Fighting Domestic Violence - Peru

4. Protection for domestic violence victims and relief granted

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# 4.1 Civil protection orders

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

Yes, there are civil protection orders, which are listed in Article 22 of Law No. 30364.

# 4.1.2 Who can petition for civil protection orders?

The victim, the prosecutor and/or police.

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

Yes.

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

Yes.

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

Peruvian law does not distinguish between emergency, preventive or civil protection orders. These are all compiled in Article 22 of Law No. 30364.

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

Yes, they can be requested by direct or indirect victims or legal representatives in children's cases.

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

Yes, please see above.

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

All types of orders are permitted without the aggressor being present. It is mandatory that the judiciary notify the victim of the order.

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

The family court can extend protection orders to dependents in a situation of vulnerability borne by the victim. Also, in cases of femicide or attempted femicide, the court can take into account the indirect victims of crime.

# 4.1.10 How long do the orders last?

The protection orders issued by the family court are valid as long as the victim's risk conditions persist, regardless of the resolution that puts an end to the investigation, or to the criminal process or any faults.

These measures may be substituted, extended or left without effect by the family court when the periodic reports sent by the entities in charge of their execution demonstrate a difference in the potential risk to the victim.

The family court may also substitute, extend or invalidate the measures when it becomes aware of a judgment or file disposition of the investigation, or criminal proceedings or offenses that originated with the protection measures.

The family court, immediately and by any means, communicates its decision to replace, extend or render the measures in charge of the entities responsible for their execution.

Section C of Recommendation 35 refers to the protective measures to be applied during and after legal proceedings. In this regard, it should be noted that Peruvian law provides for adequate protective measures. However, the implementation of these measures is not effective because the perpetrators do not receive adequate sanctions if the measures are violated.

# 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.

N/A

# 4.2 Steps for receiving a protective order

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

No express documentation appears to be needed but the court issues protective orders based on risk to the victim, the urgency and need for protection, and the danger of delay in entering a protective order.

Enforcement of protection measures, names and locations of all victims with protective measures, should be permanently available to all police personnel in the jurisdiction in which the victim resides, in order to respond in a timely manner to emergencies.

# 4.2.2 Does the victim need to attend a hearing?

There is no express requirement for the victim to attend a hearing.

# 4.2.3 Can you request remedies?

The following remedies are available:

1. Removal of the aggressor from the victim's home, as well as a prohibition on returning to the victim's home

Police may enter the home for execution.

2. Impediment of the aggressor approaching or being close to the victim

The aggressor must remain at a suitable distance to guarantee the victim's safety and integrity.

3. Prohibition on the aggressor communicating with the victim via networks or other forms of communication

None.

4. Prohibition on the aggressor's right of possession and carrying of weapons

Superintendence of Control must be notified; in the case of members of the armed forces and National Police of Peru, the court officiates to armed or police institution.

5. Inventory of goods.

No express requirement.

6. Emergency economic allocation

Sufficient to prevent the victim from being kept or placed in a situation of risk; payment of allowance is made through judicial deposit or bank agency.

7. Prohibition on the aggressor disposing of common real or personal property

None.

8. Prohibition on the accused person removing children, adolescents or other vulnerable persons from the care of the family group

None.

9. Re-educative or therapeutic treatment for the aggressor

Among the protection measures that may be issued by a judge are re-educative or therapeutic treatment for the aggressor.

10. Psychological treatment for the emotional recovery of the victim

Law 30364 establishes that the Ministry of Health is in charge of the free provision of health services for the comprehensive recovery of the physical and mental health of the victims.

11. Shelter of the victim in an establishment that guarantees their safety, after coordination

Among the protection measures that may be issued by a judge are: (i) shelter for the victim in an establishment where their safety is guaranteed, coordinated with the institution in charge of it; (ii) psychological treatment for the emotional recovery of the victim; and (iii) any other protection measure required to protect the integrity and life of the victim and their family.

12. Any other protection measures required for the protection of the integrity and life of the victim or her family

Registry of Victims and Aggressors (RUVA) is an administrative registry in charge of providing an updated database with information that allows the authorities to identify and profile victims and their aggressors. This is an adequate knowledge instrument that helps to avoid and investigative violence against women.[15]

By means of Supreme Decree No. 005-2020 and its regulations, the government grants economic assistance to indirect femicide victims (i.e., child victims or people with moderate or severe disabilities who were economically dependent and under the care of the victim of femicide).[16]

Emergency Decree No.023-2020 determines mechanisms for the prevention of violence against women and members of the family group. For example, knowledge of the aggressor's police background by means of the AURORA National Program. In accordance with the situation of the victim, a safety plan could be prepared to reduce the risks of violence against the victim.

On its own or at the request of the victim, the family court at oral hearing can decide on precautionary measures. The family court informs the victim of their right to initiate proceedings on matters and, at the victim's request, informs the Ministry of Justice and Human Rights to act in accordance with its powers.

# 4.2.4 Are there time limits?

There are no express time limits for victims. For the Peruvian National Police or other entities in charge of executing protection measures, they must submit their report of execution to the family court within 15 days from the date on which they receive notice of the recommendation. In cases of severe risk, the report must be submitted within five days.

Every six months, or in cases of slight or moderate risk, and every three months in cases of severe risk, entities must submit a report on their compliance to the family court.

Public and private entities that become aware of noncompliance with protection orders must inform the family court within 24 hours.

# 4.2.5 Are there different rules in emergencies?

Enforcement of the protection measures, names and locations of all victims with protective measures should be permanently available to all police personnel in the jurisdiction in which the victim resides, in order to respond in a timely manner to emergencies.

# 4.3 Judicial discretion

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

The judiciary will always have judicial discretion when issuing its decisions, within the parameters allowed by law. In any case, the judge may apply a protection measure provided that it does not conflict with any fundamental right or an express prohibition set forth in another rule.

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

There are no age limits for obtaining orders. It should be noted that, in practice, although Peruvian law provides for victims' access to the courts and tribunals as indicated in item 32 of the Recommendation, there is a need to capacitate justice officials in the area of violence against women.

# 4.4 Restitution and remedies available to victims

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

Yes, victims can ask for costs and expenses:

The expenses are made up of the judicial fees, the fees of the judicial assistance bodies and the other judicial expenses incurred in the process.

Costs are the attorney's fees of the winning party, plus 5% to the respective bar association of the judicial district for its mutual fund and to cover the attorneys' fees in cases of judicial assistance.

Restitution needs to be requested through a civil process of compensation.

# 4.4.2 Can they recover wages and profits lost?

Yes, victims can recover wages and profit lost through a civil process of compensation.

# 4.4.3 Is a separate civil process required?

No, there is no need to initiate a different civil process. In the same process the judge can require the offender to pay the victim's costs and expenses.

Item 33 of the Recommendation mentions the issue of effective remedies. The latest pronouncements related to domestic violence against women have been reviewed and it has not been found that effective, adequate or proportional reparations are provided for the severity of the harm suffered. Nor do these reparations include sufficient measures to ensure full reparation for the victim and nonrepetition.

 **Can the offender be required to surrender weapons?**

Yes, the authorities can require the offender to surrender weapons.

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