Promo - LEX

Advancing democracy and human rights

ASSESSMENT REPORT

ON THE ISSUE AND ENFORCEMENT OF PROTECTION ORDERS IN DOMESTIC VIOLENCE CASES IN 2012-2014

Chisinau 2015

Authors of the Report: Alexandru Postica, Lilia Poting
Also contributed to this Report: Eduard Scutaru
Edition Coordinator: Olga Manole
Editing and correction of Romanian text: Doina Dumbraveanu-Munteanu
Translation of text into English: Lucia Aprodu
Computer processing and editing: "Depol Promo" SRL

DISTRIBUTED FREE OF CHARGE

Promo - LEX
Advancing democracy and human rights

Asociația PROMO–LEX
str. Dumitru Rîșcanu, 11/41, Chișinău, Moldova
Tel./fax: 00 373 22 450024
E-mail: info@promolex.md
www.promolex.md

FUNDAȚIA soros moldova

FUNDAȚIA SOROS-MOLDOVA
str. Bulgara 32, Chișinău, Republica Moldova
Tel.: (+373 22) 274480, 270031
Fax: (+373 22) 270507
www.soros.md

The present Report was produced and published as part of the Project: "Streamlining the Enforcement of Protection Orders for Victims of Domestic Violence in Moldova", with the financial support of the Soros Foundation Moldova.
The contents of this Report reflects the opinion of the authors. The Soros Foundation Moldova is not responsible for the contents of this Report.

CONTENTS

ABREVIERI

CC	Contravention Code
CEDAW	Convention on the Elimination of Discrimination against Women
C**EDAW Committee CAHVIO**	Committee for the Elimination of Discrimination against Women CAHVIO (Istanbul Convention) Council of Europe Convention on preventing and combating violence against women and domestic violence
CNPAC	National Center for the Prevention of Child Abuse
CP	Criminal Code
CPC	Civil Procedure Code
CPP	Criminal Procedure Code
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
FC	Family Code
GD	Government Decision
GPI MOI	General Police Inspectorate of the MIA
IOM	International Organization for Migration Mission to Moldova
PIR	Institute of Penal Reforms
Law no. 45	Law no. 45 of 01.03.2007 on Preventing and Fighting Family Violence
MIA	Ministry of Internal Affairs of the Republic of Moldova
MLSPF	Ministry of Labor, Social Protection and Family of the Republic of Moldova
MOH	Ministry of Healthcare of the Republic of Moldova
NIJ	National Institute of Justice
NORLAM	Norwegian Experts Mission of Rule of Law in Moldova
OSCE	Organization for Security and Cooperation in Europe Mission to Moldova
PI	Police Inspectorate
SAD	Social Assistance and Family Protection Department
SCJ	Supreme Court of Justice in Moldova
SCM	Superior Council of Magistracy
UN	United Nations
UNDP	United Nations Development Programme
UNFPA	UN Population Fund

EXECUTIVE SUMMARY

Introduction

Domestic violence remains among the pressing problems facing Moldovan society. Annually, domestic violence causes human losses, material and moral damage to victims, involves the use of significant administrative, human and financial resources on behalf of the state. From a demographic perspective, domestic violence affects families and causes excessive migration. The consequences of domestic violence last longer, because abused or mistreated people require a long period of recovery.

Moldovan legislation contains a number of rules and provisions to prevent and combat domestic violence. These rules provide the opportunity to face a challenge and ensure the safety of victims in times of crisis. However, the basic problem lies not only in the quality of legislation and bylaws, but rather in the manner of execution and enforcement of these rules.

The protection order was included as a mechanism to protect the victim from the perpetrator. The method and procedure for issuing protection orders can be found both in Law no. 45 of 01.03.2007 on preventing and fighting domestic violence (Law no. 45) and the provisions of CPP and CPC. In 2012-2014, these measures did not change.

The "Assessment Report on the Implementation of Law no. 45 on the Protection Order in Moldova in 2008-2011" offers a detailed analysis of the application for, examination of the case, and the issue of protection orders. The report contains statistics on the number of protection orders issued and enforced in the period up to 2011. The report is available on the official website of the Association, www.promolex.md, under publications for 2012.

The previous report provided several recommendations, which referred to increasing the internal capacities of the Prosecutor office, Police and Departments for Social Assistance within each district, by informing them about their obligations to ensure the safety and protection of victims. For the previous period, there was a need for better implementation of the guidelines adopted by MLSPF, MIA and MOH and the obligation of central structures to report on the realization of implementation of guidelines adopted on domestic violence. Developing a single database of the SADs, MIA and MLSPF, recording complaints and protection orders was another recommendation aimed at streamlining the process of issuing and enforcing protection orders.

The period 2012–2014 can be considered a period of strengthening mechanisms to prevent domestic violence and standardized practices in the examination of applications for protection orders. We appreciate the effort of the authorities that produced methodical instructions and internal orders on improving the regulatory framework under the law.

The mechanism of preventing domestic violence through protection order was popularized by the efforts of several NGOs, which, in the reported period, organized several public information campaigns to that end, in cooperation with state institutions.

Promo-LEX, too, conducted several information and public awareness campaigns on the protection order. In its spring-summer campaign on 16 May–25 June 2014, it conducted 5 debates (in towns Soroca, Ungheni, and Telenesti, and districts Falesti and Drochia). Approximately 330 persons attended. A second campaign was held between 15 October and 25 November 2014, under which 10 public discussions and presentations were organized (in districts Straseni, Cantemir and Ialoveni, towns Hincesti, Orhei, Calarasi, Floresti, and in the city of Chisinau), and was attended by no less than 1,320 de persons.

Structure of this Report

The monitoring report is divided in 4 chapters. The first chapter analyzes the legislative and normative amendments to the procedure of issuing protection orders. It also contains an analysis of the jurisprudence of national and international courts with regard to domestic violence. The first chapter also contains an analysis of the procedures before CEDAW Committee, and of its recommendations put forth to the Government of Moldova.

The second chapter analyzes the capabilities and perceptions of actors involved in preventing and combating domestic violence, but it is also an attempt to present the profile of victims. The chapter also examines how complaints against cases of domestic violence are submitted, the number of complaints to the courts, and the method of assessment of applications for issuance of protection orders by the courts. The chapter contains conclusions about every aspect analyzed. The deficiencies regarding the qualification of domestic violence cases, which are closely linked with efforts to prevent domestic violence, are a relevant conclusion for this study.

The third chapter covers the analysis of data obtained on the number of orders sent for execution to the police and social assistance. It analyzes how police and SAD employees perform their duties. The chapter contains a brief analysis of the cases of non-enforcement of protection orders and their share in the total number of issued orders.

The fourth chapter is dedicated to conclusions and recommendations and contains a narration of the facts analyzed in the report, trying to offer a reflection on the issues identified. The recommendations are addressed equally to Parliament to amend the law and to local authorities responsible for the enforcement of protection orders.

Methodology

The methodology used for this report is the same as the one used for previous assessment reports[1]. The methodology was adapted to assess the way previous recommendations were implemented[2].

The main goal of the report was to make a comprehensive assessment of the enforcement of protection orders in cases of domestic violence in the period 2012-2014, and to identify problematic aspects that relate to the manner of execution and the grounds for the non-enforcement of protection orders. In this sense, we studied the awareness of those responsible for the enforcement and implementation of protection orders, as well as the main causes of the non-enforcement or partial execution of protection orders.

Several sociological tools were used for this report: structured interviews, questionnaires and requests for access to information. In each PI, an interview was conducted with the head or deputy head of the public security department of the PI or others who, according to their duties, were directly involved in preventing and combating domestic violence. In the case of SADs, structured interviews were conducted with relevant employees in the field. In total, we interviewed 42 police employees and 41 employees of the district and municipal SADs. 42 victims of domestic violence who received protection orders were also interviewed. Interviews were conducted at the workplace of each PI or SAD worker, or at the home or residence of

1 Promo-LEX Assessment Report on the Implementation of Law no. 45 on the Protection Order in Moldova in 2008-2011 http://www.promolex.md/upload/publications/ro/doc_1358771911.pdf

2 Ibidem.

the victim. Interviews were conducted with representatives of absolutely all the specialized structures within all administrative-territorial units, except the Transnistrian region.

The Transnistrian region was not covered in this report because the region does not have police or SAD departments. No victims who had benefited from a protection order were interviewed from that region, because protection orders cannot be enforced in Transnistria. However, in interviews with representatives of the PI and SADs from districts from the Security Zone, adjacent to the Transnistrian region, we tackled the question how applications from left-bank residents are examined.

All relevant bodies (local, municipal and district courts, all PIs, the Prosecutor General, SADs in all administrative units, GPI) were sent information request forms. All the respondents replied to these requests and provided the requested information, with very few exceptions. It was not possible to analyze data from the court of Orhei, which noted that they did not keep records of requests for issuance of protection orders for victims of domestic violence, and other data relevant for the report. At the same time, SADs in Leova and Comrat did not provide comprehensive responses to our requests for information.

The accuracy and precision of the data obtained in the replies is confirmed by the signature of the heads of the mentioned bodies, and therefore the reports only uses data from these official sources.

Thanks

We hope that this report will serve as a reference for researchers, practitioners, representatives of local authorities and other stakeholders to prevent and combat domestic violence. What makes this report unique is the complex analysis of data from several authorities responsible for issuing and enforcing protection orders.

The Promo-LEX Association expresses its gratitude to the General Police Inspectorate, district and district Police Inspectorates, the Superior Council of Magistracy, Social Assistance Departments in the local administrations, Presidents of local, municipal and district courts, and all persons who contributed to this report by providing relevant information, opinions and suggestions.

CHAPTER I

SITUATIONAL ANALYSIS AND THE LEGAL FRAMEWORK OF THE ISSUE OF PROTECTION ORDERS

Changes in the regulatory framework

In the reporting period (January 2012 – September 2014), several acts and recommendations were adopted in order to specify and explain the actions of the bodies and authorities involved in the implementation of Law no. 45, the CPC and CPP, with regard to issuing and enforcing protection orders.

The first document was approved in 2012 is MLSPF Order no. 22 of 9 February 2012 regarding the approval of an Instruction on the intervention of sections/departments of social assistance and family protection, medical institutions and internal affairs bodies in cases of domestic violence. The Instruction contains detailed information on the identification and registration of domestic violence cases by the community social worker. The Instruction explains concepts and manifestations of violence, exemplifying each type of violence. It also helps identify the consequences of domestic violence. The Instruction outlines all the duties and tasks of the social worker both at the preventive phase and the implementation phase of protection orders.

On 24 February 2012, by MOH order no. 155 was approved Instruction on the intervention of medical institutions in cases of domestic violence and the actions of health workers in cases of domestic violence. This document, in fact, obliges all employees of medical institutions to ensure victims unconditional medical help, emotional support, thorough documentation, information and reporting, and referral to other services. This act is relevant because it provides some very clear benchmarks for documenting cases of domestic violence and very clear attributions of legal medicine with regard to domestic violence. The act itself is important because, according to the observations in previous reports, medical structures had a weak involvement in preventing and combating domestic violence. This order comes to remove those obstacles to the direct involvement of health workers in cases of domestic violence.

On 28 May 2012, Decision no. 1 of SCJ Plenum On application by the courts of the provisions of Chapter XXX/I of the Civil Procedure Code (application of protection measures in cases of domestic violence) was adopted. This decision explains to the judges how to examine the application for issuing a protection order, the circumstances that must attract attention and terms of reference. It also contains a detailed analysis of how the courts shall register applications for release protection orders, carry out hearings, issue procedural acts and inform the parties about the solution adopted.

MLSPF order no. 105 of 2 August 2012 approved an Instruction for the authorities of local public administration on how to exercise their legal duties in preventing and combating domestic violence. Under the provisions of Law no. 45, this act analyzes the competences of local public administration authorities of the first two levels. The Instruction highlights the essential role of the local administration of the first level - the local council, as a decision subject, and the mayor, as a subject of execution, coordination and decision-making, in the fight against domestic violence. The act also explains how the committee for social issues, which is to be established by the LPA and empowered with functions of organization and coordination of activities to prevent and combat domestic violence, should work.

MIA order no. 275 of 14.08.2012 approved an Instruction on police intervention to prevent and combat domestic violence. The provisions of this Instruction define the powers of law enforcement bodies as a specialized structure of the central and local public administration in the prevention and identification of cases of domestic violence, the multidisciplinary coordination and resolution of cases revealed or recorded, prevention and combating of domestic violence ion general, ensuring the protection of victims, overseeing the enforcement of protection measures in cases of domestic violence, and rehabilitation of offenders.

On 30 May 2013, the SCJ issued Recommendation 47 on the application of article 318 para. (6) of the CPC on the use of protection measures in cases of domestic violence. This act is necessary as there was no uniform practice of courts decisions and documentation, which often caused confusion on how to pronounce court decisions on the topic, and how to enforce these decisions.

On 30 June 2014, Government passed Decision no. 496 approving the Framework Regulation on organization and operation of a Center for Assistance and Counseling for family aggressors, and minimum quality standards. This act establishes the operation of centers that shall be created within the administrative-territorial units of level II (districts) and shall provide integrated assistance and expert advice to perpetrators of domestic violence and adolescents with violent behavior manifested both in the family, and beyond.

Attempts to improve the existing legal framework

During the reporting period, MLSPF created a working group that drafted a bill on amending and supplementing certain legislative acts in preventing and combating domestic violence, which has not been approved by all ministries. The purpose of these changes was to streamline settlement mechanism for domestic violence cases and implementation of both CEDAW and civil society recommendations. At the same time, the purpose of these amendments is to harmonize the national legislation with the CAHVIO.

The bill contains proposed amendments to 12 laws and regulations. In order to assure the enforcement of protection measures changes in definitions were proposed: violence in family, spiritual violence, victim and aggressor/perpetrator, additions to the definition of the aggressor, and the inclusion of new definitions: crisis/critical situation, emergency restraining order, violence against women, gender-based violence against women.

Amendments to article 3 para. (2) letter b) of Law no. 45 seek to widen the array of people who may be victims or perpetrators in cases of domestic violence. At the same time, an amendment to article 9 of the Law aims to enhance the national mechanism established to prevent recurrence of the offense, by providing assistance and counseling to subjects of the offense of their reintegration in the community, and an extension of competencies of probation bodies.

The proposed amendment to article 11 comes into context with the Istanbul Convention on the parties' obligation to provide victims who have suffered serious personal injury or damage to health caused by violence with the right to claim compensation from their aggressors or the state. The Convention recommends mandatory compensation or victims who suffered serious injuries or other health damage, including serious psychological damage caused by psychological violence.

Article 12 para. (1) of Law no. 45 is foreseeing the possibility of issuing a "restraining order" which also comes to execute requirements of the Convention, which provides that the parties

shall take legislative and other necessary measures to ensure that corresponding protection or restraining orders are available to victims of all violence covered by the scope of this Convention. This proposal will regulate the mechanism and procedure of issuing restraining order by the police, the period for which it is issued, prohibitions on the aggressor, the consequences of its violation, contestation procedure, but also the victim's right to request protection measures (issuing the order protection). The restraining order completes their victim protection measures by the immediate intervention of the police to isolate the perpetrator/immediately eliminate him from home. The police officer will be therefore be entitled to issue restraining orders to make the aggressor leave the house immediately for up to 10 days. At the same time, if necessary, during these 10 days, application for protection order for a longer period of time can be documented, examined and issued by a court of law.

The proposed amendments to article 13 aim to regulate more clearly how protection measures are solicited, and the initiator in this respect is the victim, with certain exceptions with regard to individual subjects, and the possibility of involvement, at the victim's request, of professionals, if the victim is unable to apply for protection on their own.

Amendments to article 15 include new measures to protect the victim of domestic violence, in addition to existing ones, and are also determined by the need to specifically regulate protective measures, the procedure for informing regarding the issue of a protection order for the victim, the procedure of overseeing the restraining order and protection order, and the regulations related to the procedure for revocation of protection measures.

Examination of cases of domestic violence by the ECtHR

During the reporting period, the ECtHR examined several domestic violence cases against Moldova, and pointed to several gaps in the mechanism of protection for victims of domestic violence and improper practice of courts in issuing protection orders.

Thus, on 28 May 2013, the ECtHR delivered a judgment on the case Eremia v. Moldova. The Court examined how, despite many requests by the victim, the police refused to enforce a protection order ruled by the court. The perpetrator also ignored the protection order, as, although aware of such an order, he broke it deliberately. The Court concluded that the authorities in practice favored the aggressor. For his part, the aggressor, a police employee, knew the law and deliberately breached a court order.

It was also found that the prosecution about the non-execution of a protection order by the authorities did not achieve the desired result, since the investigation was delayed until the aggressor was practically fully relieved on any criminal responsibility, and received a suspended sanction.

Given the way in which the authorities dealt with the case, in particular, their awareness of the danger of violence posed by the aggressor, and their failure to use efficient measures to ensure his punishment as provided by law, the ECtHR found that the State has not fulfilled its obligations under article 3 of the ECHR (freedom against torture). The Court presumed that the authorities had knowledge of the situation and of the effect of aggression on the victim's children. However, no or insufficient action has been taken to prevent the recurrence of such aggressive behavior. Therefore, the Court concluded that article 8 of the ECHR (right to private and family life) was violated.

Moreover, the ECtHR concluded that there was discriminatory behavior by tolerating repeated violence, citing a discriminatory attitude towards the applicant as a woman. The findings of UN Special Rapporteur on violence against women, its causes and consequences developed during the visit of 4-11 July 2008 (document A/HRC/11/6/Add.4 of 8 May 2009) were also considered. Therefore, ECtHR found that there was a violation of article 3, article 3 in conjunction with article 14, and article 8 of the Convention. The Court ordered payment of moral damages of 15,000 euros and other expenses in the amount of 2,150 euros.

On 16 July 2013, the ECtHR delivered a judgment on the case B. v. Moldova. It also refers to the way in which competent authorities have treated the situation with regard to domestic violence. The ECtHR found that the authorities knew about the aggressive behavior of the husband of Mrs. B., and issued five administrative sanctions against him, none of which though determined the aggressors to change their behavior.

In this case, the victim revoked its initial complaint on attempted rape, and the authorities accepted this. However, the Court reiterated that in the Council of Europe member states, with regard to withdrawals of complaints of domestic violence, "there must be an acknowledgment of the obligation of finding a balance between the requirements of the victim to decide fate of their complaint and the interest of society to investigate cases of domestic violence." The Court considered that the presence of multiple complaints of abuse from the victim had to determine the authorities to examine this situation in more detail. The Court was not satisfied with the superficial approach of the national courts regarding the victim's refusal to have a protection order because the perpetrator was the owner of their shared. The failure to ensure the victim's safety by evacuating them from the apartment led to continued degrading treatment on behalf of the perpetrator, in spite of certain taken measures, such as the prohibition from approaching the victim or her place of work. The Court also rejected the Government's objection that the protection order would have served as a remedy for the victim in a patrimonial dispute. The victim had been previously assaulted by the perpetrator in their apartment, and maintaining this climate of fear led to reaching that minimum level that amounts to inhuman and degrading treatment.

The ECtHR found that there was a violation of article 3 (freedom from torture) and article 8 (right to private and family life) of the ECHR. Consequently, the Court decided to award the victim moral damages in the amount of 15,000 euros and covered expenses of 3,000 euros.

Also it 16 July 2013, the ECtHR pronounced a judgment in case Mudric and Others v. Moldova. Just as in the case Eremia v. Moldova, the ECtHR found a violation of article 3 citing the fact that the authorities tolerated the ill treatment to which the victim was subjected and that they failed to enforce the court rulings demanding the victim's protection. Also, the ECtHR found a violation of article 14 combined with article 3 and article 8 of the Convention, concerning the victim's discrimination by the authorities on grounds of sex, which did not guarantee her a life without violence. The ECtHR has found a violation of article 17 of the Convention, citing the refusal of the authorities to sanction her former husband, which allowed him to continue his illegal actions, and led to the violation of the applicant's rights. The ECtHR awarded the applicant 15,000 euros in non-pecuniary damages and 2,150 euros in costs and expenses.

On 28 January 2014, the ECtHR issued a decision in which it found violations of the rights of other two victims of domestic violence in the case of T.M. and C.M. v. Moldova. The Court found that there was a violation of article 3 of Convention, and a violation of article 14 corroborated with article 3 of the Convention.

Thus the ECtHR found that the authorities knew about the violent behavior of the perpetrator, which aggravated after the issuing of a protective order on 11 April 2011. The Court deemed sufficient the medical evidence that demonstrated that the police was aware of the violence inflicted upon the victim by her husband. The ECtHR held that the police were obliged to examine the causes of violence and act to prevent this behavior taking into account the vulnerability or the victim in such situations. Apparently, the authorities were unable to provide assistance to the victim in the absence of a formal request. The ECtHR found that few of the victims were familiar with Law no. 45 and, therefore, with the protection order, which, according to the Court, is a systemic problem.

In addition, the ECtHR criticized the position held by the prosecution that they cannot start a criminal case in the absence of visible lesions, which raises questions about the effectiveness of protective measures, since many types of domestic violence, such as psychological violence or economic violence, did not result in injuries.

The ECtHR found that, whereas the law sets a deadline of 24 hours to issue protection orders, a period of 10 days is too much. Even after the issuance of the protection order, it was not immediately sent to the police for execution, which put continuous pressure on the victim.

Moreover, the prosecution and judicial authorities did not provide effective assistance until the next incident. Thus, the authorities failed to provide any protection after the first case of aggression. For this reason, the ECtHR found a violation of article 3 of the Convention.

In regard to the discrimination against female applicants, the ECtHR concluded that there were many cases of intimidation and violence against the victim of which the authorities were informed. Also, the ECtHR found that the prosecution authorities refused to initiate a criminal case on grounds of lack of injuries, which which shows that the authorities are not fully informed on family violence and the specific nature of violence, which is not always manifested through injuries. Therefore, the police did not act promptly to eliminate the aggressor from the apartment, and later a court suspended the enforcement of that decision despite of the emergency of the situation (in fact, that decision was contrary to the law).

Considering the specificity of victims of domestic violence, who are often prevented from filing complaints, the authorities are obliged to check and inform the victim about the existence of protective measures.

In the Court's view, all the constituent elements show that there was gender-based discrimination. ECtHR found a violation of article 3, article 3 in conjunction with article 14, and article 8 of the Convention and awarded the victim 15,000 euros in non-pecuniary damage and 2,150 euros for costs and expenses.

Examination of the cases of domestic violence by CEDAW Committee

Regarding the use of other international mechanisms of protection, we would like to mention the case of Moldova, which came to the attention of the CEDAW Committee in 2013.

This is a domestic violence case, R.L. v. Moldova, where the applicant, a victim of domestic violence, complained on discrimination and complicity to ill treatment by inaction on behalf of the police. According to the statements of the woman, she was systematically beaten by her husband, who was also aggressive with their minor children. Although many quarrels led to complaints to the police, after returning from the police station, her husband became more aggressive.

Even if R.L. was divorced, the former spouses were forced to live in the same apartment. The aggressive behavior of the former spouse did not stop even after divorce. Moreover, he continued to insult her and to use force against her. Although R.L filed several complaints to the police, they did not result in any responses in favor of the victim. On the contrary, the police gave administrative fines to the applicant, who was in police records as the family scandal starter. The requests to start a criminal case against the former spouse did not follow through either. The Moldovan Government and the applicant both submitted observations on this case. CEDAW Committee will examine on the case in the near future.

However, during the same period, on 1 October 2013, after the official delegation of the Government presented the report before the CEDAW Committee, the Committee put forth to the Government several recommendations for improving the implementation of CEDAW. Among the main concerns and recommendations, the Committee urged the authorities to improve the implementation of the CP, Law no. 45 and other relevant national laws, to increase the capacity of the prosecution to start investigations on cases of domestic violence ex officio and ensure that perpetrators receive punishments according to the gravity of their offense. Also, authorities should strengthen efforts to amend the Law no. 45 to supplement protective measures that may be issued by court with a protection system issued by the police, so as to allow the police to issue emergency restraining orders.

The CEDAW Committee made several recommendations, including:

- Eliminating any obstacles that women face in obtaining access to justice and ensuring the availability of its judicial assistance to victims of violence;
- Encouraging women to report incidents of sexual and domestic violence by increasing awareness about the criminal character of such offences;
- Providing appropriate assistance and protection to women victims of violence, including Roma women;
- Increasing the number and funding for shelters and ensure national coverage that extends over to women in rural areas and the Transnistrian region;
- Strengthening the data collection system to assure the data disaggregation by type of violence and the relationship between aggressor and victim; supporting research in this area and ensuring that the information and data collected is available to the public;
- And, last but not least, ratifying the CAHVIO.

Training employees of the institutions involved in preventing domestic violence

Trainings for people involved in the implementation of Law no. 45 is a priority. In 2012 - 2014, dozens of trainings were conducted in the field of prevention and combating domestic violence.

Trainings were organized both in Chisinau and outside the capital. Most of the trainings were conducted under the MLSPF, MIA and GPI, NIJ, IOM and the OSCE. However, ten public associations conducted seminars and roundtables, including the Legal Center for Women, the Contact Center, the Social Alternatives Organization, the Secretariat of the National Standing Committee for Combating Trafficking in Human Beings, Partnerships for Every Child, UN, PRI, CNPAC, the Center for Policies and Analyses in Healthcare, and other local associations targeting local governments.

Many training sessions were organized for law enforcement employees. In 2012, NORLAM made not less than 26 seminars, which involved circa 650 participants from the criminal justice sector. Among the topics covered in the training were: challenges vis-à-vis the European Convention and ECtHR decisions, prosecutors' ethics, the position of women and children as victims and witnesses in cases of sexual abuse and domestic violence, juveniles in probation, and special investigative measures.

In 2012–2014, the NIJ and OSCE organized and held thematic seminars for judges, prosecutors and police officers on the following topics: "Application of the Law in Domestic Violence Cases", "Particularities of the Examination of the Application for Protection, and the Use of Protection Measures in Domestic Violence Cases", "Investigation of Criminal Cases on Domestic Violence Crimes." Social workers and healthcare professionals also received training through various programs.

CHAPTER II

IMPLEMENTATION BY RESPONSIBLE BODIES OF THE PROVISIONS OF LAW NO. 45 ON THE PROTECTION ORDER IN JANUARY 2012 – SEPTEMBER 2014

As mentioned earlier in this report, several instruments were used for presenting conclusions regarding topics covered by the chapters. To understand the capabilities and employ opinions of representatives of the Social Assistance Departments (SADs), Police Inspectorates (PIs) and those of the victims, we conducted a series of interviews with these groups. The conclusions stated below are based on interviews with 42 police officers, 41 SAD employees and 42 victims of domestic violence who received protection orders.

Interviews were conducted individually with each employee, and the questionnaires focused on 52 topical questions. The interviewers were trained in the methodology of addressing questions and synthetizing information.

The purpose of the interviews was to understand the perception of respondents about their place and role in preventing and combating domestic violence, and their knowledge of the normative acts regulating this field. The capacities of individuals were evaluated subjectively, based on several aspects. Firstly, we examined the work experience of the interviewees; the second aspect was the number of trainings sessions attended by the respective persons, and the third aspect related to a self-assessment of their knowledge, verifiable through control questions. These data were combined and interposed with statistics obtained from several institutions. Finally, after corroborating these data, we could draw certain findings and conclusions.

2.1 Capabilities and perceptions of victims on the enforcement of Law no. 45

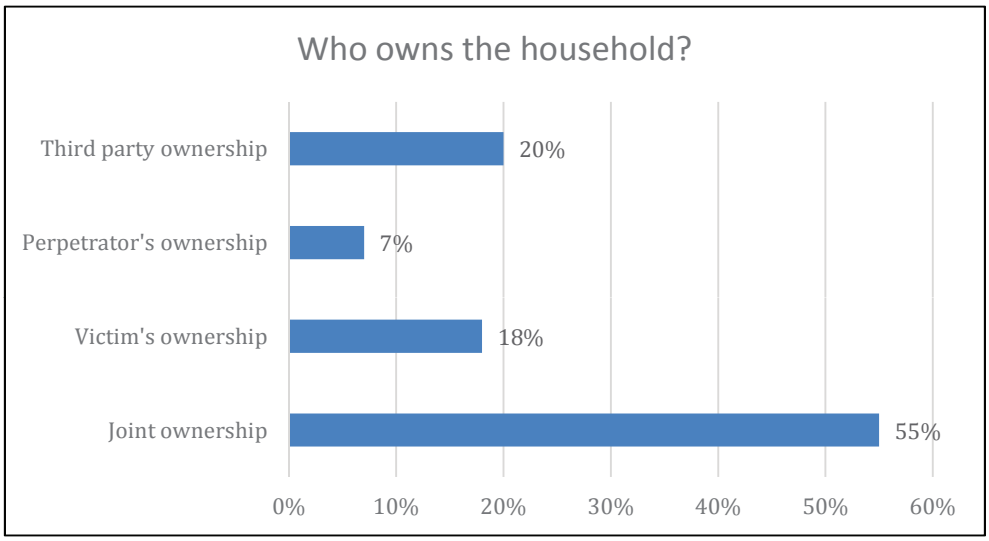
Since we proposed to make a comprehensive analysis of domestic violence in terms of issuance and enforcement of protection orders, the victims' profile was analyzed based on a representative sample, and namely by having one victim from every level II administrative-territorial unit that benefited from a protection order in the reference years. A total of 42 victims were interviewed, including 40 women and two men. It was not possible to interview victims from districts Vulcanesti, Ceadir Lunga, Taraclia and Cantemir. These victims were replaced by people from neighboring districts. Of the victims interviewed, 14 reside in towns and cities, and the remaining 28 victims reside permanently in villages.

The victims recognized that they were too passive until they decided to turn to for help to the law enforcement. They had to endure years of humiliation and beatings from their perpetrators, and decided to lodge complaints only when violence became unbearable. Moreover, there are more victims in their communities, who were in similar situations and who did not seek law enforcement assistance.

The victims justified their behavior by being ashamed to face their communities. This fear of the community leads them to put up with the perpetrators' violence. According to the victims, domestic violence is determined, first of all by the lifestyle and living conditions, and especially by the financial situation of the family. According to most victims, many conflicts arise as a result of poor living conditions and lack of financial resources.

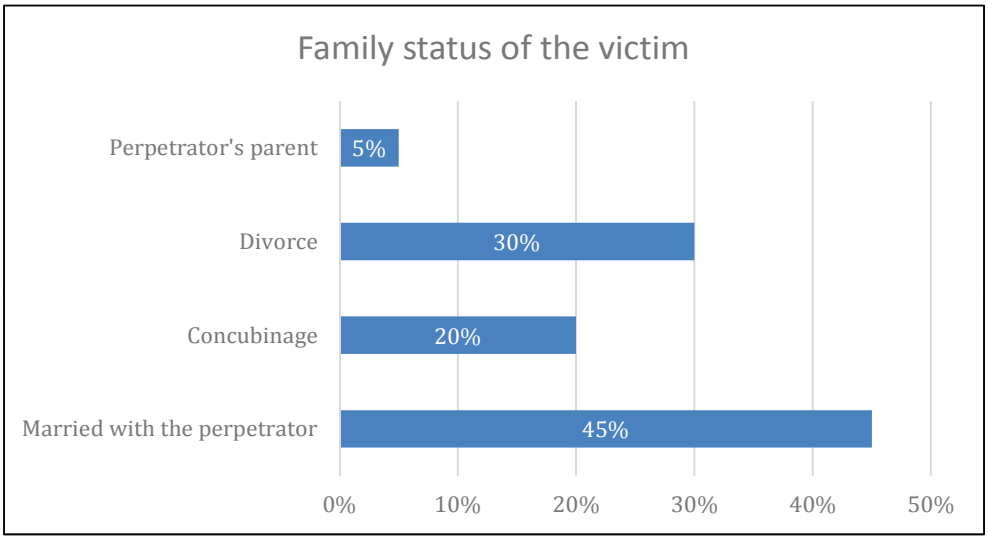
Of the 42 victims, 55% are the co-owners of the dwelling they share with the aggressor, another 20% live with the aggressor in the house that does not belong to them, 18% live with the aggressor in dwellings in their personal property, and only 7% live in dwellings that are the sole property of the perpetrator. Therefore, we find that only 7% of the perpetrators have the exclusive right to the home.

Diagram 1



Almost half of the interviewed victims were married to their perpetrators - 45%, another 20% were their aggressors' concubines, 30% of the victims were divorced, but lived together with the aggressors, and 5% were the aggressors' parents. All of the interviewed victims have children. In fact, given the statements of victims, this circumstance often is crucial in the decision to bear with the violence. The victims often prefer to overlook the humiliation and beatings they consider insignificant, just to keep the family together and educate their children in numerically complete families.

Chart 2



Regarding their knowledge on the prevention of domestic violence and on protection orders, we note that before obtaining protection orders, the victims were not aware of the attributions of the intervention bodies. Thus, of the 42 victims, only 10 said they knew about that the SAD would have responsibilities in the area of domestic violence, while the remaining 32 victims said they did not know that the SAD and the local social assistant could help them in preventing domestic violence. In fact, all the victims perceived the domestic violence problem as an exclusive competence of the police.

Most of the victims were granted protection orders only after filing complaints on being subjected to physical violence. Although all the victims said they have previously been subjected to physical violence, no victim has called the family doctor or other physician specialists to get a consultation or to document their injuries, let alone seek a psychologist. Visits to the forensic doctor were made only after they went to the police, which referred the victims to the Center of Legal Medicine.

Almost half of the victims – 22 persons - said they constantly sought the help of the police to remedy the situation with the aggressor. However, a considerable number of victims said they did not trust the police or social services. 16 victims stated that the often preferred to flee from the aggressor and hide at relatives or friends, and they went to the police only when their lives were put to a serious risk. The remaining four victims said they had more confidence in NGOs, where they sought help immediately after being assaulted.

Most of the victims, 58%, said they learned about the possibility of obtaining a protection order of from their sector police. However, we mention the importance of public information campaigns conducted by NGOs, paralegals or maternity centers, due to which about 42% of victims were informed of the possibility of obtaining protection orders.

CONCLUSIONS

Although the number of victims interviewed is not very high, the sample is representative, as the victims come both from rural and urban areas, and from of all 2nd tier administrative-territorial units of Moldova, belong to different social strata, and have different family relationships with the aggressors.

A first conclusion that arises in connection with the analysis of obtained data is that victims' perceptions are rooted in the patriarchal family structure. They agree to put up with domestic violence apparently in order to maintain family integrity for the sake of children or feeling shame in the face of the community. Almost half of the victims are still married to their aggressors and do not envisage divorce. This is not about financial dependency of the victims or that the victims must live in the aggressor's house, as data confirms that only a small proportion of families - 7% - lives in the dwelling that is in the sole ownership of the perpetrator, while in most cases families lived in jointly owned houses - 55% or the exclusive property of the victim - 18%.

On the other hand, a worrying indicator is awareness of the protection mechanisms available to victims of domestic violence, and knowledge about the authorities in charge in dealing with domestic violence. Thus, before obtaining protection orders, only 22% of victims were informed that the SADs has competences in preventing and combating domestic violence, while almost 78% of victims felt that the SAD only deals with social aid to vulnerable groups.

The lack of confidence in the ability of the police to protect the victims from aggressors is also alarming because about 50% of the victims had reservations for complaining to the police against the aggressors' actions. Most often, the victims' distrust is generated by the possible solidarity between the aggressor and the police. On the one hand, victims said that the police often try to mediate the conflict, and do not use strong measures or sanctions against the aggressor. On the other hand, applying financial penalties against the aggressor affects the joint family budget, which is also a problem, as the penalty is not individual, but rather directed at the whole family.

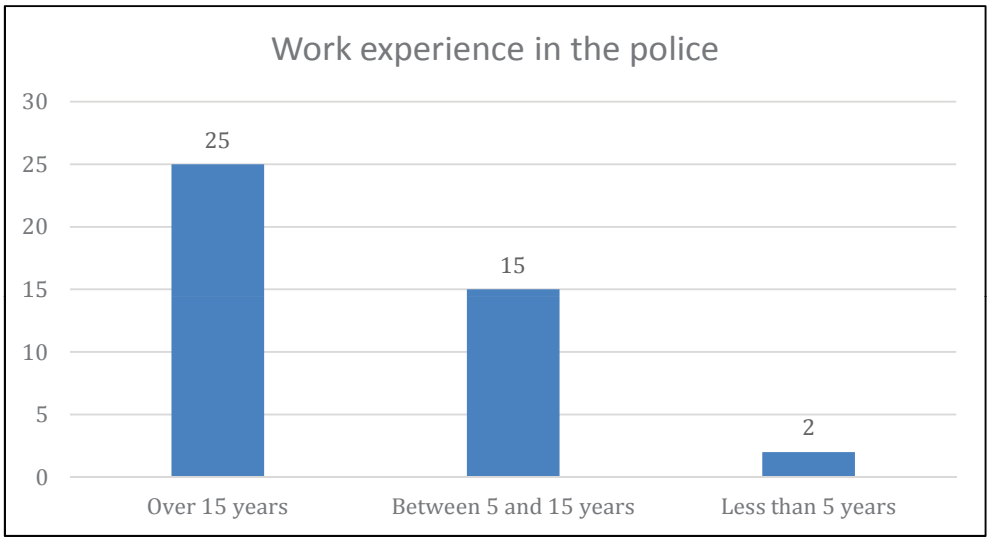
With regard to the information on obtaining protection orders, we note the high rate of cases in which it the police informed the victim about this possibility - namely 58% of the victims received full information about these procedures from police officers, while the rest obtained information about protection orders from non-governmental organizations and through public information campaigns.

2.2 Capabilities and perceptions of bodies responsible for the enforcement of Law no. 45

The profile of employees

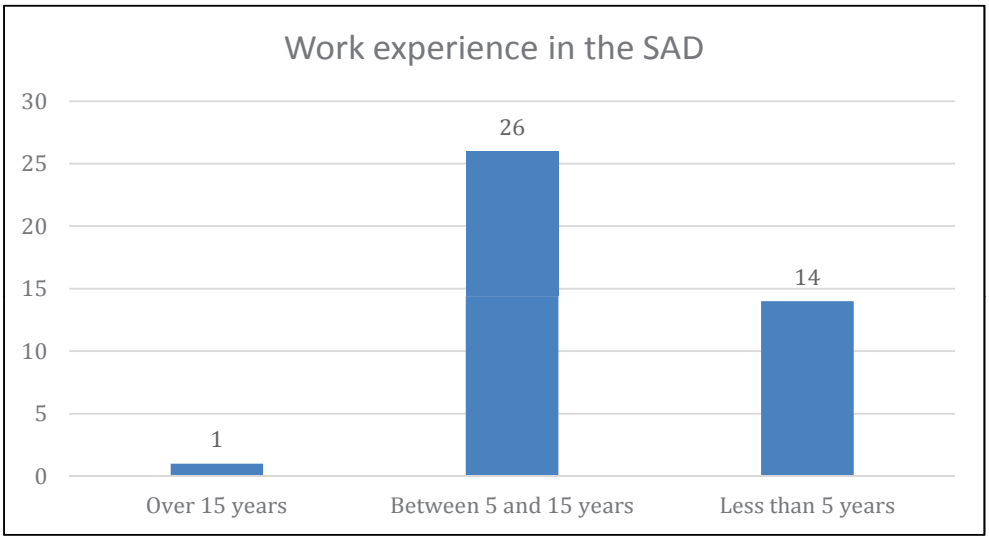
Regarding employees of the monitored institutions, it is important to consider their work experience in combating domestic violence. The chart below suggests that interviewed police officers have extensive experience in the field. Thus, out of 42 police interviewed, 25 have had over 15 years of work experience in the law enforcement, another 15 have 5 to 15 years of experience, and only 2 of those interviewed have less than 2 years of work experience.

Chart 3



As for SAD, of the 41 social workers interviewed, 26 have between 5 to 15 years of work experience, 14 have up to 5 years of work experience, and only one person has more than 15 years of experience.

Chart 4



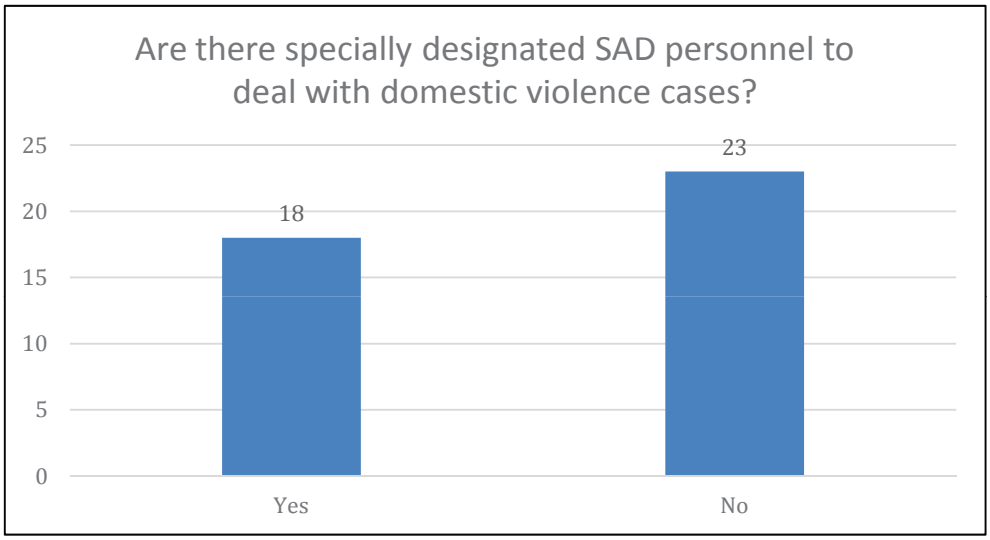
The gap in work experience between the police and SAD employees can be explained by the fact that staff turnover is higher within the SADs than in the police. During the interviews, SAD employees mentioned that, in addition to having a too big workload, which is common for social workers employees and the police, SAD wages and benefits are much lower, and working conditions are also not attractive for new and young specialists.

We also found that specialization was a problem in many districts, which manifested in the absence of a clear delimitation of functional attributions.

According to article 8 para. (3) of Law no. 45, the social assistance and family protection departments perform several functions through the specialist in charge of preventing and combating domestic violence. These functions include: updating their databases on domestic violence, direct assistance to victims, including psychological and psycho-social counseling to victims, and defending the legitimate rights and interests of the victims. However, a specialized social assistant has other functions, such as to monitor and coordinate professional activities of the social workers from the mayors' offices. So, in addition to a series of tasks and duties, the social worker in charge at the SAD has the task of maintaining liaison with local social workers and must guide them in domestic violence prevention activities at the community level.

In reality, according to the SAD employees, only 18 of the 41 districts have a specialization in domestic violence. In the other 23 SADs, social workers are not specialized, and provide services in other areas of social services.

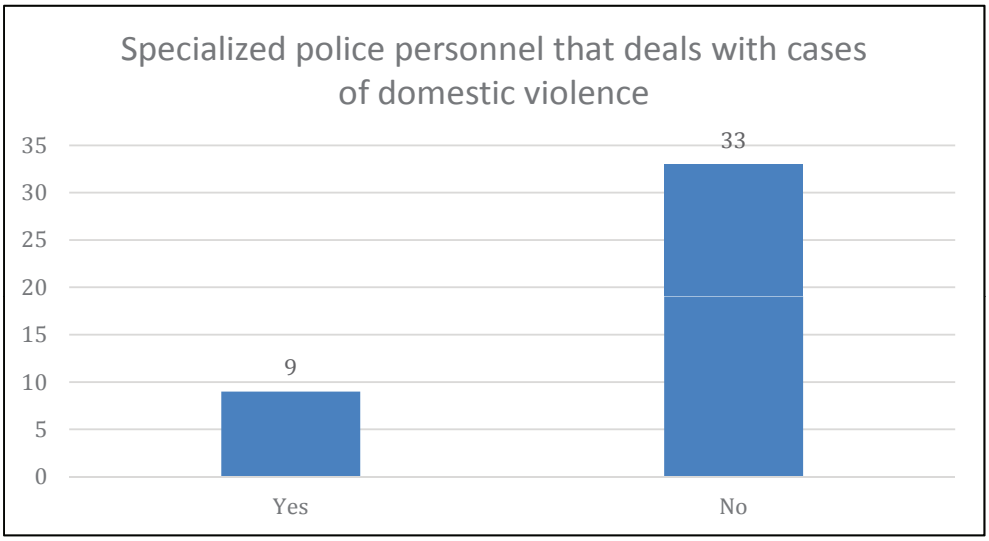
Chart 5



Law enforcement bodies also should have a specialized structure within each PI. Thus, in accordance with article 8 para. (6) of Law no. 45, a specialized structure shall undertake actions on preventing and combating domestic violence. According to the Instruction approved by Order no. 275 of MIA, operative service (minors service) sector employees have been assigned with the competences of a specialized structure in the field of domestic violence.

So, when it comes to the police, only in 9 districts there is some specialization of police officers from the public security department to deal with cases of domestic violence, while the other 33 inspectorates do not have such specialization.

Figure 6



Aspects of training and professionalism

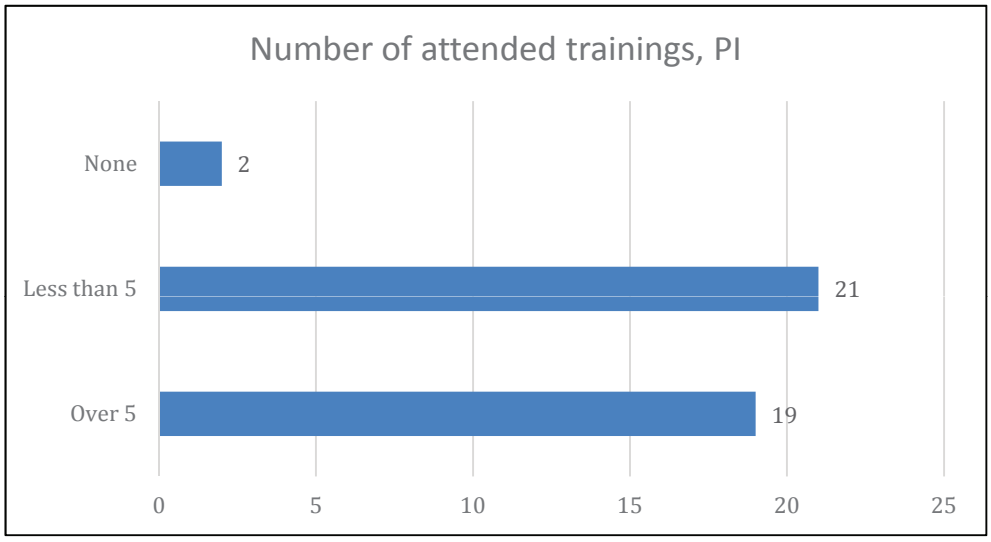
Another important aspect in terms of perceptions and capacities of employees of bodies in charge of preventing and combating domestic violence is the knowledge of the legal framework related to domestic violence. A previous report on the protection order found a need for more training to standardize the knowledge of all the persons involved in preventing and combating domestic violence.

Institutions were recommended to conduct more training sessions for all employees of the police and SADs designed to improve knowledge in the field of domestic violence. A training session was defined as a professional education activity on a specific topic, lasting no less than 3 hours, and conducted inside the institution or in a location outside. The need for more training was determined by the fact that domestic violence is a new field that changes frequently, and is based on different implementation mechanisms.

Those we interviewed were asked to tell us if in the period 2012 - 2014 they attended any training on preventing and combating domestic violence.

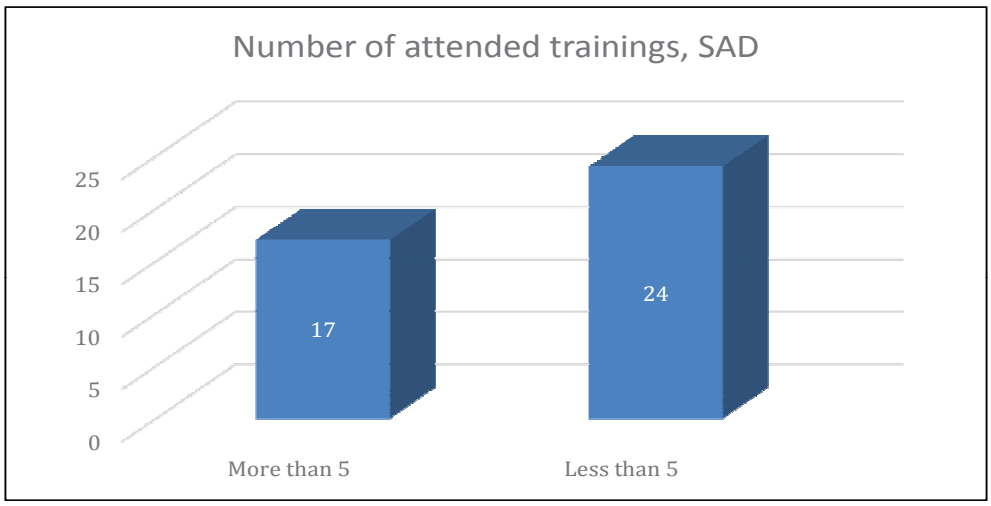
We found that during this period, 21 police employees attended up to 5 trainings, another 19 people – between 5 and 10 trainings, and the other two did not participate in any training sessions. These seminars were usually organized by the GPI in partnership with national and local public associations. At the same time, the police told us that they have weekly all-staff meetings, where they discuss the investigation of different types offenses, including domestic violence, but these discussions cannot be considered training sessions.

Chart 7



SAD employees also received training during the reporting period. The vast majority of them - 24 social workers – attended up to 5 trainings, another 17 persons attended between 5 and 10 training sessions. The trainers in the training sessions came from several national and international public associations.

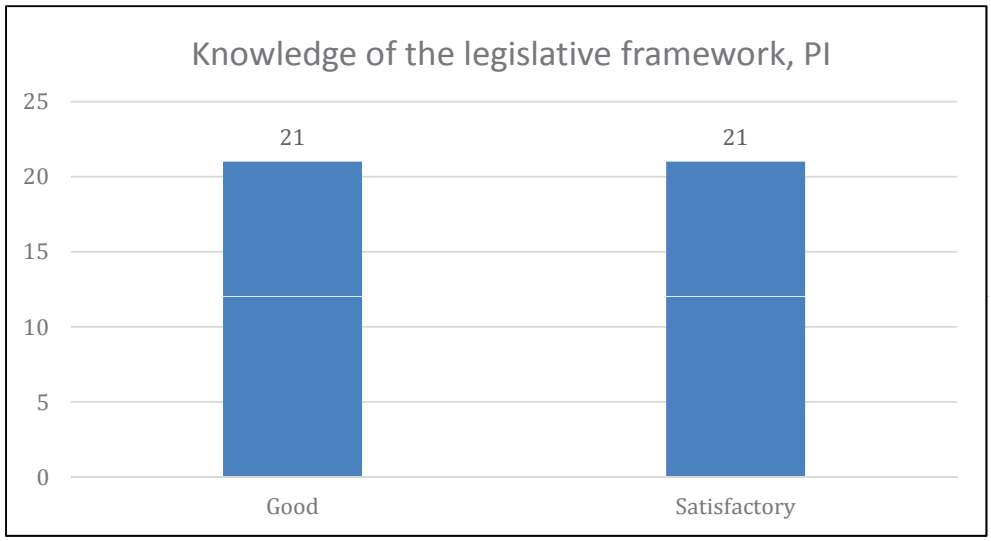
Chart 8



Given that a training session lasts on average 8 hours, we conclude that, in three years, the police or SAD employees received 40 hours of training in the field of domestic violence. This amount is however insufficient for a person to specialize in the field.

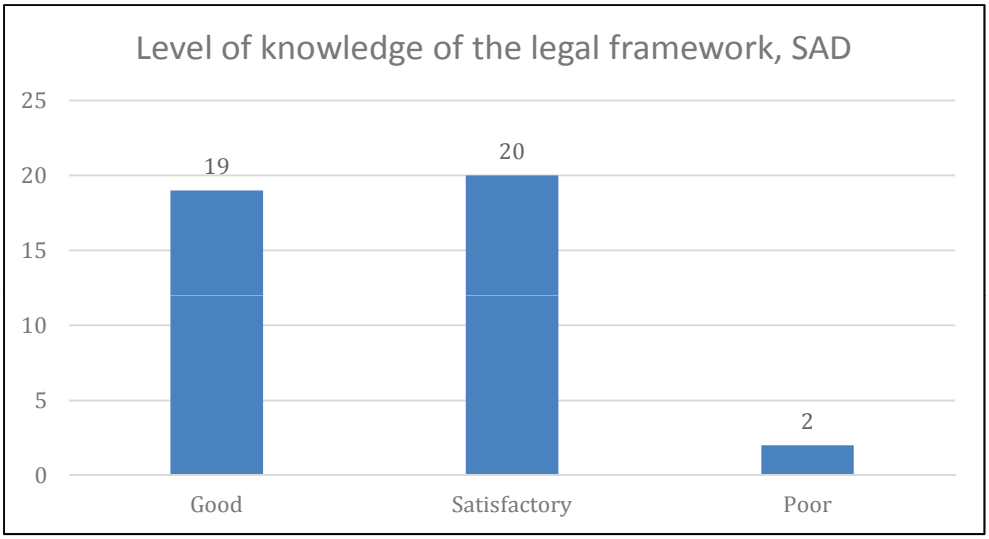
The insufficient knowledge of the field was confirmed by the assessments made by those involved in dealing with domestic violence and their colleagues. Thus, half of the police officers said they knew very well the normative framework governing domestic violence, and the other half said they had satisfactory knowledge of that matter. Most of the interviewed police were able to name the Instructions approved by MIA and the CPC and CPP provisions regulating the issuance and enforcement of protection orders.

Chart 9



Among SAD employees, 18 said they knew the regulatory framework well, 21 employees said they knew it well enough, and two others said they did not know the legal framework on combating domestic violence. At the same time, most of SAD employees were unable to name the concrete legal provisions that refer to protection orders. They also could not explain specific details about the issuance and enforcement of protection orders.

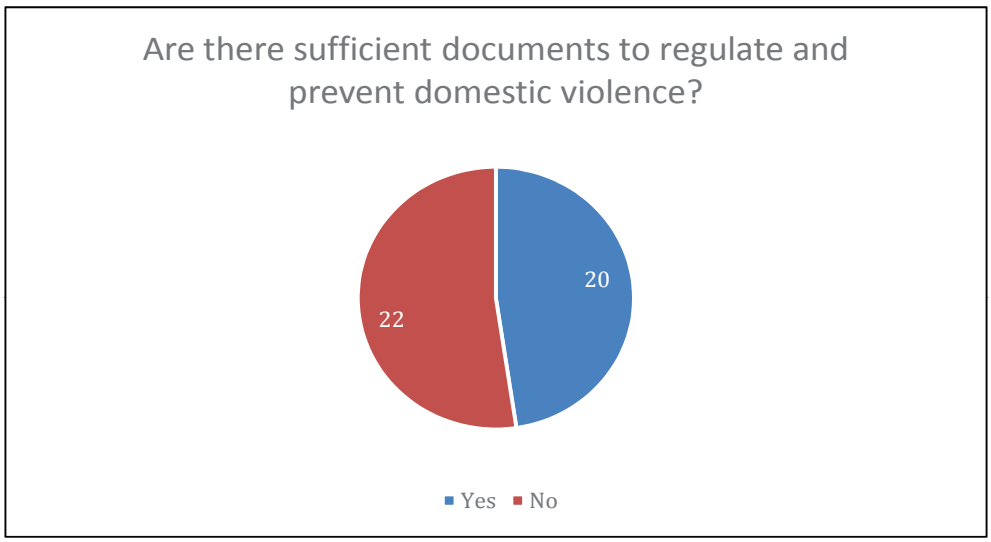
Figure 10



Next, respondents were asked to comment on the regulatory framework governing the prevention of domestic violence. According to 20 police officers, the legal framework is very clear and does not require amendments. At the same time, 22 other police believe that Law no. 45 should be amended. Their comments could be reduced to the following:

- A majority of the interviewees from the police said that their competences were not sufficiently clear to them, and thought that legal norms in that regard were contradictory;
- Many police officers mentioned the problems connected with establishing the non-enforcement of protection orders, because article 318 of the CC does not provide that police can act as a stating agent, which prevents them from involvement in the sanctioning of the contravention and from holding the aggressors who violate the protection orders accountable;
- Most police officers called to eliminate the domestic violence offenses provided for by article 201/1 of the CP (in mild form and for the first time), and introduce that offense to the CC;
- Some measures imposed by the orders cannot be supervised. For example, is not sufficient to implement the orders demanding that the offender keep distance from the victim. It s also impossible to retain the aggressor for a contravention on the grounds of his violation of the protection order;
- Courts are usually reluctant to apply forced measures such as forced alcoholism treatment;
- Only a few of the police advocated the introduction of amendments giving the police the power to issue restraining orders.

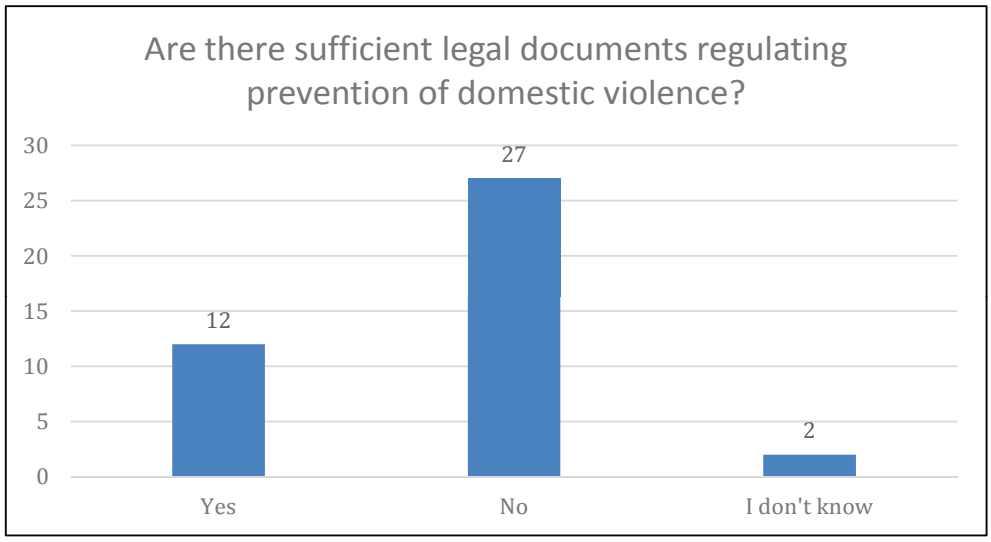
Chart 11



Among SAD employees, 27 people said the normative acts regulating domestic violence are not sufficient. They identified the following problems:

- Absence of assistance centers for aggressors and no rules on their psychological rehabilitation;
- Lack of clarity with regard to emergency situations in the sense that SAD employees do not know what is their status in the active phase of the conflict;
- Cooperation between state bodies and institutions assisting victims is faulty and needs a clearer regulation. In the opinion of several SAD employees, domestic violence is a community problem, therefore the local public authorities, the mayor, the family doctor, needs to have more responsibility to that end, since they often know about the complicated situation in the family, but do not take action to prevent the violence.

Figure 12



According to article 7 para. (1) letter b) of Law no. 45 on preventing and combating domestic violence, local government authorities with functions of preventing and fighting domestic violence are: social assistance and family protection sections/departments; education, youth and sport departments; healthcare institutions and law enforcement bodies. According to article 8 para. (2) of

Law no. 45 on preventing and combating domestic violence, local government authorities form multidisciplinary teams in the field.

Discussions with social workers and the police from all district centers of Moldova unveiled that, in most cases, multidisciplinary teams are created only formally. Many teams, in fact, had no joint meetings, and did not examine situations or cases of domestic violence.

This complicates things, especially where minors are victims of domestic violence. The lack of effective referral mechanisms makes it impossible to prevent instances of domestic violence, and actors involved rather struggle with the consequences of violence.

These findings are confirmed by the interviewed victims who admitted that they have not addressed their family doctors or other professionals and did not know about the possibility of intervention of social workers.

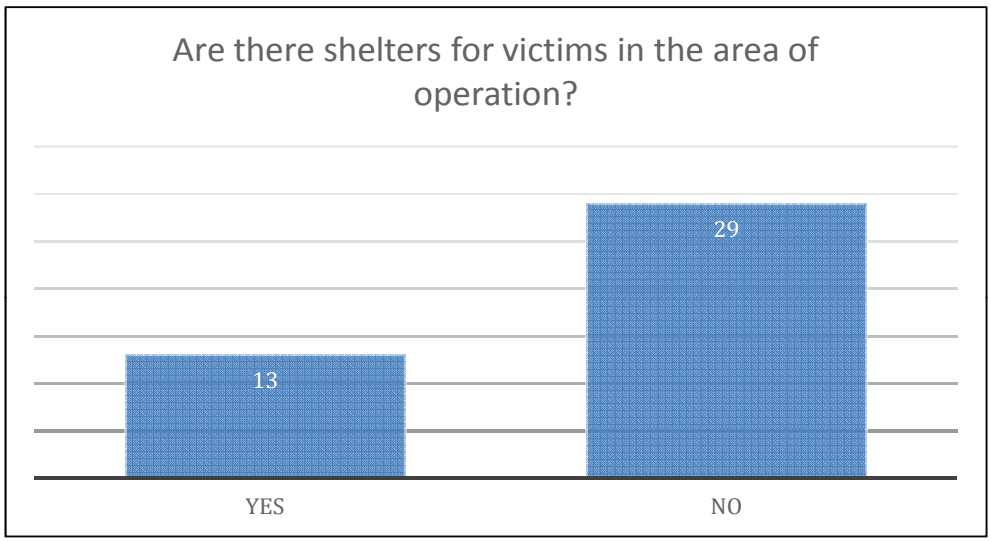
The lack of cooperation between social workers and the police has a negative effect on the monitoring of the enforcement of protection orders, which is the joint responsibility of both social workers and the police. Thus, in most cases, social workers do not even know about the existence of protection orders issued to victims in the towns where they work.

Another recommendation presented in the previous report referred to the infrastructure of shelter centers. Thus it was established that there is a lack of crisis/emergency help centers and there is poor cooperation between the law enforcement and civil society to develop quality services in that regard. Many associations have developed various projects that popularized the steps that victims can apply to protect themselves from violence. It was found that there are around 30 organizations that assist victims of domestic violence, and there are several centers that could provide short-term accommodation to victims.

By the end of 2014, there were 16 such centers throughout the country, which could provide some shelter and rehabilitation services for victims of domestic violence, of which only two centers provide shelter for victims irrespective of the territorial-administrative area where victims come from/reside.

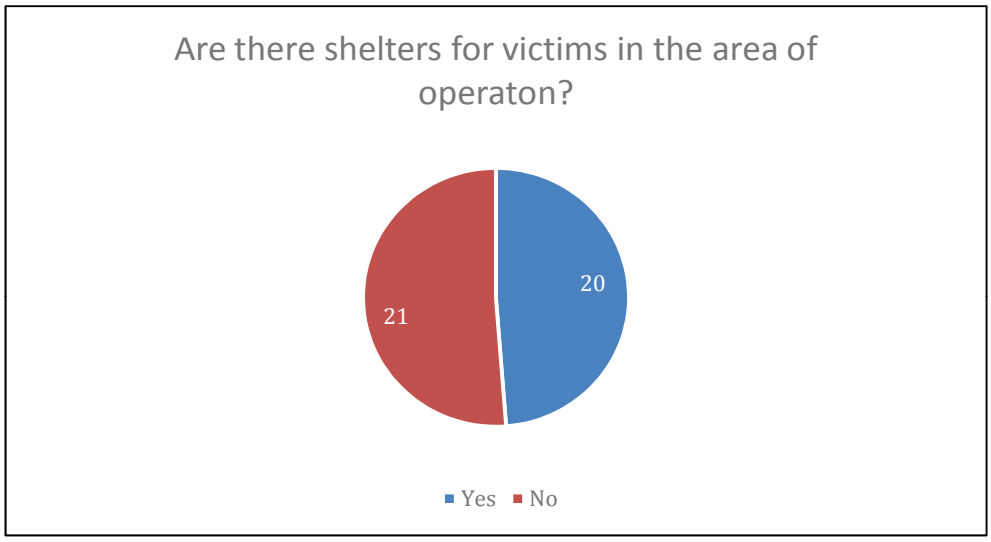
The police and SAD employees were asked if they knew about the shelters and counseling centers in their administrative-territorial unit or in other regions, as this knowledge would allow officials to recommend these centers to victims in crisis. Only 13 police officers confirmed the existence of shelters in the administrative-territorial units of their PIs, and 29 police officers said that such centers did not exist in their respective regions.

Chart 13



Number of SAD employees who know about shelters of their region is greater than that of police, thus 20 social workers reported that they knew about shelters where victims could receive assistance in the administrative unit - comparable in number with those who said there were no such shelters in the respective regions.

Chart 14



CONCLUSIONS

Despite the existence of clear provisions on the need for specialization according to article 8 of Law no. 45, a majority of SADs do not have social workers specialized in domestic violence. This gap, although explained by financial reasons, cannot be maintained because a specialized social assistant in the SAD is responsible for coordinating the work of local social workers in that field. At the same time, as related by the police, locally there is virtually no collaboration, and the work of multidisciplinary teams has no impact whatsoever.

In addition to a lack of specialization, we find that the training received by social workers and the police is insufficient. According to their statements, our interviewees benefited from approximately 40 hours training over the last 3 years, while the field requires deeper knowledge. Asked to assess if police employees in charge with dealing with cases of domestic violence know the legal framework well, only half of those surveyed said they could say yes. The other half reported that their knowledge was satisfactory. For the most part, the police were able to correctly identify specific provisions included in the MIA Order no. 275. For their part, although they said that they knew the legal framework well, SAD staff members could not expressly name specific provisions of the Instructions and CPP and CPC regulations governing the protection order.

Given that a series of new methodical Instructions and Regulations regarding intervention were approved during the years 2012-2013, discussing and explaining them to the heads of institutions and people who are directly responsible for the field should be a priority. The number of people said they knew the legal framework well is lower than that of people who said they knew this area satisfactory. SAD employees should receive more training in that respect.

This is confirmed by the answers provided by the respondents regarding the need to amend the legal framework on domestic violence, as interviewees mentioned changes in the procedure, which are already found in several instructions and recommendations adopted in 2012-2013.

As for the assistance centers for family aggressors, their situation will change if the goals of GD no. 496 of 30.06.2014 regarding the approval of a Framework Regulation for the organization and operation of the Center for Assistance and Counseling for family aggressors and minimum quality standards are met.

2.3. Considerations on the examination of cases of domestic violence

Chapter III of the Law no. 45 governs the settlement mechanisms for acts of domestic violence. article 12 of the Law defines several groups of people who could state a committed act of domestic violence.

An act of violence, under the Law no. 45, is any deliberate action or inaction, except the self-defense or defense of others, manifested verbally or physically, by physical, sexual, psychological, spiritual or economic abuse, or by causing material or moral damage, committed by a family member against other family members, including children, and against common or personal property.

Submitting a complaint about an act of violence does not lead automatically mean a request for issue of a protection order. Often, however, the complaint on committing an act of domestic violence is confused with an application for a protection order.

A complaint against committing an act of violence announces an offense and shall be examined in light of the CPP. On the other hand, the application for a protection order is a willing demand for additional safeguards. We note that a complaint against an act of domestic violence may be submitted by the victim, the guardianship authority, but also, in cases of crisis, by family members, people in positions of responsibility and professionals who come into contact with the family.

The special law provides that complaints for committing acts of domestic violence may be submitted to courts, police departments, the department of social assistance and family and child protection, and at the local government office.

In the spirit of article 14 of Law no. 45, two bodies have been identified that may examine complaints for committing domestic violence. Under para. (1), it is the law enforcement, and under para. (2) – the courts. Also, para. (3) provides that the complaint submitted to any authority responsible for preventing and combating domestic violence shall be referred to the competent authority within one working day.

The issue of accountability for domestic violence is crucial in the context of the uneven application of the law, which increases the aggressors' feeling of impunity and discourages victims. Often, there is no logical finality to complaints against acts of domestic violence. According to the CPP procedures, if an act of violence is reported, the police is obliged to register the complaint as a committed crime, since it fits the special subject of crimes of domestic violence.

In most cases, however, the law enforcement qualifies domestic violence as an administrative offense and applies a symbolic fine. Even if a criminal case was initiated under article 201/1 of the CP, very often, the case is terminated in the court, because the parties had reconciled.

However, starting a contravention case under article 78 and/or article 69 of the CC does not provide procedural safeguards as for starting criminal proceedings under article 274 of the CPP. But authorities must take decisive action in cases of domestic violence and promptly establish all the circumstances of the case and, where appropriate, apply real and not merely formal coercive measures.

In Chapter I of this report, we presented a series of judgments of the ECtHR that was pointed out that failure to act on the aggressors could lead to irreparable consequences for the victims, making them potential victims of torture.

In cases of domestic violence resulting in infliction of physical pain, or slight body injuries, material or moral damages, victims' complaints shall be examined under article 274 of the CPP, and criminal proceedings must be stated under article 201/1 of the CP, because it has been consumed at the time of causing minimum physical, mental or material damage.

When trying cases under article 78 and/or article 69 of the CC, where the victim is a family member, the courts are to refer to article 449 of the CC and remit the case to the prosecutor immediately to determine whether the facts constituted an offense referred to in article 201/1 of the CP.

The monitoring of decisions, judgments and rulings pronounced by courts in cases of domestic violence during the period 2012 – September 2014 showed an uneven application of the law in cases of domestic violence resulting in light body injuries, or in cases of psychological violence. The courts' practice is not consistent in terms of the provisions of article 201/1 of the CP, in cases of domestic violence resulting in slight pain, injury or mental suffering, which provides that:

"Domestic violence, the intentional act or omission that is manifested physically or verbally and is committed by a family member on another family, which caused physical pain, resulting in slight injury or body integrity and health, psychological distress, material or moral damage, is punished with 150 to 180 hours of community service work or prison of up to 2 years."

Most often, for fear of excessive criminalization of the phenomenon, some courts continue to wrongly apply the provisions of the CC in the detriment of the Criminal Code.

The General Prosecutor's response confirms that in 2012 only the prosecution received 3,800 complaints to the act of domestic violence, and in 2013, 3,000 such complaints were filed.

In most cases, the prosecution bodies establish that an offense was committed under article 69 para. (1) or article 78 of the Contravention Code, and set the sanction in the form of a fine, although the law provides for criminal penalties for mild forms of domestic violence.

When examining criminal cases under article 201/1 of the Criminal Code for acts of domestic violence, the courts pronounced different sentences for cases with similar circumstances (i.e. people admitted their guilt), and where the act lead to similar consequences: physical suffering (minor or mild injuries), distress and/or moral and/or material damages.

Courts adopted rulings that have ceased the criminal proceedings against the perpetrator of the offense under article 201/1 of the CP and released him from criminal liability under article 55 of the CP, and instead held the aggressor accountable for a contravention, applying a fine. In support of this view, the court referred to in article 55 para. (1) of the Criminal Code, stating that a person who commits for the first time a minor or a less serious crime may be exempted from criminal liability and subjected to administrative liability provided that he/she admits his/her guilt and repairs the damaged caused by the crime and if the rehabilitation of the person is possible without assigning criminal liability.

Despite the fact that there are very many contravention cases initiated based on victims' applications and which had to be qualified as criminal cases, the statistical data on cases under article 201/1 of the CP are impressive.

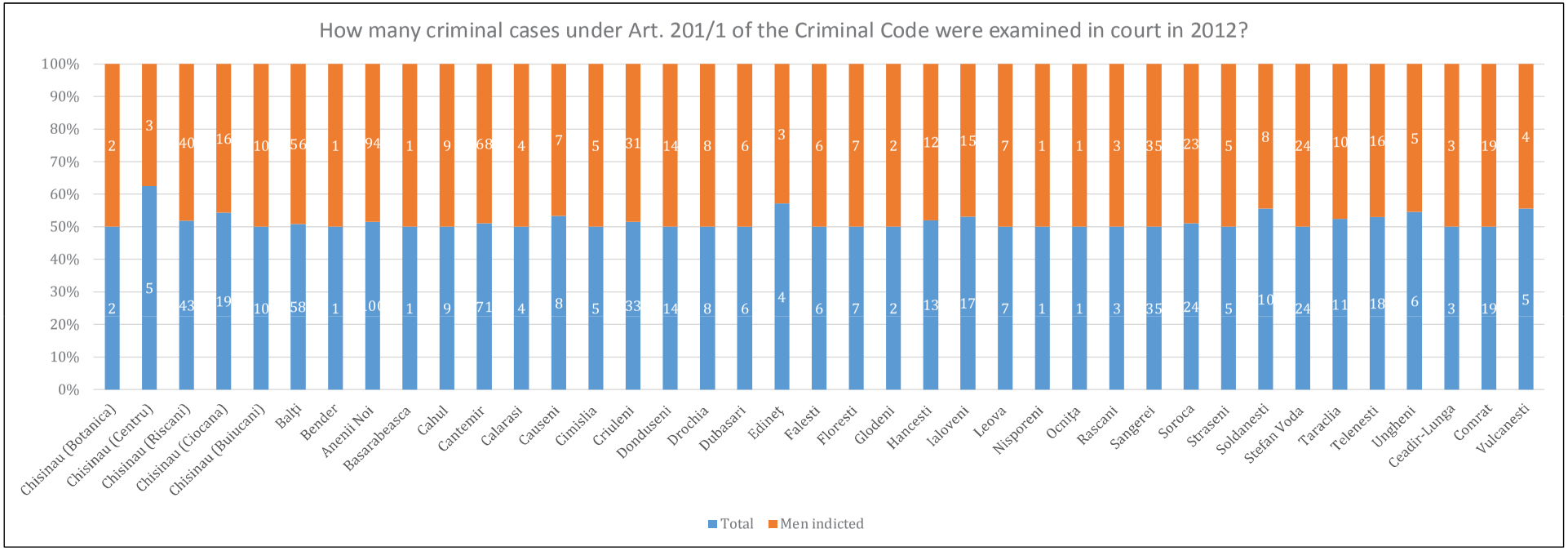
According to the same information from the Prosecutor General office, in 2012, only 830 criminal cases were started under article 201/1 of the CP, and in 2013, 1,354 criminal cases were started under article 201/1 of the CP.

On the other hand, according to the data received from the courts, in 2012 at least 385 criminal cases under article CP 201/1 were examined, in 363 of which defendants were men.

According the data segregated by years, in 2012 most criminal cases were registered at the court in Balti - 58 criminal cases, the court of district Singerei 35 criminal cases, and the court of district Criuleni - 33 criminal cases.

Note: The courts of Anenii Noi, Cantemir, Comrat and the Riscani sector court in Chisinau reported overall results for 2012-104, and namely 100, 71, 19 and, respectively, 43 criminal cases.

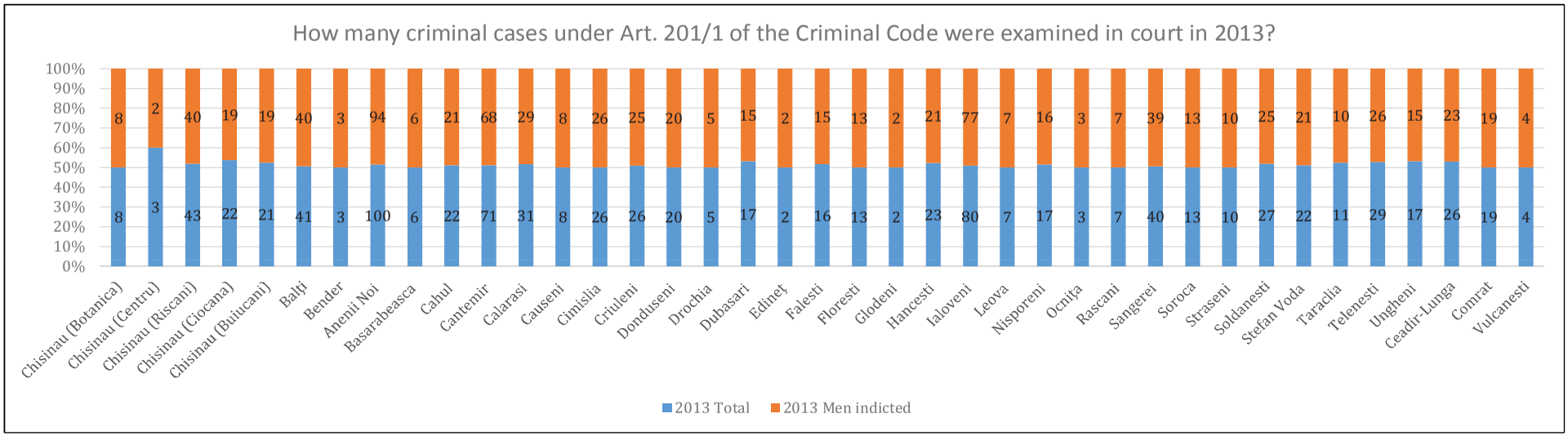
Chart 15



Note: The courts of Rascani sector (Chisinau), Anenii Noi, Cantemir and Comrat did not present data tabulated per years. The courts of Rezina and Briceni did not record relevant criminal cases, and the court of Orhei did not present the requested information.

In 2013, the courts registered at least 628 criminal cases under article 201/1 of the CP, of which in 595 cases defendants were men. Most criminal cases were registered at the court of district Ialoveni - 80 criminal cases, court of district Singerei - 40 criminal cases, and Calarasi district court - 31 criminal cases.

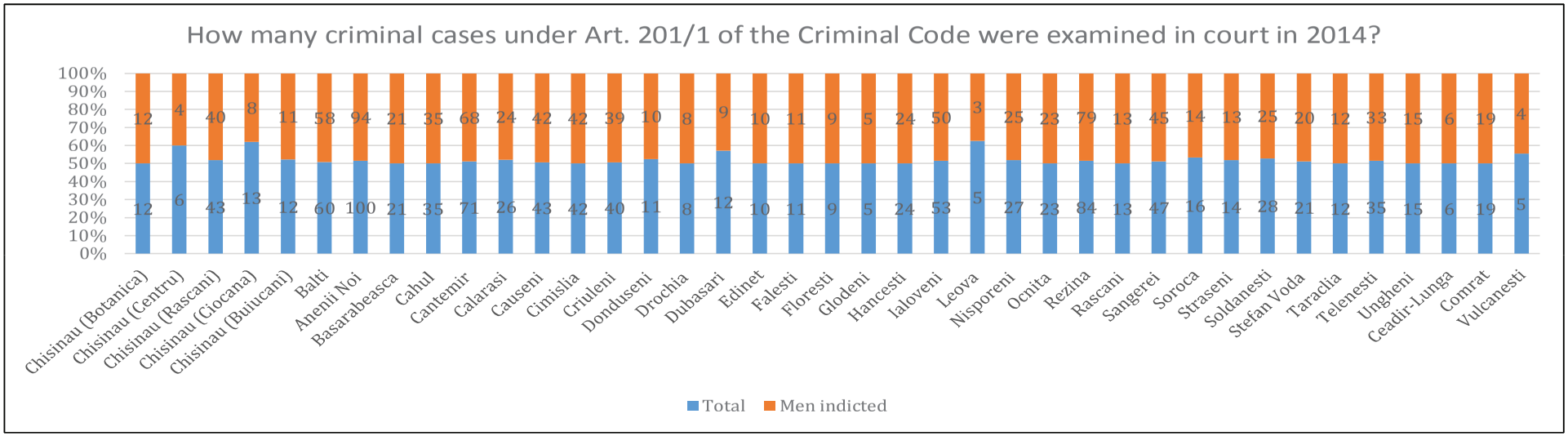
Diagram 16



Note: The courts of Rascani sector (Chisinau), Anenii Noi, Cantemir and Comrat did not present data tabulated per years. The courts of Rezina and Briceni did not record relevant criminal cases, and the court of Orhei did not present the requested information.

In the first 9 months of 2014, courts examined at least 804 criminal cases under article 201/1 of the CP, of which in 762 cases defendants were men. Most criminal cases were registered at the Rezina district court - 84 criminal cases, Balti court - 60 criminal cases, Ialoveni district court - 53 criminal cases, Singerei district court - 47 criminal cases, Causeni district court - 43 criminal cases, Cimislia district court - 42 criminal cases, Telenesti district court - 35 criminal cases, and Cahul district court - 35 criminal cases.

Diagram 17



Note: The courts of Rascani sector (Chisinau), Anenii Noi, Cantemir and Comrat did not present data tabulated per years. The courts of Bender and Briceni did not record relevant criminal cases, and the court of Orhei did not present the requested information.

CONCLUSIONS

Analyzing the situation concerning the delimitation between the complaint on acts of violence and the application for protection orders, we conclude that Law no. 45 contains confusing provisions in this regard. This means that with the introduction of article 201/1 of the CP, domestic violence has already been criminalized. Therefore, the referral system on complaints on acts of domestic violence provided by Law no. 45 is superseded, because at the time of this law, acts of domestic violence could be treated as administrative offenses.

A previous analysis of the situation on administrative cases in which some individuals are held accountable for contravention offenses, and other people are held criminally liable for the same acts, shows that an unfair system of sanctions has been created. For the same offense, in a district, an aggressor may be held to criminal liability, while in another district, a similar aggressor could be sanctioned under the CC with a fine.

According to the Prosecutor General's Office, only in the year 2012 there were at least 3,800 complaints on acts of domestic violence recorded, while only 830 criminal cases were initiated under article 201/1 of the CP, and about half of these cases, namely 385, have reached the courts. These allows us to state that in 2012, only 10% of complaints about acts of domestic violence came to be considered as crimes of domestic violence.

In 2013, we see that this share doubled. Thus, of 3,000 registered complaints on acts of domestic violence, 1,354 criminal cases were initiated under article 201/1 of the CP, while 628 criminal cases reached the courts under the same article.

In the first 9 months of 2014, at least 804 cases reached the courts, which is 28% more than the total number of criminal cases sent to court in 2013.

2.4 The procedure and submission for obtaining protection orders

The procedure for issuing protection orders is regulated both in the CPC and the CPP. The essential differences with regard to the procedures for issuing protection orders under the criminal and civil procedure lies in the fact that in criminal cases, the special law governing the security of the injured party is the Law on the protection of witnesses and other participants in the trial. It was left to the courts to issue conclusions on the protection order under article 215/1 of the CPP, and only if a criminal case was started. Furthermore, in order for a court to issue a protection order, several conditions must be met successively, and namely: there must be death threats or threats of violence resulted in damaging or destroying property or other illegal actions by the suspect or defendant, and family member of the victim.

Otherwise, the requirements for the submission and examination of the application are similar to the cases regulated by the CPC. Note that the CPP does not contain certain protection measures that are provided by the CPC, namely the obligation, until de final resolution of the case, to contribute to the support of common children or the obligation to pay costs and damages caused by the aggressor's acts of violence, including medical expenses and the cost of replacing or repairing destroyed or damaged assets.

On the other hand, the CPP provides two measures that are not in the CPC, namely the obligation to take a medical examination of the mental state and drug/alcohol addiction, and if the medical opinion confirms the addiction, the obligation to take medical treatment for the addiction and to attend a special treatment or counseling if such an action is established by the court as necessary to reduce or eliminate violence.

According to the Prosecutor General's Office, in 2012, 33 protection orders were obtained under article 215/1 of the CPP, and 2013, 132 protection orders were obtained.

Article 318 para. (1)of the CPC provides a more restricted list of people that can address the court with an application for a protection order – unlike in the case of filing a complaint on an act of domestic violence. Thus, the Code establishes that the application of protective measures shall be filed with the court by the victim of domestic violence or their legal representatives, and if the victim is minor – by the guardianship authority. In case of impossibility of application by the victim, the prosecutor, the police or social services may file the application at the victim's request.

Since the prosecutor applies for protection orders more frequently in criminal cases, we analyzed the activity of the police and of the SADs. Thus, according to the Prosecutor General office, in 2012, the prosecution filed 67 applications for issuing protection orders under the CPP, and in 2013, this number of applications for protection orders was reduced to 27.

Also, is worth mentioning that in order to ensure access to justice, the courts have developed a practice that allowed applications for protection orders from professionals who come into contact with victims. Most often, these are public associations providing legal aid to victims of domestic violence. Therefore, even if article 318 para. (1) of the CPC does not expressly provide that members of non-governmental organizations can submit applications for a protection orders, the courts applied Law no. 45 directly, as it provides for more subjects entitled to notify the courts.

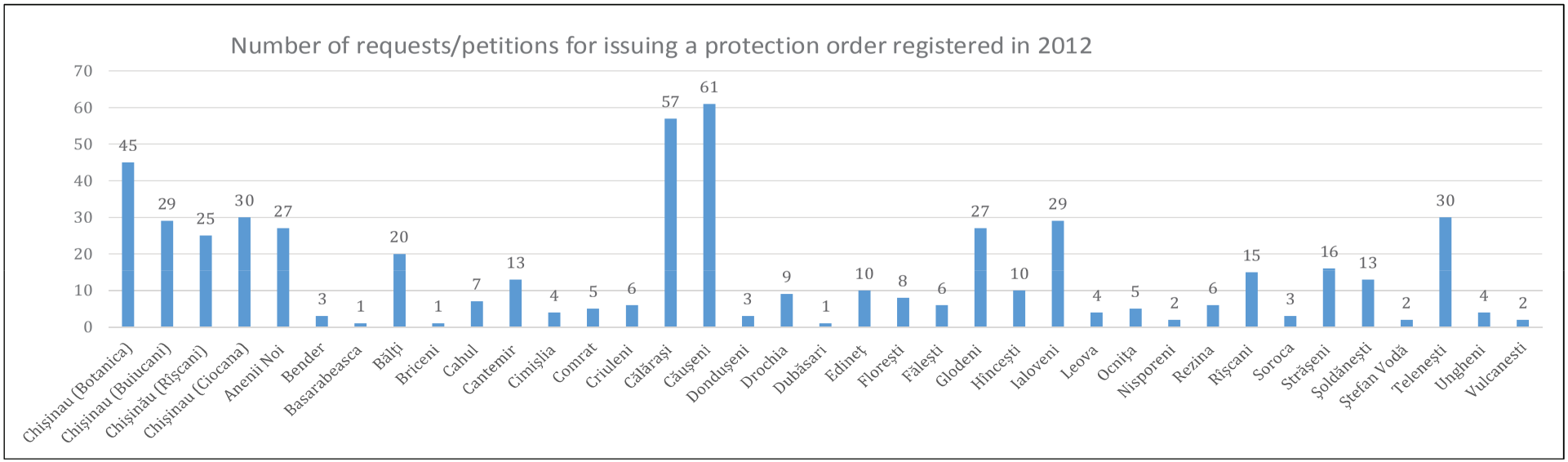
Therefore, we distinguish two stages in the application for issuance of protection orders when it comes to the police and SADs. The first is filing a complaint on the act of domestic violence, and the second is the examination of the facts followed by the decision to start or not a criminal case and/or ensure security of the victim, including by submitting an application for a protection order.

The application for protection measures includes the circumstances of the acts of violence, theirs intensity, duration, incurred consequences and other circumstances indicating the need for the application of protective measures. The application can be filed at the victim's home, place of temporary residence – if the victim left their home, the aggressor's residence, the place where the victim sought assistance, or where the act of violence occurred.

According to paragraph 52 of the Instruction on the evidence and documentation activities in courts and courts of appeals, approved by SCM Decision no. 142/4 of 4 February 2014, all applications for protection orders were divided into civil or criminal applications. The CPC has assigned the cipher 2p/o to cases examined in order of ordinance proceedings, including cases under Chapter XXX[1]. Therefore the authorities can monitor the application and issue of protection orders.

The statistical data analysis confirms that in 2012, at least 474 applications for protection orders were submitted in total. According to the data received from the courts, in 2012, most requests for issuing protection orders were filed at the Causeni district court – 61 applications, Calarasi district court – 57 applications, Botanica sector court - 45 applications, and the other courts received less than 40 applications.

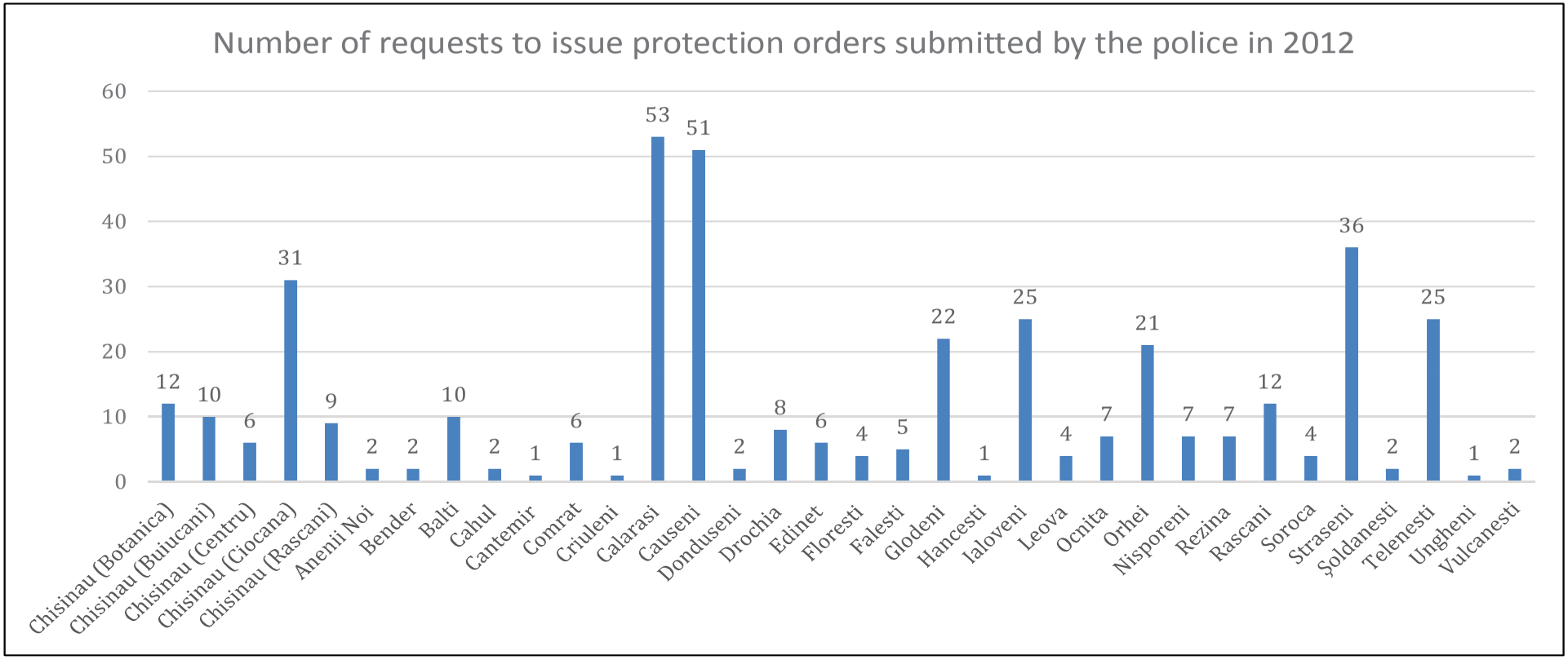
Figure 18



Note: Courts not included in diagram did not present relevant information. The courts in Chisinau (sector Riscani), Anenii Noi and Cantemir did not present data tabulated per years.

According to responses received from PIs, it is confirmed that in 2012, most applications for protection orders were submitted to the Calarasi district court - 53 applications, and the Causeni district court – 51 applications, the rest receiving less than 40 applications.

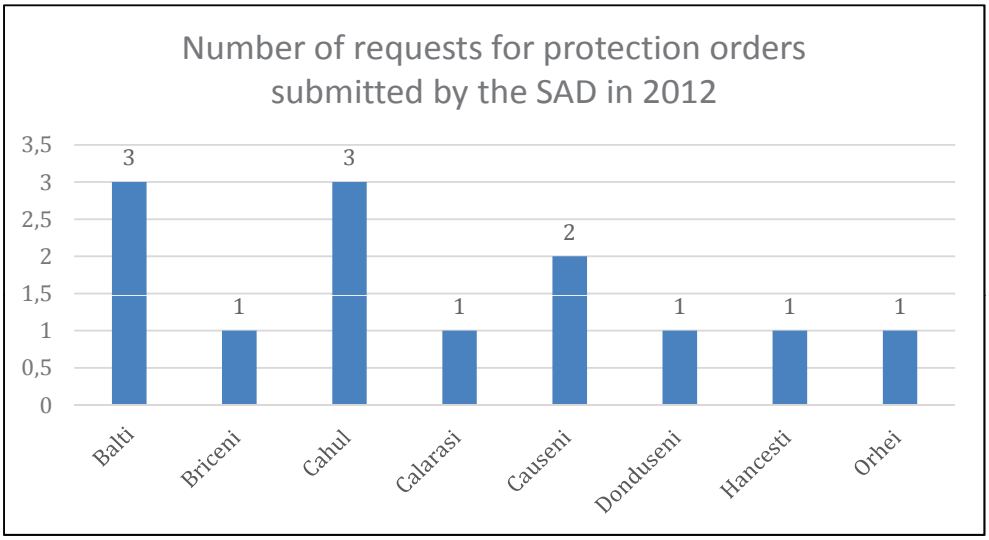
Figure 19



Note: Police inspectorates in Basarabeasca, Briceni, Ceadir-Lunga, Cimislia, Dubasari, Sangerei, Stefan-Voda and Taraclia did not request issuance of OPs

With regard to SADs, statistical data shows that a small number of applications protection orders were submitted in 2013. Thus, most applications were submitted by the SAD in mun. Balti, SAD of district Cahul - 3 applications each, and the SAD in Causeni - 2 applications. The other SADs did not apply for protection orders in court.

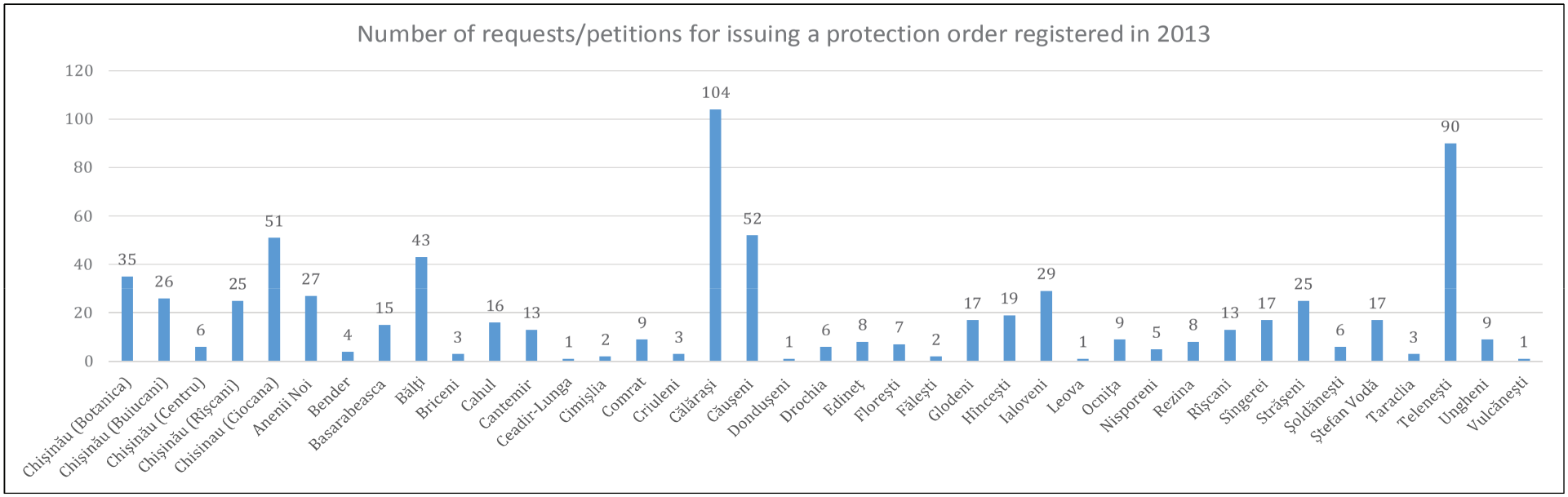
Diagrama 20



Note: SAD Chisinau (all 5 sectors) and raions not included in the diagram did not submit requests to issue protection orders. Comrat and Leova did not provide the requested information.

Statistical data analysis confirms that in 2013 at least 663 applications for issuing protection orders were submitted in all courts. According to the answers received from the court, in 2013, most applications for protection orders were submitted to the Calarasi district court – 104 applications, Telenesti district court – 90 applications, Causeni district court – 52 applications, Ciocana sector court – 51 applications, Balti mun. court – 43 applications, and the rest received less than 40 applications.

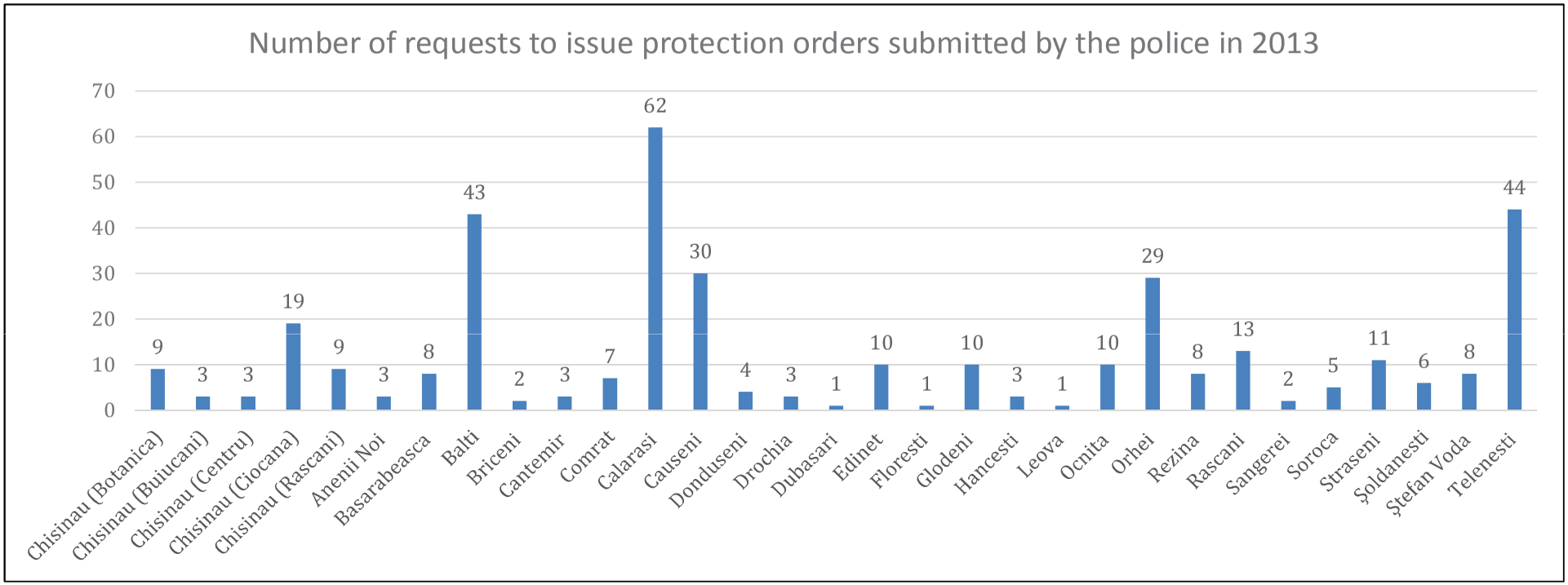
Chart 21



Note: Courts not included in diagram did not present relevant information. The courts in Chisinau (sector Riscani), Anenii Noi and Cantemir did not present data tabulated per years.

According to responses received from PIs, in 2013, most applications for protection orders were filed by the police officers of Calarasi district - 62 applications, Telenesti district – 44 applications, and Balti municipium - 43 applications.

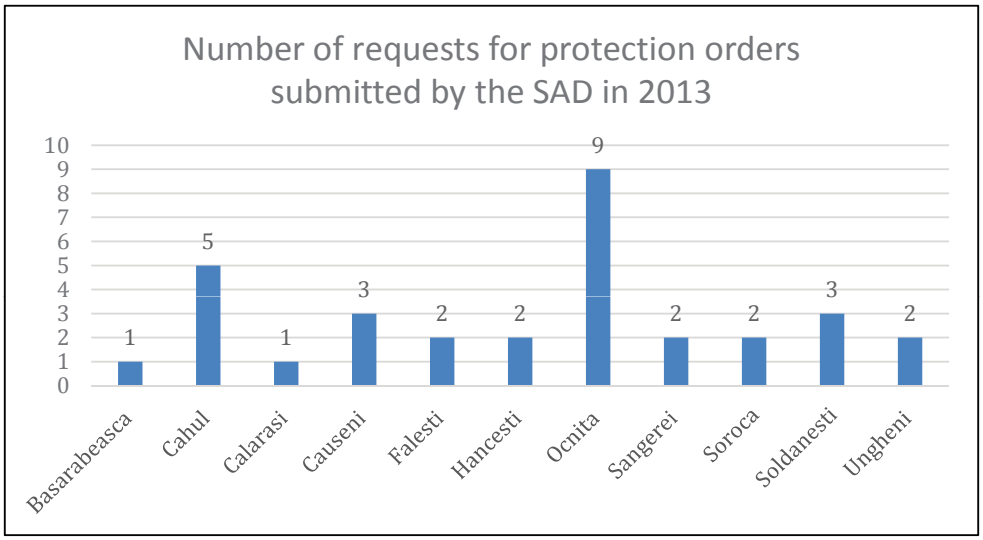
Chart 22



Note: Police inspectorates in Bender, Cahul, Ceadir-Lunga, Cimislia, Criuleni, Falesti, Ialoveni, Nisporeni, Taraclia, Ungheni and Vulcanesti did not request issuance of OPs.

With regard to SADs, the statistical data obtained show a small number of applications for protection orders. Thus, most applications were submitted by the SAD in Ocnita district - 9 applications, the SAD in Cahul - 5 applications, and the SAD in Causeni and Soldanesti districts - 3 applications in each district. The other SADs did not report the number of applications for protection orders filed in court.

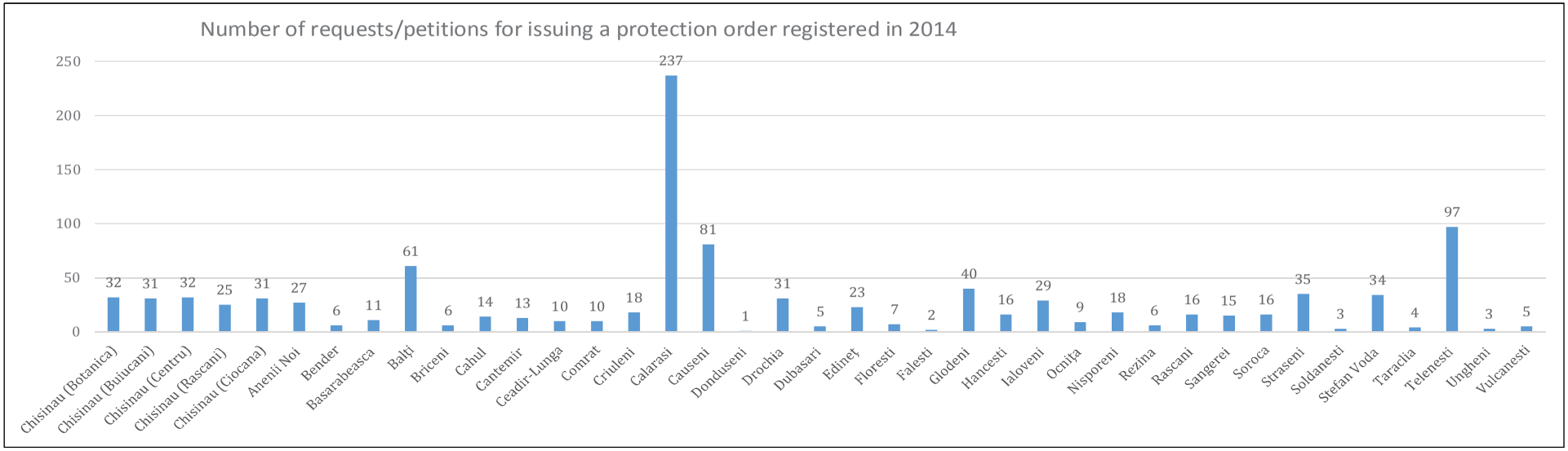
Figure 23



Note: SAD Chisinau (all 5 sectors) and raions not included in the diagram did not submit requests to issue protection orders. Comrat and Leova did not provide the requested information.

Statistical data show that in 2014 (9 months), the total number of applications for issuing protection orders was 995. According to the answers received from the court, in 2014 most applications were submitted to the Calarasi district court - 237 applications, the Telenesti district court – 97 applications, the Causeni district court – 81 applications, the Balti mun. court – 62 applications, the Glodeni district court – 40 applications, and other courts received less than 40 applications.

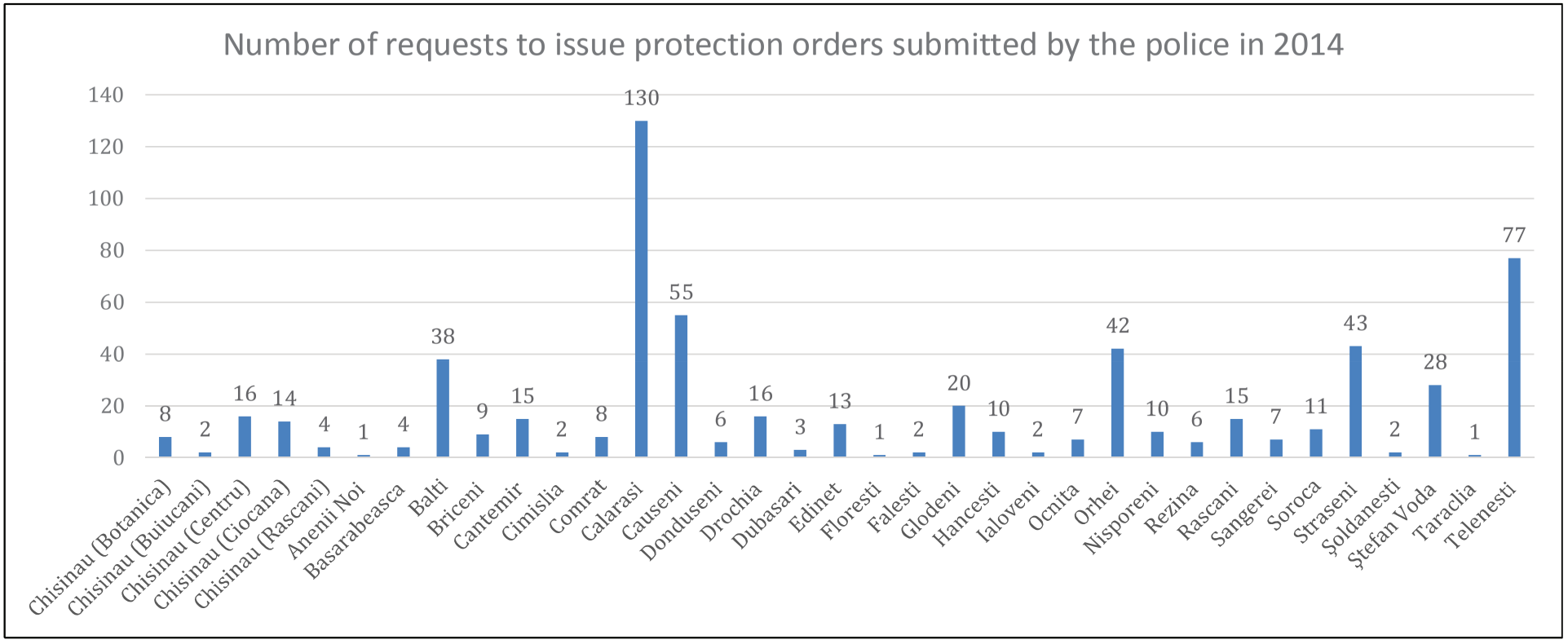
Figure 24



Note: Courts not included in diagram did not present relevant information. The courts in Chisinau (sector Riscani), Anenii Noi and Cantemir did not present data tabulated per years.

According to responses received from PIs, most applications for issuing protection orders were submitted by police officers in Calarasi - 130 applications, Telenesti - 77 applications, Causeni – 55 applications, Orhei – 42 applications, Straseni – 43 applications, and Balti – 38 applications.

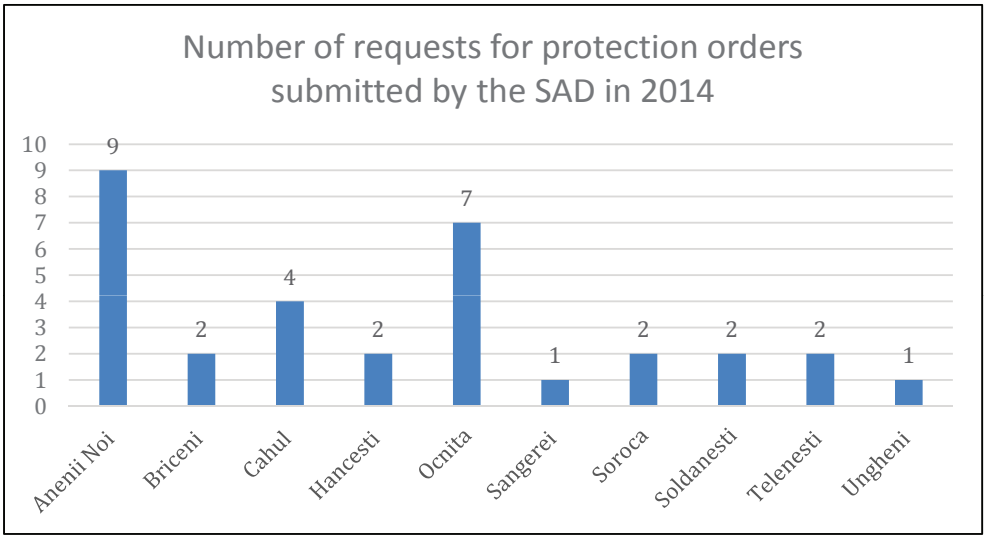
Chart 25



Note: Police inspectorates in Bender, Cahul, Ceadir-Lunga, Criuleni, Leova, Ungheni and Vulcanesti did not request issuance of OPs.

With regard to SADs, the statistical data obtained show a small number of applications for protection orders. Thus, most applications were submitted by the SAD in Anenii Noi - 9 applications, the SAD in Ocnita - 7 applications, and the SAD in Cahul – 4 applications.

Chart 26



Note: SAD Chisinau (all 5 sectors) and raions not included in the diagram did not submit requests to issue protection orders. Comrat and Leova did not provide the requested information.

CONCLUSIONS

Despite the existence of two different procedures for obtaining protection orders, namely in accordance with the CPC and the CPP, most applications are submitted under the CPC, including by the prosecution. We do not exclude that those conducting criminal proceedings often resort to filing for an order under the CPC. Therefore, a first conclusion that arises is the need to assess the feasibility of two separate procedures for obtaining protection orders, in particular in terms of costs and benefits, and the vital need to protect the victim is how quickly possible. In principle, the only difference between article 215/1 of the CPP and article 318 para. (1) of the CPC is that the protection order is issued by an instruction judge after a lengthy procedure, according to the Law on protection of witnesses and victims in a criminal case.

In general, it was found that the courts keep records of cases of issuing protection orders. There were no problems in gathering data from the courts, with the exception of one court, which did not have data disaggregated per years. Also, there were no problems with collecting data from police inspectorates (PIs) and social assistance departments (SADs).

Statistical data analysis allows us to say that every year, the number of applications for issuing protection orders is growing significantly. If in 2012, there were at least 474 applications, in 2013, the number was at least 663 of applications, and in only 9 months of 2014, there were already 995 applications for issuing a protection orders in courts.

Data from the police confirms that the percentage of police applications for protection orders in courts is considerable, reaching in some districts 75% of the total number of applications filed. The number of applications submitted by SADs is small, even in districts where a considerable number of protection orders are issued.

2.5 Examination of cases for issuing a protection order

Examination of the case

The procedure for examining the application for issuing a protection order is expressly established by article 318 para. (3) of the Civil Procedure Code (CPC). At the same time, the procedure for issuing the order is provided by article 318 para. (4) of the CPC.

Therefore, the rule states that after receiving an application, the court shall immediately contact the sector police in the area of residence of the perpetrator and asks that he be informed about the started procedure. This norm does not provide the need to establish a time of the hearing or the possibility of conducting a closed or open hearing of the case.

The first question that arises in connection with this procedure is the need to issue a conclusion on the preparation of the case for judicial debates, according to article 184 of the CPC. Establishing the exact time implies the need to issue a conclusion for the consideration of the application in the procedure of issuing a protection order. Another issue that arises in connection with the informing procedure is if this can be considered citation or summoning in the meaning of article 102 of the CPC.

Paragraphs 7 and 8 of the Supreme Court Plenum Decision no. 1 of 28.05.2012 are often ineffective and confusing. According to them, informing the alleged perpetrator about the procedure will be carried out by the police, under the provisions of article 102 para. (4) and article 192 of the CPC. According to these rules, a citation should contain the date and time of the hearing.

Moreover, Section 8 of the same Decision mentions that if the person referred to in legal citation (the aggressor) will refuse to accept the summons or notice, the police officer will produce a report according to the established procedure, and the aggressor's failure to attend the hearing will not prevent the court from examining the application.

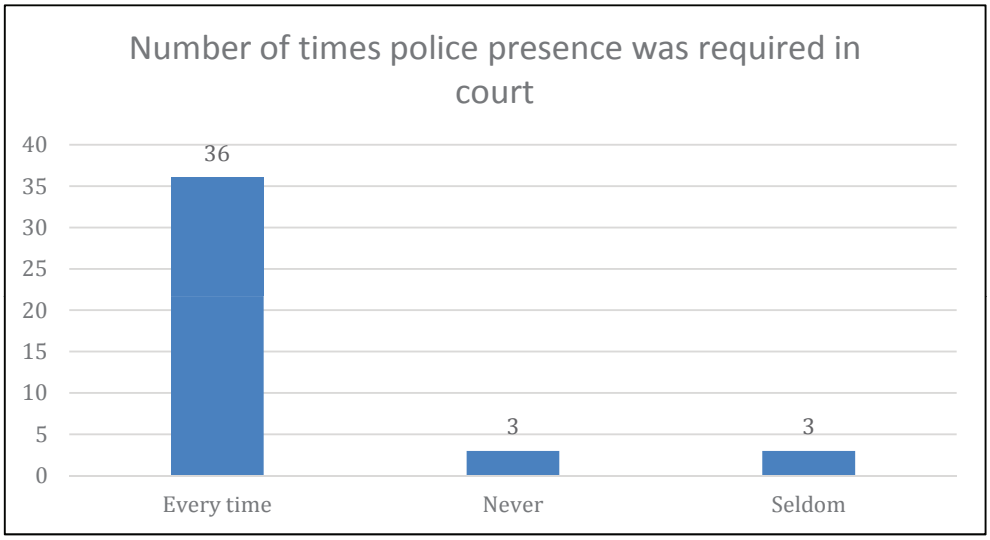
Thus, there are several elements, such as establishing the date and time of the hearing, citing the concerned party (the aggressor), recording the refusal to accept the summons, and handing in certain procedural acts before the court hearing. In fact, we should mention that the application to issue the order can be made not only at the home of the interested party (the perpetrator) but also at the victim's home, at the place where it the victim requested assistance, or the place of the violence act. Therefore, it is possible that either the concerned party (the aggressor) not the victim are in the locality of residence. So it is unrealistic to comply with article 102 of the CPC on the citation, especially with the task of reporting the refusal of receipt of summons, especially given that article 318 of the CPC expressly provides only the notification, but not actual handing in of certain procedural acts.

Next we will mention that the examination of the application for issuing a protection order does not provide for a simplified procedure or issuing the order unilaterally. This procedure is governed by article 273 of the CPC, which states that for every hearing of a first instance court and a court of appeals, as well as for every procedural act outside the hearings (hearing a witness at their current location, research of documents and other material evidence at their place of storage) protocols shall be drawn.

The same article states that the court may require social services or the police, if appropriate, to make a characterization of the family and the aggressor. The court may request other documents needed for the examination of the application.

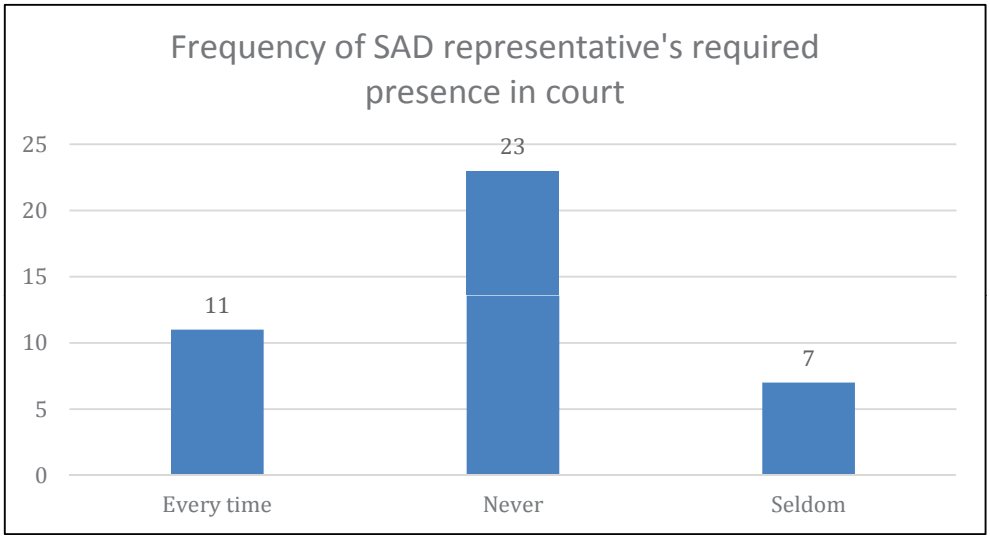
According to data provided by the police, in most cases, when applications are submitted by the police, the court requires their presence at the hearing. Thus, in 36 cases, the police were required to appear in court. In only three cases, they were not cited at the hearing, and in 3 cases it was noted that sometimes, the presence of sector police officer is requested.

Diagram 27



According to SADs, social workers' presence at the hearing was requested in only 11 cases, namely in the cases minor children were involved. In other 7 cases, the court sometimes requested their presence, and in other 23 cases, SAD employees were never asked to attend the court hearings.

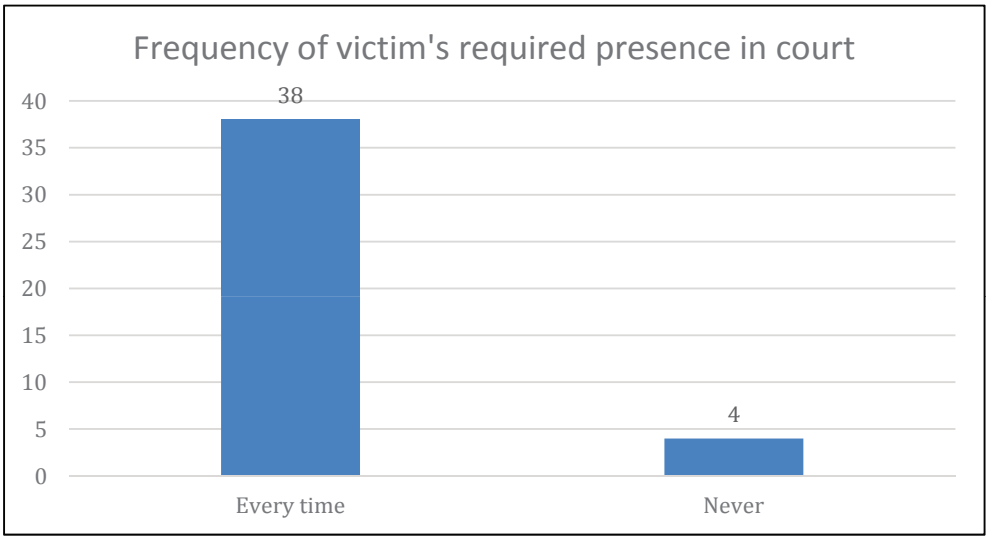
Diagram 28



According to interviewees, the trials are conducted as regular court hearings, by respecting the adversarial principle, and where third parties were even assisted by lawyers.

Of the 42 victims, only four said they were not present at the court hearing, and the remaining 38 victims were present in court and could explain what happened. In general, the court requested information on their relationship with the perpetrator, if they have small children, the domicile, when did conflicts first occur, their duration and intensity of the violence. They were also asked if they backed the application and the measures they requested. Of the total number of victims, 19 said they were present at the hearing the court along with the aggressor, which frustrated them and gave them feelings of re-victimization.

Chart 29

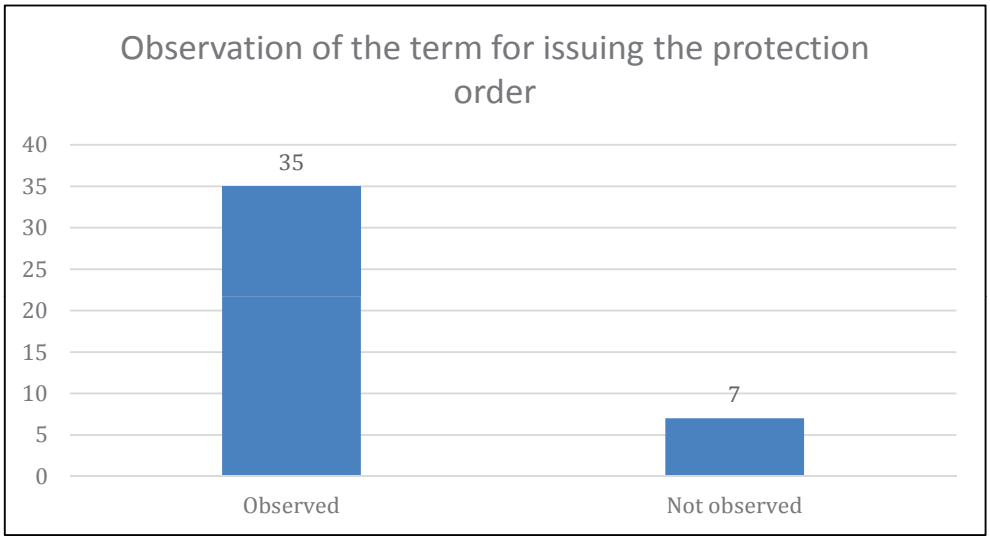


Issuing the order

The first condition mentioned in article 318 para. (4) is the term in which all procedures shall be performed, from the receipt of the application for protection order to issuing a conclusion on its application. A deadline of 24 hours was established for the examination of such cases.

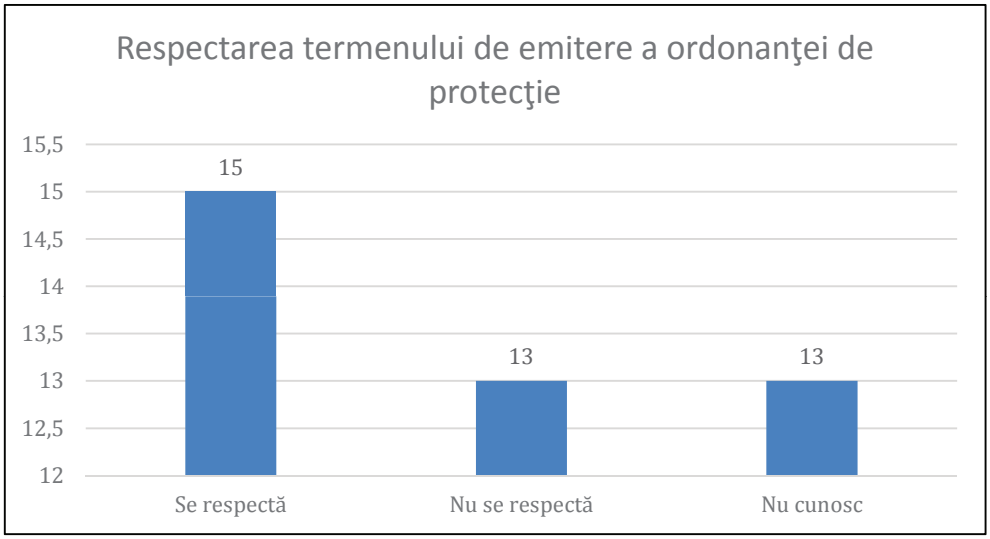
From the police interviewed, only 7 reported that the 24-hour period was not observed, and the remaining 35 police officers said that, although short, this term was observed by the judges.

Diagram 30



As for SAD employees, 15 confirmed that the term was observed, 13 said that the deadline was not observed, and 13 others could not answer that question on the grounds that they were not involved in such cases.

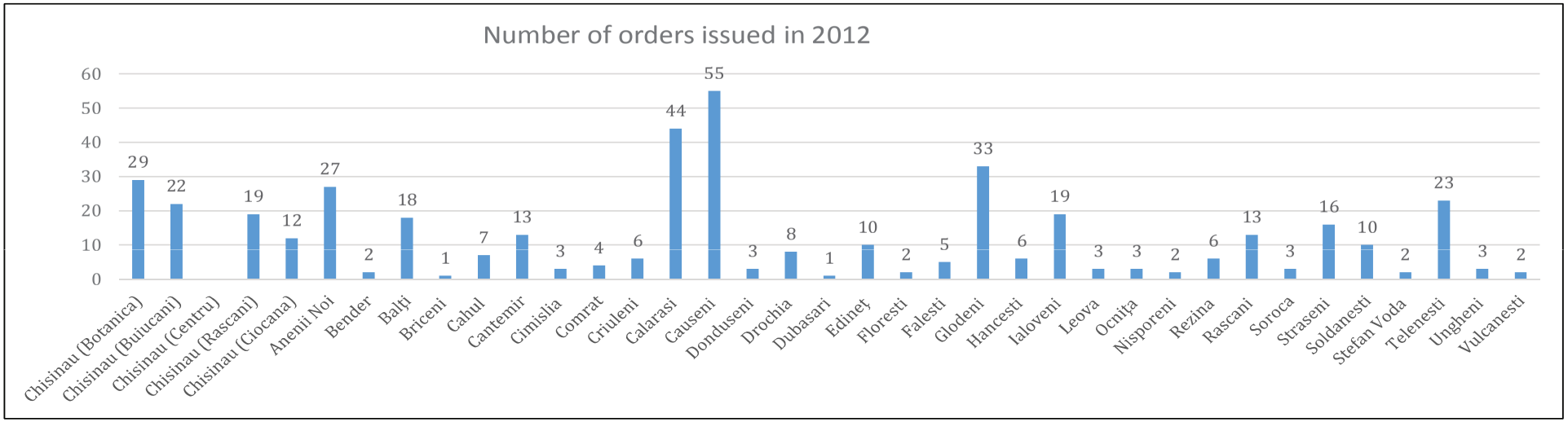
Chart 31



Interviewed victims said the 24-hour term for the examination of protection order application was observed. Moreover, they confirmed that the process of obtaining the order was not was complicated because all the documents were filled in by the police and/or professionals, and their presence was necessary only at the hearing.

According to data received from courts, not less than 435 protection orders were issued in 2012. Most orders were issued by the Causeni district court - 55 orders, the Calarasi district court – 44 orders, the Glodeni district court – 33 orders, the Botanica sector court – 29 orders, Telenesti district court – 23 orders, and the Buiucani sector court in Chisinau – 22 orders.

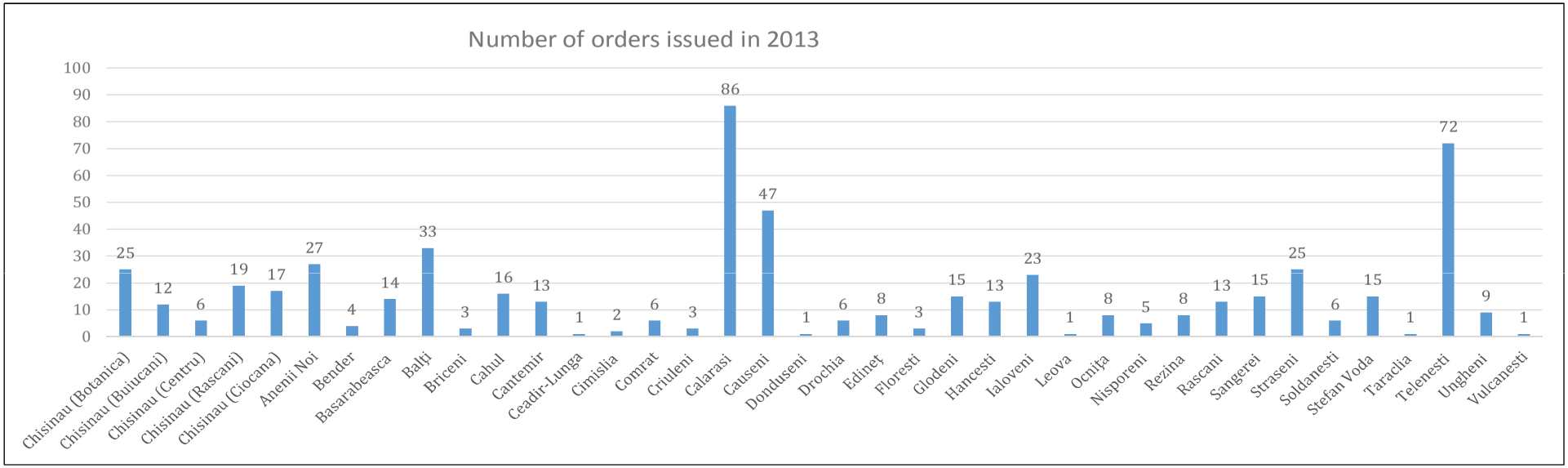
Chart 32



Note: The courts of Anenii Noi, Cantemir and Chisinau (sector Rascani) did not present information tabulated per years. The missing courts did not issue orders in 2012.

According to data received from courts, in 2013 there were 582 protection orders issued by courts. Most orders were issued by the Calarasi district court – 86 orders, the Telenesti district court – 72 orders, the Causeni district court – 47 orders, the Balti municipal court – 33 orders, the Straseni district court and the Botanica sector court – 25 orders each, the Ialoveni district court – 23 orders, and the remaining courts issued less than 20 orders each.

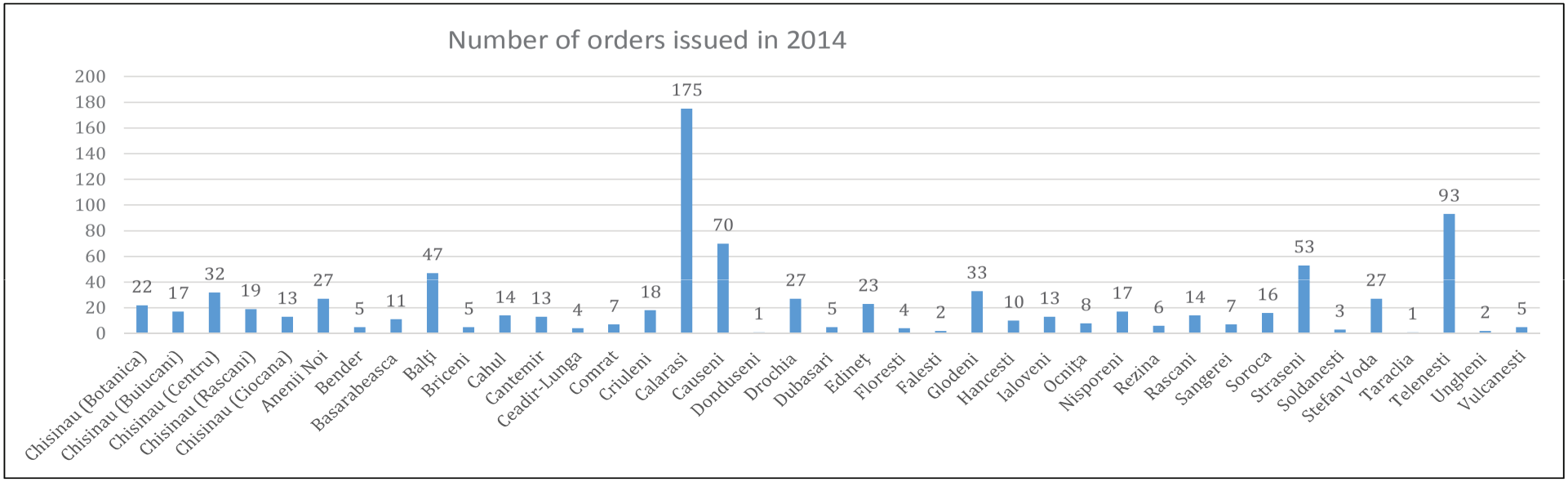
Chart 33



Note: The courts of Anenii Noi, Cantemir and Chisinau (sector Rascani) did not present information tabulated per years. The missing courts did not issue orders in 2013.

According to data received from courts, in the first 9 months of 2014, Moldovan courts issued no less than 869 protection orders. Most orders were issued by the Calarasi district court – 175 orders, the Telenesti district court – 93 orders, the Causeni district court – 70 orders, the Straseni district court – 53 orders, the Balti municipal court – 47 orders, the Glodeni district court – 33 orders, the Center sector court – 32 orders, the Drochia district court and the Stefan Voda district court – 27 orders each, the Edinet district court – 23 orders, and the remaining courts issued a less than 20 orders each.

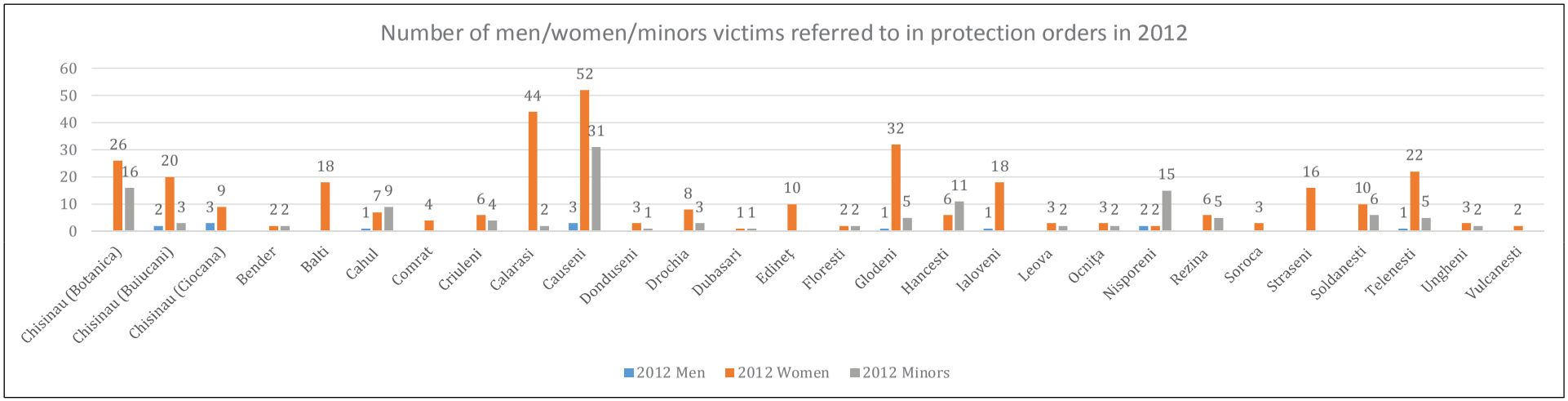
Chart 34



Note: The courts of Anenii Noi, Cantemir and Chisinau (sector Rascani) did not present information tabulated per years. The missing courts did not issue orders in 2014.

Statistical data confirm that the protection orders issued in 2012 targeted at least 479 people, including 338 women, 127 men and 14 minors. Thus the victims were 70% women, 27% minors and 3% men.

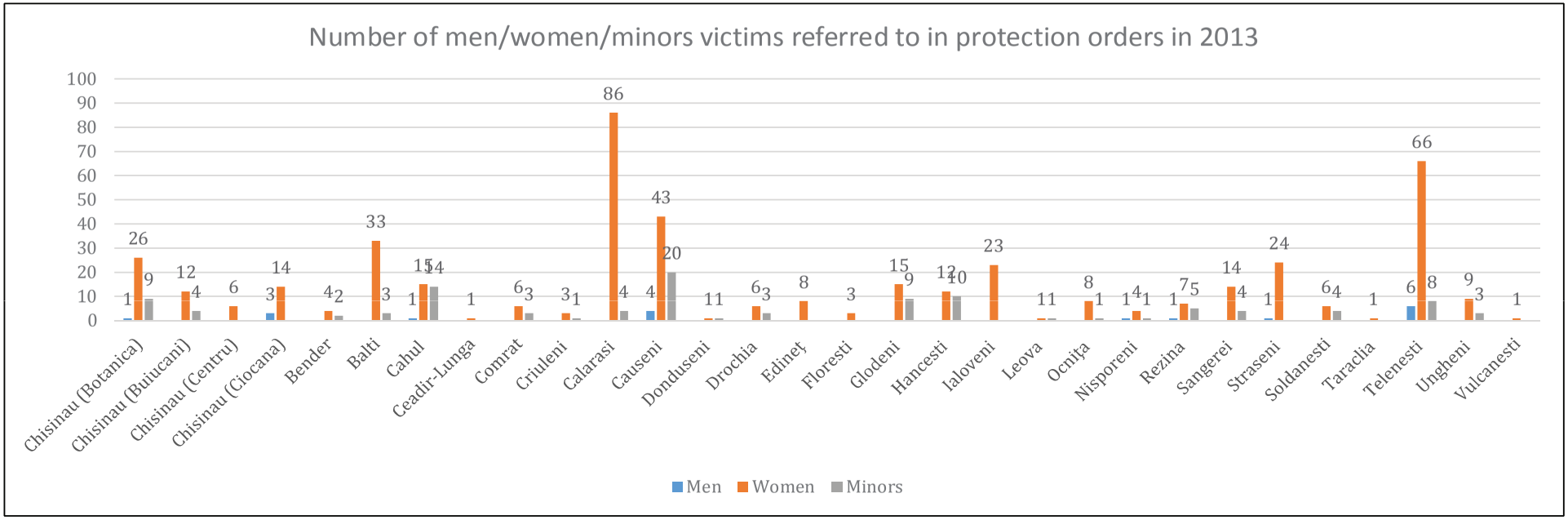
Diagram 35



Note: Courts not included in diagram did not present relevant information.

The protection orders issued in 2013 targeted at least 586 people, including 458 women, 110 men and 18 minors. Thus the victims were 78% women, 19% minors and 3% men.

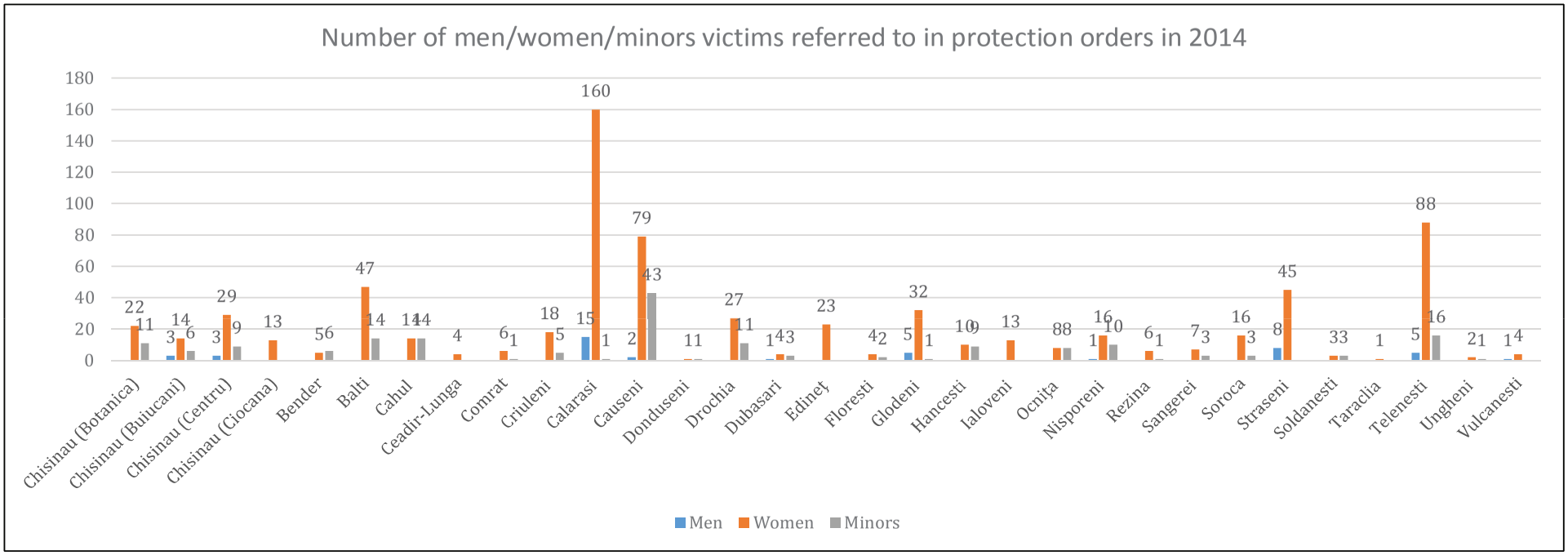
Diagram 36



Note: Courts not included in diagram did not present relevant information.

The protection orders issued in the first 9 months of 2014 targeted at least 947 people, including 721 women, 182 men and 44 minors. Thus the victims were 76% women, 19% minors and 5% men.

Diagram 37

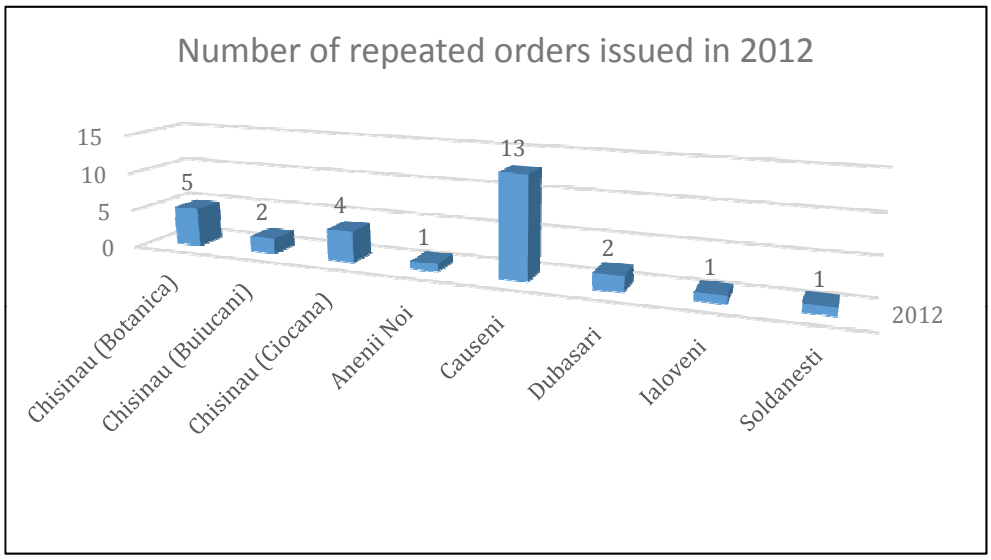


Note: Raions not included in diagram did not present relevant information.

Law no. 45 and the CPC provisions expressly state that the term of the protection order may be extended if in the period specified in the first order the aggressor continues to behave in a way that endangers the lives and safety of the victim.

This aspect demonstrates if the protective order has achieved the purpose of prevention in terms of the aggressor's behavior. In 2012, according to data from courts, only eight courts issued repeated protection orders. The highest rate of repeat orders is registered in at the Ciocana sector court, where 33% of the 13 orders issued were repeat orders (4). A share of 23% of repeat orders was registered at the Causeni district court, where 13 repeat orders were issued in addition to the 55 orders issued. A share of 17% of the repeat orders issued was recorded in 2012 at the Botanica sector court, where in the reference year 29 orders were issued.

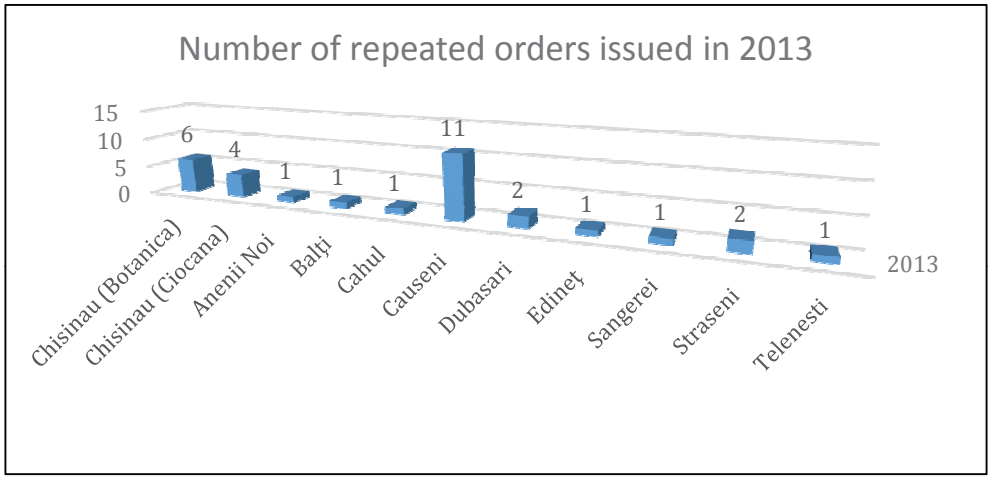
Chart 38



Note: Courts missing from the diagram did not issue repeated orders. The courts of Chisinau (sector Ciocana) and Dubasari did not present information tabulated per years.

In 2013, the largest share of repeat orders was registered again at the Botanica sector court - 24% of all orders issued, followed by the Causeni district court and Ciocana sector court, where 23% of the orders issued, or 11 out of 47 and 4 out of 17 respectively, were repeat orders.

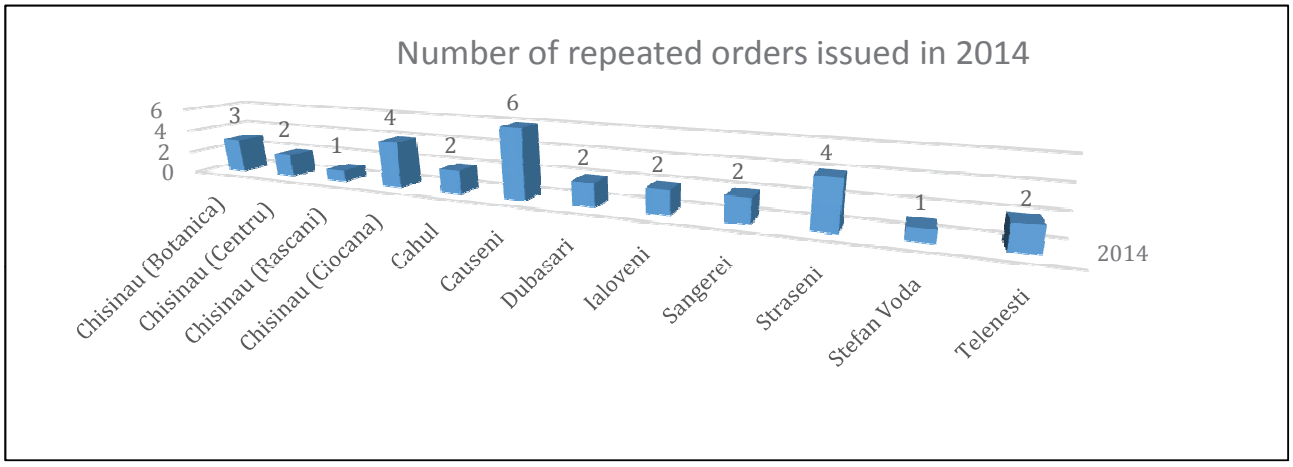
Chart 39



Note: Courts missing from the diagram did not issue repeated orders. The courts of Chisinau (sector Ciocana) and Dubasari did not present information tabulated per years.

For the situation in 2014 (the first 9 months), the largest share of repeat orders was registered at the Ciocana district court - 30%, there four out of 13 issued orders were repeat orders, followed by the Botanica sector court, with 13% of repeat orders, and the Straseni district court, with 8% of repeat orders.

Diagram 40



Note: Courts missing from the diagram did not issue repeated orders. The courts of Chisinau (sector Ciocana) and Dubasari did not present information tabulated per years.

The data presented allows us to draw the conclusion that the number of repeated orders in most regions is insignificant, which is a measure of effectiveness of the protection orders.

Examination of appeals against protection orders

According to article 318 para. (6) of the CPC, the conclusion regarding admission or rejection of an application for protection measures and the conclusion on the issue of a protection order may be appealed. However, challenging the conclusion on the issue of a protective order does not suspend the enforcement of prescribed protection measures.

According to article 426 para. (3) of the CPC, an appeal against a court decision shall be examined within 3 months by a panel of 3 judges, based on a case file and materials attached, without the examination of admissibility and without the participation of the parties.

During the reporting period, there were no cases when the police or SADs refused to enforce the protection orders on the grounds that the aggressors challenged the orders. According to the answers provided by interviewed police officers, the aggressors were notified about all the protection orders issued, and the orders were put into effect immediately, even if the decisions of the first court was appealed. According to the police, the number of contestations of the court rulings to issue protection orders is quite high. However, often the contestations become obsolete due to the lengthy procedures for the examination of the appeals.

Another challenging issue is the refusal of the victim of domestic violence to be issued a protection order. However, the police say there were no cases when victims of domestic violence challenged the decisions to be issued protection orders in court. Oftentimes, the victim and perpetrator reconcile during the hearing, and the court no longer sees the need to apply any protective measures for the victim.

CONCLUSIONS

An analysis of the situation allows us to conclude that the examination of the matter of issuing a protection order is conducted largely as required by law, and namely within 24 hours from the submission of the application. Despite this, most of the times, trials ensure the principle of adversariality in the hearings, and the perpetrators are present in court alongside the victims.

The interviews with the police and the victims showed that in spite of their heavy workloads, the courts examine carefully the evidence presented and often admit the application for issuing protection orders.

The issue that needs to be looked into, at this time, is the cost-efficiency of such protection measures that could be enforced with less effort. We refer here to the idea that the registration of application, examination of the case and adoption of a decision on issuing a protection order is n no way different in procedure from emergency hearings of civil cases that do not pose significant problems in terms of the law, such as the cases on the receipt of alimony, grounds for divorce, collection of certain debts, etc. Therefore, the mere submission of a pre-established set of documents and of a confirmation by the police authority could suffice for the court to decide on issuing the order unilaterally.

Seeing the growing trends of the number of orders issued by courts of law, we can forecast a significant increase in issued protection orders in the future years. If in 2012, 435 protection orders were issued, and only in the first 9 months of 2014, the number of issued orders was 865, or double.

The protection orders have an overall positive impact on victims, and most of the victims obtained protection orders for a maximum period of 90 days. The effects of the order were felt during the first 30 days. The beneficial effect of protection orders can also be tracked by the analysis of data on repeated or multiple orders. The share of multiple protection orders is not significant, except in certain districts.

CHAPTER III

ENFORCEMENT OF PROTECTION ORDERS

3.1 Enforcing protection orders

Sending the protection orders to the oversight bodies

Article 318 para. (4) of the CPC establishes that the court passes the protective order at once to the police and the social assistance body for immediate enforcement. However, not all protection orders are submitted to the police and social assistance department. Some orders should be delivered to the bailiff, such as orders on the perpetrator's obligation to contribute to the support of children they have in common with the victim or to pay costs and damages caused by acts of violence.

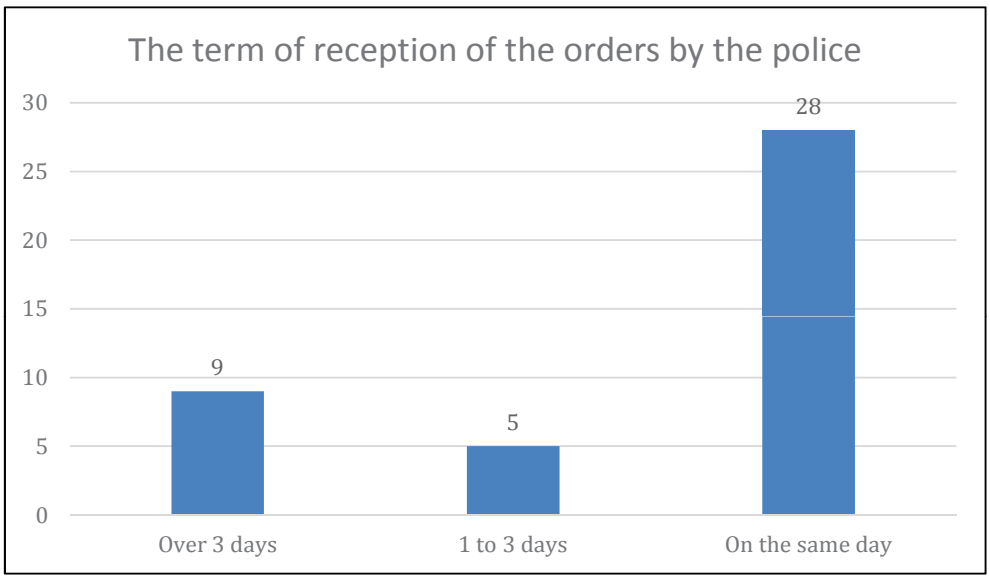
The term at once, however, is not regulated in time, like the adoption of the protection order is. Nevertheless, the concept entails that the procedural document is to be sent without delay to the executing body for immediate enforcement.

According to point 41 of the Instruction on bookkeeping and proceedings documentation, in courts and courts of appeal, outgoing documents are registered and sent out no later than the next day, while and urgent telegrams and correspondence are sent out on the same day. The Instruction does not establish specific rules for passing protection orders immediately to the PI or SAD. On the other hand, sending protection orders by registered mail, as usually happens, defies the whole purpose of the rapid examination of the case, if the mailing takes more than a day.

As explained by PI officials, in 28 districts, the judge issues the protection order immediately after pronouncing the decision, and hands over the order to the police, who are present at the hearing.

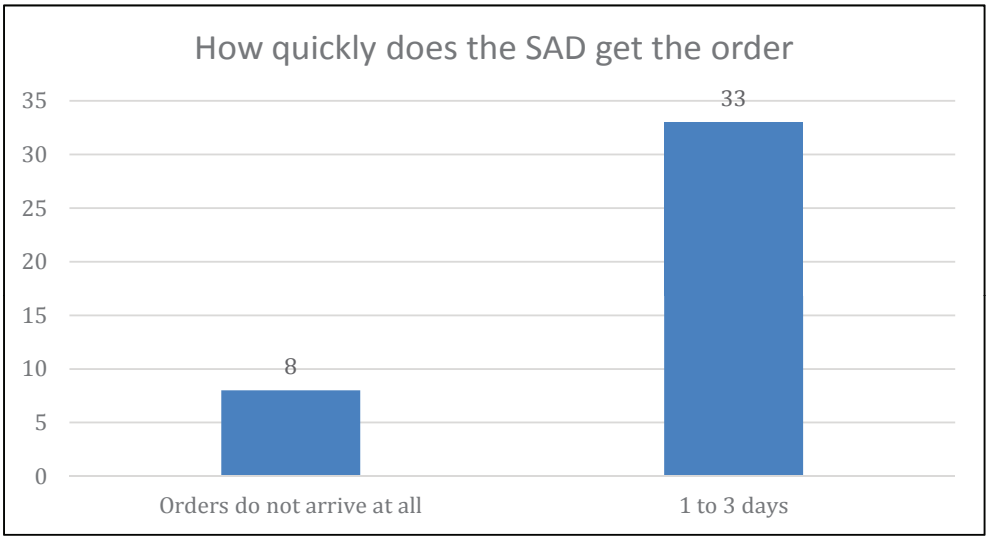
If the police are not present at the hearing or the judge does not issue the order immediately after delivering the conclusion on the case, the protection order is sent by courier. According to PI representatives, in five districts, protection orders arrive in one to three days. However, in 9 other districts were cases when protection orders reached the PIs in more than 3 days.

Chart 41



Regarding the SAD, of the 41 SAD employees, at least eight said they never received protection orders from the courts. They would occasionally hear from the police or the victim about the issue of a protection order. In the remaining 33 cases, social workers reported that orders were sent by registered mail or courier, and therefore arrived within 3 days.

Chart 42



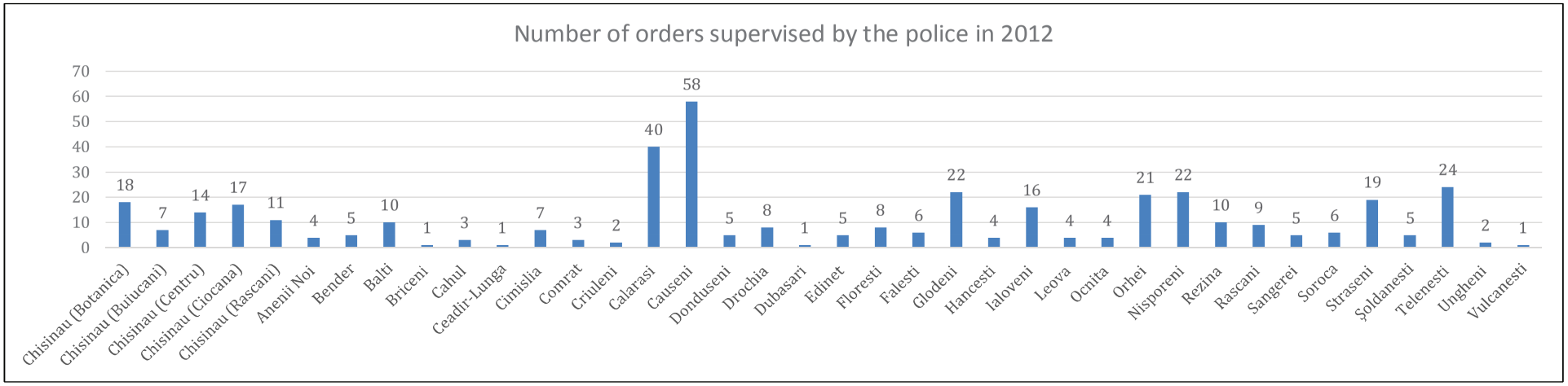
According to the police at the PI level, the court decision and the protection order are recorded in the register of correspondence of the PI registry, and then the documents are submitted for approval to the Head of PI. Subsequently, the approved documents are sent to the head or deputy head of the public security department to be recorded in the special registers for recording protection orders, and to be sent directly to the order enforcement officer, that is the police officer in charge of the town where the victim and/or perpetrator are from, as per case. In addition to a general register of letters and special registers, the PI has a register of perpetrators, which is compiled and managed in accordance with the provisions of Annex 1 to Order no. 275. These registers are provided for the registration and recording of domestic aggressors, monitored by the law enforcement, and are managed by the public security department within the PI. The register of domestic aggressors is used to analyze and systematize the data on family aggressors, the duration, reason and basis for their registration, and the person responsible for carrying out individual preventive measures.

However, each police post chief had individual files and/or a register of domestic aggressors. Thus the respective heads of post shall record the conclusion of the court and the protection order in their files. During the supervision of the execution of protective measures, the police make notes in these records, including on the observance or eventual violations of the protection order.

To enforce the issued protection orders, the police notify the perpetrators, as confirmed by a signature, on the existence of the order, its content, explain them what restrictions apply, and that the breach of the order or failure to observe it as ordered by the court makes the aggressor liable, and that he shall be sanctioned in accordance with law for failure to observe a judgment. Thus, for a first time violation of the protection order the aggressor will be held accountable under article 318 of the CC, and if it fails again, the aggressor will be punished under criminally law, in accordance with article 320 of the CP.

According to disaggregated police data, in 2012, the most protection orders were recorded at PI Causeni - 58 orders, PI Calarasi - 40 orders, PI Telenesti - 24 orders, PIs Nisporeni and Glodeni - 22 orders each, and PI Orhei – 21 orders. In the remaining police stations there were less than 20 orders recorded.

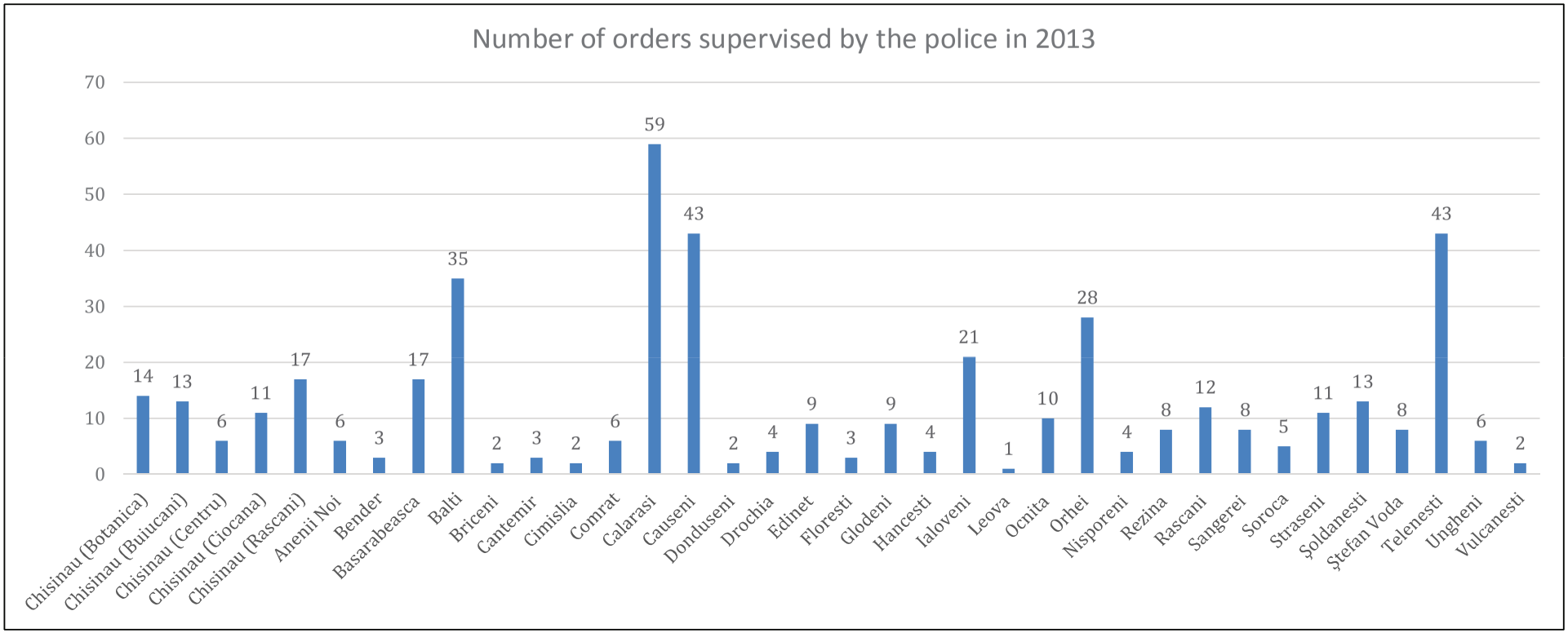
Chart 43



Note: Police inspectorates in Cantemir, Stefan-Voda and Taraclia did not receive for enforcement any protection order.

In 2013, most orders were recorded at PI Causeni - 59 orders, PIs Telenesti and Causeni - 43 orders each, PI Balti – 35 orders, PI Orhei – 28 orders, PI Ialoveni - 21 orders. The remaining police stations had less than 20 orders registered.

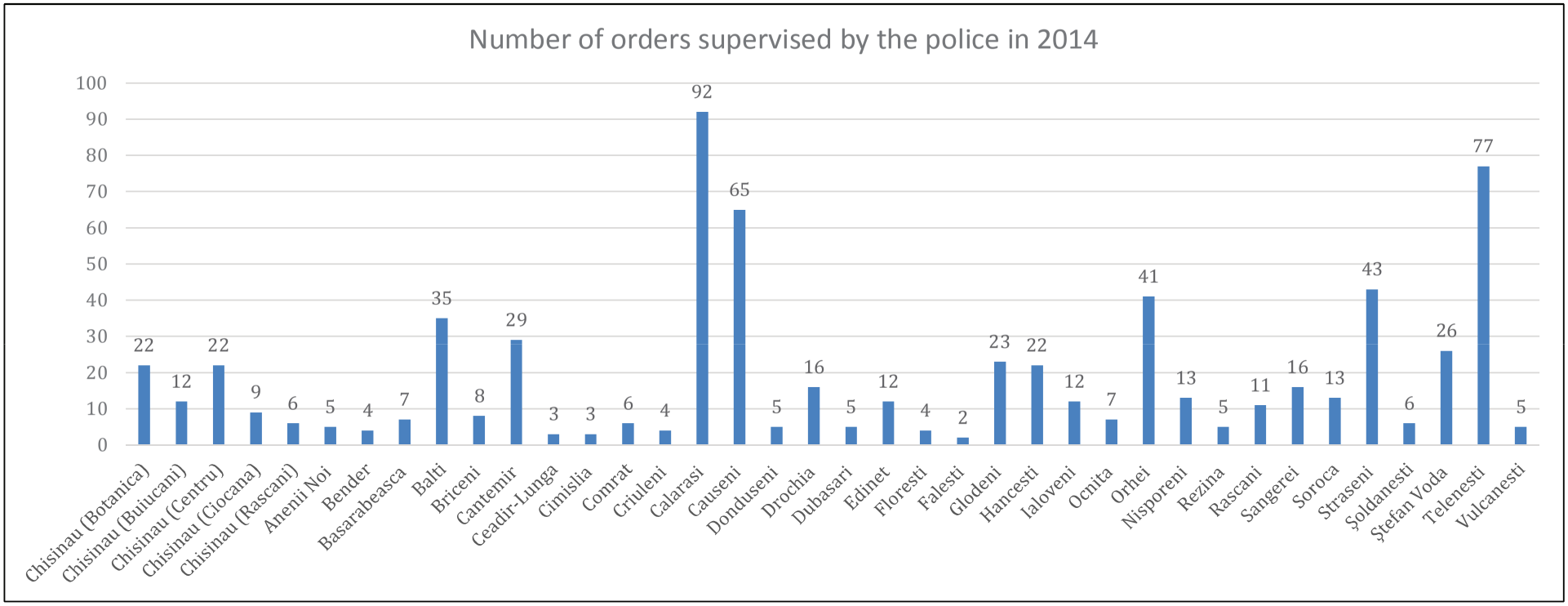
Chart 44



Note: Police inspectorates in Cahul, Criuleni, Ceadir-Lunga, Dubasari, Falesti and Taraclia did not receive for enforcement any protection order.

In 2014 (during 9 months), most orders were recorded at PI Calarasi - 92 orders, PI Telenești – 77 orders, PI Causeni - 65 orders, PI Straseni – 43 orders, PI Balti - 35 orders, PI Cantemir - 29 orders, PI Stefan Voda - 26 orders, PI Glodeni - 23 orders, and the PIs of sectors Botanica and Centru in Chisinau and PI Hancesti - 22 orders each. Other inspectorates recorded less than 20 orders.

Chart 45



Note: Police inspectorates in Cahul, Leova, Taraclia and Ungheni did not receive for enforcement any protection order.

According to paragraphs 90-96 of the Methodology Instruction on intervention of internal affairs bodies in preventing and combating domestic violence cases no. 275 of 14.08.2012, police (employees of the service of operative sector officers (service minors)) in charge of the area of residence of a known aggressor must ensure their individual monitoring of the aggressor and start a nominal monitoring file (individual record sheet) to record prevention measures.

The police are obliged to supervise the enforcement of protective measures established by the court by the aggressor in cooperation with the social workers. In particular, the Instruction states in detail the actions to be taken by police, such as, for example:

- Not less than once a week, pay unannounced visits during the day to the residence of the perpetrator or the victim to verify compliance with the protection order and to conduct individual prevention measures;
- Each visit will be confirmed the aggressor, victim, family members, neighbors or others who come in contact with their family members, which will be duly noted in the record sheet.

The Instruction also indicates the possibility to request the people involved to come to the police, to verify compliance with protection orders, conduct individual prevention, and note down those particulars in files and record sheet.

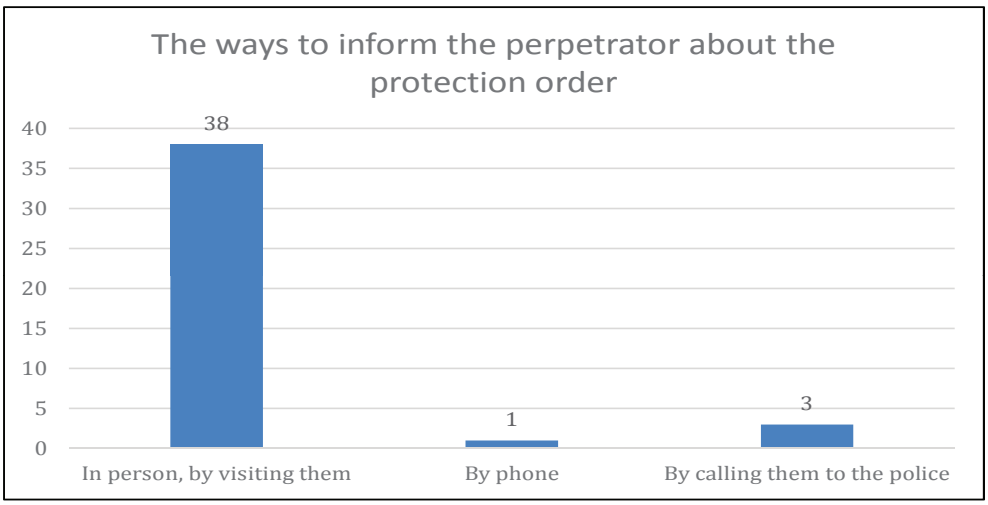
Another act governing in detail the actions of social workers and police officers is the Instruction on intervention social assistance and family protection sections/departments in cases of domestic violence, approved by Order no. 372/388 from 3.11.2009, which, in its Chapter IV, sets out the actions is social workers and police officers.

It is the primary responsibility of the sector officer in charge of the area in which the aggressor lives to inform the aggressor about the protection order.

The police and the social workers are both obligated to periodically contact the victim and the aggressor, make home visits and talk with subjects of domestic violence. If the social worker identifies or is announced by the victim of the violation of protection order by the perpetrator, they shall immediately notify the operative sector officer.

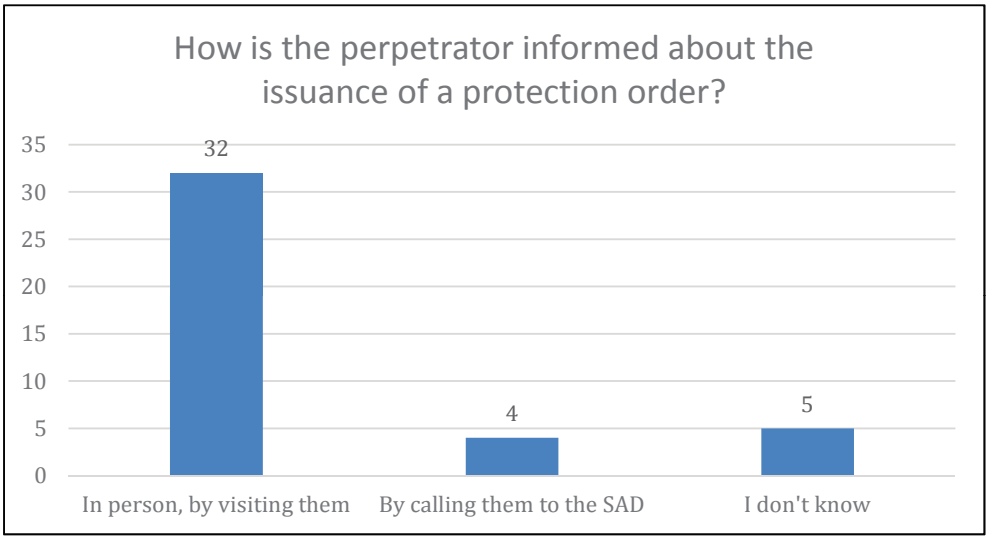
The data obtained allow us to state that a majority of police officers undertake an initial home visit to the aggressor's family, where they inform the perpetrator about the issue of a protection order, and bring to their attention, by signature, the consequences of non-compliance with the order. Such a practice is common in 38 administrative-territorial units; in three administrative-territorial units, the police call the aggressors to the police station, where they are informed about the issue of the order, and only in one administrative-territorial unit the police inform the aggressor by phone.

Chart 46



SAD employees also reported that the most frequently used method is home visits to the aggressor's family – thus, in 32 administrative-territorial units, this practice was confirmed, in four districts, SAD staff invite the aggressor to the SAD office to inform him on the order, and SAD employees in 5 districts could not say what method of information was used regarding the issuance of the protection order.

Chart 47



CONCLUSIONS

The conducted interviews and the analyzed responses and statistical data show that, in general, protection orders arrive at the enforcement and oversight bodies in a quite short time, and are enforced on the same day, in accordance with internal procedures.

The existence of standardized materials that can be found in annexes to Order no. 275 actually contribute to the uniform enforcement practices of protection orders. Therefore, in each district practices are similar. The same situation is found in connection with SAD employees.

A proper equipment of operative officers for work remains a problem. Travelling to remote localities is a challenge and therefore often the enforcement of protection orders is monitored by phone.

Giving up protective measures and recalling the protection order by the victim is also an issue. Many of the PI and SAD employees said they had cases when they took great efforts to enforce to enforce an order and finally to fund that the victim did not want the measure.

3.2 Particularities of enforcement of certain types of protection orders

According to article 318 para. (4) of the CPC, if the request for issuance of a protection order is admitted, the court shall apply to the aggressor one or more of the following measures:

a) An obligation to temporarily leave the joint dwelling or to stay away from the victim's residence without deciding on the ownership of the goods;
b) An obligation to stay away from the victim, and keep a distance that would ensure the victim's security;
c) The obligation not to contact the victim, their children or other dependents;
d) A prohibition to visit the workplace and residence of the victim;
e) An order to contribute, until the resolution of the case, to the support of common children with the victim;
f) An order to pay costs and damages caused by acts of violence, including medical expenses and the cost of replacing or repairing destroyed or damaged assets;
g) A restricted unilateral disposal of joint assets;
h) A temporary visitation schedule of his minor children;
i) A prohibition to keep and bear arms.

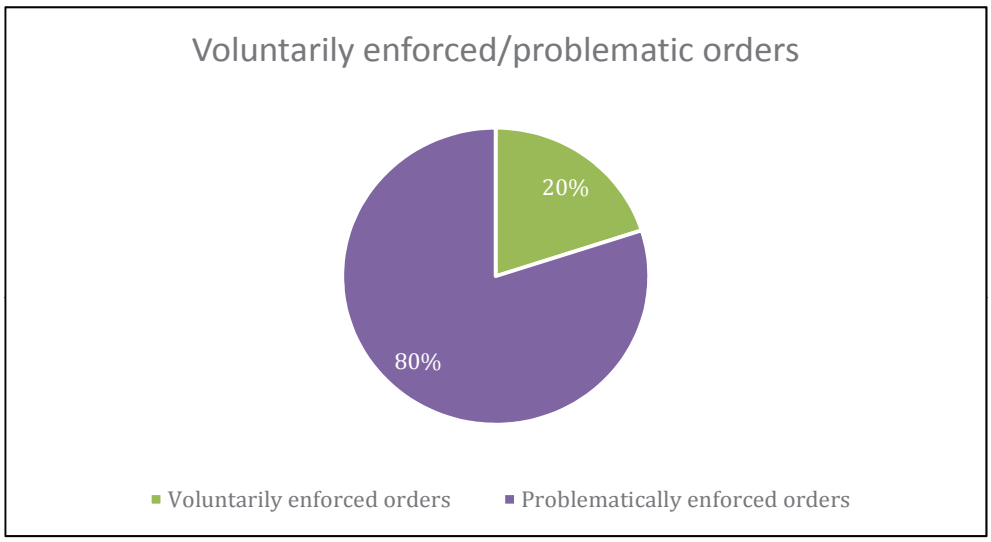
In principle, the judge can limit him/herself to the requests put in the application for a protection order, and can consider only the facts indicated in the application. Therefore setting out the facts and requests is the responsibility of the person who prepares the request.

The Instruction that was approved by MIA provides, in its annexes, a sample of application for a protection order, which contains the main elements of the application and the measures that are required. Applicants most commonly ask for only four steps:

- An obligation to temporarily leave the joint dwelling or to stay away from the victim's residence without deciding on the ownership of the goods;
- An obligation to stay away from the victim, at a distance that would ensure the safety of the victim;
- The obligation not to contact the victim, their children or other dependents;
- A prohibition from visiting the victim's place of work or residence;

Out of the 42 victims interviewed, only nine said they had problems with enforcing orders, and in the remaining 33 cases, the victims said that the aggressors respected the orders willingly.

Figure 48



Returning to the SAD and police duties, we must clarify the exact functions of these bodies. The question that actually occurs is related to enforcement procedures. It the police obliged to enforce the protection order and supervise its observance? The measures set by the court not foresee an enforcement action by these bodies. The police can only monitor whether an action has been executed properly and whether requirements were met. Therefore, in the case of protection measures, the competent authorities shall take all actions needed to persuade the aggressor to execute this obligation.

Often a protection order is not sufficient to ensure the safety of the victim. This is because the police do not have enforcement procedures for protection orders or other functions that would ensure effective enforcement of orders and not only supervision of the execution. Moreover, the procedure of sanctioning the perpetrator for a violation of a protection measures is cumbersome and lengthy, the police are virtually unable to act swiftly in such situations. Under the law, for the failure to enforce or decided breach of a protection order, the perpetrator may be punished: for the first time, under article 318 of the Contraventions Code, and for repeated violations, after the aggressor was already sanctioned once, he can be held accountable under article 320 of the Criminal Code.

According to article 421 of the CC, a court enforcement officer or bailiff establishes contraventions referred to in article 318 of the CC. Therefore, bailiffs are the enforcement body (article 318 para. (4) letter e) and f) of the CPC) and the stating body of the failure to enforce protection measures. article 399 para. (2) of the CC provides that a finding agent can establish offenses whose settlement and sanctioning powers are attributed to other bodies, and it shall be obliged to submit documentation establishing the said contraventions to those bodies.

So the police may only accumulate evidence of a breach of protection measures, and shall send it to the bailiff to initiate contravention proceedings under article 318 of the CC. After initiating the procedure, the bailiff sends the contravention file to court, which is to decide on sanctioning the aggressor. Consideration of such order shall be made in common, namely, it may take time. This means that if the aggressor violates the protective measures repeatedly or continuously, pending a court decision to sanction, the police can still document and gather evidence that will then go to the bailiff, according to the same procedure, because in order to start criminal prosecution under article 320 of the CP, the aggressor must already have a contravention

sanctioning. In such situations, we see that it is virtually impossible t ensure the security of the victim despite the existence of a protection order.

Thus, in order to improve the mechanism of providing immediate protection to victims of domestic violence, it is imperative to harmonize the national legal framework in the field of prevention and combating domestic violence with European standards, namely the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, and to introduce the possibility of issuing police-sponsored restraining orders that will give the police a real possibility to enforce certain specific measures.

Applied protection measures

The most frequently encountered measure applied by the court is the order to temporarily leave the common residence or to stay away from the victim's residence without deciding on the ownership of the goods.

According to SAD staff members, often such orders are not enforced because some victims are the ones who leave the common living space, especially after they see that the police cannot take more decisive actions to enforce the order.

For many SAD employees, there is no real cooperation with the PI, and the police do not always come swiftly, because often an officer covers 2-3 towns. Therefore, the real intervention period is too long, and when it occurs, the victim has temporarily reconciled with the aggressor.

Absence of assistance centers for aggressors is another impediment in enforcing this protection measure. The perpetrator perceives such an order as a loss of their rights to the dwelling. Accordingly, when the order is not enforced, the aggressor most commonly claims that he has nowhere to go.

As for police employees, they also stated that most problems are related to the evacuation of the aggressor, which is not the competence of the police. The only mechanism at hand is drawing up the protection order non-enforcement protocol, which may not be implemented because the courts dismiss files opened on their basis because the police are not the official finding agents in such instances.

Orders to stay away from the victim are another measure frequently measures used by the courts. In the situation of Moldova, this action is strictly connected to the first measure, because keeping away from the victim, in fact, implies a prohibition to use real estate in joint or individual ownership. An exception to this would be the cases in which victims are in shelters. Therefore, the problems that arise in the first category of measures are common for this measure, too.

The order obliging the perpetrator not to contact the victim, their children or other dependents cannot be monitored without the contribution of the victim or others.

SAD representatives said that, in general, they rarely participate in enforcing such measures, and leave them to the discretion of the police. However, the implementation of the measure is met with the same problems, such as a reconciliation of the victim and aggressor, lack of support centers, heavy workload of social workers, and insufficient time. According to police, they could document the violations of this measure only if the persons the measure was ordered for notify the police.

Consequently, we can conclude that, in fact, monitoring the enforcement of the order is strictly related to the possibilities and perceptions of the victim that should call the police and the SAD.

Regarding the restrictive measure aimed at prohibiting the aggressor from visiting the workplace or house of the victim, the SAD said that, as t is with other protection measures, this is left to the police, and that there were only in few cases when social workers monitored the enforcement of such protection measures. However the implementation of this protection measure is also faced with problems such as the reconciliation of the victim and aggressor.

In interviews with representatives of police inspectorates, they reported that station chiefs and district officers regularly carry out visits to the residences of the victims to monitor the enforcement of the protection order. The police talk to the victim, her children and neighbors. According to them, there are cases where the victim calls the aggressor to help with work around the house, although there is a protection order preventing him from being at the victim's place of residence. In such cases, supervising the enforcement of protection measures is not possible without the contribution of the victim and neighbors; otherwise the police should provide a non-stop security detail for the respective places.

Although the enforcement of measures concerning the obligation of the aggressor, until the final resolution of the matter, to contribute to the support of children they have in common with the victim and to pay costs and damages caused by acts of violence, including medical expenses and the replacement or repair of destroyed or damaged assets is attributed to the bailiff, from the interviews we conducted we found that most SAD representatives did not know about this, and said that the implementation of these measures should be monitored by the police together with the social worker. At the same time, all police representatives said that the bailiff was responsible for the enforcement of these measures.

On the other hand, since the bailiffs' services entail fees that cannot be covered by the victims, many of them give up the enforcement of such orders.

On the execution of the restrictive measure of limitation on unilateral use of common property, the police said that they did not have to enforce orders containing this measure their practice. However, PI representatives argued that if such a measure would be issued, this will be monitored by the police, as well as other protection measures, and in case of violations, the aggressors should be held accountable. However, the police mentioned that problems could arise during the supervision of such a measure because there is no established methodology for this purpose.

Thus, it is unclear whether and how to document shared goods, particularly mobile ones, so as to establish an evidentiary basis in case of violation of this measure. It is not clear who should go to the shared residence and/or location of shared goods to include them in the list of shared goods.

SAD employees also noted that such a measure was never provided for in protection orders they received for enforcement.

Regarding the establishment of a temporary visitation schedule for minor children through the protection order, overseeing the enforcement of this measure would present some difficulties, if the court does not expressly set the schedule in the text of the order. Police said that if the order does not provide for a specific visiting schedule, and refers to this measure in general terms, the guardianship authority together with the social worker should develop the schedule. Only after a schedule is devised the police can oversee its observation.

The SAD had a similarly consistent answer in that the guardianship authority must establish a schedule of meetings between the aggressor and the victim's minor children.

Regarding the prohibition to keep and bear arms, police representatives said that the implementation of this measure is done promptly. The gun is lifted and stored in a police safe until the expiry of the protection order.

Normative acts do not provide for the need to draw up a document that would record the termination of the enforcement of the order, it is presumed that it was executed, if there are no sanctioning acts or records to confirm the non-enforcement of the order.

The police mentioned that they most frequently made such mentions in the aggressors' records and in their information sheets. Only 3 of the 42 police employees reported that they draw a final report recording the completion of overseeing a protection order. This report is not communicated to the aggressor and the victim.

CONCLUSIONS

Even if, as required by law, the police and social workers and, in some cases, bailiffs, are responsible for enforcing and supervising the execution of protection orders, from the interviews, we found that, in the majority of cases, statistically speaking, SAD is not involved, leaving to the police the mandatory oversight of protection measures.

Although during the interviews SAD employees recognized this lack of involvement in the execution and supervision of protection orders, it can be explained by their objections regarding the protection measures, such as:

- Lack of training for social assistants.
- High staff turnover among community assistants due to subsistence wages.
- Specialization in the field of domestic violence.
- The different working schedules of the sector police and the social worker, making it impossible to visit the same regions concomitantly.
- Impossibility to cover the costs of transportation.
- Lack of cooperation and interaction between the community assistant and the social worker from the SAD.
- Non-functional multidisciplinary groups.
- Lack of social workers and, respectively, police officers in every locality.
- Lack of psychological, social and legal counseling services and staff in the SAD.
- Poor collaboration with police inspectorates.

The police notify the aggressors, as confirmed by signature, about the existence of the order, and its content, explain the essence of the restrictive measures, and tell them that the non-enforcement or breach of the measures ordered by the court could entail penalties in accordance with law. Thus, in case of a first-time violation of a protection measure, the aggressor is sanctioned under article 318 of the CC, and if he fails again, after having received a first sanction, the aggressor is to be held liable in accordance with article 320 of the Criminal Code.

3.3 Legal consequences of non-enforcement of protection orders

The instruction also notes that the protocol of the contravention together with the material evidence are to be sent on the same day to the bailiff in whose jurisdiction, established by the territorial chamber of bailiffs, of perpetrator's residence or place of business, in order to initiate contravention procedures.

If the aggressor to whom the restrictions in the protection order apply intentionally fails to observe them or avoids enforcing the protection order altogether, and if he was already sanctioned for this administratively, the finding agent stating the repeat violation will start proceedings under the CPC, and the prosecuting authority will examine the violation in accordance with article 320 of the Criminal Code.

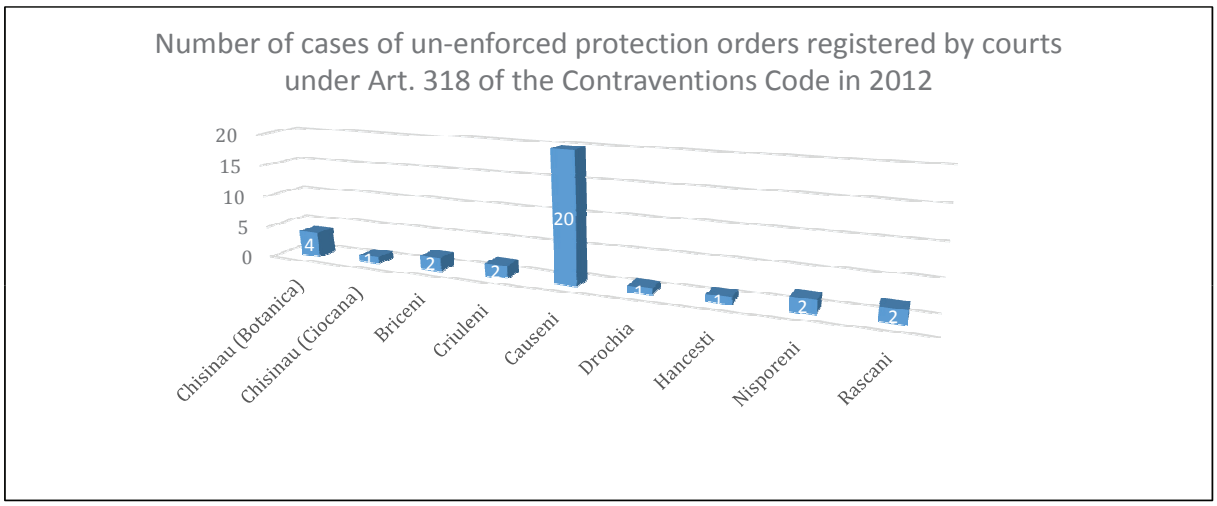
Moreover, the police have the right to apply procedural measures in case of a breach of protection order, by detaining or, that the worst case, arresting the person accused of violating a protection order issued on a case of domestic violence.

Despite these provisions of the Instruction, there is no uniform practice in which police consistently acted as stating agents in such cases. Most such protocols are canceled by the court on the grounds that article 421 of the CC provides that contraventions referred to in article 318 must be stated by a court bailiff. So only a bailiff can write up a contravention protocol in such cases. Although article 399 para. (2) of the CC provides that the finding agent may find offenses whose finding, solving and sanctioning are in the competence of other bodies, and must send the minutes stating the contravention to those bodies, bailiffs often delay the examination of the contravention protocol.

If we return to the analysis of statistical data on the percentage of non-enforced orders, we can see that they are generally insignificant. Individual solutions must be identified for each district to improve the enforcement proceedings.

For example, in 2012, most cases on the non-enforcement of protection orders were registered and examined by the Causeni court - 20 cases, which represents 36% of protection orders. This is an alarming indicator, which shows that in this district, every third victim has not had a qualitative enforcement of the order. A high indicator of non-enforced orders can be found in the Botanica sector court, where there were 4 non-enforced orders out of 29 orders issued. So the non-execution rate is 13%.

Chart 49



Note: Courts that are not included in this diagram did not register any cases of un-enforced protection orders under article 318 of the Contrventions Code. The court of Orhei did not present any data, and the court of Briceni did not present data tabulated per years.

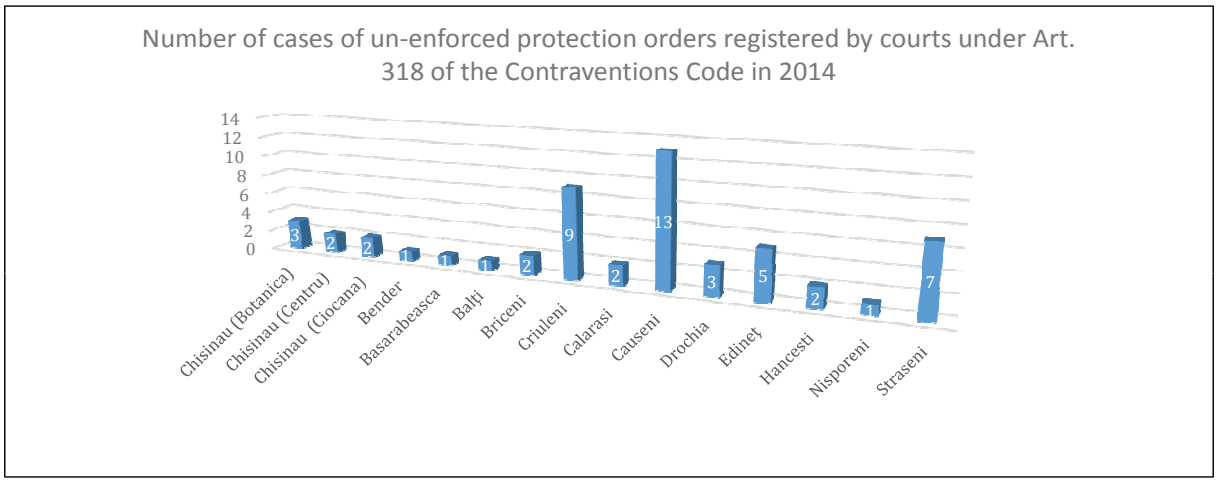
In 2013, most cases on the non-enforcement of protection orders were registered and examined by the Ciocana sector court, and namely 7 cases out of 17 issued protection orders, which represents a share of 40%. Then follows the district court of Basarabeasca, which registered 5 cases of non-enforcement of orders, while 14 orders were issued in the reference year, which results in a share of 40%. The district Court in Causeni also recorded a large number of un-enforced order cases - 12, or 25% of all protection orders issued in that year.

Chart 50

Note: Courts that are not included in this diagram did not register any cases of un-enforced protection orders under article 318 of the Contrventions Code. The court of Orhei did not present any data, and the court of Briceni did not present data tabulated per years.

In 2014 (during 9 months), most trials about the non-enforcement of protection orders compared with the number of orders issued was registered at the district court of Criuleni, which had 9 cases of non-enforcement of orders of the total 18 orders issued during this period. A high proportion of cases of unenforced order cases was found at the Edinet district court, which had 5 such cases or 22% of 23 orders issued. In Causeni, the situation remains alarming, as they recorded 13 cases of unenforced orders of the total 70 orders issued, or 18%. The Court r. Straseni registered 7 cases of non-enforcement of protection orders out of a total of 53 issued orders, which represents a share of 13%.

Chart 51



Note: Courts that are not included in this diagram did not register any cases of un-enforced protection orders under article 318 of the Contrventions Code. The court of Orhei did not present any data, and the court of Briceni did not present data tabulated per years.

CONCLUSIONS

The consequences of non-enforcement of protection orders can be analyzed via the data obtained as a result of the trials started under article 318 of the CC. We cannot say that their share in the total number of orders issued is of concern. However, these data do not reveal the real situation on the ground, because the CC largely limits police actions, since they cannot act as stating agents.

In 2012, 35 cases on the non-enforcement of protection orders were sent to courts; in 2013 this number was 41, and in 2014 (the first 9 months) there were 54 such cases.

Although methodological instructions are quite short and clear, however, we should mention that the police have, in fact, only an oversight role in this. They do not have the power or right to carry out certain actions such as forced evacuation of the aggressor from the dwelling.

CHAPTER IV

CONCLUSIONS

Having analyzed the statistical data and information provided by interviewees, we have found several systemic problems that refer to the procedure of referring committed acts of domestic violence and applications for issuing protection orders. The conclusions can be divided into several categories, such as those relating to the operation of the regulatory framework, conclusions on the perceptions of victims and those involved in preventing domestic violence, and issues regarding the enforcement of specific norms.

On the functioning of the legal framework

The four decisions pronounced by the ECtHR during the reference period in cases submitted by victims of domestic violence, which state violations of the right to be free from torture and gender-based discrimination, represent in fact a negative assessment of the Court on how the Law no. 45 is implemented. So many decisions in such a short time point to the fact that the authorities were unable to fulfill the tasks assigned to them under the law, and provide effective protection to the victims. These decisions include brass assessments and identify the gaps in the mechanism of ensuring the protection of victims.

However, all decisions held that an absolute right was violated - the right not to be subjected to torture and inhuman and degrading treatment. These assessments oblige national courts to give their full attention to how they treat cases on acts of violence and requests for issuing protection orders. Equally problematic is the enforcement of protection orders, which also requires attention.

The instructions and guidelines adopted in the 2012-2014 by MIA, MLSPF and the MOH were able to clarify the concrete steps to be taken by the police, SAD workers and other bodies involved in preventing and combating domestic violence.

They provide clear benchmarks that allow for a more efficient monitoring of the activity of the employees of those bodies. Unifying the used forms, such as the register of aggressors, or aggressors' personal sheets, could facilitate the work of the police.

The pronouncement, during the reporting years, of a Decision of the Plenum of the Supreme Court and a Recommendation on the application of certain CPC provisions on the procedure for issuing protection orders is an important step towards unifying court proceedings and rulings in that regard.

We also found that most of the police employees use the mechanisms of control of the enforcement of protection orders. At the same time, court trials are carried out on time, in line with all the procedures, and guarantee both victim and the perpetrator the right to a fair trial.

In spite of these, we have found that there are issues with the different treatment of complaints on domestic violence. We refer here to that fact that, before introducing article 201/1 of Criminal Code, the legislature had criminalized domestic violence in a simpler form. Therefore, the referral system on complaints for domestic violence cases, provided by Law no. 45, is superseded in that, by the time of this law, domestic violence cases could be treated as administrative offenses. According to the Prosecutor General office, only in 2012 there were at least 3,800 complaints on acts of domestic violence, while only 830 criminal cases were started

under article 201/1 of the CP, and about half of that number reached the courts. Thus, we can state that in 2012, only 10% of complaints about acts of domestic violence have come to be treated as crimes of domestic violence.

For 2013, we see a doubling of this ratio. Thus, out of the 3,000 complaints of acts of domestic violence were, 1,354 criminal cases were started under article 201/1 of the CP, while and some 628 criminal cases under the same article reached the courts.

The uneven application of the provisions of CC and CP on the classification of light domestic violence actions (article 201/1 of the CP) create an unfair system of penalizing offenders. The large gap between the number of complaints on acts of domestic violence and the number of criminal cases started under article 201/1 of the CP should be analyzed by prosecution and courts. Therefore, it a decision of the Plenum of the Supreme Court is necessary to unify the jurisprudence in the application of article 201/1 of the CP in relation to article 69 and article 78 para. (1) of the CC.

Another reflection point is the need to maintain two different procedures for obtaining protection orders: one under the CPC and another under the CPP. There must be an assessment of their effectiveness and of the costs of these procedures.

The consequences of the unenforced orders can be analyzed via the data obtained from the trials started under article 318 of the CC. We cannot state that their share in relation to total orders issued is of concern. However, these data do not reveal the real situation on the ground, because the police are largely limited by the CC, and cannot act as stating agents.

Finally, we can only appreciate the positive changes proposed by the working group created by MLSPF that will eliminate some gaps and introduce new provisions to Law no. 45, which will give the police the possibility of issuing restraining orders.

On perceptions

We find that domestic violence victims are not fully aware of the possibilities offered by the law. There is no national strategy to inform the population about the guarantees offered by Law no. 45. Thus we found that victims do not know about the existence or bodies that are required to act in the field of domestic violence. Thus, before obtaining protection orders, only about 22% of victims knew that the SADs have expertise and competencies in preventing and combating domestic violence, while almost 78% of victims thought that the SADs only have competences in the areas of social aid and work with vulnerable groups.

Confidence that the police will be able to protect them from attacks by aggressors is also quite alarming - about 50% of the victims did not want to report the perpetrator's actions to the police whom they distrust because they most often, too, are men and therefore could side with the aggressor. In addition, victims said that police officers often try to mediate the conflict, and avoid serious sanctions or other measures.

On the other hand, applying financial penalties to the aggressors affects the joint family budget, which turns the penalty into a punishment for the entire family instead of an individual ne, directed at the aggressor.

On specialization

Despite the existence of clear provisions on the need for specialization, under article 8 of the Law no. 45, a majority of SADs do not have workers specialized in domestic violence. This gap, although explained with financial reasons, cannot be maintained further because the coordination of local municipalities depends on the role of presence of a specialized social worker. However, according to the police, there is virtually no collaboration at the local level and the work of multidisciplinary teams des not have the intended impact.

Besides the lack of specialization, we find that the trainings received by social workers and the police are insufficient. According to our interviewees, they received total training of 40 hours during 3 years, while this field of work requires deeper knowledge.

Given that a series of methodical instructions and regulations regarding intervention were approved during the years 2012-2013, discussing and explaining them to the heads of institutions and persons who are directly responsible for the area of work should be a priority.

As regards court trials, we have found that there is currently no need for a specialization of judges in cases of domestic violence. Note that the courts keep records of cases of issuing protection orders.

The case on the issue or refusal of a protection order is largely examined as provided by law, namely within 24 hours after the submission of the application. At the same time, the trials in courts of law mostly comply with the principles of adversariality, and both perpetrators and victims are present at the hearing.

Following interviews with the police and victims, the courts, which have heavy workloads, carefully examine the evidence presented and, in most cases, rule in favor of issuing a protection order.

The question at this point is the cost-effectiveness of such measures - if they can be achieved with less effort. We mean by this the fact that the way in which an application of protection orders is registered, examined and decided upon does not differ at all from the emergency examination of civil cases that pose no major problems of law, like collection of alimony, divorces, collection of certain debts, etc. Therefore, from a cost-effectiveness standpoint, examining the cases on issuing protection orders in a contentious procedure is quite expensive, as it requires the involvement of a whole circle of officials.

On statistics

An analysis statistical data shows that every year the number of applications for protection orders is growing significantly. In 2012, there were at least 474 applications; in 2013 were recorded at least 663 applications, and in only 9 months of 2014, there were already 995 requests for issuing protection orders.

Having analyzed the growing trends of the number of orders issued by courts, we forecast for the coming years a significant increase in their numbers. Or, while about 435 protection orders were issued in 2012, in the first 9 months of 2014 only the courts ordered to issue 865 protection orders.

In 2012, the courts registered approximately 35 cases of the non-enforcement of protection orders; in 2013, this number was 41 cases, and in the 9 months of 2014 - 54 cases.

RECOMMENDATIONS

An analysis of the obtained data and the conclusions above provide us with a list of benchmarks on the procedures and the actions that must be implemented by the central and local government.

This report contains recommendations that can be achieved in a short term, some of them already having been backed by other associations, and more specific other actions, which target actors from the system. Disaggregation and presentation of data per each administrative-territorial unit could determine them to take appropriate measures to improve the situation in the regions they represent.

The report therefore contains sufficient evidence to determine the central and local authorities to consider the following recommendations:

1. Signing and ratifying the CAHVIO.
2. Harmonization of the national legal framework to prevent and combat violence by adopting the amendments proposed by the MLSPF working group.
3. Assessing the opportunity of two separate procedures for examining the way of issuing protection orders under the CPC and CPP.
4. Amending the CC in the sense that the police authority be assigned as a stating agent for contravention stipulated in article 318 of the CC.
5. Adopting an explanatory Decision of the Plenum of the Supreme Court in order to establish a uniform legal practice to address domestic violence cases with respect to prosecuting the offenders under the criminal law (article 201/1 of the CP), and delimitation of contravention cases (article 69, article 78 para. (1) of the CC).
6. Hiring persons responsible for cases of domestic violence to all SADs, if appropriate, ensure SAD staff specialization.
7. Build the capacities of social workers in the municipalities regarding their knowledge in the field of domestic violence.
8. More active involvement in preventing domestic violence through family doctors.
9. Increase the capacities of the police and SADs to intervene in cases of domestic violence by ensuring their appropriate technical endowment.
10. Opening emergency centers for victims of domestic violence in every administrative-territorial unit.
11. Creating, furbishing and equipping support centers for domestic perpetrators, and develop rehabilitation and treatment services for domestic perpetrators.