided for by legislation (Article 18 of the LPDV ); and deprivation of parental rights, cancellation of adoption, guardianship

and guardianship in the manner prescribed in the legislation of the Republic of Tajikistan (Article 18 of the LPDV).

#### **4.1.6 Can these orders be requested by direct or indirect victims or legal representatives in children's cases?**

Article 10 provides for the Commission for the Protection of the Rights of the Child to prevent domestic violence by representing the legitimate interests of minors exposed to domestic violence in the preliminary investigation and in front of the court. This includes providing information to the Department of Internal Affairs to take appropriate measures with regard to abusers who have committed violence against a minor who is a family member, or who threaten to commit such an act, including by requesting a civil protection order.

Under Article 19(1) the application of measures to prevent domestic violence can be based on a statement of the victim or information provided by individuals or legal entities, internal affairs organs and entities that prevent domestic violence. Further, Article 21(5) provides for a submission to extend a civil protection order to be submitted by the victim or a legal representative.

#### **4.1.7 Are there different types of civil protection orders, e.g., for a short- term period?**

No evidence of this has been found.

#### **4.1.8 Are ex parte orders permitted without the aggressor being present?**

The protective orders issued by the head or deputy head of the local Department of Internal Affairs are issued ex parte, with neither the victim nor the abuser required at the issuance of the civil protection order.

#### **4.1.9 Do emergency orders also extend protection for abuse and intimidation to family members of the victim?**

No evidence of this has been found.

#### **4.1.10 How long do the orders last?**

Under Article 21(5) of the LPDV, a protective order is issued for up to 15 days. Based on the application of the victim or his or her legal representative, the period of validity of a protective order is determined by the head of the local Department of Internal Affairs. The prosecutor's office can allow a protective order to be extended up to 30 days.

#### **4.1.11 Please provide any data or hyperlinks to government or NGO websites that include information on how often civil protection orders are issued, and any relevant demographics information, e.g., police reports, convictions, etc.**

There are no statistics regarding the issuance of civil protection orders in Tajikistan, though a Human Rights Watch report suggests that based on its investigation of the issue, police are reticent to issue civil protection orders or inform domestic violence victims of their rights. According to the government of Tajikistan's sixth periodic report to the CEDAW Committee in 2018, covering the period 2013-2017, a total of 1,296 complaints of domestic abuse were made to the police, of which 1,036 were investigated by district police inspectors, and 260 by specially-appointed and trained inspectors for the prevention of domestic violence. Of the complaints filed, 996 were against men, compared with 296 made against women. Only 65 criminal prosecutions were initiated under various articles of the Criminal Code. Criminal prosecutions were declined in 1,003 cases, 131 cases were pending and 76 complaints were sent for investigation. In relation to abusers in domestic violence, Tajik authorities reported to the CEDAW Committee that, for the same period, 181 protocols (criminal, administrative cases or indictments) were opened under Article 93 of the Code of Administrative Offenses as well as another 52 under other articles of the code. Article 93 is entitled "Violation of the requirements of the legislation of the Republic of Tajikistan on the prevention of domestic violence and violation of the requirements of a restraining order." Because violations under Article 93 include a wide spectrum of crimes that may or may not actually concern domestic violence, it is unclear how many of these violent crimes involve domestic violence or other forms of sexual or gender-based violence (SGBV).<sup>[1]</sup>

## **4.2 Steps for receiving a protective order**

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### **4.2.1 What documentation is needed to obtain a civil protection order?**

After registering a case of violence with the authorities, victims of violence can obtain a protection order from law enforcement agencies, among other remedies. Under Article 21(4), the head or deputy heads of the Department of Internal Affairs at the place where the domestic violence was committed

or threatened issues a protective order. The order is issued within 24 hours from the time of the domestic violence incident, or from the time of filing statements about the incident of violence in a family, or from the time of the threat of its use by an abuser to commit violence against a member of their family. There are no documentary requirements.

### **4.2.2 Does the victim need to attend a hearing?**

No evidence of this has been found.

### **4.2.3 Can you request remedies?**

No evidence of this has been found.

### **4.2.4 Are there time limits?**

No evidence of this has been found.

### **4.2.5 Are there different rules in emergencies?**

No evidence of this has been found.

## **4.3 Judicial discretion**

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### **4.3.1 What discretion does a judge have in granting a civil protection order or other protective orders?**

After registering a case of violence with the authorities, victims of violence can obtain a protection order from law enforcement agencies, among other remedies. There is no judicial involvement in the



issuance of a civil protection order. A prosecutor approves the extension of a civil protection order to up to 30 days.

### **4.3.2 Are there age limits on who can obtain orders?**

No evidence of this has been found.

## **4.4 Restitution and remedies available to victims**

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### **4.4.1 Can victims obtain reimbursement for costs and restitution paid?**

No evidence of this has been found. Article 17 of the LPDV calls for the establishment of "medical and social rehabilitation" centers for victims, with expenses paid by the offender.

### **4.4.2 Can they recover wages and profits lost?**

No evidence of this has been found.

### **4.4.3 Is a separate civil process required?**

No evidence of this has been found.

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