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# Fighting Domestic Violence

Pro Bono Initiative

**Europe**

In association with



# Greece

## Domestic Violence Legislation



“... there are criminal and civil legal remedies for domestic violence victims within the Greek legislation.”

# Greece

## 1 Legal provisions

### 1.1 What are the relevant statutes and codes?

The key statutes and codes are as follows.

Legislation	Description
Law 3500/2006	This law is entitled "For the treatment of domestic violence and other provisions." It is the fundamental legislative tool in addressing domestic violence, which it does by prohibiting acts of violence within the family, defining the types of criminal offenses and setting out the relevant penalties for these offenses.
Law 4531/2018	This law: <ol style="list-style-type: none"><li>1. ratifies the Contract of the Council of Europe for the prevention and combating of violence against women and domestic violence</li><li>2. incorporated the Istanbul Convention into Greek legislation</li><li>3. incorporated Decision 2005/214/EC as amended into Greek legislation</li><li>4. amended Law 3500/2006 by expanding terms such as "spouse" to include family members connected via a cohabitation agreement, ex-spouses and ex-partners</li></ol>
Specific articles of the Greek Civil and Criminal Code, in particular, Articles 312 and 333, as well as general Articles 6, 7, 8 and 9.	These articles address situations where violence is perpetrated against individuals who are unable to defend themselves due to being under the custody or protection of the abuser, or having a relationship with them, in addition to setting out the penalties for such violence.
Indirectly related legislation such as Law 4604/2019	This law is entitled "Gender equality, prevention and combating of gender-based violence."

## 1.2 What is the controlling case law?

The Greek legal system is a civil law system (rather than common law), so Greek and European Union (EU) codified law are more important than case law. Therefore, while case law can be significant in signifying the judicial approach to domestic violence cases, no controlling case law acts as a source of legislation.

## 1.3 What are the specific parts of the court system that address domestic violence?

Law 3500/2006 sets out the legal and court system responsible for responding to domestic violence in conjunction with the relevant codes of criminal procedure.

It is important to note that prosecuting domestic violence offenses can be undertaken on an *ex officio* basis meaning that crimes can be prosecuted without a complaint being made by the victim.

According to Law 3500/2006, regardless of how an offense becomes known to the authorities (reported by the victim, reported by a witness, discovered by the police, etc.), the relevant process is initiated before the court of first instance or the prosecutor.

Domestic violence victims also have the right to request interim measures and temporary orders from the relevant court to make sure that their abusers will not be able to come close to them or further hurt them (physically, mentally or otherwise). Such measures and orders are intended to remain in place until the official court process relating to the offense has taken place.

The parts of the system that are potentially relevant for a domestic violence victim are police officers, dedicated helplines, social services for abused women, the prosecution, the court of first instance and the competent court for interim measures requests.

A victim or an individual concerned about a victim can report the abuse to the police or prosecutor's office via the Center for Immediate Action by calling the 100 number anonymously or by using their name. Alternatively, they can contact their local police department.

Once a complaint has been filed, the police are obliged to search, arrest and lead the perpetrator to the prosecutor who will refer them to a trial court.

There are also various dedicated helplines such as the General Secretariat for Family Policy and Gender Equality (15900); reception centers for abused women (210 4112091); the "Next to You" line against domestic violence (800 1188881 or 2107786800 from a mobile); "SOS Line Child Smile" (1056); and the "Together with the Child" line for the mental health of children who are victims of violence within the family (11525).

## 1.4 What types of proceedings (civil or criminal), submissions or orders can a domestic violence victim sue/begin against an abuser?

As a first step, it is critical that **the victim files an indictment against the abuser**, since, as previously mentioned, domestic violence criminal offenses are handled with *ex officio* prosecution and they follow the self-initiated prosecution process.

Law 3500/2006 provides the right to use a **criminal mediator** to attempt a reconciliation between the victim and their abuser. Importantly, the mediation option is only possible if both parties provide their express consent and the abuser unreservedly states that they will not commit any

act of domestic violence in the future, they will move out of the family home for a specific time if the victim requests it, they will undertake counseling with a public counselor and they will rectify, if possible, the consequences of their actions and provide financial compensation to the victim. If the victim consents to the above, the prosecutor will ratify the agreement.

Moreover, the victim has the right to request **interim measures** by filing the relevant request, as well as to request **a temporary order** until the court decision is issued (to ensure that the abuser is removed from the family home and the abuser will not be able to come close to, hurt, threaten or in any way assault or harass the victim again).

Additionally, the victim can file before the competent courts a **lawsuit against their abuser for financial compensation due to a personality insult** (meaning mental distress and/or other intangible injuries) **caused by the abuser's criminal offense**. However, personality insult court processes can be lengthy; once the court issues a decision in favor of the victim, the abuser usually appeals such decision to the court of appeal. Therefore, often, the abuser's attorney will contact the victim's attorney to reach an out-of-court settlement.

Lastly, according to Article 3 of Law 3500/2006 and Article 1429 of the Civil Code, domestic violence is considered undeniable proof of "marriage shock" and, as a result, the victim can request the **issuance of a marriage solution (divorce)** in their favor by the competent courts.

Overall, even if the victim may not want to proceed with any of the above-mentioned remedies at the time of the domestic violence incident, a visit to the hospital after the incident is strongly recommended for physical or psychological damages to be recorded by the doctors and the relevant doctors' opinions to be recorded in writing. Moreover, it is suggested that the victim should request that the police record the domestic violence incident. This way, the victim will have solid proof if they decide to pursue legal proceedings against the abuser at a later stage.

## 2 Introduction: framework guiding domestic violence law

### 2.1 Are there civil and criminal legal remedies for domestic violence victims?

Yes, there are criminal and civil legal remedies for domestic violence victims within the Greek legislation. Such remedies are mainly set forth in Law 3500/2006 on domestic violence.

#### Criminal remedies

Law 3500/2006 clearly stipulates that any kind of violence among members of a family is prohibited and it lists a series of actions that attract stricter punishment when they are committed within a family environment.

The law is particularly severe when punishing violence against pregnant women or other members of the family who are unable to defend themselves (minimum of two years of imprisonment). In addition, the law recognizes that both marital rape and marital abuse are punishable acts that should be treated as felonies.

The above law also provides for the *ex officio* prosecution of crimes of domestic violence (except for rape and indecent assault).

Further, the law sets forth a criminal mediation procedure. The public prosecutor orders this procedure prior to common penal prosecution under the following conditions: (a) promise by the offender that they will not commit any other act of domestic violence; (b) acceptance to attend a special counseling program; and (c) commitment to restitution of actions. Penal mediation suspends both the offender's penal prosecution and the possibility for the victim to ask for the offender's removal from the family residence.

#### Civil remedies

Concerning remedies, the same Law 3500/2006 provides the following: (a) if domestic violence has been committed between spouses and if the victim of domestic violence seeks a divorce, the alleged domestic violence constitutes severe "marriage shock" and there is no further need to provide a reason for the divorce and a prior penal sentence of domestic violence against the spouse is not required; (b) in case of minors who are victims of physical abuse, a court can order the total or partial removal of a parent from providing parental care, the allocation of the child's care to a third party or the appointment of a guardian; and (c) the awarding of damages may be made in cases of moral prejudice against the victim and such damages cannot be less than EUR 1,000.

Additionally, victims may use criminal proceedings to claim monetary compensation from the offender for the damages they have suffered because of the crime. To do so, the victim must become a civil claimant by submitting a declaration to the prosecutor or police officer in charge of the case. Usually, this is done either after reporting the crime or later at any time until the end of the investigation, and it can be done when the victim is interviewed as a witness or separately.

The declaration must contain a short description of what happened and why the victim wishes to become a civil claimant. A lawyer must be appointed to represent the victim if the victim's residence is in a place different from the location of the court that will examine the case. Without this information, the claim will not be examined.

## **2.2 Is domestic violence identified in national law as a human right (noting that at a European level protection from domestic violence has not been explicitly identified as a human right but is indirectly captured by the other provisions)?**

Domestic violence has not been specifically identified as a human right in Greece.

However, concerning violence against women, Article 7 of the Greek Constitution adopted in 1975 and amended in 2008 provides that torture, any bodily maltreatment, impairment of health or the use of psychological violence, as well as any other offense against human dignity, are prohibited and will be punished as provided by law.

In addition, Greece has signed and ratified the Istanbul Convention and it has adapted its domestic laws accordingly.

## **2.3 Has your country signed and ratified the Council of Europe's Istanbul Convention (2011) preventing and combating violence against women and domestic violence (CETS No. 210)?**

Yes, Greece has both signed and ratified the Istanbul Convention.

Signature: 11 May 2011

Ratification: 18 June 2018

Entry into force: 1 October 2018

## **2.4 If it has ratified the Istanbul Convention, how has this convention been implemented into national law?**

The Istanbul Convention was implemented via Law 4531/2018. This law also adjusts domestic legislation (e.g., Law 3500/2006), in particular, in the field of criminal law, such that it complies with the provisions of the Istanbul Convention.

Law 4531/2018, among others, strengthens the criminal sanctions regarding female genital mutilation, criminalizes stalking, enhances the rights of victims of domestic violence, facilitates the implementation of the Istanbul Convention and designates as "coordinating body," in accordance with Article 10 of the Istanbul Convention, the General Secretariat for Gender Equality of the Ministry of the Interior.

In addition, in March 2019, the Greek Parliament adopted Law 4604/2019 on "Gender equality, prevention and combating of gender-based violence." This law introduces a comprehensive legal framework on gender equality and the elimination of discrimination against women, which has a wide scope.

## **2.5 If it has not ratified or signed the Istanbul Convention, is it envisaged that your country will do so?**

N/A

## **2.6 If it has ratified the 1979 Convention, how has the recommendations part of General Comment No. 35 been implemented into national law?**

Greece has both signed (in 1982) and ratified (in 1983) the 1979 Convention.

In addition, Greece signed (in 2000) and ratified (in 2011) the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women.

Our research has not identified the express implementation of General Comment No. 35 into national law. However, the Greek government appears to have sought to implement the spirit of General Comment No. 35 through the laws set out in Section 1. Additionally, the Greek government has adopted the National Program on Preventing and Combating Violence Against Women in Greece, which is the first comprehensive and coherent national action plan against gender-based violence. It refers to all forms of gender-based violence (e.g., domestic violence, rape, sexual harassment and trafficking women) and it is part of the National Action Plan on Gender Equality 2016-2020.<sup>1</sup>

## **2.7 If the 1979 Convention has not ratified or signed, is it envisaged that your country will do so?**

N/A



### 3 Similarities and differences in terminology

Term	Definition
Domestic violence	<p>This includes the following:</p> <ol style="list-style-type: none"><li>1. the commission of a criminal offense, to the detriment of a family member, in accordance with Articles 6, 7, 8 and 9 of Law 3500/2006 and Articles 299 and 311 of the Penal Code</li><li>2. all acts of physical, sexual, psychological or economic violence that occurs within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim<sup>2</sup></li></ol>
Stalking	<p>In Greece, there is no specific law on stalking.</p> <p>Stalking has not been defined in Greek law. However, please see Article 7 of Law 3500/2006.</p> <p>In addition, Law 3500/2006 specifically provides that a restraining order can be issued if this is deemed necessary for the protection of a victim's physical and/or psychological health. Accordingly, if stalking behaviors affect a victim's mental health, a restraining order can be issued.<sup>3</sup></p> <p>Specifically, in order for an individual to be prosecuted for "stalking," the perpetrator's behaviors must amount to crimes that are prosecutable under other legislation such as insulting the victim's reputation through insults (Article 361 of the Penal Code); persistent behavior of monitoring or persecuting the victim where the victim's private sphere is particularly intruded into (Article 333 of the Penal Code); or damaging the victim's private property (Article 381 of the Penal Code).</p>
Harassment	<p>It is only possible to prosecute harassment when individual behaviors that are elements of harassment amount to crimes prosecutable under other legislation including Article 361 of the Penal Code, "Insults"; Article 333 of the Penal Code, "Threats"; Article 381 of the Penal Code, "Damage to Private Property"; Article 330 of the Penal Code, "Unlawful Violence"; Articles 308-308A of the Penal Code, "Bodily Harm"; and Article 337 of the Penal Code, "Insult to Sexual Dignity."<sup>4</sup></p>
Victim	<p>This includes the following:</p> <ol style="list-style-type: none"><li>1. any person who is subjected to domestic violence as defined in Law 3500/2006 (see the above definition of "domestic violence") and any member of that person's family (including a minor) who is subjected to an act that is a criminal offense under Articles 299 and 311 of the Penal Code<sup>5</sup></li><li>2. any natural person who is subject to domestic violence and who is a member of the perpetrator's family or community, which includes co-spouses or parents and relatives of the</li></ol>

	first and second degree by blood or marriage, including adopted minors
Abuser	We could not identify a definition for this term under the laws of Greece.
Civil protection order	We could not identify a definition for this term under the laws of Greece; however, the concept does exist — please see Section 4.
Causes of action	We could not identify a definition for this term under the laws of Greece.
Marital rape	We could not identify a definition for this term under the laws of Greece.

### 3.1 Are there any other important domestic violence terms defined in relevant domestic violence statutes and codes?

Term	Definition
Family	Family or community consists of spouses or parents and relatives of the first and second degree by blood or by marriage and/or by adoption. This includes relatives, by blood or by marriage, of persons who have been appointed as a legal representative or foster parent, as well as any minor living in the family. <sup>6</sup>
Violence against women	A violation of human rights and a form of discrimination against women refers to all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. <sup>7</sup>
Gender	Gender refers to the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men. <sup>8</sup>
Gender-based violence against women	This refers to violence that is directed against a woman because she is a woman or that affects women disproportionately. <sup>9</sup>
Women	The definition of women includes girls under the age of 18. <sup>10</sup>
Gender mainstreaming	Gender mainstreaming refers to the strategy for the implementation of substantial gender equality, which includes the integration of gender in the preparation, design, implementation, monitoring and evaluation of policies, regulatory measures and expenditure programs, with the aim of promoting equality between women and men and of fighting discrimination. <sup>11</sup>
Positive measures	Positive measures refer to acts and decisions taken by the administration aimed at reducing the lack of gender inequalities, according to paragraph 2, Article 116 of the Constitution. <sup>12</sup>

Positive actions	Positive actions refer to when competent state or self-governing bodies take the initiative regarding the prevention of gender inequalities and raise the awareness of society as a whole. <sup>13</sup>
Substantial equality	Substantial equality refers to gender equality being expanded and enshrined in practice, formal legal equality and the guarantee of equal opportunities in all respects of private and public life, including the removal of discrimination and the improvement of the living conditions of women or citizens regardless of gender, sexual orientation and gender identity. <sup>14</sup>
Equality plans	Equality plans refer to a set of integrated and complementary interventions that can be made by both public and private bodies, as well as by public and private sector companies, that are based on an analysis of the existing social reality, that pose specific objectives, strategies and practices to achieve gender equality and that include the effective monitoring and evaluation of such plans, which are submitted to the General Secretariat of Gender Equality, which forwards them to the Equality Committee of the Parliament. <sup>15</sup>
Direct discrimination	Direct discrimination refers to any act or omission that excludes someone or puts them in a clearly disadvantaged position due to sex, sexual orientation and/or gender identity, as well as any order, encouragement or systematic encouragement of persons to treat others unfavorably or unequally on the grounds of sex, sexual orientation and/or gender identity. <sup>16</sup>
Indirect discrimination	Indirect discrimination refers to any act or omission that puts persons at a disadvantage because of their gender, sexual orientation and/or gender identity, under a seemingly neutral provision or practice, unless this provision, the relevant criterion or the practice is objectively justified by law. <sup>17</sup>

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

### **4.1 Civil protection orders**

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

Yes. Law 3500/2006 provides that in cases of domestic violence, the court can order the offender's removal from the family residence. The court can also prohibit the offender from approaching the residence or working area of a person who asks for these measures to be taken. The offender can also be forbidden from approaching the residences of the victim's close relatives or children's schools.

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

Typically, the petitioner is the victim/complainant (a complainant is any person who is personally violated). However, an organization or authority that aims to support the victim can also apply for a civil protection order on behalf of the victim.

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

Yes, the court will determine this as part of the content of the civil protection order, as well as the rules regarding communication with the child.

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

Yes, Article 15 of Law 3500/2006 makes provision for this. See Section 1 regarding **interim measures**.

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

Yes, a civil protection order may include a restriction order, temporary order and/or interim injunction order.

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

Yes, certain types of organizations can request a protection order on behalf of a child.

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

Short-term orders include temporary and interim injunction orders. These are issued when a danger/risk is present and the situation is urgent. Hearings for such orders can be scheduled on any day and at any hour; the process is short and immediate.

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

As a rule, the aggressor is called and heard by the court. Only in exceptional and urgent cases, when there is a possibility of immediate danger/risk is present, will the court decide to grant a civil protection order without the aggressor being present.

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

The abuser must leave the family home and stay away from the family home and the children, if applicable. The abuser may also be forbidden from approaching the residences of close relatives or children's schools. Children (under 18) are regarded as victims of domestic violence even where the act was not directed at them but they were present during the performance of the act of violence.

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

Emergency orders issued under Article 18 of Law 3500/2006 automatically cease after the issuance of the final decision of the relevant court or, if the case is filed in the criminal mediation procedure, on the order of the prosecutor with which the case was filed.

#### **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 demographic information, e.g., police reports, convictions, etc.**

Survey data results show that, after the age of 15, 1 in 4 women in **Greece** have experienced physical and/or **sexual violence** and 25% of people in **Greece** know a female victim of **domestic violence** within their circle of friends and family.<sup>18</sup>

Greek police have released chilling statistics that reveal that more than 13,700 cases of domestic violence — overwhelmingly against women — were recorded between 2013 and 2017. The Athens-Macedonia News Agency reported a police source that indicated that in 2017 there were 3,134 cases of domestic violence involving 4,234 victims. Women made up 70% of these victims, the source added, with the number of females killed in such assaults being double that for men.<sup>19</sup>

Please also see the following:

- <https://evaw-global-database.unwomen.org/en/countries/europe/greece>
- [http://gendersafer.eu/sites/default/files/2019-11/Greece.National\\_Report\\_0.pdf](http://gendersafer.eu/sites/default/files/2019-11/Greece.National_Report_0.pdf)

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

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

The victim must sign an affidavit detailing the relevant abuse. If the court finds the victim is in danger or harm, they will initially be granted a temporary order of protection (*ex parte* order). Thereafter, the court will set a hearing date, at which hearing the court will consider the imposition of a full protection or restraining order.

The victim must produce proof in the form of photographs, emails, text messages or any other physical evidence that can support the claim.

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

No, the victim may be represented by their legal counsel. However, the victim will always be informed of the content of the relevant protection order. A copy of the order will be sent to the victim by the court's bailiff.

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

Yes. Article 57(1) of the Civil Code provides for the generic legal right where if an individual's personality is violated, they have the right to demand for that violation to stop and for it to be avoided in the future. This law provides protection for this substantive right, but it does not define the specific measures of protection that a court can grant.

The court can use this provision to impose temporary orders of protection or injunction orders in cases of emergency and to avoid the risk of danger to the individual requesting them. These orders will be aimed at protecting certain rights or regulating a specific situation. For example, they can be used to prohibit an individual from entering the victim's residence.

Article 15 of Law 3500/2006 includes specific provisions that aim to deal with spaces where domestic violence takes place. These provisions allow the court to order: (a) the offender to stop threatening the victim; (b) a ban on any kind of communication between the offender and the victim; and (c) a ban on the offender coming within a certain distance of the victim (i.e., a no-contact order). The court is not limited to these measures, rather it is the legislation's attempt to approximate spaces where domestic violence often takes place (i.e., the victim's residence, workplace, other relative's residences, schools and shelters) and preempt possible remedies.<sup>20</sup>

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

Victims of crime in Greece have five days to report the crime; if the crime is not reported in this period, victims are not eligible for compensation.

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

Yes. If the case is urgent because there is a risk of immediate danger, the court will hear the case without the offender being present.

## **4.3 Judicial discretion**

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

There are no legal limitations; the court has the freedom of judgment and can decide on the scope of protection depending on the situation.

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

No.

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

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

We have been unable to locate information on costs.

Concerning restitution, Law 3500/2006 provides that in criminal cases, an award of damages may be made in cases where the victim has suffered mental distress because of the abuser's actions and such damages cannot be less than EUR 1,000.

Additionally, victims may use criminal proceedings to claim monetary compensation from the offender for the damages they have suffered because of the crime. To do so, the victim must become a civil claimant by submitting a declaration to the prosecutor or police officer in charge of the case. Usually, this is done either after reporting the crime or later at any time until the end of the investigation, and it can be done when the victim is interviewed as a witness or separately. The declaration must contain a short description of what happened and why the victim wishes to become a civil claimant. A lawyer must be appointed to represent the victim if the victim's residence is in a place different from the location of the court that will examine the case. Without this information, the claim will not be examined.

Compensation may cover financial losses associated with physical damage resulting from the violent crime; this includes medical fees, loss of income and funeral costs. However, psychological damage and trauma resulting from the crime are not compensated. Victims of crime in Greece have five days to report the crime; if the crime is not reported in this period, victims are not eligible for compensation.

For victims of domestic violence and other intentional crimes such as child abuse, if the offender lacks the means to provide compensation for their crime(s) or if the offender remains anonymous, under the Compensation Directive 2004/80/EC, the state of Greece is obliged to provide compensation to victims of such crimes. An application form is required for processing compensation claims and this must be completed in Greek. The Hellenic Compensation Authority processes claims for compensation.

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

Yes.

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

Yes. Please see above.

## **5 Prosecutorial considerations**

### **5.1 Police procedures**

#### **5.1.1 When do the police get involved in domestic disputes or legal actions?**

According to police guidelines on how to deal with instances of domestic violence, police are required to get involved immediately upon the arrival of a victim at the police station or the making of a complaint by telephone.<sup>21</sup> A complaint made via telephone could come in the form of a notification by a doctor, a complaint made to a domestic violence helpline by the victim or a person who is aware of the victim, or a notification made by a civil society body such as the Secretariat for Family Policy and Gender Equality.<sup>22</sup>

#### **5.1.2 What circumstances affect law firm involvement?**

Under Article 22 of Law 3500/2006, victims of domestic violence will have access to legal aid if they are unable to pay court costs associated with the process of their case.

As domestic violence is a criminal offense under Article 1 of Law 3500/2006, an alleged perpetrator has the right to a fair trial under Article 6 of the European Convention of Human Rights. However, access to this right has been criticized in Greece as limited and dependent on financial means.<sup>23</sup>

### **5.2 Standard of proof**

#### **5.2.1 Is proof required by any legal means?**

The standard of proof in Greece's criminal and civil courts is "beyond any reasonable doubt" meaning that a court requires full proof of the validity of the victim's allegations and its judgment against the defendant/perpetrator must be free of doubt.<sup>24</sup>

Article 1 of Law 3500/2016 renders domestic violence of the nature identified in Articles 6, 7, 8 and 9 of such law (domestic bodily harm, domestic violence and threats, rape and abuse in indecency, and domestic insult of sexual dignity, respectively) a criminal offense and, therefore, the standard of proof would be beyond any reasonable doubt.

#### **5.2.2 Are there any requirements regarding evidence and documents?**

Generally, any means of evidence legally acquired is allowed to be introduced in criminal cases. The main forms of evidence are autopsy, experts' opinions, testimony of the accused, witnesses and documents.<sup>25</sup> The Criminal Procedure Code does not contain any specific provisions regarding documents as evidence. It provides that a document is any text that can prove a fact and it includes any means or any material, whether electronically stored or not, as long as such material is likely to prove actual facts.<sup>26</sup>

In preliminary and main proceedings, witnesses are summoned in writing. A subpoena is delivered to them at least 24 hours before the preliminary proceedings and at least 14 days before the hearing. Witnesses must take oaths (either religious or civil) subject to limited exceptions. If witnesses do not attend, they may be subject to fines at the court's discretion and they may be ordered to pay the relevant judicial fees.



### **5.2.3 Is proof "beyond a reasonable doubt" required?**

Yes. Please see above.

### **5.2.4 Is the standard of proof different for *ex parte* orders?**

We have been unable to locate specific information concerning *ex parte* orders. However, given that the standard of proof is already "beyond a reasonable doubt," we assume that this would also apply to *ex parte* orders.

## **5.3 Affirmative defenses**

### **5.3.1 Are affirmative defenses available to the accused?**

Affirmative defenses are not addressed in the legislation we have reviewed.

### **5.3.2 Is willful intent required?**

Willful intent is not specifically discussed in the legislation we have reviewed. The legislation we have reviewed requires that the perpetrator "cause" domestic violence against the victim and it does not include discussions on the intention to act affirmatively in a particular way or to seek to cause particular harm.

### **5.3.3 Are false accusations punishable for the victim?**

While the legislation does not directly deal with false accusations by the victim, Greek courts have charged victims who are accused with making false accusations relating to similar crimes. The relevant charge has been public mischief, which is a criminal offense.

### **5.3.4 How is consent discussed in the law?**

Consent is not discussed in the domestic violence legislation we have reviewed.

### **5.3.5 Is self-defense or insanity a defense?**

Article 22 of the Penal Code provides for self-defense as a general defense. Self-defense must be performed by the individual to defend themselves from an unjust and immediate attack from another and the force used must be proportional to the threat and danger the individual is facing. Therefore, while self-defense may potentially be used as a defense against allegations of offenses under Article 6 of Law 3500/2006 (domestic bodily harm), if the individual was under immediate attack, it would not be applicable to other relevant offenses such as those enshrined in Article 7 (illegal threats), Article 8 (rape and abuse of indecency) or Article 9 (domestic insult of sexual dignity) of Law 3500/2006.

Under Article 34 of the Penal Code, insanity is a general defense where: (a) the perpetrator committed the act due to a morbid disturbance of mental functions or conscience; and (b) the perpetrator did not have the ability to perceive the wrongdoing of their act or act according to their perception of such wrongdoing.

## **5.4 Witness status**

### **5.4.1 What is a witness's duty to testify honestly and completely?**

If a witness has been legitimately summoned to appear before the court, the court can either order the police to bring the witness to court by force or to condemn the witness and fine them for their nonappearance.<sup>27</sup>

In domestic violence cases, family members are examined as sworn witnesses (Article 19 of Law 3500/2006).

Oaths are generally administered to witnesses in criminal cases (including domestic violence cases), meaning that it is a criminal offense to testify dishonestly.

### **5.4.2 Who may abstain from testifying in certain situations?**

Family members and children may abstain from testifying unless it is deemed necessary by the court. Where such individuals abstain from testifying, their pre-hearing examination may be treated as taken under oath.

Indeed, Article 19 of Law 3500/2006 provides that minors must not be summoned as witnesses as their testimony should be given in pre-trial to protect their emotional and mental well-being, unless it is deemed necessary by the court for the safe investigation of the case.

### **5.4.3 What potential "excuses" can a witness raise to refuse to testify in a domestic violence action?**

We could not identify any such "excuses" based on our research.

### **5.4.4 Are there any laws that provide special protections to children who are testifying in domestic violence proceedings?**

Article 19 of Law 3500/2006 provides that minors must not be summoned as witnesses as their testimony should be given in pre-trial to protect their emotional and mental well-being, unless it is deemed necessary by the court for the safe investigation of the case.

There is a further obligation under Article 20 for police to keep the personal details of the alleged victim, perpetrator and witnesses confidential. This is intended to provide specific protection to minors. Violators of this provision can be punished by up to two years of imprisonment.

### **5.4.5 Can children be called upon to testify?**

Yes, in the circumstances mentioned above, i.e., where such testimony is deemed necessary by the court for the safe investigation of the case.

### **5.4.6 What is the effect of a child victim on the charges against the offender?**

If a victim is a child, the statute of limitations of the relevant crime does not start until the first day of their adulthood (Article 16 of Law 3500/2006).

Additionally, the mandatory minimum sentence of being charged with domestic violence against a child is 10 years for domestic bodily harm as opposed to two years in the case of an adult victim (Article 6 of Law 3500/2006).

Article 4 of Law 3500/2006 makes it clear that corporal punishment against children is not included in the permitted measures a parent can take against a child. Accordingly, physical harm arising from corporal punishment can be dealt with by an appropriate order from the court.

## **5.5 Penalties and sentencing; penalty enhancements**

### **5.5.1 What are the penalties and sentencing laws for first-time domestic violence offenses?**

The penalties for domestic violence offenses are as follows (Law 3500/2006):

- fine of minimum EUR 1000 (civil) (Article 5)
- domestic bodily violence (Article 6):
  - minor damage — a minimum of one year of imprisonment
  - severe bodily harm — a minimum of two years of imprisonment
  - if the victim is severely physically disabled or has mental health issues — up to 10 years of imprisonment
  - minor damage to a pregnant woman — a minimum of two years of imprisonment
  - offense committed in front of a minor — a minimum of one year of imprisonment
  - severe harm against a minor — a minimum of 10 years of imprisonment
- domestic threats (Article 7), e.g., stalking — a minimum of six months of imprisonment
- rape and abuse of indecency (Article 8) — up to 10 years of imprisonment
- domestic insult of sexual dignity (Article 9) — up to two years of imprisonment (if the victim is a minor, a minimum of six months of imprisonment)
- restraining order against the perpetrator (Article 18)
- criminal mediation measures under Article 11, e.g., the offender being removed from the family home, attending counseling or paying an amount of money (this must be agreed upon by the victim; if the victim does not agree, there is no possibility of mediation)

### **5.5.2 Are there criminal penalties?**

See Section 5.5.1.

### **5.5.3 What is the result of a violation of an existing order for protection?**

Based on our research, the law does not specify the consequences of violating a protection order. However, some data suggests that violating a protection order has criminal consequences.<sup>28</sup>

### **5.5.4 What fines and other penalties are imposed besides incarceration and liberty restriction?**

See above for details regarding financial penalties and criminal mediation.

## **5.6 Post-release restrictions**

### **5.6.1 Does the law notify the victim of the offender's release from custody?**

Our research did not identify any information specifically about notifying victims of domestic violence of offenders' release from custody. However, general materials on the rights of victims in criminal proceedings indicate that the law does not require a victim to be notified of the offender's release unless the victim is a minor.<sup>29</sup>

A witness or a civil claimant (a person who has suffered damage because of a crime and who participates in criminal proceedings claiming financial compensation — see Section 2 ) will receive a reference number to check the status of the case with the Public Prosecutor's Office.

## **6 Special issues**

### **6.1 Battered woman syndrome**

#### **6.1.1 Can lawyers present evidence of battered woman syndrome or other domestic abuse as an affirmative defense to crimes that the battered woman has committed? (Note: Battered woman syndrome is accepted by courts in certain jurisdictions to show that battered women can use force to defend themselves and sometimes kill their abusers due to abusive and life-threatening situations).**

We have not been able to locate a specific affirmative battered woman syndrome defense in the legislation we have reviewed.

There are documented cases (for example, Georgia Papadatou) where a woman was unanimously acquitted because the court accepted evidence that she was acting in self-defense (see Article 22 of the Criminal Code).<sup>30</sup>

### **6.2 Domestic violence in the workplace**

#### **6.2.1 Can courts issue orders to protect employees suffering from domestic violence?**

We have not been able to locate any specific information regarding domestic violence in the workplace.

#### **6.2.2 Can departure be deemed "for good cause" if related to domestic violence?**

We have not been able to locate any specific information regarding domestic violence in the workplace.

#### **6.2.3 Can family members of domestic violence victims take reasonable leave to help the victim seek treatment or obtain help and services?**

Under Law 3500/2006, victims of domestic violence are entitled to moral support, as well as necessary material assistance from organizations and committees that operate for this purpose under the supervision of the Health and Social Aid Ministry and by community social services.

### **6.3 Immigration**

#### **6.3.1 Does the law include provisions that are intended to prevent abusers who are citizens or permanent residents of your country from using immigration laws to perpetrate domestic violence against their spouse?**

In the case of a victim of illegal trafficking for the purpose of sexual and economic exploitation (trafficking), the police must do everything possible to assist the victim. The law provides for procedures that guarantee the safety and protection of a victim who is illegally present in Greece.

### **6.3.2 If battered immigrants cooperate with law enforcement in domestic violence, can they obtain immigration remedies?**

We have not been able to locate any specific information regarding immigration remedies for domestic violence.

### **6.3.3 Does domestic violence law discuss asylum accessibility?**

As an EU member state, Greece is obligated to ensure that its asylum process is in line with EU-wide directives and United Nations guidance on the treatment and processing of asylum-seekers and the determination of their claims. The Istanbul Convention includes binding provisions on gender-sensitive asylum determination and reception.<sup>31</sup>

In Greece, if the victim is characterized by the Prosecutor's Office as a victim of trafficking, police officers must follow special instructions concerning their handling of the relevant case.

## **6.4 Armed forces**

### **6.4.1 Can a victim seek a military protective order if the abuser is in active military?**

We have not been able to locate any specific information on military protective orders.

## **6.5 Child custody and child/spousal support**

### **6.5.1 Do judges follow special rules to determine custody or visitation of children in domestic violence cases?**

Under Article 3 of Law 3500/2006, the breakdown of a marriage is assumed in cases of domestic violence against the petitioner by the respondent. Under Articles 1513 and 1518 of the Civil Code, in such situations, the court may regulate the parental care of children and award custody to one parent, divide it between the parents or award custody to a third person.

The main criterion when awarding custody is ensuring the child's best interest. The domestic violence legislation does not make specific provisions regarding custody.

### **6.5.2 Can the judge consider the testimonies of the other spouse and the children when determining custody?**

We have not been able to identify any specific information on such testimony in our research.

## **6.6 Housing rights of domestic violence victims**

### **6.6.1 Does the law include any barriers to prevent landlords from forcing a tenant to move out because they are victims of domestic violence?**

We have not been able to identify legislation regarding landlords forcing tenants to move out because they are victims of domestic violence.

### **6.6.2 Does the law allow a tenant to terminate his/her lease early due to domestic violence?**

We have not been able to identify legislation regarding early lease termination because of domestic violence.

We have not been able to locate any specific information on the housing rights of domestic violence victims.

### **6.6.3 Can an order exclude the abuser from the residence?**

Under Article 15 of Law 3500/2006, a temporary protective order may exclude an abuser from the residence of the victim. Under Article 18 of the same law, a restraining order to the same effect may be granted.

### **6.6.4 Can abusers be forbidden by court orders to alienate or mortgage the property in his/her name if it is the family domicile?**

We have not been able to identify any specific information regarding alienation or the mortgage of property in cases of domestic violence.

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## Endnotes

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- <sup>4</sup> *Ibid.*
- <sup>5</sup> Law 3500/2006.
- <sup>6</sup> Law 3500/2006.
- <sup>7</sup> Law 4531/2018 (amending Law 3500/2006).
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- <sup>9</sup> Law 4531/2018 (amending Law 3500/2006).
- <sup>10</sup> Law 4531/2018 (amending Law 3500/2006).
- <sup>11</sup> Law 4604/2019.
- <sup>12</sup> Law 4604/2019.
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- <sup>14</sup> Law 4604/2019.
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- <sup>16</sup> Law 4604/2019.
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- <sup>18</sup> EIGE (2016) "Combating violence against women: Greece." Available at: [https://eige.europa.eu/sites/default/files/documents/2016.5475\\_mh0216770enn\\_pdfweb\\_20170215100603.pdf](https://eige.europa.eu/sites/default/files/documents/2016.5475_mh0216770enn_pdfweb_20170215100603.pdf)
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- <sup>21</sup> Hellenic Police (2005) "The Treatment of Domestic Violence."
- <sup>22</sup> *Ibid.*
- <sup>23</sup> LEAP Members (2015) "Criminal Justice and Defence Rights in Greece." Available at: <https://www.fairtrials.org/publication/criminal-justice-and-defence-rights-greece>
- <sup>24</sup> Europa EU Competition and Antitrust "Executive Summary and Overview of the National Report in Greece." Available at: [https://ec.europa.eu/competition/antitrust/actionsdamages/executive\\_summaries/greece\\_en.pdf](https://ec.europa.eu/competition/antitrust/actionsdamages/executive_summaries/greece_en.pdf)
- <sup>25</sup> Greek Law Digest (2019) "Evidence in the Greek Civil, Criminal and Administrative Law." Available at: <http://www.greeklawdigest.gr/topics/judicial-system/item/308-evidence-in-the-greek-civil-criminal-administrative-law>
- <sup>26</sup> *Ibid.*
- <sup>27</sup> HCCH (2020) "Greece — Central Authority (Article 2) and Practical Information." Available at: <https://www.hcch.net/en/states/authorities/details3/?aid=665>
- <sup>28</sup> S. van der Aa (2011) Protection Orders in the European Member States: Where Do We Stand and Where Do We Go from Here?
- <sup>29</sup> European Justice (2019) "Rights of Victims of Crime in Criminal Proceedings." Available at: [https://e-justice.europa.eu/content\\_rights\\_of\\_victims\\_of\\_crime\\_in\\_criminal\\_proceedings-171-EL-en.do?clang=en&idSubpage=1&member=1#n02](https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-EL-en.do?clang=en&idSubpage=1&member=1#n02)
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