Sweden
Domestic Violence Legislation

“Sweden has criminalized all domestic abuse acts in the Istanbul Convention...”
# 1 Legal provisions

## 1.1 What are the relevant statutes and codes?

There are no offenses directly linked to domestic violence, such as offenses containing criteria linked to the crime having been committed at home. However, the provisions listed below, from the Swedish Penal Code, should be relevant in this context.

<table>
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<th>General rules</th>
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<tbody>
<tr>
<td><strong>The Swedish Penal Code</strong></td>
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<tr>
<td>(1962:700) <em>(Brottsbalken)</em></td>
<td>Chapter 3 on offenses against life and health</td>
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<td>Chapter 4 on offenses against liberty and peace</td>
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<td>Chapter 4, Section 4 a paragraph 2 on gross violations of</td>
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<td>women’s integrity <em>(grov kvinnofridskränkning)</em></td>
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<td>Chapter 4, Section 4 c on coercion to marry</td>
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<td></td>
<td><em>(äktenskapstvång)</em></td>
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<td></td>
<td>Chapter 4, Section 4 d on deception for the purpose of</td>
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<td>forced marriage abroad <em>(vilseledande till tvångsäktenskapsresa)</em></td>
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<td>Chapter 6 on sexual offenses</td>
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<tr>
<td><strong>The Restraining Orders Act</strong></td>
<td>Although gender-neutral, this act is particularly intended to</td>
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<tr>
<td>(1988:688) <em>(Lag om kontaktförbud)</em></td>
<td>be applied where a woman is exposed to violence or threats</td>
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<td>within a relationship or where a man is harassing and</td>
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<td>stalking a woman in connection with the breakdown of</td>
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<td>an intimate relationship. Restraining orders are granted by</td>
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<td>prosecutors and applications should be handled within</td>
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<td>one week.</td>
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<td>Restraining orders forbid the prohibited person (the</td>
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<td>perpetrator) from actively trying to contact the protected</td>
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<td>person (the victim) during a specified period of time set by</td>
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<td>the prosecutor, typically 3-12 months.</td>
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<tr>
<td><strong>The Constitution of Sweden</strong></td>
<td>Chapter 2 regulates fundamental rights and freedoms.</td>
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<tr>
<td>(specifically the Instrument of</td>
<td>Chapter 2, Section 19 explicitly states that no law or</td>
</tr>
<tr>
<td></td>
<td>Rights.</td>
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Fighting Domestic Violence: Sweden

1 General rules

The Discrimination Act (2008:567) (Diskrimineringslagen)

The Discrimination Act contains prohibitions against employers discriminating against women.

1.2 What is the controlling case law?

Sweden follows civil law primarily based on codified law (acts). Consequently, there is no controlling case law for domestic violence cases in Sweden. However, there is case law interpreting the acts that, in practice, can be relevant for domestic violence cases. For example, where crimes have been committed at home, this can be an aggravating circumstance when deciding on a punishment for the crime at hand.

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

There are no specific courts that handle domestic violence. The general courts (district court, court of appeal and Supreme Court) handle various kinds of criminal offenses. However, within a court, there may be departments that are specialized in certain types of crimes.

1.4 What are potential causes of action?

N/A. There are no crimes that are labelled "domestic violence." The prosecutor handling the case initiates a prosecution if he or she considers there to be sufficient evidence to prove that a crime has been committed and that a certain person has committed it.

2 Introduction: framework guiding domestic violence law

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

Yes. There are both civil and criminal legal remedies.

Civil law remedies

Victims can make a tort claim against the perpetrator. In these cases, the applicable law is the Swedish Tort Liability Act (1972:207) (Skadeståndslagen). According to the Swedish Tort Liability Act, one can get economic compensation for harm that is followed by injuries caused by violence, e.g., compensation for hospital bills and income loss as well as any permanent or temporary physical and/or psychological harm. According to the same act, the victim also has a right to compensation for the violation itself if the crime involves a personal attack on the victim, his/her freedom, peace or honor. According to SOU (Governments Public Investigations) 2002:71 p. 64, domestic violence is covered by the provision and also grants this kind of compensation.

If the offender is unable to pay and the victim does not have insurance that fully covers the injuries, she/he can sometimes get compensation from the state. Such compensation is known as criminal injuries compensation (brottsskadeersättning). This compensation is granted on the basis of the Criminal Injuries Compensation Act (1978:413) (Brottsskadelag), which includes
compensation for injuries that the victim suffers, including clothes, glasses and other similar objects the victim wore at the place and time of the injury. The compensation is calculated according to the rules in the Swedish Tort Liability Act. Compensation is granted by the Swedish Crime Victim Authority (Brottsoffermyndigheten).

Criminal law legal remedies

Criminal regulations involve legislation that makes the likes of assault, rape, sexual harassment, stalking and forced marriage punishable crimes — with both prison and fines as consequences. The victim can always report cases to the police, who will open a case and investigate it. The prosecutor then assesses the evidence and decides to either proceed and initiate criminal proceedings or close the case. If the prosecutor goes forward, a criminal case is opened and all criminal remedies available will be considered. The offender is liable for compensation for any damage or injuries caused by a criminal act. The victim must claim damages from the offender. To facilitate this, the prosecutor must prepare and present the claim for damages at the hearing, on request by the victim (who is supported by government-paid counsel in most cases). In principle, the victim can claim damages for all damage and injuries incurred in connection with the crime, e.g., damaged or lost belongings, medical expenses, pain and suffering, and violations of personal integrity.

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)?

Sweden does not explicitly consider "domestic violence" as a human right. However, since Sweden has made the European Convention of Human Rights (ECHR) part of Swedish law, some acts of domestic violence may be considered as a human right through Article 3 and the ban against torture. According to CEDAW General Recommendations no. 35, some violations of women’s sexual and reproductive health and rights, such as forced abortion, forced pregnancy or abuse and/or mistreatment of women and girls seeking sexual and reproductive health information, may amount to torture. Sweden has criminalized all domestic abuse acts in the Istanbul Convention with prison as a consequence of violation.

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. Sweden signed the convention on 11 May 2011 and ratified it on 1 July 2014. The convention entered into force on 1 November 2014, three months after ratification.

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

According to the special investigation initiated by the Swedish government about Sweden's compliance with the convention, which was followed up by a government-assigned expert group, Sweden already had most of the articles in the Istanbul Convention covered by existing legislation. However, there were some gaps consisting of Sweden not having appropriate legislation for forced marriage, double criminality for Swedish jurisdiction relating to crimes committed abroad and prolonged limitation periods for certain crimes. These gaps were summarized by the group in the...
following report (DS 2012:52), in which Sweden made reservations and explained the gaps instead of revising its laws.¹

In the following years, Sweden has tried to fill these gaps with appropriate legislation and these solutions will be accounted for below.

**Criminalization of forced marriage and related issues regarding attempting such crime, jurisdiction without the requirement of double criminalization and extended statutes of limitations**

As mentioned above, Sweden has criminalized forced marriage in the Swedish Penal Code. Since 2020, the regulation on forced marriage has also specifically covered crimes regarding children under 18. The provision regarding children under 18 is also exempt from the otherwise applicable principle of double criminalization, which makes forced marriage in another country were such marriage is legal still illegal according to Swedish law.

Since 2018, the recognition of marriages that have been entered into abroad in accordance with foreign law is not valid according to the Swedish Act (1904:26 s. 1) in relation to some international judicial relationships concerning marriage and guardianship in certain situations. A marriage is not valid in the following situations:

- if any of the parties were under 18 at the time of the entry
- if at the time of the entry there existed some other obstacles against the marriage according to Swedish law
- if one of the parties was a Swedish citizen or permanently lived in Sweden
- if it is likely that the marriage was forced
- if both parties were not present at the time of the wedding
- if someone is a Swedish citizen or permanently lived here

Only if both parties are over 18 and there are special reasons will such marriage be accepted.

Since 2020, Sweden has had legislation in place that enables authorities to put a child under a travel prohibition if the child is in risk of being married abroad against their will.

**Extended statutes of limitation, counted from the day the plaintiff turns or should have turned 18 years of age, in cases of assault due to forced abortion or sterilization**

Sweden does not have forced abortion or forced sterilization as individual crimes. Such abuse is instead considered as assault — or aggravated assault. Furthermore, Sweden does not have a separate statute of limitation for assault crimes including forced abortion or forced sterilization. This issue was addressed by the special investigators appointed by the government in 2012. However, a solution has not yet been found. Sweden's assault laws are general for both children and adults, and the statutes of limitations are general as well. This means that a change of the limitations for assault would have an impact not only on assault in the form of forced abortions and sterilizations, but also on regular assault cases, which would change the entire political standpoint for how severe an assault is seen.

Sweden does, however, have such special statutes of limitation in cases of genital mutilation against children under 18, which is — in line with the convention – counted from the day the victim turns or should have turned 18.
Sweden has addressed and implemented most of the recommendations. However, Sweden has struggled in implementing effective strategies at a state level to ensure that authorities and state bodies work adequately against discrimination (against women) and domestic abuse. In Appendix I to its Baseline Evaluation Report published on 21 January 2019, GREVIO made 41 recommendations on measures to strengthen the implementation of the convention. In proposing such measures, GREVIO has adopted the use of different verbs that correspond to different levels of urgency. These are, in order of priority, “urges,” “strongly encourages,” “encourages” and “invites.” GREVIO uses the verb “urges” where it considers that immediate action is required to bring the party’s legislation or policy into compliance with the Istanbul Convention, or to ensure its implementation. GREVIO has urged Sweden to take measures as described below.

- **Paragraph 17**: Measures to ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3.
- **Paragraph 55**: Measures to conclude the ongoing work on introducing case management systems that would enable cases of violence against women to be tracked from reporting to indictment and beyond in relation to all criminal offenses required by the convention. GREVIO further urges the authorities to use such data to analyze attrition rates, clarify underlying causes of attrition, follow trends in this area and use the findings to create evidence-based policies and/or make changes to legislation. In this manner, the well-established practice of the Swedish authorities to rely on sound evidence-based policymaking would be confirmed and further strengthened.
- **Paragraph 125**: Step up efforts to enhance and formalize cooperation structures in relation to cases of all forms of violence against women within and across local authorities, government agencies and women’s specialist support services.
- **Paragraph 149**: GREVIO is concerned at the situation of children who accompany their mothers to domestic violence shelters but recognizes that remedies are being proposed. GREVIO urges the Swedish authorities to swiftly implement the proposals made by the Committee of Inquiry on a strengthened “child rights perspective” in sheltered accommodation to ensure that the necessary support and counselling, including for post-traumatic stress disorder (PTSD), as well as continued access to education, can be provided to children residing in domestic violence shelters with their mothers.
- **Paragraph 171**: GREVIO is concerned that not all actors are fully aware of the possible negative impact on the safety and protection of abused women and their children, of decisions taken on child custody, residence and visitation rights. GREVIO therefore urges the Swedish authorities to ensure that in the determination of child custody decisions, the family law sections of social services and courts take all appropriate measures to ensure that such decisions do not jeopardize the safety of abused women and their children. In this context, GREVIO stresses the need for more effective training and support to be provided to family law judges.
- **Paragraph 204**: GREVIO urges the Swedish authorities, in particular the law enforcement authorities, to reinforce their investigative capabilities significantly to reduce the backlog of domestic violence and rape cases, and to take immediate measures to ensure a prompt and appropriate response by law enforcement agencies in all cases of violence against women, as required by Article 50, paragraph 1 of the Istanbul Convention (paragraph 204 in Appendix I).
Paragraph 229: GREVIO urges the Swedish authorities to revamp their system of protection orders and equip the competent authority with the power to specifically expel a perpetrator of domestic violence from the joint residence that he shares with the victim in situations of immediate danger and as an emergency safety measure, and for this expulsion to remain in force for an appropriate length of time to allow the victim to feel safe and to take other measures to ensure safety. Moreover, GREVIO strongly encourages the Swedish authorities to end the practice of allowing for exceptions to prohibitions on contact.

Paragraph 245: GREVIO encourages the Swedish Migration Agency to continue the practice of recognizing the particular hardship that the revocation of a residence permit may result in for foreign women abused by their sponsoring spouse or partner. GREVIO invites Sweden to assess the requirements that the violence be the "primary" cause of relationship breakdown and that the violence be "serious" and/or repetitive in nature in the context of actions that enable an abuser to control a woman and limit the likelihood of her leaving a violent situation for immigration reasons.

Lastly, GREVIO urges the Swedish authorities to lift any exceptions set out in the Law on Temporary Restrictions to obtaining a residence permit in Sweden in as far as they limit women’s right to a residence permit in accordance with Chapter 5, Section 3 of the Swedish Aliens Act.

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

Sweden has criminalized all gender-based violence violations mentioned in Section 18 of General Comment No. 35, for example by way of the so-called consent act, which transforms any form of nonconsensual sex, where the offender should have realized the lack of consent, into a version of rape. Appropriate statutes of limitations are in place with some cases never being run down by time, for example child rape cases and genital mutilation cases.

Sweden has not implemented any specific measures with regard to the recommendations part of General Comment No. 35. However, Sweden reports periodically to the CEDAW regarding Sweden’s compliance with the 1979 Convention. The recommendations by the CEDAW in General Comment No. 35 are fulfilled by way of various legislations. An example is the Swedish Discrimination Act (2008:567) (Diskrimineringslagen), which prohibits discrimination from an employer (also the state) against, e.g., women. In the Swedish constitution, there is a regulation stipulating that the state must be unbiased and objective in all its work (The Constitution of Sweden (1974:152) (Regeringsformen), Chapter 1 Section 9). Sweden has also been using different kinds of handbooks to ensure that all authority is practiced the way it should be in theory.

Sweden has also implemented preventive methods when women may be at great risk of domestic violence, including keeping an old address when moving to ensure that the perpetrator does not have the possibility of seeing the victim’s address (Swedish Act on Civil Registry (1991:481) (Folkbokföringslagen) Section 16). This measure can be taken for a three-year period at the time (Section 17).

Victims can also get fictitious personal data, (Swedish Act about fictitious personal data (1991:483) (Lag om fingerade personuppgifter), Section 1), which is a solution for individuals at risk of being exposed to serious crimes such as assault or rape. Individuals also have the right to change their name according to the Swedish Name Act (2016:1013) (Lag om personnamn) in order to ensure that perpetrators cannot find them via name searches, etc., which is especially applied in combination with moving to other cities. As children are also victims of domestic violence, directly as well as indirectly, we can also include some solutions for the child. An example is Chapter 14,
Section 5 in the Swedish Marriage Code (1987:230) (Äktenskapsbalken), which allows the court to try the question of custody if found appropriate in a case of divorce. Further or potential violence is also protected by the acts mentioned below, e.g., the Restraining Orders Act (1988:688) (Lag om kontaktförbud).

Lastly, victims do not pay court fees when a criminal case is introduced and all cases on domestic violence are handled by general courts and are not subject to alternate dispute resolution proceedings.
### 3 Similarities and differences in terminology

Set out below are various terms and their definitions:

<table>
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<tr>
<th>Term</th>
<th>Definition</th>
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<tr>
<td>Violence (Våld)</td>
<td>Is mentioned in relation to certain crimes in the Swedish Penal Code. These include robbery (Chapter 8, Section 5 of the Penal Code) and assault against an official (Chapter 17, Section 1 of the Penal Code). Rape, although the crime can consist of violent elements, does not require any violence for the perpetrator to be convicted (Chapter 6, Section 1 of the Penal Code). As such, violence as an element of crimes is defined differently depending on the crime. For example, snatching something from another person or pushing someone is normally not enough for violence as a requirement for robbery or assault against an official; whereas violence with regards to rape also constitutes physical coercion (e.g., by splitting the victim's legs or obstructing the victim's body movements) as well as less severe forms of violence, such as jerking or tearing another person's arm or clothing or pushing or holding someone. Moreover, in the handbook on violence in close relationships issued by one of the major local regions in Sweden, Västra Götalandsregionen, violence is defined as &quot;any act that is directed against a person, through which that person is harmed, caused pain or humiliation, caused to do something against its will or abstain from doing something against its will.&quot;</td>
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<td>Domestic violence (våld i nära relationer)</td>
<td>Means all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, irrespective of whether or not the perpetrator shares or has shared the same residence with the victim. Swedish rules relating to domestic violence have a broader grant than the Istanbul Convention and include, among other things, violence in same-sex relationships.</td>
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<td>Stalking (olaga förföljelse)</td>
<td>Refers to when a person persecutes another person through criminal acts of a certain kind (explicitly listed acts in the regulation), which are assault, unlawful coercion, unlawful threats, violation of the privacy of a person's home, photographic activity constituting invasion of privacy, identity theft, unlawful violation of integrity, violation of a restraining order, abuse, sexual abuse or harm. Each of these acts must have resulted in a repeated violation of the person's integrity.</td>
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<td>Harassment (ofredande/sexuellt ofredande/förolämpning/förtal)</td>
<td>Can mean many things under the Swedish law. The definition of harassment as stipulated in the Istanbul Convention is closest to the definition of &quot;sexuellt ofredande&quot; (sexual harassment) in the Swedish regulation. Criminal liability for sexual harassment includes when a person exposes...</td>
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<tr>
<td>Term</td>
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<td>Fighting Domestic Violence</td>
<td>themselves to another person in a way that is likely to cause discomfort, or otherwise through words or actions, harasses a person in a way that is likely to insult the person's sexual integrity. Such crime is intended to apply to acts that have a sexual orientation. It is sufficient that the act itself is typically of a kind that violates the sexual integrity of the victim, meaning that the victim does not need to show that the violation actually happened in the individual case (thus, the criminal liability goes further than the Istanbul Convention requires). Ruthless behavior that does not have a sexual dimension may instead be considered as molestation (ofredande) in accordance with Chapter 4, Section 7 of the Criminal Code. Other statements, accusations, insults or gestures may constitute insults (förolämpning) according to Chapter 5, Section 3 of the Criminal Code.</td>
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<td>Victim (brottsoffer/målsägande)</td>
<td>Has no generally accepted definition. The crime victims who report crimes to the police in Sweden are called plaintiffs in Sweden. The term plaintiff is defined in Chapter 8, Section 8 of the Trial Code as the person against whom a crime has been committed or who has been offended or suffered damage by the crime. To obtain plaintiff status, the crime must be reported to the police. This means that the definition of a crime victim is significantly broader than the definition of plaintiff, as not everyone who is exposed to crime reports it. Anyone who reports a crime to the police gets access to a number of rights, including information, support and compensation, which crime victims who do not report risk losing. Another example of a person who suffers from a crime but does not get the status of a plaintiff is children who witness domestic violence. That child is considered a victim of a crime under the Social Services Act, but not as a plaintiff under the Trial Code.</td>
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<tr>
<td>Abuser (gärningsman)</td>
<td>Abuser or offender is the person who has committed a crime or a violent act.</td>
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<td>Civil protection order (kontaktförbud)</td>
<td>Refers to a ban against a person visiting or otherwise making contact with another person or following that person. Such ban may be issued if there is a clear and concrete risk that the person to whom the prohibition applies will commit a crime against or otherwise seriously harass the person whom the prohibition is intended to protect. The Swedish legislation on protection orders goes beyond the protection required under the Istanbul Convention, as the Swedish protection rules are aimed not only at the risk of crime,</td>
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but also at persecution and serious harassments that are not necessarily punishable.

Marital rape (våldtäkt inom äktenskap) is the act of sexual intercourse with one's spouse without the spouse's consent.

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

No.
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? Who can petition for civil protection orders?

Yes. However, they are not called civil protection orders in Swedish legislation. Instead, they are called contact bans. In the Restraining Order Act (1988:688) (Lag om kontaktförbud), Section 1 states that there is a general contact ban that can be granted to a victim of domestic violence. The general contact ban is limited to cover direct contacts, such as phone calls, emails, regular talking, seeking the victim, etc. According to Section 2 of the same act, the contact ban can be expanded to ban the perpetrator from visiting certain places and around certain places, such as workplaces and homes.

According to the same act, anyone with a legitimate need for a restraining order can petition for one. An order is granted by a prosecutor. According to Section 7 of the same act, a petition for a civil protection order can be brought up by the victim/survivor, other affected person or even by the prosecutor him/herself.

4.1.2 Are there temporary custody of a child or child support orders?

The Swedish Care of Young Persons (Special Provisions) Act (1990:52) (Lag om vård av unga) declares that a child in danger of being harmed, physically or mentally, or in any other way when there is a palpable risk that the child’s health or development may be harmed, the child can be taken care of. According to Section 5 of the same act, it can be issued immediately if the risk is obvious.

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

The aforementioned Restraining Order Act, Section 1 a, regulates contact bans when the parties share housing. A contact ban can be issued toward an individual that has a common residence. Although this is the case, GREVIO7 expressed some concerns about the fact that there is no specific regulation giving authorities the right to directly remove a person from a residence that the individual shares with the victim, which has not yet been solved by the Swedish legislators.

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

Yes and no. Protective orders can be issued in situations where a crime has been committed, when there is an investigation about a potentially committed crime, a combination of the two, or if there is a potential risk of a crime being committed.

According to the Restraining Order Act, Section 6, matters of protective orders will be handled promptly. If the matter is acute, it should be handled "particularly" promptly, which is often the case when dealing with domestic violence cases.
Other preventive protective orders can be issued for situations when there is an underlying risk of domestic violence that has not yet taken place. Such preventive orders demand that there are certain circumstances that point toward a potential crime against a specific subject from a specific subject (see Section 1). See also above under Section 2.

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

Yes. In children's cases, according to the prosecutor among others, parents, other relatives, or others can request such protective order on behalf of the child itself.

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

In Sweden, there are ordinary, extended and even more extended variations of protective orders. Firstly, under the Restraining Order Act, Section 4, different time limitations and allowed extensions depend on the situation and the kind of order. The different kinds of orders also vary in severity. As mentioned, Sweden has three variations from smaller protected areas to larger ones.

The applicable law gives a right to a protective order valid up to a maximum of one year (the Restraining Order Act, Section 4). For protective orders regarding individuals with shared housing, the order can be a maximum of two months. The general protective order can be extended by a maximum of one year at a time, except when there is electronic surveillance (e.g., so-called intense electronic surveillance or an ankle bracelet) involved, in which case it is extended by a maximum of six months at a time. For orders regarding individuals with shared housing, the order can be extended two weeks at a time.

4.1.7 Are ex parte orders permitted without the aggressor being present?

Yes. The aggressor does not need to be present when issuing a contact ban.

In April 2020, a report on statistics on protective orders was published by the Development Centre for Swedish Prosecutors. During 2019, about 10,000 applications for contact bans were made. Approximately 2-4 out of 10 applications were granted. The investigation showed that there were regional differences and that further education was needed.

4.2 Steps for receiving a protective order

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

According to the relevant legislation (the Restraining Order Act, Section 7), there is no mandatory prescribed form for a petition for a civil protection order. In other words, there are no formal requirements for filing a request. Although this is the case, some things should be stated in the application, such as evidence. The prosecutor has to objectively evaluate the material provided and make a decision based on that evaluation. Without adequate evidence, it is hard for the prosecutor to grant a contact ban without disregarding the fundamentals of the rule of law.

This demands — according to the prosecutor's office and its handbook on contact bans — a certain awareness when dealing with domestic violence cases and contact bans. The fact that no formal requirements are set for a request for a contact ban means that it is important to be observant about whether people involved in ongoing cases, e.g., in phone calls or letters, express what can be interpreted as a request for a restraining order and/or contact ban.
4.2.2 Does the victim need to attend a hearing?

No. The victim only needs to file a motion for a contact ban, which will then be evaluated by a prosecutor. If the prosecutor believes it is a valid case, he will pass the motion and grant a contact ban. The prosecutor's decision can be tried by a general court, upon request from the person against whom the contact ban is directed.

4.2.3 Are there different rules in emergencies?

No. Emergency cases are regulated in the same act and the same section, but the regulation explicitly stipulates that cases in which the victim is in great risk of domestic violence should be handled hurriedly. A victim always has the possibility of calling the police; in all emergency cases, the police will engage.

4.3 Judicial discretion

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

The judge or judges only try the decision that the prosecutor has taken about a contact ban in cases of appeal according to the act on contact bans. Cases like this occur when the individual against whom the contact ban is issued, or for whom the contact ban is issued, wants to get the case tried by a court. This also follows the act on contact bans.

4.3.2 Are there age limits on who can obtain orders?

No.
5 Prosecutorial considerations

5.1 Police procedures

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

The police get involved whenever a potential crime comes to their attention.

5.1.2 What circumstances affect law firm involvement?

A legal representative (private practitioner) (målsägandebiträde), paid for by the state, will usually be appointed to support the crime victim. The perpetrator will also be assigned a public defender (private practitioner paid by the state).

5.2 Standard of proof

5.2.1 Is proof required by any legal means?

Yes.

5.2.2 Are there any requirements regarding evidence and documents?

No, but any supporting material would be in favor of the victim. Sweden applies the principle of free evaluation of evidence.

5.2.3 Is proof "beyond a reasonable doubt" required?

Yes.

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

No.

5.3 Affirmative defenses

5.3.1 Are affirmative defenses available to the accused?

Yes.

5.3.2 Is willful intent required?

For most of the crimes that may appear in a domestic violence context, such as assault and rape, willful intent is required. However, some acts are also criminalized when committed as a consequence of negligence, such as causing bodily damage or someone's death. As will be described below, Sweden also has a consent legislation for rape.
5.3.3 Are false accusations punishable for the victim?

Yes. Under Chapter 15, Section 7 of the Swedish Penal Code, a person who untruthfully accuses another person of a criminal act, alleges a compromising circumstance, or denies an exonerating or extenuating circumstance before a prosecutor, the Swedish Police Authority or another public authority is, if the authority is obliged to receive a report of this kind, guilty of making a false accusation.

5.3.4 How is consent discussed in the law?

Whether consent is actually given is determined based on whether the person has expressed their consent, verbally or nonverbally. A person can never be considered to have given their consent if the act is preceded by an assault or a threat, if the person committing the act takes inappropriate advantage of someone’s unconsciousness or fear, or other circumstances putting the victim in a compromised position, or if the person is dependent on the perpetrator. Based on the fairly new consent rules from 2018, the Supreme Court of Sweden recently ruled that a person simply remaining passive under an act (sexual abuse) is not considered to automatically have given consent to the act. Further, rape crimes no longer require harm, a threat or any other abuse of the victim. In addition, intent is no longer required, meaning that grossly negligent acts are covered by the law. The law requires that the perpetrator should have suspected that the person (i.e., the victim) has not expressed their consent due to the circumstances at hand.

5.3.5 Is self-defense or insanity a defense?

Yes. Under Swedish law, self-defense is a circumstance that excludes liability if the self-defense is proportionate to the threat or violence that is directed toward the victim.

In the case of a serious mental disorder, the offender cannot be sentenced to prison.

5.4 Witness status

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

In accordance with Section 36, Chapter 1 of the Code of Judicial Procedure (1942:749) (Rättegångsbalken), all witnesses must testify if the prosecutor, the suspect or the defense deems it necessary. Witnesses must take the following witness oath: "I, N.N., promise and assure with my honor and conscience that I will tell the whole truth and not conceal, add or change." All witnesses must testify honestly or completely, and testifying against the witness's oath is criminalized as perjury under Section 15, Chapter 1 of the Swedish Penal Code (1962:700) (Brottsbalken).

5.4.2 Who may abstain from testifying in certain situations?

In accordance with Section 36, chapters 3 and 13 of the Code of Judicial Procedure (1942:749) (Rättegångsbalken), a witness will not be obligated to take the witness oath if any of the following conditions apply:

- They are a party to the case, i.e., a co-defendant.
- They are a close relative of the accused.
- They are under 15 years of age.
- They suffer from a mental disorder.
- They are covered by a duty of confidentiality or an obstacle to confidentiality through, e.g., occupation.
If the witness belongs to any of the above categories, they may abstain from testifying in a domestic violence action.

5.4.3 Can children be called upon to testify?

Yes. However, children are not obligated to take the witness oath in accordance with the above. Furthermore, the court has to try if it is appropriate for a child to testify considering all of the circumstances, if the child is under 15 years of age.

5.5 Penalties and sentencing; penalty enhancements

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

Since Sweden does not have a separate category for domestic violence offenses, the penalties differ in accordance with the crime. For general assault in Chapter 3, Section 5 of the Swedish Criminal Code, the criminal penalty is a maximum of two years in prison. If the assault is deemed severe or especially severe, Chapter 3, Section 6 of the same act states that the penalty is a maximum of six years or 10 years respectively. A violation of women's integrity or a violation of an existing order for protection in accordance with Chapter 4 Section 4 a of the Swedish Criminal Code has a penalty of a maximum of six years in prison.

5.6 Post-release restrictions

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

Yes, if the victim decides they want to be informed of this in accordance with Section 13 b of the Preliminary Investigation Decree (1947:948) (Förundersökningskungörelse).
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.)

Yes. As mentioned above, self-defense can sometimes be considered a circumstance that excludes liability. Such self-defense can also exclude liability even though the threat or the violence is merely fictive, given that the circumstances otherwise give the victim reason to believe he or she acts in self-defense and that there is an overhanging or ongoing threat (putative self-defense).

6.2 Domestic violence in the workplace

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

There are no specific provisions in Swedish labor law regarding domestic violence protection in Sweden.

6.3 Immigration

6.3.1 Does the law include provisions which are intended to prevent abusers who are Swedish citizens or permanent residents from using immigration laws to perpetrate domestic violence against their spouse?

Although the Swedish Aliens Act (2005:716) (Utlänningslagen) specifically mentions "gender" and "sexual orientation" as a ground for asylum, there are no specific provisions in Swedish immigration law regarding domestic violence protection for battered immigrants. Battered immigrants cannot obtain any immigration remedies for cooperating with law enforcement, and domestic violence laws do not regulate asylum accessibilities.

6.4 Armed forces

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

There is no specific military law in this respect and armed forces personnel are subject to normal law. Hence, there are no military protective orders for victims of abusers in the active military. However, as detailed above, contact bans may be issued.
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?

Yes. In accordance with Section 6, Chapter 2 a of the Parental Act, the "best interests of the child" must be decisive for all decisions regarding custody, housing and visitation. When assessing the best interests of the child, courts must pay special attention to the risk that the child or someone in the family is being abused or that the child has been illegally abducted or detained, or otherwise maltreated.

However, this must be balanced with the child's need for close and good contact with both parents.

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

Yes, taking into account the age and maturity of the child.10

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?

Yes. Chapter 12, Section 46, para. 2 of the Land Code (1970:994) (Jordabalken) states that a crime from a related person may be considered for a landlord to extend a lease. Chapter 12, Section 5 of the Land Code states that a tenant or landlord may always terminate a sublease with three months' notice. For leasing, the tenant may terminate the lease with one month's notice, and the landlord with three months' notice in accordance with Section 3 of the Leasing of Housing Act (2012:978) (Lag om uthyrning av egen bostad).

6.6.2 Can an order exclude the abuser from the residence?

Yes, as detailed above, Chapter 1 a, Section 1 of the Restraining Order Act (Lag om kontaktförbud) (1988:688) states that a restraining order can be issued toward an abuser excluding the abuser from a residence shared with the victims of domestic violence. However, the restraining order can only be issued if the abuser can access their personal belongings, e.g., clothes, work material and mail.

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

Yes. If the abuser is in a relationship, unmarried or married, and shares property with the victim of domestic violence, Section 23 of the Cohabitees Act (2003:376) (Sambolagen) and Chapter 7, Section 5 of the Marriage Act (1987:230) (Äktenskapsbalken) states that the property cannot be mortgaged without the prior written consent of both cohabitees.
Endnotes

1 Proposition regarding contact bans (in Swedish).
3 Group of Expertson Action against Violence against Women and Domestic Violence.
4 The Tenth Periodic Report by the Government of Sweden on the measures in accordance with the 1979 Convention.
6 Handbooken violence in close relationships (in Swedish).
7 GREVIO’S report 2019, List of GREVIO’s views and suggestions (in Swedish).
8 The Swedish Prosecutor Authority’s Handbook on Contact Bans (in Swedish).
9 The Swedish Prosecutor Authority and the Police's report on Contact Bans 2020 (in Swedish).
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