



HUMAN
RIGHTS
WATCH

UNLESS BLOOD FLOWS

Lack of Protection from Domestic Violence in Hungary



Unless Blood Flows

Lack of Protection from Domestic Violence in Hungary

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Summary

Lívia is a 37-year-old woman from Budapest with 3 children and a history of 14 years of abuse at the hands of her husband—abuse that has only gotten worse with time. On numerous occasions, she would lock herself in the toilet after being beaten by her husband and call up the police on the phone to report the abuse. Because of her fear of her husband, she would tell the police to say that it was the neighbors who had reported the incident. The police would come and her husband would deny he had hit her. On one occasion, she said, her husband hit her in the face in front of the police but still they would take no action against him.

In 2011, Lívia said her husband beat her every day for a whole month. She finally managed to call the police and he was beating her as police arrived at the scene.

“The three officers that came out intervened and beat him to the ground and took him to the station,” she said. “He was released the next day and nothing else happened.”

The following year Lívia’s husband hit her repeatedly on her head to the point where she suffered a concussion.

“In the past four years, I called police many times to tell them to do something as my husband was threatening violence,” Lívia told Human Rights Watch. “They always told me that they can’t do anything unless blood flows.”

Survivors of domestic violence, women’s rights organizations, lawyers, shelter staff, and police officers interviewed for this report described brutal violence inflicted on women in Hungary, with often severe and long-lasting impacts on physical and psychological health. They described women stabbed and chopped at with knives, axes, and swords; kicked and punched in the abdomen while pregnant; raped; beaten with sticks, prams, iron rods, and thick cables to the point of broken bones and skull fractures; locked in sheds without clothes in winter; thrown off balconies; dumped in remote areas in the middle of the night; and subjected to severe psychological violence.

Efforts to combat domestic violence in Hungary face serious obstacles including a general lack of understanding at all levels of society of the dynamics of domestic violence and how best to respond to it; traditional views of women and their roles in Hungarian society; and a far too frequent acceptance, including by women themselves, that violence against women is inevitable.

Furthermore, there are important gaps in Hungary's legal and policy framework for responding to domestic violence. Until July 2013, domestic violence was not even a specific criminal offense. Domestic violence was dealt with like other violence, categorized on the basis of the severity of the injuries, with attacks that resulted in wounds that heal within eight days deemed minor, and requiring the victim rather than police or prosecutors to initiate legal action.

The new domestic violence offense introduced in July 2013 provides for stiffer penalties for assaults that take place in the context of domestic situations, and places responsibility to take criminal action against the perpetrator on the prosecutor rather than the victim. But an assault against an intimate partner will only be classified as an instance of domestic violence if there are at least two separate instances of abuse. Moreover, the new legislation does not cover non-cohabiting partners. There is no comprehensive national strategy or policy on how to combat domestic violence. While there are guidelines for police on domestic violence, there are no comparable guidelines for prosecutors, judges, and health and social workers.

Besides the legal gaps, the limited provisions that do exist are not sufficiently implemented or respected.

Women survivors of domestic violence in Hungary face many barriers to reporting violence, including fear that they will be subject to further violence by their abusers if they come forward. Anna told Human Rights Watch that her husband threatened her with more beatings if she told the police and he even hit her mother, who called police on her daughter's behalf. When the police finally came, Anna was too afraid to say anything and her husband denied abuse. "After the police left, he continued hitting and kicking me," she said.

Lack of confidence in the police also impedes reporting, particularly for women from the Roma minority, which is already subject to widespread discrimination. One shelter worker described how abusive partners often know police officers socially. As a result, she said, a typical response to domestic violence is that the officer “comes out and pats the abuser on the back while telling the woman not to provoke him and to do better in the household.”

This lack of trust in law enforcement is made worse when police fail to respond effectively when women do approach them. In most situations that Human Rights Watch documented, the police response to domestic violence was inadequate, negligent, or downright hostile. In one case, police even threatened the victim, warning her they would report her for endangering her children on the grounds that she had “let” her husband abuse her.

Many of the women Human Rights Watch interviewed, like 37-year-old Lívia, whose case is described above, said that police officers who were called to homes ignored or downplayed the violence or blamed victims when it occurred in front of them.

In general, according to most women interviewed, the standard police response is that they cannot or will not intervene “unless blood flows.” One shelter worker told Human Rights Watch that when she called police in 2011, they dismissed her concerns about a neighbor being raped by her partner. “[I] was told that I should only call if blood flows,” she said, adding she was told that if she couldn’t see the abuse from her own apartment, “it’s probably not so bad.”

Women also told us that they were reluctant to report violence because they were afraid they would lose custody of their children if child welfare services became involved. While we did not document any cases in which it was definitive that women lost custody solely due to domestic violence, we documented several cases in which police and child welfare services threatened women with loss of custody on grounds of “child endangerment.” In one instance, child welfare services told a woman to “solve” her domestic abuse situation or else face her children being taken away. In another case, child welfare services told a 37-year-old mother of three that unless her husband behaved differently or she left, they would take her children. “After that, my husband knew he could do anything to me because I wouldn’t call the police in fear of the authorities,” she said.

The problem begins with the fact that officers are poorly trained on how to respond to violence, despite the existence of guidelines. Our research indicates that police also fail to make proper use of civil restraining orders. Police have the power to impose a restraining order for 72 hours for preventive purposes without violence having taken place and without the victim needing to request it. However, we found that police generally require the victim to make a formal complaint before they are willing to issue a restraining order unless the injuries are very serious.

Women seeking protection from violence also face hurdles in the justice system. Some courts only grant civil restraining orders in cases of serious injury, in cases in which the victim can produce the kind of evidence needed for a criminal case (unnecessary for civil restraining orders), or only for a short period of time. In some cases, courts decline to issue orders in the absence of the accused.

There are also shortcomings in prosecution of domestic violence. Our research shows that negligent and dismissive police responses to reports of domestic violence may contribute to the low numbers of prosecuted cases. Another factor is the importance public prosecutors give to the conclusions of medical reports in determining whether they will pursue cases of domestic violence. Doctors tend to classify injuries short of broken bones as light, thereby shifting responsibility to the victim to pursue legal action, at least for offenses committed before July 1, 2013, when the new criminal offense came into force.

Lack of guidelines for prosecutors and judges contribute to the problems. If cases do come to court, they tend to be heard in the area where the home is located, which creates problems for women temporarily in shelters in other parts of the country.

Under Hungarian law medical professionals have a duty to report suspected domestic violence cases where injuries take more than eight days to heal. While medical providers have an important role to play in detecting and addressing domestic violence, the World Health Organization (WHO) recommends that domestic violence laws not include mandatory reporting by health care providers to police because it may discourage domestic violence survivors from disclosing information, compromise doctor-patient confidentiality, impinge women's autonomy, and contribute to the risk of retaliation. Providers should inquire about domestic violence, provide sensitive treatment, thoroughly document the injuries and the survivor's statements concerning the abuse, provide

referrals or information about safety options and resources for the survivor, ensure confidentiality, and ask survivors if they want the medical provider to report the abuse to authorities. In Hungary, we found that medical providers failed to ask about domestic violence, thoroughly document injuries, or report the crimes when women asked them to do so. One woman, Erzsébet, told Human Rights Watch that when she went to the hospital for treatment after her husband beat her badly she told the doctor what had happened, but the doctor told her to stop being hysterical and declined to report the incident even though Erzsébet asked him to do so.

Shelters are a vital part of protection for victims of domestic violence, but are inadequate in Hungary. There are only 122 beds in the country, and only 28 of those are located in a shelter with a secret address. To bring the number of beds in line with international standards, Hungary should have approximately 1,000 beds. Women are limited to 60 days in shelters, and only those with children are eligible to apply for a further period in a longer-term shelter.

Hungary has clear obligations under international human rights law to protect women from violence. However, the inadequate police response to domestic violence; the frequent failure to prosecute and punish perpetrators; and the lack of sufficient shelter spaces, services, and support for victims of domestic violence mean that Hungary is falling short of meeting those international human rights obligations and indeed its own guidelines on domestic violence. Despite the recent inclusion of a standalone provision in the criminal code criminalizing domestic violence, Hungary has yet to comprehensively address the widespread problem of domestic violence.

Key Recommendations

(Full recommendations appear at the end of the report)

To the Parliament of Hungary

- Amend the 2013 domestic violence provisions and the 2009 Act on Restraining Orders due to Violence among Relatives to include all de facto couples, including former couples irrespective of whether they legally registered as cohabiting or did not cohabit, in accordance with the United Nations Guidelines on Legislation on Domestic Violence;
- Include rape and sexual violence between current and former intimate partners as a form of domestic violence and;
- Amend the current legal provision on rape and sexual violence to make all such crimes subject to public prosecution.

To the Government of Hungary

- Establish a national action plan to combat domestic violence, with relevant input from women's groups, shelters, health professionals, and other service providers, coordinating efforts amongst all relevant ministries and;
- Ensure relevant, continuous, and up-to-date training on domestic violence for practitioners of all relevant professions.

To the Ministry of Public Administration and Justice

- Establish a set of clear guidelines for prosecutors and judges regarding the application of the 2013 domestic violence provisions and train prosecutors and judges on implementation in accordance with those guidelines.

To the Ministry of Interior

- Provide regular and up-to-date trainings for police officers on the implementation requirements of the 2009 Act on Restraining Orders due to Violence among Relatives regarding the criteria of issuing and enforcing orders and;

- Ensure that specialized training on domestic violence is included in the curriculum of both the two-year police colleges and the four-year police academy, including on the 2013 domestic violence provisions and the 2009 Act on Restraining Orders due to Violence among Relatives.

To the Ministry of Human Resources

- Ensure that there are sufficient specialized and safe shelters for victims of domestic violence, with a view to bringing the number of available places in line with international recommendations (there should be availability for at least one family in a shelter for every 10,000 inhabitants i.e. 1,000 spaces based on the current population of Hungary) and;
- Ensure safe access for all women to shelters irrespective of age, ethnicity, or disability.

To the European Commission

- Establish regular funding streams for women's organizations in Hungary working with or on behalf of victims of domestic violence;
- Provide needed technical and financial support for awareness-raising and campaigns against gender-based violence in Hungary;
- Develop a European Union-wide directive on combatting and preventing domestic violence against women and;
- Urge the Hungarian government to develop a comprehensive national strategy for combating violence against women.

Methodology

This report is based on field research conducted by a Human Rights Watch researcher in Budapest, Kaposvár, and Szolnok between December 2012 and July 2013 as well as email and phone interviews. The researcher was joined during several periods by other Human Rights Watch researchers. Human Rights Watch conducted 29 in-depth interviews with women who had experienced domestic violence. Fourteen interviews were done jointly and 15 were done by a single researcher. The youngest woman was 21 years old and the oldest was 56 years old. Most of the women were interviewed at shelters for victims of domestic violence. We identified the others with the help of local women's organizations. The women we interviewed come from all over Hungary and most had an elementary school level of education.

Interviews were carried out in Hungarian by a Hungarian speaking researcher in all cases except one, where the interview was carried out in English with the aid of an interpreter. All women were informed of the purpose of the interview and its voluntary nature and the goal and public nature of our reports, and they were told that they could end the interview at any time. All women gave their oral consent to participate in the interview. No interviewee received compensation for providing information. Where appropriate, Human Rights Watch provided contact information for organizations offering legal, social, or counseling services. Pseudonyms have been used for all individuals interviewed and the locations of interviews, as well as additional identifying details, have sometimes been withheld.

Human Rights Watch also conducted interviews with a member of parliament, three prosecutors at the general prosecutor's office, four judges at the National Judicial Office, five judges, one police detective, two officials at the National Police Crime Prevention and Victim Protection Unit, the head teacher at the Police College in Budapest, the person responsible for women's rights at the ombudsman's office, one official at the Ministry of Human Resources, two officials at the Ministry of Administration and Justice, the Hungarian Medical Association, and the head of the National Institute of Child Health. We also conducted interviews with lawyers, academics, women's rights organizations, shelter staff, health visitors, and social workers.

All women interviewed in this report had experienced abuse and violence prior to July 1, 2013, when a provision criminalizing domestic violence was introduced into the new criminal code.

Domestic violence affects men, women, and children. However, women make up the overwhelming majority of victims of domestic violence. This report focuses on domestic violence as a form of violence against women.

I. Background

In September 2012, during a late night debate on domestic violence triggered by a private initiative petition to include domestic violence as a crime in the new criminal code, member of parliament István Varga, who belongs to the ruling party Fidesz, stated that the problem of domestic violence could be resolved if women do their societal duty and give birth to three or four children. According to Varga, this would increase the respect for women by their partners leading to an end to domestic violence.¹

The public outrage and protests that followed Varga's statement forced the parliament, where Fidesz has a supermajority, to reverse its previous position and to agree to include domestic violence as a discrete crime in the new criminal code. Or, as Fidesz party leader Antal Rogán stated, "I bow to the will of the ladies."² The government subsequently included a standalone provision on domestic violence in the new criminal code, which entered into effect on July 1, 2013.



"No means no even if we already began" - Demonstration in Budapest against sexual and domestic violence. September 13, 2013.

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¹ HVG, "A fideszes Varga kijelentése miatt szerveznek tüntetést a Kossuth téren," September 11, 2012, http://hvg.hu/itthon/20120911_A_fideszes_Varga_kijelentese_miatt_szerve, (accessed June 18, 2013).

² Népszava Online, "Nem érdekli a kormányt a családon belüli erőszak," March 28, 2013, <http://www.nepszava.hu/articles/article.php?id=633518> (accessed August 7, 2013).

In April 2013, the partner of the mayor of Fülöpháza, who is also a member of parliament, reported her partner for beating her. The mayor blamed the couple's blind dog for causing his wife's injuries.³ The mayor has since been charged with assault of his partner.⁴

The attitudes expressed by these politicians are examples of deeply rooted cultural stereotypes and practices in Hungary. Combined with subpar state response to violence as shown in this report, it suggests how domestic violence is often treated as acceptable or at least tolerated in Hungary. Such public incidents also contribute to the lack of understanding in Hungary of the dynamics of domestic violence and how best to address it at state, regional, and municipal levels. Human Rights Watch research confirms that in practice a certain level of violence is often deemed acceptable or at least tolerated, including by some victims of violence.

Many of the women Human Rights Watch interviewed accepted that they would be exposed to certain levels of physical, psychological, and emotional violence. This was confirmed by staff working in shelters for women. One shelter worker stated that women often endure decades of abuse before reaching out for help: "Women often tell us at the shelter that a slap or two is nothing. They consider it normal and part of life."⁵

Mónika, a 33-year old woman from the city of Ózd, typifies this acceptance of violence:

After a heated argument due to my husband's drinking habits, he lost it and slapped me a couple of times in the face, calling me a useless whore.... It was only a few slaps, I would not consider calling the police because of that. It's just something you get used to....⁶

Women belonging to Hungary's Romani minority are particularly disadvantaged in accessing protection from domestic violence. Roma women told Human Rights Watch that they experience difficulties reaching out for help in their communities, where poverty, unemployment, and social exclusion further fuels the risk of violence against women. A

³ "Megverhette élettársát egy fideszes képviselő," HVG, April 29, 2013, http://hvg.hu/itthon/20130429_Megverhette_elettarsat_egy_fideszes_kepvi, (accessed June 24, 2013).

⁴ Népszabadság Online, "Az ügyészség kikéri az asszonyveréssel gyanúsított Baloghot," http://nol.hu/belfold/az_ugyeszseg_kikeri_az_asszonyveressel_gyanusitott_baloghot, (accessed July 5, 2013).

⁵ Human Rights Watch interview with Dániel Bíró, deputy head of shelter, shelter eastern Hungary, January 21, 2013.

⁶ Human Rights Watch interview with Mónika, shelter eastern Hungary, April 21, 2013.

Romani domestic violence survivor told Human Rights Watch that patriarchal values impact her everyday life:

In my community, women consider violence in the family normal. There is also a lot of pressure on the men to be heads of family. My husband would lose face if he didn't control and discipline me.⁷

Domestic violence exists in all countries and on all levels of society. While factors such as class, ethnicity, socio-economic status, sexual orientation, and disability may contribute in shaping the violence, it is not limited to a specific country, culture, class, or ethnicity. According to a 2013 World Health Organization (WHO) study on domestic violence, about 30 percent of all women who have been in a relationship have experienced physical and/or sexual violence by their intimate partners.⁸ In Europe, WHO estimates that 25.4 percent of all women who have been in a relationship have experienced physical and/or sexual violence by their intimate partners.⁹

A 1999 independent survey, the most recent reliable survey of domestic abuse in Hungary, indicated that one in four women in Hungary is likely to experience physical or sexual violence by a partner at some point during their adult life.¹⁰ While available data on domestic violence suggests that Hungary does not deviate from the WHO European average estimates, existing documentation on domestic violence is out of date and is unlikely to give an accurate account of the current situation.

⁷ Interview with Magda K, Ózd, March 28, 2013.

⁸ World Health Organization, *Global and Regional Estimates of Violence against Woman: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence*, p. 2, http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625_eng.pdf (accessed August 16, 2013).

⁹ *Ibid.*, p. 16.

¹⁰ Social Research Informatics Center (TARKI), 1999. On file with Human Rights Watch.

II. Legal and Policy Framework

The response of the Hungarian authorities to domestic violence has consisted of piecemeal legal and policy efforts. There is no comprehensive national strategy or policy on how to combat domestic violence. The lack of reliable data on the number of women reporting domestic violence to law enforcement, deaths of women by intimate partners, the number of cases that go to court, and the number of court convictions seriously impedes the ability of authorities to ensure an appropriate response.

Until July 2013 domestic violence was not a discrete criminal offense in law. Instead, domestic violence was treated in the same way as other forms of violence against the person, such as assault and battery, in the criminal code.¹¹

In 2009, under the previous government, the parliament adopted legislation enabling the police to issue temporary preventive restraining orders for 72 hours, with the possibility for courts to uphold the order for a maximum of 30 days.

On July 1, 2013, a provision specifying domestic violence as a distinct crime entered into force. Importantly, it shifts the responsibility to prosecute abusers from the victim to the authorities.

There are police guidelines on domestic violence and on the application of civil restraining orders.¹² Both guidelines were developed by the National Crime Prevention and Victim Protection Unit in 2007 and 2009. The guidelines on domestic violence specifically state that when police are called to a scene of alleged domestic violence, parties should be questioned separately, that police should accompany a victim to a safe shelter if needed, and in other cases give relevant information on service providers, local women's rights organizations working on behalf of domestic violence victims, and shelters.¹³

¹¹ Hungarian Criminal Code, 1978, Section 170, Act IV, http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=3356.235163, (accessed June 26, 2013).

¹² National Police Guidelines on police responsibilities in relation to domestic violence and protection of minors, 32/2007. (OT 26), http://archive.police.hu/data/cms536519/32_2007_orfk_ut.pdf, (accessed October 17, 2013) and ORFK utasítás a hozzátartozók közötti erőszak miatt alkalmazható ideiglenes megelőző távoltartás rendőrségi feladatainak végrehajtásáról, http://archive.police.hu/data/cms647433/37_09_orfkut.pdf (National Police Guidelines on the Implementation of Temporary Preventive Restraining Orders), 37/2009 (OT 22)(accessed October 17, 2013).

¹³ National Police Guidelines, (OT.26), section 6- 7 of 32/2007.

Human Rights Watch research indicates that there is a little or no training for the police, prosecutors, and judges on how to apply the law or police guidelines. According to the general prosecutor, there are no specific guidelines for judges and prosecutors on how to deal with the issue of domestic violence or its victims within the context of the criminal code.¹⁴

No government-funded trainings on the issue of restraining orders for police officers or members of the judiciary have been held.¹⁵ Any training held to date has been financed through EU funds and carried out by civil society organizations.¹⁶ At this writing, Human Rights Watch was unaware of any guidelines on how to apply the domestic violence offense in the new criminal code or of any training offered on to police, prosecutors, or judges.

Domestic Violence Provision in the New Criminal Code

On July 1, 2013, a new criminal code entered into force containing a standalone provision specifying domestic violence against both sexes as a criminal offense.¹⁷ It applies to various types of violence when perpetrated by spouses, ex-spouses, cohabitants, ex-cohabitants, custodians, and people living with guardians. It also applies to same sex relationships. The type of violence to which it applies is that covered by the crimes of simple battery in section 164(2); aggravated battery in section 164 (3-4); violating personal freedom in section 194(1); and an attack on human dignity (exemplified by slapping or spitting) in section 227(2). The law also covers psychological and economic violence. The law sets out a maximum sentence of three years for simple battery and five years for aggravated battery.

Domestic violence which takes the form of repeated simple battery as defined in section 164(2) of the criminal code and repeated attacks on human dignity as defined in section 227(2) shall be punishable with up to three years of imprisonment. Repeated aggravated battery is punishable by up to five years imprisonment.

¹⁴ Human Rights Watch interview with the General Prosecutor's Office, Budapest, January 21, 2013.

¹⁵ Human Rights Watch interviews with National Police Crime Prevention and Victim Support Unit, December 4, 2012 and the National Judicial Office, Budapest, January 22 2013.

¹⁶ Ibid.

¹⁷ Hungarian Criminal Code, Act no 100, 2012, entered into force July 1, 2013, section 212/A. It says: "(1) Persons repeatedly committing violence against spouses, ex-spouses, ex-cohabitants, custodians, persons under custody, guardians or persons under guardianship cohabiting in the same household or the same property at the time of the crime or before that are liable for imprisonment [...] 2(a) of up to three years for bodily harm under section 164(2) of the Criminal Code, or up to three years for violating human dignity under section 227(2) of the Criminal Code; b) between one to five years for bodily harm under section 164(3)-(4) of the Criminal Code for duress or violating personal freedom under section 194(1) of the Criminal Code."

Incidents classified as domestic violence under the new law are subject to public prosecution. This means that the public prosecutor is obliged to pursue a criminal investigation that may result in prosecution in reported cases of domestic violence. The victim's consent or action is not needed to initiate legal proceedings.

While the inclusion of a specific criminal code provision is an important step to clarify grounds for prosecutions of these cases, gaps remain. Firstly, in order for the new domestic violence offense to apply, there must be more than one instance of violence. The explanatory note to the law sets the frequency of criminal acts to two incidents "within a short period of time" without specifying further. Thus, single incidents of violence do not fall into the scope of the domestic violence offense and will continue to be adjudicated under previous criminal code provisions. That means that in the case of a single simple battery injury (assaults causing wounds that heal within eight days), legal action still needs to be pursued by the victim through the filing of a private motion and subsequently private prosecution. As such, the law distinguishes between categories of victims of domestic violence based on the number of assaults suffered rather than looking at individual circumstances. The law is also silent on evidence needed to support multiple instances of domestic violence.

Secondly, the law also excludes certain groups of women from its scope. The offense does not protect women in couples who do not cohabit or in ex-couples who did not cohabit, unless they have children with the abuser.

Sexual violence is not included as a category classified as domestic violence. The justification is that the separate provision on sexual violence and rape in the criminal code carry a higher sentence than the domestic violence provision.¹⁸ However, under Hungarian law, rape and sexual violence are not subject to public prosecution, except in cases where the violence accompanying them amounts to serious bodily harm or in cases where they are accompanied by another offense subject to public prosecution.¹⁹ This gap in the law is also a failure of the Hungarian legal system to provide effective protection for women against sexual violence. If a woman is raped by her partner, it is not deemed to be domestic violence under the law. To exclude sexual crimes from domestic violence and

¹⁸ Hungarian Criminal Code, 2013, Section 197.

¹⁹ Hungarian Criminal Code, 2013, Section 207.

adjudicate such crimes under separate provisions in the criminal code that require the victim to pursue action defeats all logic.

Finally, the fact that the offense requires more than two incidents of violence within a short period of time to trigger it, and that single incidents of simple battery continue to require the victim to initiate action, undermines the effectiveness of the new criminal provision on domestic violence.

Gaps in the Previous Criminal Code

The previous criminal code, under which the cases presented in this report fell, contained no specific provision classifying domestic violence as a crime. Domestic violence was addressed in the general framework of crimes against the person and fell under section 170 of the criminal code dealing with battery:

(1) A person who injures the bodily integrity or health of another person, if the injury or illness heals within eight days, commits the misdemeanor of simple battery, and shall be punishable with imprisonment of up to two years.

(2) If the injury or illness caused by battery heals in more than eight days, the perpetrator commits the felony of aggravated battery, and shall be punishable with imprisonment of up to three years.

...

(8) The perpetrator of the misdemeanour defined in subsection (1) shall only be punishable upon private motion.

Under section 170, any injury that heals within eight days is classified as simple battery and requires the victim to initiate proceedings within 30 days of injury by filing a private motion and pursuing a private prosecution, meaning that the victim or her legal representative must pursue legal action before the court with a public prosecutor rarely involved. The severity of the injury is classified by a physician who draws up a medical report of the victim's injuries. The medical report is crucial for how the police decide to classify the crime.

If the medical report states that the injuries need more than eight days to heal, the case is deemed aggravated battery and is subject to public prosecution. In many of the cases we documented where women had obtained a medical evaluation of their injuries, the doctor had deemed they would heal within eight days, making it unlikely that a prosecutor would be involved and instead leaving it up to victims to pursue private prosecution.²⁰ For information on how high the threshold is to have injuries qualified as aggravated battery in practice, see section III.

Courts do have the authority to issue restraining orders, but courts may only do so in cases where criminal proceedings have been initiated against a suspected abuser, and, in practice, such motions are pursued by the public prosecutor on behalf of the victim.²¹ In effect, the measure resembles bail subject to restrictions. It can only be issued for six months, notwithstanding that criminal proceedings may go on for years.²² This is still the case in the new criminal code.

Like the old criminal procedure code, the new one (section 171) requires medical providers to report domestic violence to the police if injuries are deemed to take more than eight days to heal in. This is at odds with international standards. The WHO recommends that domestic violence laws not include mandatory reporting by health care providers to police because it may discourage domestic violence survivors from disclosing information, compromise confidentiality, impinge women's autonomy, and contribute to the risk of retaliation.²³

Gaps in the 2009 Act on Restraining Orders due to Violence among Relatives

In 2009, a new act was introduced to address the fact that criminal restraining orders applied only in situations where legal proceedings have been initiated against a suspect. The act allows courts to issue a 30 day restraining order without the need for the victim to start proceedings.

²⁰ Human Rights Watch interviews with Réka, Szolnok, December 10, 2012; Karoline, Győr, January 24, 2013; Edit, Szolnok, February 21 and two cases told to Human Rights Watch by shelter staff Ida Proszonyák, head of shelter, and Dániel Bíró, deputy head of shelter, shelter eastern Hungary, January 23, 2013.

²¹ Hungarian Criminal Procedure Code, 1998, Section 138/A.

²² Human Rights Watch interview with the General Prosecutor's Office, Budapest, January 21, 2013.

²³ World Health Organization, "Responding to intimate partner violence and sexual violence against women: WHO clinical and policy guidelines," 2013, section 6, http://apps.who.int/iris/bitstream/10665/85240/1/9789241548595_eng.pdf (accessed September 27, 2013).

The 2009 Act on Restraining Orders due to Violence among Relatives (referred to below as the 2009 Act) was introduced as a preventive measure and offers temporary protection to potential and existing victims. The 2009 Act suffers serious shortcomings. The courts cannot issue restraining orders in all domestic violence cases; the orders have a short and nonrenewable timeframe; and the law lacks details on how it should be enforced. The 2009 Act has not been accompanied by sufficient training and guidance for relevant professions, despite the existence of police guidelines.²⁴

The 2009 Act states that the police may issue a preventive restraining order for a period of 72 hours at the scene of a domestic violence incident. Within 72 hours, a court needs to uphold the order and can extend it for up to 30 days.²⁵ An order may also be requested by the abused, relatives of the abused, child protection services and guardianship authorities, public education institutions, or health institutions.²⁶

The act requires the police to hand over or deliver the order to the abuser in the quickest possible way. Police either notify the abuser on the spot or send notification to the address where the abuser is registered. If there is no registered address for the abuser, it shall be considered delivered at the police station, even if it is not picked up by the abuser. If the abuser and the abused live together, it is considered delivered on the spot to the address of the abuser.

There needs to be an imminent risk of violence for police and courts to issue an order. The law applies to spouses, ex-spouses, common-law spouses registered on the same address, former common-law spouses registered on the same address, and former cohabitants with children.²⁷

The order requires an abuser to keep away from the abused, from the property used as the regular place of residence of the abused, and from any other persons specified in the restraining order. Restraining orders also request that abusers refrain from contacting the abused directly or indirectly (through phone, text message, email, social media, etc.).²⁸ If

²⁴ National Police Guidelines on the Implementation of Temporary Preventive Restraining Orders, 37/2009 (OT 22).

²⁵ 2009 Act on Restraining Orders due to Violence among Relatives, sections 6(3-4), 15(6) and 16(2).

²⁶ Ibid., section 6.

²⁷ Ibid., section 1(5).

²⁸ Ibid., section 5 (2).

the property from which the abuser is required to keep away is a joint household, the police should provide abusers with information on alternative accommodation options.²⁹

The order has immediate effect upon issuance. The order extends to others in the household of the victim, such as children, and in such cases the order suspends the parental rights of the father for the duration of the order.³⁰ The court should issue a preventive restraining order if circumstances in the case provide a solid basis for anticipating future acts of domestic violence. Such circumstances include signs of violence as stated in the police report, statements by the abuser and the abused, and the behavior of abuser and abused as observed by police. Witness statements by neighbors and family members may also constitute part of the court's assessment.³¹

Breach of a temporary preventive restraining order constitutes a misdemeanor punishable by a fine of up to 150,000 HUF (approximately US\$700); failure to pay the fine can result in a prison sentence. The responsibility to notify police of any breaches of an order currently lies with the victim. The general prosecutor's office told Human Rights Watch there are no statistics on how frequently breaches of orders are prosecuted.³²

Despite the attempt to establish preventive protection for potential and existing victims by law, several shortcomings remain in the 2009 Act that hamper effective implementation. The scope of victims is narrow, as the law does not apply to former common law spouses who are not registered on the same address (without children) or couples who do not live together. This effectively discriminates between different types of relationships and excludes categories of women from immediate preventive protection from domestic violence.

The maximum timeframe of 30 days during which the temporary preventive restraining order may be issued cannot be prolonged. After 30 days, the abuser, in cases of spouses or cohabitants, is free to return to the common household, unless the person is subject to criminal prosecution and a criminal restraining order is issued. In order to obtain another temporary preventive restraining order, the victim must report to the police a new incident of domestic violence or a situation that could escalate into violence.

²⁹ Ibid., section 5 (6).

³⁰ Ibid., section 8(e).

³¹ Ibid., section 16.

³² Human Rights Watch interview with the General Prosecutor's Office, Budapest, January 21, 2013.

III. Obstacles to Protection

In addition to the gaps in the legal and policy framework there are serious practical obstacles to protection for women who experience domestic violence. Survivors of domestic violence can be reluctant to come forward because of a fear of reprisals from abusers, lack of confidence in the police, or fear of loss of child custody. Those who do seek help can encounter an inadequate, negligent, or even hostile response by the police, the courts, and medical professionals, and a shortage of shelters designated for victims of domestic violence.

The lack of training for judges, prosecutors, police, and other professionals on the phenomenon of domestic violence helps to downplay the scope of the problem and has contributed to the failure to tackle it at the state level. Treatment of violence as a “family matter” and its acceptance as a “fact of life” also appears to affect how law enforcement and the courts deal with domestic violence.

These engrained attitudes, combined with other factors such as a lack of formal responsibility of the police to enforce restraining orders and absence of consequences for bad policing in domestic violence cases, all lead to a culture of denial, dismissal, and a general lack of a sense of urgency.

The local women’s rights organization *Nők a Nőkért Együtt az Erőszak Ellen* (NANE - “Women for Women Together Against Violence”) told Human Rights Watch that both the authorities and the public see domestic violence as a “family matter.” Authorities are therefore reluctant to interfere in cases of domestic violence unless the victim wants to pursue the matter with the authorities.

Barriers to Reporting Violence

In situations of domestic violence, the control exercised by abusive husbands or partners can make it extremely difficult for women to seek help. Eva, 28, from Miskolc said that over time her husband became increasingly abusive:

He was constantly jealous and kept me in a prison. I couldn't even visit my sister as he controlled my every move and I had to report to him every five minutes. He turned into a wild animal and I didn't dare to refuse him.³³

Fear of Reprisals from Abuser

Women told Human Rights Watch that they are scared of reporting their abusers for fear of being subjected to even more violence.

Ágnes, a 25-year-old woman from eastern Hungary with two children, told Human Rights Watch that she had gone through “four years of hell” with her husband. Her abuse started when her husband was charged with embezzling money from his employer, which he blamed on Agnes. Agnes told Human Rights Watch that he repeatedly beat and kicked her and threatened to cut her throat if she reported the abuse to the police:

I was too scared to call the police as he would have killed me if he found out. Even when he beat me on the street, or locked me out of the house in a robe in the dead of winter, not even our neighbors would intervene as they were too scared of him. He is a very violent man.³⁴

Thirty-year-old Anna from a small village in northeastern Hungary told Human Rights Watch that after the birth of their second child six years ago, the mental abuse started:

He kept shouting how ugly and useless I was and always threatened to beat me and prevented me from seeing people. He didn't even allow my mother over to our house. He forced me to do all the household chores, like cutting wood and fetching water.... He destroyed me mentally and physically.³⁵

Anna told Human Rights Watch that the abuse later became physical and said that her husband threatened her with more beatings if she told the police:

³³ Human Rights Watch interview with Éva, shelter in northeast Hungary, March 28, 2013.

³⁴ Human Rights Watch interview with Ágnes, shelter southeast Hungary, December 11, 2012.

³⁵ Human Rights Watch interview with Anna, shelter southeast Hungary, January 23, 2013.

My mother was there so he beat her too. She managed to call the police as I was too scared. He threatened to beat me even more if I told the police what happened.... When the police came, I said nothing out of fear, and he of course denied everything.... After the police left, he continued hitting and kicking me.³⁶

Human Rights Watch was also told by shelter staff and victims that neighbors and social workers sometimes refrain from reporting abuse or acting on behalf of the abused out of fear of being victimized themselves. One woman told Human Rights Watch that her violent husband went to the child welfare service office and threatened violence if the caseworker interfered in his family life. As a result, the caseworker did not investigate the case further.³⁷

Shelter staff confirmed that social workers at family welfare services and child welfare services in smaller communities, especially in rural areas, often reported receiving threatening visits or calls from abusers and that rather than assisting the victim to get away from the abuser, social workers often encourage the woman to “work things out” with her partner.³⁸

The National Judicial Office told Human Rights Watch that it is not uncommon for women to pursue legal action against their abusers but subsequently withdraw charges due to threats, fear, or making up with the abuser.³⁹

Thirty-three-year-old Katalin from a village in southern Hungary told Human Rights Watch of an incident in 2011 when she called the police as a result of being beaten and pushed around by her partner:

The police asked me if I wanted to report him [my partner] and I said ‘Yes.’ The next day, he [my partner] started threatening me saying that if I don’t drop the complaint against him, it will be much worse for me. I was scared so I went to police station and withdrew my complaint.⁴⁰

³⁶ Ibid.

³⁷ Human Rights Watch interview with Edit, shelter outside Budapest, February 21, 2013.

³⁸ Human Rights Watch interview with Erika Kiss, head of shelter in Budapest, December 10, 2012.

³⁹ Human Rights Watch interviews with National Judicial Office, Budapest, January 22, 2013 and NANE, Budapest, June 18, 2013.

⁴⁰ Human Rights Watch interview with Katalin, Budapest, January 24, 2013.

The inability of state authorities to adequately protect victims from being further harassed, threatened, or abused as a result of coming forward and pursuing legal action puts victims at risk of further violence and may discourage others from coming forward.

Lack of Confidence in the Police

Lack of confidence in the police by women constitutes a major barrier to reporting abuse and seeking protection. For Roma women, mistrust of the authorities runs deep because of the general discrimination faced by the Roma community and makes them less likely to seek protection from the police when they experience domestic violence.

Especially in smaller settlements, it is not uncommon that police and abusers know each other. Two social workers at a shelter in eastern Hungary told Human Rights Watch that the fact that abusers may know individual officers in smaller communities undermines women's trust in the police. According to Ida Proszonyák:

Many women who come here are from small villages or rural settlements where their abusive partners are often drinking buddies with local police officers or have some other close relationship with the police, such as old schoolmates. In our experience, the usual response to domestic violence in such cases is that the police officer comes out and pats the abuser on the back while telling the woman not to provoke him and to do better in the household.⁴¹

Human Rights Watch interviewed Veronika, a 33-year-old woman from a small village in Hungary, who had recently arrived at a shelter with visible knife wounds and lashes on her body. She also had scars from sword cuts to her throat. She explained her predicament:

He knows everybody in town and nobody dared to question him. He was on good terms with the police and so the times I did call them when he brutally assaulted me, I got the reply that “unless blood flows,” they will not intervene. I stopped calling. You tell me, would you not lose trust in these people?⁴²

⁴¹ Human Rights Watch interview with Ida Proszonyák, head of shelter, shelter eastern Hungary, January 23, 2013.

⁴² Human Rights Watch interview with Veronika, shelter in Hungary, March 28, 2013.

Fear of Losing Child Custody

Although Human Rights Watch did not document any cases where a woman had lost custody of her child or children or had them placed under guardianship solely as a result of domestic violence, eight women told us that, based on previous experiences with the authorities, they did not report domestic violence for fear that child welfare services would remove their children.

Three out of the 22 women we interviewed who were mothers reported to Human Rights Watch that child welfare services had threatened to remove their children due to domestic violence. The relevant municipal service provider in a particular case of domestic violence is determined by whether a woman has children or not. In cases of women without children, victims of domestic violence are directed to the family welfare services, which deal mainly with various types of financial aid, such as social and unemployment benefits but should also provide relevant assistance to battered women. Family welfare services have no obligation to report abuse of women to police.

Women with children fall under child welfare services which similarly provide a range of services including financial aid, but which also have an obligation to investigate and report cases of domestic violence against children.⁴³

While the authorities clearly have a responsibility to consider the welfare of children in cases of violence in the home, threats or perceived threats of removal of children from families may be counterproductive since they can discourage women from reporting domestic violence. Women may instead choose to remain in the abusive environment, putting their children as well as themselves at further risk of violence.

Child welfare services staff are currently not obliged to investigate or report signs of adult domestic violence, but only cases of abuse against children.⁴⁴ However, even in cases where the physical abuse is directed solely against the mother, the child or children are indirectly affected by the violence, in many cases merely by being witnesses to it. It is therefore in the best interest of both the child or children and the mother for child welfare

⁴³ Human Rights Watch interview with Mária Herczog, Chair, Family Child Youth Association and member of UN Committee on the Rights of the Child, Budapest, February 12, 2013.

⁴⁴ Act No.XXXI on the Protection of Children and the Administration of Guardianship Affairs, 1997, Section17(2).

services to investigate and report abuse against the mother. Child protection authorities should focus on helping women with children who are subject to domestic violence to access services that enable them to escape the violence, whether through a temporary restraining order, a shelter, or other accommodation.

Rita, a 32-year-old mother of three, went to the child welfare services in her hometown to ask for help from an abusive partner: “The social worker gave me one month to solve my situation once I told her. Otherwise I would risk losing my children due to child endangerment.”⁴⁵ The social worker did not give Rita any further help or advice on how to solve her situation.

Virág, a 37-year-old woman with three children from a village in northeastern Hungary, told Human Rights Watch that in the spring of 2012, she and her husband had a heated argument that turned violent when her husband started breaking furniture in the flat. Virág called the police who came out and asked whether she wanted to report her husband. She did not see the point of reporting him but because there were children in the household, police reported the incident to the child protection authorities:

I was called down to the office of the child welfare services and they told me that unless my husband changes his behavior or I leave, they will take my children. After that, my husband knew he could do anything to me because he knew I wouldn't call the police in fear of the authorities.⁴⁶

Erzsébet, a 42-year-old woman from Miskolc, told Human Rights Watch that she had been abused by her husband since 2000. She said he slapped and beat her every day. During a particularly violent beating in 2010, her husband broke her arm, which led her to report him to the police for abuse and for endangering their three young children:

The police told me that I am doing this because I want a share of his property. I told the police officer that I am richer than my husband and then the officer told me that I will be reported for child endangerment as I had let my husband abuse me. Because of this, I became scared and changed my

⁴⁵ Human Rights Watch interview with Rita, shelter in southwest Hungary, March 28, 2013.

⁴⁶ Human Rights Watch interview with Virág, Miskolc, April 26, 2013.

mind about reporting my husband for child endangerment. I didn't want to lose my kids.⁴⁷

Inadequate Police Response

Domestic violence is predominantly treated as a family matter by police. In cases documented by Human Rights Watch, police often blamed the victim for the violence or downplayed its seriousness. We were only able to document one case where police had issued a temporary preventive restraining order under the 2009 Act on restraining orders without the victim first requesting it. In that particular case, however, the police and victim knew each other.

Lack of Response, Victim Blaming, and Downplaying Importance of Violence

Many of the women Human Rights Watch interviewed who have had dealings with police reported being unsatisfied with the police response to their requests for help. The most common complaints we heard were the tendency of the police to blame the victims and lack of effective action to protect the victim, particularly if she was unwilling to file a formal complaint.

Even when police witnessed violence they did not automatically act to protect the victim and restrain the abuser. Lívia, a 37-year-old woman from Budapest with three children, told Human Rights Watch about 14 years of serious abuse by her partner, which turned very bad in the last four years:

I called the police many times and always by locking myself into the toilet and asking police on the phone to say that the neighbor called. They always talked to us [me and my partner] at the same time and in the same room. One time in 2010, he beat me in front of the four or five police officers that arrived. He claimed that we just had a verbal fight and I said that he was lying. He then swung his fist across and hit me in the face. Police came in between but they didn't take any action. They only told me to report him, but I never did.⁴⁸

⁴⁷ Human Rights Watch interview with Erzsébet, Budapest, December 12, 2012.

⁴⁸ Human Rights Watch interview with Lívia, shelter in northwest Hungary, February 21, 2013.

Many of the women Human Rights Watch interviewed who contacted the police about abusive partners said that the police justify their inaction by saying that “unless blood flows” they are not willing or able to intervene. Despite explicit language on domestic violence in the 2007 guidelines for police requiring police to separate the abuser and the victim for questioning upon arrival to the scene, research shows that they rarely do so. Human Rights Watch only documented one case where an abused woman was taken by police to a shelter. In that case, the victim and the police knew each other.

Several women reported that when police arrived on the scene they questioned the suspected abuser and the victim in the same room.

According to Tünde, a 21-year-old woman from Budapest:

Neighbors must have heard my screams as my husband was punching my stomach and pushing me into the wall while shouting loudly. They must have called the police. Once they [the police] came, no efforts were made to question us separately. The two officers asked my husband what was going on and he said that we only had a minor argument. I told them that he hit me. They told me to get a medical report and then press charges because the way things stood, they could only interfere if blood flows.⁴⁹

Lívía told Human Rights Watch of another case in 2011 when her husband beat her every day for a whole month. When she finally managed to call the police in secret, he was beating her as police arrived at the scene:

The three officers that came out intervened and beat him to the ground and took him to the station. He was released the next day and nothing else happened.⁵⁰

She also told Human Rights Watch that on one occasion in 2012 her husband hit her repeatedly on her head to the point where she suffered a concussion. When police arrived they called the ambulance and told Lívía that unless she formally reported her husband

⁴⁹ Human Rights Watch interview with Tünde, shelter in northwest Hungary, February 21, 2013.

⁵⁰ Human Rights Watch interview with Lívía, shelter in northwest Hungary, February 21, 2013.

now she should stop calling them.⁵¹ Despite the fact that Lívía did not report her husband at the scene, police had a duty to issue a temporary preventive restraining order ex officio to protect her from further abuse.

Éva, a 24-year old woman from a larger city in the south west, in February 2013, had enough of three years of jealousy, control, and violent abuse by her partner and managed to sneak out one day and headed to the police station to get help to escape:

I thought he was wanted [by the police] for some fines and figured that if they took him in to custody, I would have a chance to get out. I snuck down to the police station and told the police about the abuse and that my partner is dangerous to our kids. He [the police office] said that he couldn't do anything unless blood flows.⁵²

Erika, a 35-year-old woman from a small village in the south, told Human Rights Watch that her husband had brutally assaulted and raped her, broken her nose, and torn her hair out. She described an incident in March 2012:

My mother-in-law called the police and two male police officers showed up after about 30 minutes. I felt so ashamed and had changed my torn clothes before the police came. They refused to come in and had me come out and asked my husband to come out. They spoke to my husband but never to me. My husband denied everything and said we had only had a verbal fight and that I was crazy. The police just told my husband not to be so brutal next time. How could they say that when they saw that my face was brutally bruised and my nose was bleeding?⁵³

Human Rights Watch documented cases where women stated that when they called police, their abuse or injuries were downplayed or not taken seriously. Borbála, a 28-year old woman from Ózd in northeast Hungary, told Human Rights Watch that the first time she

⁵¹ Human Rights Watch interview with Lívía, shelter in northwest Hungary, February 21, 2013.

⁵² Human Rights Watch interview with Eva, shelter northwest Hungary, March 28, 2013.

⁵³ Human Rights Watch interview with Erika, shelter northeast Hungary, January 23, 2013.

called the police when her husband had badly beaten her and left her with visible bruises, the police asked her what was going on:

I was petrified and didn't say anything but my husband said that he had had a few drinks and that I was the aggressive one. They didn't even bother asking me what had happened. The police officer told me to my face that it's ok [for a woman] to get a few slaps.⁵⁴

The case of Elvira, a 28-year old mother of four, exemplifies the total disregard with which police sometimes handle reports of domestic violence:

We were in the hallway and he started to accuse me, slapping me. He grabbed my wrists, dragged me to the door and threw me off the balcony. I fell down against a carriage in the garden and he came to me and started kicking me. I managed to get up and I ran to the garden gate to scream for help. He found me, grabbed my wrists and dragged me back inside.... When the police came, he told them nothing happened. And the police believed him. While the police were there, he [my partner] was threatening me. The police must have seen it, but they just took his word for it.⁵⁵

One shelter worker told Human Rights Watch that when she called the police in 2011 asking them to intervene when her neighbor was beaten and raped by her partner, her concerns were dismissed:

This was a very severe case where the woman had previously been beaten so badly that her hipbone broke. When I called the police, as she told me later, she had just gotten back from hospital with her leg in a cast and her partner forced her legs apart and raped her. I told the police what I was hearing, her screams for help, but was told that I should only call if blood flows. I told the operator that I couldn't actually see what was going on as I

⁵⁴ Human Rights Watch interview with Borbála, Ózd, December 11, 2012.

⁵⁵ Human Rights Watch interview with Elvira, shelter southeast Hungary, January 23.

am in the neighboring flat. The police then told me that if I can't see it, it's probably not so bad.⁵⁶

Staff at several shelters in Hungary described to Human Rights Watch that they themselves encountered negligent police attitudes that had resulted in inadequate responses to cases of domestic violence. Staff at a shelter in Budapest told Human Rights Watch of a case at the end of 2012 involving a woman who had arrived severely beaten at the shelter, escaping a life-threatening situation involving violence, drugs, and weapons. The shelter staff spent weeks explaining the importance of reporting her abusive partner to the police. The woman subsequently agreed. A shelter worker explained:

We finally made it down to the police station on a Saturday morning and were met by the officer on duty. I was allowed to be present. The officer kept advising the woman against reporting her husband by stating that the man will find out where she is. She got so scared that she refused to report him. It took us another week of convincing before she finally agreed and we reported the man at a different police station.⁵⁷

In another case in January 2013, shelter staff accompanied a woman to the police station to file a report of abuse. During questioning, the police officer started blaming the woman for the abuse suffered by both her and her son. According to shelter staff present during questioning, the police officer blamed the mother for the abuse as she had not reported it sooner to the police.

Inadequate Training on Domestic Violence

Basic training at police colleges does not include adequate attention to domestic violence and how to work with victims of domestic violence in everyday police work. Lieutenant Colonel Zsolt Endes, the head teacher at the Police College in Budapest, told Human Rights Watch that during the two-year basic training, 14 hours are dedicated to domestic violence.⁵⁸ But he was unable to point to specific teaching materials or to describe the content of the material that is taught. Questioned about the content of the training on

⁵⁶ Human Rights Watch interview with Zsuzsa Péter, Budapest, February 27, 2013.

⁵⁷ Human Rights Watch interview with Júlia Földi, Budapest, February 27, 2013.

⁵⁸ Human Rights Watch interview with Zsolt Endes, Lieutenant Colonel, Police College Budapest, December 4, 2012.

domestic violence, Endes said, “It’s difficult to point to the specific material where you can find it [domestic violence]. We act it out with our students in role playing situations. Our students have thousands of pages to read and there is no special section on domestic violence but it’s included as part of other sections.”⁵⁹

Endes also told Human Rights Watch that teachers at the Police College have general background knowledge but no specialized knowledge on domestic violence.⁶⁰ Similarly, it is not mandatory for teachers at the college to have participated in domestic violence workshops organized occasionally by the National Police Crime Prevention and Victim Support Unit.

Once they graduate from the Police College, police officers receive little or no training on how to identify signs of domestic violence and how to respond to situations of domestic violence. There is no specific training on the guidelines on domestic violence and temporary restraining orders.

According to the National Police Crime Prevention and Victim Protection Unit, the only national training program on domestic violence funded by the government was a 2010 European Commission project that ran for one year and trained approximately 1,000 police officers on domestic violence and produced a guide with legal and theoretical framework. The actual training of police during the project was carried out by the women’s rights organization NANE. The project, 30 percent of which was funded by the government, was approved by the previous government but ran during the current government. According to the National Police, local trainings do take place occasionally for police organized by local police station commanders and funded from the station’s own budget.⁶¹

Ineffective Use of Temporary Restraining Orders

Human Rights Watch research indicates that police are failing to make sufficient use of temporary preventive restraining orders. The law clearly permits the police to make an order for preventive purposes without the victim requesting one, if the officer on the scene assesses that there is a risk of domestic violence. However, contrary to what the law states,

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Human Rights Watch interview with National Police Crime Prevention and Victim Support Unit, December 4, 2012.

the National Police told Human Rights Watch that there must be signs of violence in order for a police to issue an order.⁶²

As noted, Human Rights Watch only documented one case where police issued a temporary preventive restraining order without first receiving a request from the victim. In that particular case, the victim knew the police officer. In all other cases we documented, the order was made at the request of the victim. Several women reported that they were not even informed of the possibility of temporary preventive restraining orders under the 2009 Act on restraining orders.

In 2010, police issued 1,463 temporary preventive restraining orders for 72 hours.⁶³ The numbers dropped in 2011 to 1,192.⁶⁴ In 2012, the numbers dropped to a record low at 424 orders issued.⁶⁵ It is unclear why there was such a significant decline in the number of orders. The Ministry of Interior was unable to shed light on it when questioned by Human Rights Watch.

The head of the Crime Prevention and Victim Support Unit in the National Police, Ágnes Németh, told Human Rights Watch that the 2009 Act on restraining orders is unclear and still allows a substantial amount of discretion for police officers.⁶⁶ “The law is very vague on this point,” she said. “It relies on the judgment of the individual police officer. The guidelines are not specific enough for police on how they should work with restraining orders.”

The National Police, the general prosecutor’s office, social service providers, and national women’s rights groups indicated that police officers are often reluctant to issue a temporary preventive restraining order unless the victim explicitly requests it and violence has already occurred.⁶⁷ The police instead ask the woman if she would like to obtain a restraining order against her abuser. Based on victim testimonies, it appears that the

⁶² Human Rights Watch interview with Anikó Vass Monostoriné, lieutenant colonel, National Police, Crime Prevention and Victim Support Unit, December 4, 2012.

⁶³ Email from Ministry of Interior, November 29, 2012. On file with Human Rights Watch.

⁶⁴ Ibid.

⁶⁵ Email from Ministry of Interior, July 10, 2013. On file with Human Rights Watch.

⁶⁶ Human Rights Watch interview with Ágnes Németh head of the National Police, Crime Prevention and Victim Protection Unit, Budapest, December 1, 2012.

⁶⁷ For example, Human Rights Watch interview with National Police, Crime Prevention and Victim Protection Unit, Budapest, December 1, 2012; Human Rights Watch interview with the General Prosecutor’s Office, Budapest, January 21, 2013.

question is most often posed while the abuser is still present. This is a problem as victims are often too afraid to ask for restraining orders in the presence of their abusers.

One woman described to Human Rights Watch her own experience when put in this situation:

The police came to our home after my husband had hit me. They asked us both what had happened and while my husband was standing next to me police asked me if I wanted a restraining order and if I wanted to report him. I was too afraid to say yes as I know it [the order] is only good for a few days and he will beat me even more when he gets back.⁶⁸

According to Ágnes Németh, practices also vary among police in different parts of the country:

We can see that in for example Borsod County (northeastern Hungary) the risk of violence in particular circumstances is enough for police to issue an ex officio order. In some precincts in Budapest, however, police don't intervene unless blood flows....⁶⁹

While the law does not require occurrence of violence, shelter staff in central Hungary said that in their experience, police do not issue a temporary preventive restraining order unless violence has occurred.⁷⁰

Lívia, whose account of years of abuse is detailed above, told Human Rights Watch that she has called the police preemptively on several occasions. Her case seems like a textbook example where police should issue a temporary restraining order. Yet, they never did so:

In the past four years, I called police many times to tell them to do something as my husband was calling me on my way home, threatening violence. They always told me that they can't do anything unless blood flows.⁷¹

⁶⁸ Human Rights Watch interview with Marika, North Eastern Hungary, March 25, 2013. s

⁶⁹ Human Rights Watch interview with Ágnes Németh head of the National Police, Crime Prevention and Victim Protection Unit, Budapest, December 4, 2012.

⁷⁰ Human Rights Watch interview with Dániel Bíró, deputy head of shelter, shelter eastern Hungary, January 24, 2013.

⁷¹ Human Rights Watch interview with Lívia, shelter in north west Hungary, February 21, 2013.

Andrea is a 42-year-old woman with three children. She told Human Rights Watch that she spent twelve years in an abusive relationship and another five years living in constant fear and hiding from her former partner who continues to harass and stalk her. She told us that she has tried on several occasions to obtain a restraining order against her ex-partner, but police had told her that they do not consider stalking and harassment as abuse and will only issue orders in cases of violence.⁷²

Andrea and other women Human Rights Watch interviewed questioned the efficiency of restraining orders even if they obtain them. According to Erika, a 35-year-old woman from northern Hungary, interviewed by Human Rights Watch in a shelter:

The police told me that they can bring him into the station for 24 hours and then release him. What good does that do me? He will just come back and beat me all over again.⁷³

In 2011, Andrea eventually obtained a restraining order against her ex-husband which was upheld for 30 days by the court:

Sure, I can get it for maximum 30 days and even if he [my husband] was not allowed in the house, he calmly waited outside the house or anywhere else where he knew I would be. He was not restricted from following me, which he did, and he kept on sending threatening text messages and harassed my parents. Police do not follow up on these orders and frankly, it's too much of a hassle for the limited gain.⁷⁴

Shelter staff testified to difficulties in obtaining temporary protective restraining orders for women once they enter shelters. They told Human Rights Watch of several cases where shelter staff and victims tried to obtain restraining orders but were told by police that, since the woman is not in her home, they cannot issue an order. In several cases, shelter

⁷² Human Rights Watch interview with Andrea P, Budapest, December 10, 2012.

⁷³ Human Rights Watch interview with Erika, shelter Budapest, January 24, 2013.

⁷⁴ Human Rights Watch interview with Andrea P, Budapest, December 10, 2012.

staff said that despite harassment and threats against women at the shelter, women could only obtain restraining orders once they moved home again.⁷⁵

Police do not follow up on the enforcement of temporary prevention orders. Enforcement falls squarely with victims who are expected to notify police if their abusers violate orders. One police officer explained the problem to Human Rights Watch:

Seventy-two hours is such a short time so the police [officer] who issued and delivered the order may not even be on duty. We [police] only know if the order has been violated if the victim calls [us] herself.⁷⁶

Case in the European Court⁷⁷

In 2012, the European Court issued a ruling against Hungary involving a woman, Ms. Kalucza, who was forced to remain in her apartment with her violent ex-partner as she could not obtain appropriate relief from the courts notwithstanding criminal proceedings being brought against her ex-partner for assault. The court judgement highlights the shortcomings of the 2009 Act on restraining orders as well as the failings by police and the courts in responding to domestic violence.

According to the court judgement, between October 2005 and August 2010, 13 medical reports were issued which recorded injuries mostly to Ms Kalucza's head, face, chest, and neck with an expected healing time of eight to ten days. Ms Kalucza had made two requests for a restraining order to be brought against her ex-partner. Her first request was dismissed by the Hungarian courts in January 2010 on the ground that both parties were responsible for their bad relationship. Her subsequent second request was dismissed for the same reason.

The European Court was struck by the fact that the authorities needed more

⁷⁵ Human Rights Watch interview with Ida Proszonyák, head of shelter, and Dániel Bíró, deputy head of shelter, shelter eastern Hungary, January 21, 2013.

⁷⁶ Human Rights Watch interview with Anikó Vass Monostoriné, lieutenant colonel, National Police Crime Prevention and Victim Support Unit, December 1, 2012.

⁷⁷ European Court of Human Rights, *Kalucza v. Hungary*, Judgment of April 24, 2012; application no.57693/10, available at www.echr.coe.int.

than one and a half years to decide on the applicant’s first request for a restraining order and determined that the failure of Ms Kalucza to appear at the first hearing could not justify the unreasonably long duration of the proceedings. The European Court noted that “the rationale for issuing a restraining order is to provide immediate or at least prompt protection for victims of violence. Even if the request is eventually dismissed, a decision should be taken without delay. The problem is further aggravated by the lack of legal deadlines for such decisions.”⁷⁸

Criticizing the failure of the domestic courts to provide sufficient reason for rejecting the requests for a restraining order, the European Court noted that if a restraining order “could not be ordered in cases of mutual assaults, then the aim of providing effective protection to victims would be seriously undermined. The possibility that the victim acted in legitimate self-defense cannot be ruled out at that stage.”⁷⁹

The European Court also noted that Ms Kalucza’s case was aggravated by the fact that she could not avail of the 2009 Act on Restraining Orders, because although her abuser was her ex-common-law husband they had not registered as cohabitants with the authorities.

The European Court ruled that the inability of Ms Kalucza to obtain an order which would exclude her abuser from her home, was a violation of the state’s obligation to ensure protection of her private and home life.

Hurdles in the Justice System

Human Rights Watch found that, as well as the police, the courts also failed to provide adequate protection for victims of domestic violence through use of restraining orders. In addition, we documented failure of the courts to deliver justice for violence committed against women, including classification of serious assaults as simple battery; requiring the proceedings to be started by the victim herself; failure to provide adequate protection for

⁷⁸ Ibid., para. 64.

⁷⁹ Ibid., para. 65.

witnesses; and failure to schedule cases near to where the victim was staying, making attendance in court difficult.

The Approach of the Courts to Civil Restraining Orders

Temporary preventive restraining orders must be upheld by a court within 72 hours, and the court can extend the order for up to 30 days. The 2009 Act does not require that violence has occurred in order for a court to issue or extend a civil restraining order. A risk of imminent danger is sufficient. As a civil order, evidence to the criminal standard of proof is not required. According to Judge Ágnes Galajda at the National Judicial Office, it is enough to establish the probability of domestic violence.⁸⁰ And the law does not require the abuser to be present for an order to be upheld. Yet, in practice courts apply a far higher threshold, Human Rights Watch has found.

Women’s rights organizations told Human Rights Watch that judges misunderstand the standard of proof needed to uphold a temporary preventive restraining order. According to Dr. Judit Wirth, head of the local women’s rights organization NANE, judges “think they are presiding over a criminal case, whereas all they need to do is to evaluate the police file on its face and decide whether there is evidence enough to issue a restraining order.”⁸¹

The 2009 Act specifically states that the absence of the abuser shall not hinder decision-making.⁸² Yet, women’s groups told Human Rights Watch that judges sometimes dismiss cases when abusers fail to show up for hearings reviewing the temporary preventive restraining order. Dr. Júlia Sprontz, head of local women’s rights organization Patent told Human Right Watch, “We had a case two months ago where we requested a temporary preventive restraining order for a client. Once it was subjected to court review, we went with our client to the hearing and the judge dismissed the case because the abuser failed to show up.”⁸³

According to Dr. Sprontz, the judge justified her decision to dismiss the case by referring to procedural rules in the civil code that do not allow courts to hand down decisions without

⁸⁰ Human Rights Watch interview with judge Ágnes Galajda, National Judicial Office, Budapest, January 22, 2013.

⁸¹ Human Rights Watch interview with Dr. Judit Wirth, Budapest, July 6, 2012.

⁸² Act on Temporary Preventive Restraining Orders, 2009, Section 15(3).

⁸³ Human Rights Watch interview with Dr. Júlia Sprontz, Budapest, July 1, 2013.

both parties present, even though the law on restraining orders creates an exception.⁸⁴ She added, “In our experience and through our contacts at the Budapest district court, we know that this is common practice by judges there.”⁸⁵ Budapest family court Judge Péter Szepesházi told Human Rights Watch that this is a misinterpretation of the law:

There are provisions in the code of civil procedure [sections 126 and 135] about the need to postpone hearing in cases of unsuccessful summoning of both parties. But as the law on restraining orders is *lex specialis* [a special law which takes precedence over generic laws] the only requirement is for courts to have summoned parties in accordance with section 15 of the 2009 Act.⁸⁶

Problems also arise when judges determine the length of a temporary preventive restraining order. The 2009 Act does not give specific guidance to judges on what criteria to apply when determining the length of the order. One criminal court judge in Budapest who deals with civil law restraining orders when on call for weekend emergencies told Human Rights Watch that he always issues the maximum length of the order.⁸⁷

By contrast, a civil law judge from Székesfehérvár, a town in western Hungary, stated that she bases her decision on her experiences of the abuser in the community: “It’s a small town where everybody knows everybody. I often know of the abuser and base the length of the order with that in mind.”⁸⁸

Judge Ágnes Galajda from the National Judicial Office, the body responsible for administering the courts, told Human Rights Watch that it depends on the nature of the abuse: “Judges tend to apply a low threshold when it comes to insults or shouting as opposed to physical violence, in which case they normally land on the higher end of the scale.”⁸⁹

Family court judge Péter Szepesházi told Human Rights Watch that part of the problem is lack of training for judges and absence of judges specialized in domestic violence:

⁸⁴ Hungarian Civil Procedure Code, Act III of 1952, sections 126 and 135.

⁸⁵ Human Rights Watch interview with Dr. Júlia Sprontz, Budapest, July 1, 2013.

⁸⁶ Email correspondence with judge Péter Szepesházi, August 9, 2013.

⁸⁷ Human Rights Watch Interview with judge, anonymous, Budapest, 29 November, 2012.

⁸⁸ Human Rights Watch interview with Judit Malkovits, Budapest, 29 November, 2012.

⁸⁹ Human Rights Watch interview with Judge Ágnes Galajda, NJO Office, Budapest, January 22, 2013.

In my experience, general court practice is to refrain from upholding or issuing restraining orders in cases of verbal and psychological violence, and there is also this idea among my judge colleagues to suspect women of misusing the restraining order. In many cases judges try to dissuade women from pursuing this action.⁹⁰

Shortcomings in the Prosecution of Domestic Violence

Our research has also identified shortcomings in the prosecution of domestic violence. Negligent and dismissive police responses to reports of domestic violence, coupled with the weight public prosecutors have in practice given to medical reports in determining whether to prosecute cases, have contributed to low prosecution rates. It is too soon to say what the impact of the new domestic violence criminal offense will be.

As domestic violence until July 1, 2013 was not treated as a separate crime, there are no statistics on the number of cases prosecuted as domestic violence under the old criminal code. The general prosecutor's office told Human Rights Watch that the standalone provision on domestic violence in the new criminal code will facilitate collecting statistical data and tracking trends.⁹¹

Prior to July 1, 2013, section 170 of the criminal code (now section 164) on battery applied to cases of domestic violence. As noted above, under section 170, any injury that heals within eight days is classified as simple battery and requires the victim to pursue a private prosecution. If the injuries need more than eight days to heal, the case is deemed aggravated battery and is subject to public prosecution. Although by law the physician's medical report is not decisive for the classification of the crime, in practice, the police and prosecutors have generally used the conclusion of the medical report in determining whether a crime is classified as simple or aggravated battery.

Dr. Erika Erős, head of the National Institute of Child Health, explained that in practice the doctors' classification of the severity of an injury can be arbitrary. "A doctor knows that a fracture takes at least six weeks to heal so fractures therefore are always classified to take more than eight days to heal. Or if a wound is deeper than 2-3 millimeters, it would also

⁹⁰ Human Rights Watch interview with family court judge, Peter Szepesházi, Budapest, December 1, 2012.

⁹¹ Human Rights Watch interview with the General Prosecutor's Office, Budapest, January 22, 2013.

anatomically speaking take more than eight days to heal, whereas facial bruises heal faster. Ultimately, it's up to the doctor and his expertise.”⁹²

Women's rights groups, lawyers, and academics similarly stated that physicians tend to classify all injuries short of broken bones as light bodily harm, thereby shifting the responsibility of pursuing legal cases to victims, rather than prosecutors.⁹³ This assertion is supported by several cases documented by Human Rights Watch.

Human Rights Watch learned from shelter staff about a woman who had been hit across the back with the handle of an axe while holding her infant. Before arriving at the shelter, the woman reported the violence to police who told her to go to the doctor for a medical report of her injuries. The medical report, which was handed over to the woman, classified her injuries as simple battery as there were no broken bones.

When the victim arrived at the shelter, the staff took pictures of her injuries and sent them separately to the police and prosecutor who, based on the injuries displayed in the pictures, launched an investigation. In the end, simple battery was reclassified as attempted murder due to the fact that the woman was carrying the infant.⁹⁴ Despite the reclassification of the crime being linked to the infant, the case is an example of the tendency of police to rely heavily on medical reports and of their reluctance to launch investigations based on other circumstances.

Human Rights Watch was also told about a case in 2011, where a doctor who initially examined a woman identified severe injuries as simple battery.⁹⁵ The woman came to the shelter having been brutally beaten with a thick cable. The staff took pictures of the wounds and called the police to report the abuser. Human Rights Watch researchers viewed the pictures of the woman's injuries, which were very severe dark bruises across

⁹² Human Rights Watch interview with Dr. Erika Erős, head of National Institute of Child Health, Budapest, August 29, 2013.

⁹³ Human Rights Watch interviews with Dr. Judit Wirth, head of NANE women's rights organization and Dr. Júlia Sprontz, head of PATENT organization, Budapest, June 10 and July 1, 2013.

⁹⁴ Human Rights Watch interview with Ida Proszonyák, head of shelter, and Dániel Bíró, deputy head of shelter, shelter eastern Hungary, January 21, 2013. Pictures and medical report on file with Human Rights Watch.

⁹⁵ Ibid.

her lower back and on the back of her thighs, and bruises around her eyes consistent with heavy strikes with the cable to her head.⁹⁶

Neither judges nor prosecutors receive automatic training on the phenomenon and dynamics of domestic violence or how to deal with domestic violence cases.⁹⁷ The general prosecutor's office told Human Rights Watch that the office organizes trainings for prosecutors occasionally, failing to specify how often, but that those are optional and mainly in the context of child protection.⁹⁸ Similarly, judge Ágnes Galajda at the National Judicial Office stated that her office has strategic projects on mediation, domestic violence, and witness care and on how to properly inform victims of their rights.⁹⁹ Human Rights Watch was told that such trainings are sporadic—once or twice a year—and attendance is optional.

Human Rights Watch also heard concerns about the venue in which court hearings take place. Court jurisdiction is based on the victim's registered permanent residence. Victims who seek help at shelters may be living temporarily as much as 350 to 400 kilometers away from their registered residences. Travelling to and from court hearings involves time and the cost of transport and accommodation.¹⁰⁰ The lack of financial resources available to victims of domestic violence can deter them from pursuing legal action.

Role of Medical and Family and Child Welfare Professionals

In the case of suspected child abuse, the law requires staff employed in family and child welfare services to investigate or, in the case of health visitors, to report signs of abuse of children to child welfare services.¹⁰¹

Physicians have an additional duty to report suspected violence, including domestic violence, within the framework of general violence against persons as it may constitute a

⁹⁶ Human Rights Watch interview with Ida Proszonyák, head of shelter, and Dániel Bíró, deputy head of shelter, shelter eastern Hungary, January 21, 2013. Pictures and medical report on file with Human Rights Watch.

⁹⁷ Human Rights Watch interviews with National Police Crime Prevention and Victim Support Unit, Budapest, December 4, 2012; the General Prosecutor's Office, Budapest, January 22, 2013 and the National Judicial Office, Budapest, January 22, 2013.

⁹⁸ Human Rights Watch interview with Magdolna Hajdu, General Prosecutor's Office, Budapest, January 22, 2013.

⁹⁹ Human Rights Watch interview with Ágnes Galajda, National Judicial Office, Budapest, January 22, 2013.

¹⁰⁰ Human Rights Watch interview with Ida Proszonyák, head of shelter, and Dániel Bíró, deputy head of shelter, shelter eastern Hungary, January 21, 2013.

¹⁰¹ Human Rights Watch interview with Ágnes Csordás, Chair of the National Health Visitors Association, Budapest, January 25, 2013.

crime that falls under public prosecution.¹⁰² The Hungarian Medical Association told Human Rights Watch that the obligation to report only exists in cases where the physician deems that the injuries take more than eight days to heal.¹⁰³ As noted above, while medical providers have an important role to play in detecting and addressing domestic violence, the WHO recommends that domestic violence laws not include mandatory reporting by health care providers to police because it may discourage domestic violence survivors from disclosing information, compromise confidentiality, impinge on women's autonomy, and contribute to the risk of retaliation. Providers should inquire about domestic violence, provide sensitive treatment, thoroughly document the injuries and the survivor's statements concerning the abuse, provide referrals or information about safety options and resources for the survivor, ensure confidentiality, and ask survivors if they want the medical provider to report the abuse to authorities.¹⁰⁴ In Hungary, we found that medical providers failed to ask about domestic violence, thoroughly document injuries, or report the crimes when women asked them to do so.

Human Rights Watch research suggests that medical professionals are not providing adequate care to survivors, and in particular did not ask about sources of injuries or record victims' statements about the attacks or perpetrators in the medical records, and did not provide referrals for other assistance. Human Rights Watch documented several cases where women who sought medical assistance for domestic violence were not asked by physicians how they sustained their injuries.

Júlia, a 34-year-old woman with one child, was four weeks pregnant when she had to endure her first beating:

My husband took me out into the yard and started punching my head with his fist in front of our neighbors. Nobody intervened. He left me on the ground bleeding. I went to the hospital to get treatment but the doctor

¹⁰² Törvény az egészségügyi és hozzánk kapcsolódó adatok kezeléséről és védelméről, Law no. 47 évi XLVII, 1997, section 24, paragraphs 1 and 4.

¹⁰³ Email from Hungarian Medical Association, September 25, 2013.

¹⁰⁴ World Health Organization, "Responding to intimate partner violence and sexual violence against women: WHO clinical and policy guidelines," 2013, section 6, http://apps.who.int/iris/bitstream/10665/85240/1/9789241548595_eng.pdf (accessed September 27, 2013).

didn't ask how I got my wounds, he just recorded the injuries. He didn't seem interested at all.¹⁰⁵

Another woman, Erzsébet, described how a doctor had failed to help her when she reported violence. She told Human Rights Watch that her husband pushed her into the wall, breaking two of her toes. He then punched her face with his fist, causing her nose to bleed. When Erzsébet went to the hospital later that night for treatment, in shock and with severe pains and bruises, she was told to stop being hysterical: "I even told the doctor that my husband had hit me, but the only thing he [the doctor] said was that I should stop being so hysterical. He didn't report it despite the fact that I asked him to."¹⁰⁶

The mandatory reporting requirement appears to deter medical providers from asking victims about the source of their injuries, and from providing adequate referrals and safety information. Dr. Erika Erős, the head of the National Institute of Child Health, told Human Rights Watch: "A lot of doctors don't want to know about it [domestic violence] because if the doctor knows, he or she must report it."¹⁰⁷

According to Dr. Erős, physicians fear that reporting domestic violence to the police will lead to lengthy court proceedings. Shelter staff told Human Rights Watch that they experience similar attitudes among medical professionals. "It's in part because doctors don't want to be part of often year-long court proceedings which will require them to often travel long distances to testify in a specific case."¹⁰⁸

Lack of training may contribute to the problem. According to the chair of the Family Child Youth Association, an NGO which publishes training materials and conducts trainings for professionals working with families and child protection, there is no training on domestic violence for doctors or health visitors.¹⁰⁹

¹⁰⁵ Human Rights Watch interview with Júlia, Budapest, January 17, 2013.

¹⁰⁶ Human Rights Watch interview with Erzsébet, Budapest, December 12, 2012.

¹⁰⁷ Human Rights Watch interview with Dr. Erika Erős, head of National Institute of Child Health, Budapest, August 29, 2013.

¹⁰⁸ Human Rights Watch interview with shelter staff Zsuzsa Péter and Júlia Földi, December 17, 2012.

¹⁰⁹ Human Rights Watch interview with Mária Herczog, Chair, Family Child Youth Association and member of UN Committee on the Rights of the Child, Budapest, February 12, 2013.

Similarly, Dr. Erős told Human Rights Watch there are no guidelines for physicians on domestic violence or on how to deal with victims.¹¹⁰ Despite existing guidelines for health visitors on how to execute work tasks, none of the guidelines provide instructions on means of identifying and addressing situations of domestic violence.¹¹¹

Inadequate Shelters

Shelters are a vital part of state protection for victims of domestic violence. Shelters do exist in Hungary, but there are insufficient spaces and insufficient specialized shelters for victims of domestic violence.

According to the Ministry of Human Resources, there are a total of 122 shelter beds in 14 nationwide shelters—known as “crisis centers” —for victims of domestic violence.¹¹² Only 28 of the beds are located in a shelter with a secret address reserved explicitly for victims of domestic violence. The remainder are located inside, or in apartments linked to, public mothers’ homes, or temporary family homes. Public mothers’ homes are designed for single women with children who are in need of temporary housing, whereas temporary family homes extend to families including fathers. Human Rights Watch counted an average of one to two rooms in each of the institutions we visited, with four to seven bed spaces, with the exception of the secret house, which has seven rooms and twenty-eight bed spaces.¹¹³

The shelters for victims of domestic violence started operating in 2005 when the National Crisis Management and Telephone Information Service (OKIT) was established as a result of two parliamentary resolutions.¹¹⁴ OKIT has a 24-hour free telephone hotline and refers victims, via child welfare services, or in case of women without children, family welfare services, to available shelter spaces nationwide. Shelters provide accommodation and psychological and social assistance. Each of the 14 shelters designed to assist victims of

¹¹⁰ Human Rights Watch interview with Dr. Erika Erős, head of National Institute of Child Health, Budapest, August 29, 2013.

¹¹¹ Védőnői Szakfelügyeleti Iránymutatás, ÁNTSZ Országos Tisztifőorvosi Hivatal Egészségügyi Igazgatási Főosztály, OTH 568-18/210. On file with Human Rights Watch.

¹¹² Human Rights Watch interview with Roland Kisgyóri, Ministry of Human Resources, Budapest, May 10, 2013.

¹¹³ Ibid.

¹¹⁴ Parliament Resolution 45/2003 (IV.16) on Developing a Strategy for the Prevention and Efficient Handling of Domestic Violence, and Parliament Resolution 115/2003 (X.28) on the National Strategy of Social Crime Prevention.

domestic violence receive 4 million HUF (approximately US\$177,500) per year specifically for domestic violence operations.

Too Few Shelter Spaces

The UN Handbook for Legislation on Violence against Women recommends that states make available one shelter or refuge place for every 10,000 inhabitants.¹¹⁵ Similarly, the explanatory memorandum to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence recommends that states should make safe accommodation in specialized women's shelters available in every region, with one family place per 10,000 head of population depending on need.¹¹⁶ With a total population of around 10 million, Hungary currently falls far short of this standard and would need around 1,000 spaces to meet it.



Room for homeless family of four in a temporary shelter. A shortage of specialist shelters for victims of domestic violence means that domestic violence survivors are often placed in the same facility as homeless families. October 9, 2013
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Safety Concerns

The addresses of all but one shelter are publicly listed compromising the security for women seeking refuge in those shelters. Even the location of the secret house has been revealed during court proceedings. Shelter staff at the secret house and other shelters told Human Rights Watch that courts systematically state the address of the shelter from which the woman is initiating legal proceedings in court documents sent to both parties,

¹¹⁵ UN Handbook For Legislation on Violence Against Women, 3.6.1.

<http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf> (last accessed July 17, 2013).

¹¹⁶ Explanatory Report, article 23. <http://www.conventions.coe.int/Treaty/EN/Reports/Html/210.htm> (accessed July 17, 2013).

including the address of the secret shelter, thereby revealing the location of the woman to the abuser and putting her at risk.¹¹⁷

Another factor that can compromise the safety of victims is that when a woman arrives at a shelter with one or more children, shelter staff are obliged by law to notify the child welfare services in the victim's place of residence.

According to Mária Herczog, an expert on child protection in Hungary, the “misguided notion” that child welfare services have a duty to notify the father of his child's/children's whereabouts may be caused by a confusion between two laws: the Child Protection Law, which requires cooperation between authorities and service providers (including child welfare services and shelter staff) in order to prevent or eliminate child endangerment, and the Family Act which regulates visitation rights of the father.¹¹⁸

Herczog said, child welfare services should make a risk assessment based on consultations with both parents and shelter staff and establish a plan regarding next steps.¹¹⁹ However, Herczog said this rarely happens as there are no professional standards to guide this type of cooperation.¹²⁰

Herczog also added that there is no accountability for child welfare service workers when they fail to report or investigate cases of domestic violence against children.¹²¹

Exclusion of Women Without Children and Insufficient Time Allowed in Shelters

Whether they have children or not, women may stay at the crisis centers for a period of 30 days, with the possibility of extending by another 30 days, totaling a maximum of 60 days. At the end of 60 days, women with children may apply for a further period of accommodation in a public mothers' home or temporary family home. Those without children do not have this possibility and may have to move to homeless shelters designated primarily for long-term homeless who otherwise live on the streets. Women without children can end up returning to their abusers.

¹¹⁷ Human Rights Watch interview with Tímea R, head of Protected House, Hungary, March 28, 2013.

¹¹⁸ Human Rights Watch phone interview with Mária Herczog, August 15, 2013.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.



Mid-morning snack for children at the only specialist shelter facility in Hungary for victims of domestic violence. Victims may only stay for a maximum of 60 days, after which women with children may be placed in other temporary accommodation. Women without children are not eligible for further assistance. October 11, 2013.
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Many of the women interviewed by Human Rights Watch viewed shelters as a temporary reprieve from the abusive home environment. Edit, a 28-year-old woman from a small town close to Budapest, told Human Rights Watch that she needed a temporary break from her abusive partner:

I am still in touch with him [her partner] over the phone and he is really nice and says nice things. I am still a bit skeptical and don't want to risk violence. I needed to get out [of the environment] for a bit but will go back once my time in shelter is up.¹²²

When asked why she is opting to go back to her partner if she is skeptical, Edit said that after the maximum of 60 days, she has nowhere else to go.¹²³

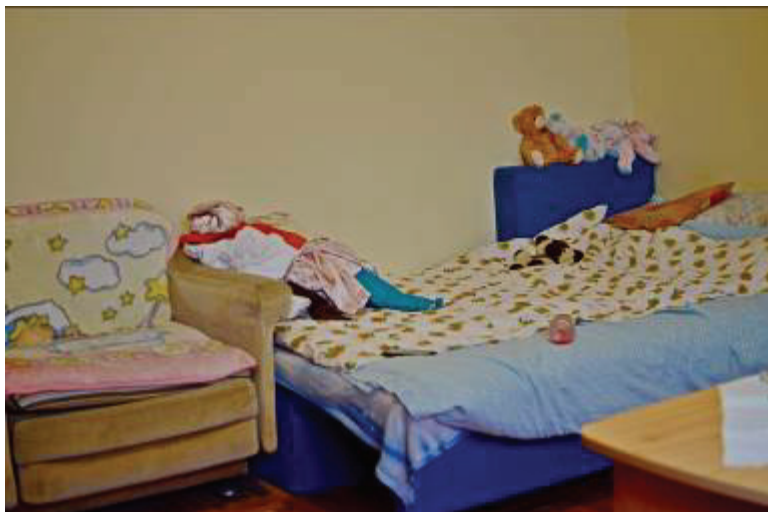
Judit, a 33-year-old woman from a village in southeast Hungary, was set to leave the shelter the day after our interview:

I came to the shelter because it became too much. We have been together 14 years, which were both good and bad. He uses bad language and slaps me occasionally, but it was only in January [2013] that it turned really bad. I

¹²² Human Rights Watch interview with Edit, Szolnok, February 21, 2013.

¹²³ Ibid.

talk to him and he says he is going to change. I love him and although I am scared, I trust that he will change so I am headed back tomorrow. They [the shelter] can only keep me for so long. I can't stay here forever.¹²⁴



Room for victims of domestic violence in temporary shelter. Shelters in Hungary are only available to victims of domestic violence for a limited period. In the absence of long term alternatives, women, particularly those without children, often have no choice but to return to their abusers. October 9, 2013.
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¹²⁴ Human Rights Watch interview with Judit, Szolnok, March 28, 2013.

IV. Hungary's Human Rights Obligations

Hungary has clear obligations under human rights law to act with due diligence to protect women's human rights to live free from violence, to non-discrimination, and to effective judicial remedies.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Hungary on September 22, 1980, requires all state parties to take appropriate measures to eliminate discrimination against women, including by private actors.¹²⁵ The CEDAW Committee, the United Nations body that monitors implementation of the convention, stated in General Recommendation 19 that gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men and is thus prohibited under article 1 of the convention.¹²⁶ It stated that "state parties have a due diligence obligation to prevent, investigate, prosecute and punish acts of gender-based violence" and may be held responsible for private acts if they fail to do so.¹²⁷

In 2003, the CEDAW Committee received a complaint from a Hungarian woman, a mother of two, who had been subject to years of abuse from her common law husband. Although two separate criminal cases were opened against her husband, on the basis of attacks that had hospitalized her, she was unable to access a shelter, and at that time there was no possibility of obtaining a restraining order. She had pursued civil action to try to prevent her husband having access to her home, which was refused by the courts.¹²⁸ At that time the Hungarian government itself "admitted that the remedies pursued ... were not capable of providing immediate protection to her against ill-treatment by her former partner and, furthermore, that legal and institutional arrangements are not yet ready to ensure the internationally expected, coordinated, comprehensive, and effective protection and

¹²⁵ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, entered into force September 3, 1981, and ratified by Hungary on September 22, 1980.

¹²⁶ UN Committee on the Elimination of Discrimination against Women, General Recommendation 19. Violence against Women (Eleventh session, 1992), UN Division for the Advancement of Women. Department of Economic and Social Affairs, <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19> (accessed on July 17, 2013).

¹²⁷ *Ibid.*

¹²⁸ CEDAW Committee, *Ms. A. T. v. Hungary*, Communication No.: 2/2003, Views adopted on 26 January 2005, thirty-second session.

support for the victims of domestic violence.”¹²⁹ It also conceded that “domestic violence cases as such do not enjoy high priority in court proceedings. ”¹³⁰

The Committee ruled that Hungary had failed to protect the rights of the applicant and meet its obligations under the Convention to protect the applicant from violence. The Committee noted that “women’s human rights to life and to physical and mental integrity cannot be superseded by other rights, including the right to property and the right to privacy”.¹³¹ It also ordered the government to take extensive measures to ensure effective protection against domestic violence.¹³² Unfortunately, while some legal measures have been put in place in the intervening period, not enough has been done to fulfill the committee’s order.

In its March 2013 Concluding Observations on Hungary, the CEDAW Committee recommended that Hungary “amend its legislation concerning restraining orders with a view to providing adequate protection to victims in all types of cohabitation and extend the duration of restraining orders.”¹³³ The Committee also stated that Hungary should “provide mandatory training to the legal profession on the strict application of legal

¹²⁹ *Ibid.*, para 9.3.

¹³⁰ *Ibid.*, paras. 7.3 and 9.3.

¹³¹ *Ibid.*, para 9.3.

¹³² The CEDAW Committee ordered the Hungarian government to take the following general measures:

- (a) Respect, protect, promote and fulfil women’s human rights, including their right to be free from all forms of domestic violence, including intimidation and threats of violence;
- (b) Assure victims of domestic violence the maximum protection of the law by acting with due diligence to prevent and respond to such violence against women;
- (c) Take all necessary measures to ensure that the national strategy for the prevention and effective treatment of violence within the family is promptly implemented and evaluated;
- (d) Take all necessary measures to provide regular training on the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto to judges, lawyers and law enforcement officials;
- (e) Implement expeditiously and without delay the Committee’s concluding comments of August 2002 on the combined fourth and fifth periodic report of Hungary in respect of violence against women and girls, in particular the Committee’s recommendation that a specific law be introduced prohibiting domestic violence against women, which would provide for protection and exclusion orders as well as support services, including shelters;
- (f) Investigate promptly, thoroughly, impartially and seriously all allegations of domestic violence and bring the offenders to justice in accordance with international standards;
- (g) Provide victims of domestic violence with safe and prompt access to justice, including free legal aid where necessary, in order to ensure them available, effective and sufficient remedies and rehabilitation;
- (h) Provide offenders with rehabilitation programmes and programmes on non-violent conflict resolution methods.

¹³³ Concluding Observations on the combined seventh and eight periodic reports of Hungary adopted by the Committee at its fifty fourth session (11 February – 1 March 2013), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/422/33/PDF/G1342233.pdf?OpenElement>, (accessed October 17, 2013).

provisions dealing with violence against women and train police officers on standardized procedures to deal with women victims of violence.”

The CEDAW Committee further recommended Hungarian authorities increase the number and capacity of state supported shelters with adequate geographical distribution and to strengthen support and cooperation with nongovernmental organizations (NGOs) providing shelter, assistance, and support to women victims of violence. The committee also stressed the need for the state party to encourage women to report acts of domestic and sexual violence; to collect statistical data on violence against women disaggregated by age, sex, and relationship between victim and abuser; and to ratify as soon as possible the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

Hungary is also a party to the European Convention on Human Rights (ECHR) and in a landmark decision against Turkey in 2009, the European Court of Human Rights for the first time elaborated on the exact nature of state obligations under the ECHR with respect to violence in the family.¹³⁴ The Court explicitly confirmed that gender-based violence is a form of discrimination under the ECHR.¹³⁵ The court emphasized that domestic violence is not a private or family matter, but an issue of public interest that demands effective state action.¹³⁶ The European Court has already ruled against Hungary for failing to meet its obligations in respect of taking positive measures to protect against domestic violence.¹³⁷

In 2002, the Committee of Ministers of the Council of Europe issued a recommendation on the protection of women against violence.¹³⁸ It urges member states to exercise due diligence to prevent, investigate, and punish acts of violence, whether perpetrated by the state or private persons, and provide protection to victims.¹³⁹ It also recommends that member states encourage relevant institutions dealing with violence against women (including the police and the medical and social professions) to draw up medium- and

¹³⁴ European Court of Human Rights, *Opuz v. Turkey*, Judgment of June 9, 2009; application no.33401/02, available at www.echr.coe.int.

¹³⁵ *Ibid.*, para. 200.

¹³⁶ *Ibid.*, paras.195 and 199.

¹³⁷ See *Kalucza v Hungary*, *op. cit.*.

¹³⁸ Council of Europe Recommendation Rec (2002)5 of the Committee of Ministers on the Protection of Women against Violence, adopted April 30, 2002, <https://wcd.coe.int/ViewDoc.jsp?id=280915> (accessed July 17, 2013).

¹³⁹ *Ibid.*, paragraph II.

long-term coordinated action plans that provide measures for the prevention of violence against women and the protection of victims.¹⁴⁰

These and other recommendations were formalized in the new Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, adopted by the Committee of Ministers on April 7, 2011. It underlines the duty of state parties to create a comprehensive legal framework to prevent violence, to protect victims, and to punish perpetrators.¹⁴¹ Hungary has yet to sign and ratify the convention.

This report shows that the existing system addressing domestic violence has serious shortcomings with respect to effective protection, prevention, and sanctions. These constitute a violation of Hungary's obligations under human rights law.

Until July 1, 2013, significant gaps in the legal framework either put the onus on victims to initiate legal proceedings against their abusers or, in practice, often led to inaccurate classification of offenses as being lighter than they actually were. The new domestic violence offense allows for stiffer penalties for assaults and places responsibility on the prosecutor rather than the victim to initiate criminal proceedings. But it excludes women who do not live with their abusive partner. It also excludes single incidents of violence and rape and other sexual violence.

There is no comprehensive national strategy or policy on how to combat domestic violence. While there are guidelines for police on domestic violence, they are not sufficiently implemented and there are no comparable guidelines for prosecutors and judges. The lack of reliable statistical data on domestic violence also complicates the assessment of the prevalence of domestic violence in Hungary.

The response of the police to domestic violence is inadequate and constitutes failure to protect the public from violent crime. Furthermore, there is insufficient training to ensure a better response. The system of temporary preventive restraining orders, which excludes certain categories of women and which is not applied by police unless there is a formal

¹⁴⁰ Ibid., paragraph IV.

¹⁴¹ Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, opened for signature on May 11, 2011, <http://conventions.coe.int/Treaty/EN/Treaties/HTML/DomesticViolence.htm> (accessed July 17, 2013).

complaint made, is ineffective, and the courts apply inconsistent standards when it comes to confirming or extending orders.

The low numbers of shelter spaces, 122, fall far short of meeting international and regional recommendations on the number of shelter spaces. Hungary would require 1,000 spaces if it was to meet those standards.

Recommendations

To the Parliament of Hungary

- Ratify and implement the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence;
- Amend the new domestic violence provision, section 212/A of the Criminal Code, and 2009 Act on Restraining Orders due to Violence among Relatives to include all de facto couples, including former couples irrespective of whether they legally registered as cohabiting or did not cohabit, in accordance with the United Nations Guidelines on Legislation on Domestic Violence;
- Include rape and sexual violence between current and former intimate partners as a form of domestic violence covered by section 212/A;
- Amend the 2009 Act on Restraining Orders due to Violence among Relatives to clarify that police should proactively enforce these orders through regular checks and arrest perpetrators if found in breach of the order and;
- Amend the 2009 Act on Restraining Orders due to Violence among Relatives to allow courts the discretion to re-evaluate restraining orders on a case-by-case basis and to extend the length of orders beyond the current limit of 30 days if justified by the persistent risk of domestic violence.

To the Government of Hungary

- Condemn at the highest political level all forms of gender-based violence, including domestic violence;
- Establish a national action plan to combat domestic violence, with relevant input from women's groups, shelters, health professionals, and other service providers, coordinating efforts amongst all relevant ministries;
- Ensure education on domestic violence is included in the curriculum at university and college levels for relevant professions, such as social workers, psychologists, lawyers, and medical professionals;
- Ensure relevant, continuous, and up-to-date training on domestic violence for practitioners of all relevant professions;

- Initiate a national awareness raising campaign on the domestic violence provision in the new criminal code and ensure that the rights of victims as well as the responsibilities of law enforcement, prosecution, judges, and other relevant authorities are comprehensively understood and;
- Establish a national budget stream specifically aimed at combating domestic violence on national, regional, and municipal levels.

To the Ministry of Public Administration and Justice

- Establish a set of clear guidelines for prosecutors and judges regarding the application of the new domestic violence provision, section 212/A of the Criminal Code, and train prosecutors and judges on implementation of section 212/A in accordance with those guidelines;
- Provide regular trainings for judges and prosecutors on their responsibilities under the 2009 Act on Restraining Orders due to Violence among Relatives, including trainings that clarify that temporary preventive restraining orders may be granted based on the risk of physical, sexual, psychological, verbal, and economic violence, not just physical abuse, in accordance with the act;
- Include training on domestic violence, section 212/A in the Criminal Code, and the 2009 Act on Restraining Orders due to Violence among Relatives in the law curriculum at the university level;
- Establish a central database, maintained by the National Judicial Office, to record the number of cases adjudicated under section 212/A of the Criminal Code, including cases under prosecution and cases pending before courts;
- Centralize data from all courts on temporary preventive restraining orders and make such data is publicly available;
- Collect and make publicly available statistical data on breaches of temporary preventive restraining orders;
- Ensure the secrecy of locations of complainants in their communication with courts and prosecutors;
- Ensure that victims are able to have cases adjudicated in the location where they currently reside and not where they are registered and;
- Remove mandatory requirements for medical providers treating adult survivors of domestic violence to report the abuse to police in line with WHO guidelines and instead oblige medical providers to provide sensitive treatment to victims of

domestic violence, document injuries and survivor's statements concerning the abuse, and to provide referrals or information about safety options and resources for the survivor,

To the Ministry of Interior

- Provide regular and up-to-date trainings for police officers on the implementation requirements of the 2009 Act on Restraining Order due to Violence among Relatives regarding the criteria of issuing and enforcing orders;
- Ensure that specialized training on domestic violence is included in the curriculum of both the two-year police colleges and the four-year police academy, including on section 212/A in the Criminal Code and the 2009 Act on Restraining Orders due to Violence among Relatives;
- In larger cities or county centers, and wherever else feasible, establish units in police stations that are specialized in domestic violence claims to receive and handle complaints and monitor compliance with restraining orders and;
- Collect and make publicly available statistical data on the overall implementation of the 2009 Act on Restraining Orders due to Violence among Relatives, including the number of domestic violence survivors reporting to the police or the prosecutor.

To the Ministry of Human Resources

- Facilitate further education and training for relevant professional groups who deal with victims of domestic violence by organizing and funding regular conferences and workshops;
- Establish clear guidelines for medical professionals on how to identify domestic violence and what measures they should take if they suspect cases of domestic violence;
- Adopt and implement policies and programs to raise awareness of domestic violence and allocate necessary funding to implement such activities;
- Provide technical and financial support to nongovernmental organizations(NGOs) and women's groups who work with or on behalf of victims of domestic violence;
- Establish a targeted outreach program on domestic violence for Roma women and elderly women;

- Ensure that there are sufficient specialized and safe shelters for victims of domestic violence, with a view to bringing the number of available places in line with international recommendations (there should be availability for at least one family in a shelter for every 10,000 inhabitants i.e. 1,000 spaces based on the current population of Hungary);
- Remove the current maximum 60-day time limit on the amount of time that can be spent in crisis centers and permit duration to be determined on the basis of a case-by-case assessment;
- Ensure that shelter staff have specialized and up-to-date knowledge and training on how to deal with cases of domestic violence;
- Ensure safe access for all women to shelters irrespective of age, ethnicity, or disability and;
- Establish programs to facilitate transitioning of women from shelters to permanent housing and allocate necessary funds and technical assistance.

To the European Commission

- Establish regular funding streams for women’s organizations in Hungary working with or on behalf of victims of domestic violence;
- Provide needed technical and financial support for awareness-raising and campaigns against gender-based violence in Hungary;
- Develop a European Union-wide directive on combatting and preventing domestic violence against women and;
- Urge the government to develop a comprehensive national strategy for combating violence against women.

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UNLESS BLOOD FLOWS

Lack of Protection from Domestic Violence in Hungary

Domestic violence is a serious problem in Hungary, with around a quarter of all women likely to suffer physical or sexual violence by a husband or partner at some stage in their lives. But women who experience domestic violence and turn to the state often fail to receive the help they need.

Unless Blood Flows documents the gaps in Hungary's legal and policy framework for responding to domestic violence and the failure of the authorities adequately to protect women who suffer violence at the hands of their partners, despite a new provision in the criminal code criminalizing domestic violence. Women lack confidence in the authorities and fear reprisals from their abusers if they come forward.

Police officers, lacking proper training on how to respond to domestic violence, are quick to blame victims or excuse violence, and police and the courts are reluctant to issue preventive restraining orders. There are too few shelters and medical professionals and social workers fail to adequately assist victims.

Hungary has clear obligations under international human rights law to protect women from violence. To meet these obligations, the Hungarian government should rectify the current shortcomings in its laws, policies and practices, improve police training, and increase the capacity of shelters for victims of domestic violence.



A woman and child at a shelter for victims of domestic violence in Hungary, October 10, 2013.

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