



WAVE-Network & European Info Centre Against Violence

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Do laws such as protective orders work to prevent violence against women?

In 2001 even Italy, following Anglo-Saxon countries, introduced **protection orders** with laws no. 149 and 154 of 2001 finally providing that it is the offender of domestic violence that shall leave the house and not the victim as usually had happened. The 149 law had given the power to the juvenile court to ban an offender parent whilst law no 154 had established that civil court may remove a violent partner from the domestic domicile.

In fact protection order consists in an order of a court compelling the violent to leave the family house, banning his return and forbidding the violent to get closer to home, the workplace, or the children's school and to all places usually frequented by the victims.

After ten years since the introduction of protection orders, we have enough indicators to verify their efficiency. The survey conducted by female lawyers of the anti-violence centers revealed that the instrument of protection orders is not well-known and/or not utilized by lawyers. Furthermore, this measure is considered by judges with particular caution, if not with suspicion, because it seems to be too punitive.

At the same time it shall be remarked that according to overseas countries' researches, the percentage of violations of the protection order is very high: about 20%.

The court order, in fact, has its effect on people who still have control of their actions and attitude of respect for authorities and their acts, not on who is taken by his obsession.

Often, the stalker also feels "challenged" by the ban and his conduct can become even more aggressive. In addition, in Italy, those who violate the civil protection order do not suffer any immediate sanction or detention.

However, we noticed that women who refer to our shelters prefer, at least initially, ask for a civil protection order, because they consider it less intrusive and afflictive than criminal measures, and at the same time they achieve the chance to have time to recover their balance and serenity.



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New reforms have been introduced without any effort of harmonization with the *ratio* funding the protection orders.

Firstly I refer to law no.54/2006 introducing the so-called “joint custody” and assuming as general rule that children need both parents and to maintain meaningful relationships with the parental family of each branch.

Joint custody became the rule and it is established by the judge since the first hearing of the divorcing or regulating proceedings, without any consideration of the peculiarities of the cases where it has been reported domestic violence.

Secondly, I recall Law No. 38/2009, introducing in Italy the crime of stalking article 612 bis of the penal code.

In Italy the Modena Group on Stalking firstly outlined indexes of stalking and identified some basic strategies for defending against stalking:

1. communicate definitely to the stalker that his attentions are unwanted and will not be tolerated further;
2. avoid any further contact with the stalker; this step is crucial because experts says that as more as time passes without contacts the persecutory stalker’s conduct will cease
3. refer to the authorities;
4. personally take care of personal security and privacy;
5. do not accept clarifying meetings with the stalker: **the victim should become invisible.**

Regrettably it must be underlined that most of stalking is committed by former partners and often although the presence of minor children. The need to manage children and the obligation of cooperation between parents do not allow to the woman to protect herself and many women were killed during parental visits.

In these cases a solution could be to allow only parental visits supervised by the social assistance’s operators, but these meetings cannot last indefinitely, for lack of economic resources and also because the protection order has temporal limit: in fact it lasts one year, renewable once. A period of time that is not sufficient to require the stalker to change the conduct.

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