



Germany

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Executive Summary

This research report comprises the national results of the project INASC - *Improving needs assessment and victim's support in domestic violence related criminal proceedings*, co-financed by the Criminal Justice Programme of the European Commission. The project aims to improve existing understanding of victim's experiences of trajectories of intimate partner violence cases in the course of criminal proceedings and to explore how these experiences relate to individual assessment mechanisms and outcomes. The report presents the main findings of the national analysis performed on the content of 70 public prosecutor's case files, as well as on interviews and focus groups held with victims and different national actors (justice professionals, law enforcement agents, support workers).

The role of the criminal justice system is of crucial importance and relevance regarding the protection needs and rights of victims of intimate partner violence. The project's specific goal is the development of practice-oriented research aiming at identifying crucial aspects of supporting mechanisms available to victims of intimate partner violence within the criminal justice system and of elements that influence the way victims are being supported and protected during all stages of criminal proceedings.

The project focused specifically on the EU Directive on Victims' Rights 2012/29/EU of the European Union, which has come into force in November 2015 and establishes minimum standards for the rights, the support and the protection of victims of criminal offences to a new extent. Special regulations apply for victims who are particularly at risk due to their relationship with and dependence on the offender. Thus, they apply for a large number of women, men and children who become victims of domestic violence every year. The project INASC took the opportunity of the new efforts being made for the empowerment of victims in criminal proceedings to examine the experiences of victims of domestic violence within the police and the justice system and their needs in this context.

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The report includes an overview of the national legislation regarding intimate partner violence and the position of victims' right and needs within this framework. The analysis of 70 case files of a Hesse public prosecutor's office and the interviews with victims, law enforcement, support workers and justice professionals in Lower Saxony, North Rhine - Westphalia and Brandenburg describe the practices of police and justice officials as well as victims' experiences in great detail. The final chapter 6 combines the results of both parts of the study and evaluates them in light of the Victims' Directive.

The project's main results are focused on the way law enforcement deals with cases of domestic violence, the way victims are informed about existing rights and their cases, the evaluation of victims' needs, information on available support protection measures and use thereof.

The outcomes of this study have been incorporated into a toolkit for professionals in the police and justice system. All materials are available from the project's website www.inasc.org.

1 Introduction

1.1 General outline of INASC

The role of the criminal justice system is of the utmost importance and relevance regarding the protection needs and rights of victims of Domestic Violence (DV) and more specifically of victims of intimate partner violence (IPV).

The project INASC – Improving needs assessment and victim’s support in domestic violence related criminal proceedings, co-financed by the Criminal Justice Programme of the European Commission, aims to improve existing understanding of victim’s experiences of trajectories of intimate partner violence cases in the course of criminal proceedings and to explore how these experiences relate to individual assessment mechanisms and outcomes. The project involves five countries – Austria, Germany, Ireland, Portugal and the Netherlands – and is being jointly developed by six organisations. The project has a total duration of 24 months (from February 2014 to February 2016).

INASC’s specific goal is the development of practice-oriented research aiming at identifying crucial aspects of supporting mechanisms available to IPV victims within the criminal justice system and of elements that influence the way victims are being supported and protected at three different levels: i) at the entrance door (law enforcement agents receiving the complaints and follow up procedures to the public prosecution offices); ii) at the enquiry stage (public prosecutors initiatives and decisions taken); iii) in court (courts procedures and final decisions by judges). Overall, the project expects its results to contribute to the national implementation of Directive 2012/29/EU on victims’ rights, namely as regards IPV victims’ needs of support and protection.

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Women’s direct experiences and perceptions will be one of the major components for improving the existing knowledge on those support and protection mechanisms and the way criminal justice is responding to the victims’ protection needs. The project has also paid special attention to the practices developed by criminal justice key stakeholders and support organisations and their perceptions regarding the system’s response to the needs and rights of women experiencing IPV. The present report will present the main findings of the national analysis performed on the content of the case files collected as well as on the interviews and focus groups held with different national actors (women, justice professionals, law enforcement agents, support workers).

1.2 Overview of report content/chapters

In the second chapter we provide an update of the general national framework of responses to cases of intimate partner violence in Germany which was described within the first country report (see www.inasc.org) and thereby concentrate on the national implementation of the EU Directive on Victims’ Rights 2012/29/EU of the European Union dated 25. October 2012. In chapter three, the analysis of 70 case files is described. We then focus on methodological issues of the interview study

and describe our sample in chapter four. In the fifth chapter, we present the results of the interview study, which are extended and illustrated using the results of the case file analysis. Within this chapter we first look at general issues related to dealing with cases of domestic violence in law enforcement and secondly present the findings following the specific articles of the EU Directive on Victims' Rights 2012/29/EU.

2 Victims' rights and needs in the national context

2.1 The legal framework on intimate partner violence

The German Criminal Code (*Strafgesetzbuch*) does not include specific regulations on intimate partner violence. However, victims of IPV are protected by general criminal law statutes regarding offences such as assault, coercion, rape, and murder / manslaughter. In 1997, Germany passed a law considering sexual violence within marriage as rape. Stalking is being considered a criminal offence since 2007.

Regarding criminal prosecution, German law does not award a specific role to victims of crime, but mainly considers them to be witnesses in their own case (unless they join the proceedings as private accessory prosecutors). However, certain offences (e.g. insult or simple bodily assault) will only be prosecuted if the victim presses criminal charges, or if the public prosecutor regards prosecution of the incident as being of particular public interest.

The victim or another party concerned can report the offence to the police or to the public prosecutor. Police intervention and investigations will be documented and passed on to the public prosecutor's office, which decides whether there are sufficient grounds for indicting the suspect. Whereas German police have no discretion regarding whether or not to investigate a case, the public prosecution office may terminate proceedings. Main reasons for dismissal in IPV cases are lack of sufficient evidence, or the suspect's guilt being regarded as of minor nature *and* the prosecution of the offence not of public concern. In cases of minor guilt, prosecution may be terminated conditionally (e.g. after giving money to a charity) or unconditionally.

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If an IPV case is heard in court, the victim usually is the main witness for providing evidence regarding the incident. However, the victim (or any other witness) can invoke the right to refuse to give evidence if the accused is a close relative. The judge again may dismiss the case (conditionally or unconditionally). Criminal sanctions in intimate partner violence cases include custodial and non-custodial measures.

Private prosecution in civil court is possible for certain offences for which public interest in prosecution is denied. The guidelines for criminal prosecution (RiStBV) state that IPV cases should always be considered to be of public interest, because a victim cannot be expected to prosecute someone she/he has a close personal relationship with (Nr. 86 Abs. 2 and Nr. 233 RiStBV). Therefore, private prosecution should not be relevant for IPV cases.

2.2 Victims' rights and protection

2.2.1 Established rights in 2015

During the course of the project, victims' rights in Germany were changed significantly with the implementation of the EU Victims' Directive 2012/29/EU in January 2016. As the new law came into force only after the interviews and case file analysis were concluded, we first detail those rights that were already (and still are) in effect during the research phase¹. Changes made with the implementation of the EU Victims' Rights Directive are described in the following chapter 2.2.2.

Taking part in prosecution

As the German prosecution system focuses heavily on the defendant, victims per se did not have a specific role in criminal proceedings; they were mainly considered witnesses (see 2.2.2 for changes). When summoned to give evidence by the police or public prosecution, witnesses must be informed about their rights in the summons. No victim or other witness is obliged to attend a scheduled police or public prosecution interview. Victims are entitled to be accompanied by an attorney or trusted person, unless this person's presence during the interview might endanger or complicate the investigation; the decision is up to the person conducting the interview.

Participating and testifying in criminal proceedings is no general right for all victims. However, victims of some types of crime especially prevalent in intimate partner violence (e. g. sexual abuse, attempted murder/manslaughter, bodily harm, stalking and unlawful detention), may join the proceedings as a private accessory prosecutor.

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As private accessory prosecutors, victims have rights similar to the public prosecutor. In particular, they are allowed to be present during the whole trial, ask questions and give statements, file a motion to hear evidence, reject judges or experts because of (suspected) bias, object against questions or orders of the presiding judge, and usually have access to the files. If necessary, private accessory prosecutors are entitled to be assigned an interpreter free of charge. Victims who have been subjected to serious forms of aggression or who have suffered severe consequences have the right to be assigned a 'victims' lawyer' free of charge. They are also entitled to appeal against the court's decision.

Victims who are not private accessory prosecutors will in most cases be summoned to the hearing and may only remain in the courtroom after giving evidence. They have the right to be represented by a lawyer, but legal representation is only covered by the state if the victim is not able to safeguard

¹ C.f. European e-Justice Portal (n.d.). Available via https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-de-en.do?init=true&member=1 [09.12.2015].

her /his own interests for financial reasons. Financial compensation is granted for trial-related expenses, like travel costs and loss of earnings.

If the public prosecutor's office dismisses a charge on account of lack of evidence, victims can appeal the decision. If a case is dismissed due to the minor nature of a suspect's guilt, victims cannot appeal, but file a request for administrative review.

Information

Victims are, in general, not given any information regarding the state of proceedings, unless they participate as private accessory prosecutors. They can, however, apply to be informed about the date/time of the trial, if proceedings get dismissed, and the trial outcome. They may also apply to be informed if or when the suspect is released from custody, and under certain conditions they or their attorneys may have access to the investigation files.

Support

Many non-governmental organizations in Germany provide victim support or assistance, and police and judiciary are obliged to inform victims about the possibility of contacting them and provide contact information. All victims have the right to contact or be contacted by support organizations; access is not limited to victims who have lodged a formal complaint.

Victims also had the option to be supported by e.g. court assistance or psychosocial support, but there was no legal entitlement before 2016 (see 2.2.2).

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Protection

Victims of intimate partner violence and/or stalking can file for a protection and restraining order under the Violence Protection Act (Gewaltschutzgesetz) that prohibits the offender from approaching and/or harming them. They can also file for allocation of a joint home. However, these applications are not always granted, and the victim may have to pay for court expenses and attorneys for herself and the accused, particularly if the application is rejected.

In court, a victim's statement can be given in a separate room and be broadcast into the court room, but only if questioning her/him in the offender's presence would entail the risk of serious harm to the victim (see 2.2.2 for changes).

Many court houses in Germany are equipped with special waiting rooms for witnesses; however, the availability depends on the court the case is assigned to (which is determined by the defendant's place of residence).

Compensation

The Crime Victims Compensation Act (*Opferentschädigungsgesetz OEG*) regulates compensation for persons who experience bodily harm as a consequence of a crime or an act of emergency assistance. Compensation has to be applied for, but the offender does not need to be convicted in order to receive compensation. Victims may be granted compensation in form of pensions, therapy and care. Compensation is open to all victims of violence and therefore also applies for intimate partner violence cases.

2.2.2 Implementation of the European Directive for Victims' Rights

The EU Directive on Victims' Rights 2012/29/EU of the European Union dated 25. October 2012 establishes minimum standards for the rights, the support and the protection of victims of criminal offences to a new extent. Special regulations apply for victims who are particularly at risk due to their relationship with and dependence on the offender. Thus, they apply for a large number of women, men and children who become victims of domestic violence every year.

The guideline is valid since November 2015. At national level, the directive mainly affects legislation on criminal procedure, in particular the legal status of psychosocial support during proceedings, as well as the required assessment of victims' needs, which were not part of the German Code of Criminal Procedure (StPO) before 2016. Further adaptations - such as the regulation regarding access to victim assistance facilities - are within the powers of the federal states. In the following chapter, we focus on the new developments in relation to the implementation of the victims' directive in Germany.

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Many of the legal instruments included in the EU Directive on Victims' Rights are already known in the German procedural law. The innovations of the three Acts to reform the protection of victims' rights in part even exceed the new European minimum standard. Nevertheless, there was a need for legal adaptation on a federal level, which was implemented with the 3. Act to Reform the Protection of Victims' Rights effective as of 1.1.2016. The modifications in detail:

Needs assessment and protection

The consideration of the particular needs for protection of the aggrieved is placed pivotally at the beginning of the StPO (German Code of Criminal Procedure) and incorporated in § 48 StPO. Here it is elaborated that, if witnesses are simultaneously victims of a criminal offence, the proceedings, questioning and other investigative acts have to be executed under consideration of the "*special need for protection*". Specifically to be examined are the extent to which unnecessary questions regarding the personal background can be omitted, whether the exclusion of the public is appropriate, whether a separate hearing outside of the court room should be instigated with audio/video transmission or whether the removal of the defendant during the testimony of the witness is indicated. In the process, the personal conditions of the victim appearing as a witness as well as the type and circumstance of the criminal offence are to be considered.

Information

When lodging a complaint (§ 158 StPO), victims will now be entitled to a written confirmation of their complaint (information regarding the location of the crime, time of the crime and the reported act) as well as language support, if required.

The victims' rights to information were newly structured and expanded, i.e. with respect to time and place of the main hearing, the accusations raised against the defendant and the outcome of the proceedings. Victims have to be informed of these rights. Upon application, the victim has to be informed if the offender escapes custody; also about the protective measures initiated for the victim (§406d).

Some of the obligations to provide information regarding (participation) rights in the criminal proceedings and support options introduced in §§406i, 406j are new. Accordingly, victims have to be informed about the legal right for translations and interpretations, the option of indemnification in the course of victim-offender mediation and regarding the above mentioned procedural rights of witnesses in particular need of protection during the main hearing. It is also more specifically determined that information has to be provided regarding the options and accessibility of support and assistance through victim assistance facilities with respect to consultation, provision or facilitation of accommodation in a shelter or the referral to therapeutic and psychosocial services. In particular, information as to which authorities could be of assistance must also be provided (§406k).

Support

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The involvement of interpreters during police and prosecutor questioning of the victims is now explicitly specified in § 161a StPO and § 163 StPO. Added to this is the accessory prosecution's right for the translation of the documents necessary to exercise their rights (§ 397 StPO).

With the Act to Reform the Protection of Victims' Rights, the psychosocial accompaniment during the proceedings is now firmly integrated in the German Criminal Proceedings Act (§406g StPO). Psychosocial supporters may now accompany the victim during questioning - with exceptions which have to be documented - and principally during the main hearing. The principles of the psychosocial support during proceedings and the remuneration are regulated by the Act regarding the psychosocial support in criminal proceedings (PsychPbG). The requirements for the qualification are extensively at the discretion of the federal states. As well as the qualified counselling and support, psychosocial support staffs are to take on the transmission of information during the entire proceedings. It is the explicit objective to reduce the individual stress for victims and to avoid secondary victimisation; at the same time, the neutrality with respect to the criminal proceedings and the separation of consultation and counselling are essential basic principles. A right to refuse to give evidence does not exist.

Upon application, children and adolescents who are victims of a grave sexual or violent criminal act are legally entitled to gratuitous psychosocial support. Upon application, adult victims of grave sexual

or violent criminal acts may be awarded psychosocial support as well. Contrary to the demands of various associations, there is no legal claim in this aspect.

Grave sexual and violent criminal acts are the offences which also qualify for the awarding of an accessory prosecution representation, namely (grave) sexual abuse, sexual coercion, rape, abuse of wards, abandonment, human trafficking, kidnapping, abduction, grave bodily harm, stalking, hostage-taking, abduction of minors, mutilation of female genitalia, forced marriage, robbery, aggravated robbery, robbery and blackmail, robbery of motor vehicle drivers, murder, manslaughter.

In order to award psychosocial support to an adult victim, the court has to recognise a special need for support.

3 Case file analysis

3.1 Aim of the file analysis

The overall aim of the analysis of law enforcement files is to explore how the police and the judiciary assess the risk of (further) violence against victims of partner violence and how they respond to protection needs. The actual outcomes of most cases of intimate partner violence seem to be dominated by dismissals and by a persisting gap between the number of complaints and the number of convictions. Moreover, the particular vulnerability of victims of violence in a close relationship often translates into increased cooperation difficulties with the justice system, which has been recognized as one of the factors influencing the outcomes of criminal proceedings (see Beclin 2014; Gloor & Meier 2014). Thus, a special focus is put on (i) the identification of frailties in risk assessment procedures, (ii) the collection and preservation of evidence and (iii) the assessment of specific needs of victims of partner violence with regard to their personal characteristics (e.g. strengths, vulnerabilities), as well as type and circumstances of the crime. That is, the analysis addresses especially article 22 “Individual assessment of victims to identify specific protection needs” of the Directive 2012/29/EU (Directive of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime) and three main aspects regarding the Directive’s national implementation: (i) the capability of police, prosecutors and judges to deal properly with victims; (ii) the identification of vulnerable victims’ needs and (iii) the provision of protection for all victims during the whole process of criminal prosecution (investigation and court proceedings). The project is built upon the premise of article 3 of the Directive, stating that any victim has the right to understand and to be understood from the first contact and within the context of criminal proceedings. The ability to understand or being understood cannot rest entirely on the victims’ personal characteristics but rather on the context and circumstances of the interaction. The quantitative and qualitative file analysis will not only highlight the victims’ stance towards criminal prosecution, but also the daily practice of police and judiciary as it is reflected in the files. The findings will be the basis – together with the outcomes of the analysis of victims’ interviews – for the development of a toolkit which should promote a more efficient and protection sensitive criminal justice system regarding intimate partner violence.

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3.2 Content and structure of the quantitative and qualitative instrument for data collection

The information contained in the law enforcement files was collected using a customized quantitative instrument that included various sections. The first sections explored victim and suspect characteristics, especially focusing on characteristics and circumstances that might influence either the victims’ competence and ability to seek help or law enforcement’s treatment of the case, like disability, care dependency, citizenship, *race*/ethnicity, sexual identity/orientation and language

proficiency/literacy. The tool further explored the history of violence and incident-related characteristics, especially the type(s) of violence perpetrated against the victim and factors indicating a risk of escalation, like (attempted) strangulation and use of weapons. The section on criminal justice response analysed the police and/or public prosecutor's first response, interviewing procedure and evidence collection, victims' support of prosecution, use of risk assessment instruments and protection measures, as well as recognition of special needs, information about (and provision of) support and applicable rights during all stages of the proceedings.

As many items differed significantly in the partner's countries legal systems and some theoretical concepts needed further clarification, the instrument was equipped with an extensive codebook in order to define the information sought after.

The quantitative data obtained was analysed using the statistical analysis software SPSS.

In order to preserve a coherent understanding of each case, all case files were also summarized following a qualitative guideline that focused on the same information as the quantitative instrument, but kept the information in its original context.

The instrument for data collection offered three categories for missing or unclear information: "not available", "unclear" and "not possible". In general, we decided to use "not available" if the files did not contain any information regarding the information sought after, "unclear" if there was some indication, but not enough to make a proper statement (e.g. a husband claiming his wife was "mad"), and "not possible" if the item in question did not apply to the case (e.g. "immediate police measures at the crime scene" if the victim hadn't called the police, but come to the station).

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3.2.1 Description of files and sample

Sources

File access for this analysis was initially sought via specialized departments of Public prosecutor's offices in the state of Lower Saxony. As the process tended to overstretch project's time resources, it was decided to approach the Frankfurt PP's office, who had previously signaled they were open to research and who had granted file access in the past.

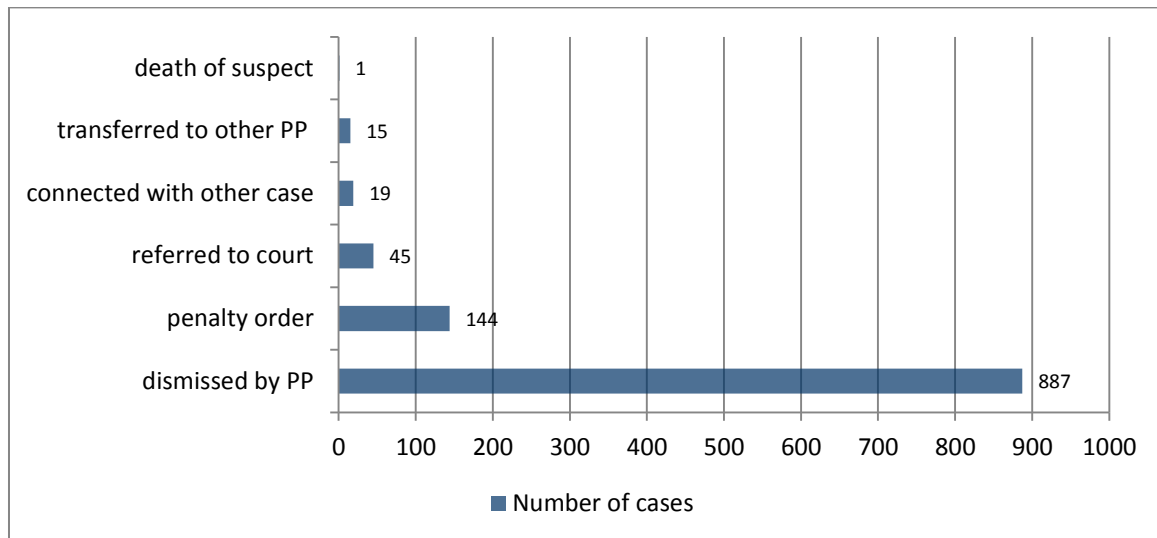
The Frankfurt PP's office (Amtsanwaltschaft) deals with a specific selection of offences and crimes (§§ 19-23 OrgStA) of a less severe nature. Among others, the PP is responsible for prosecuting simple or aggravated bodily assault, unless the result of the attack is loss of (function of) limb or sight, as well as insult, coercion, and dangerous threat. This PP has a specific marker for domestic violence crimes (including, but not restricted to, IPV cases).

Of the cases marked such, we requested a list of all cases dealt with in 2013 that matched the following specifics:

- Offences directed at current or former intimate partners

- Female victims, aged 18+
- Male suspects

The list provided contained 1111 files. As figure 1 depicts, preliminary analysis of all cases fitting the specifics showed that most cases (79,84%) got dismissed by the PP; only 45 (4,05%) were formally charged and referred to court, and 144 (12.96%) were charged and sentenced by penalty order (Strafbefehl).



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Figure 1: Case trajectories of all cases matching the sample description (N=1111)

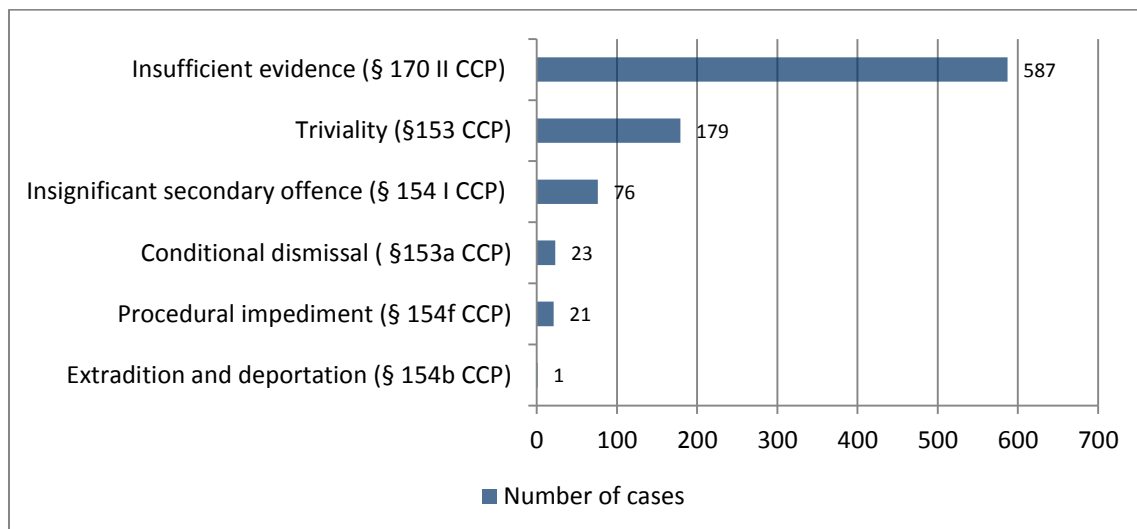


Figure 2: Reasons for dismissal (N=887 cases dismissed)

Sample

Of the 1111 cases on the list, we chose to exclude the cases that were transferred to another PP's office, connected with another case and the one case in which the suspect was deceased. Of the remaining 1076 cases, we selected and requested a sample of 70 files. Cases not matching the requested specifics were to be excluded and replaced manually.

The requested sample contained

- 30 of the cases that were tried in court, of which should be manually selected: 15 convicted, and 15 acquitted (the information whether the suspect was convicted was not available from the list),
- 10 cases that were sentenced by penalty order (Strafbefehlsverfahren)²,
- 30 of the cases that were dismissed by the PP.

In case some of the files were temporarily out of the archive, two replacement samples was drawn for the cases dealt with in the Strafbefehlsverfahren (which was also used to replace cases tried in court, 29 replacement files) and for the cases dismissed by the PP (28 replacement files).

As the PP's archive was short on staff and not able to provide the requested files in the necessary time frame, the files were collected from the archive by an associate researcher who had previous experience with this PP's archive and was available for subcontracting. The files were then picked up personally by a team member and transported to the DHPol's office.

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As it took longer than expected to retrieve the files, it was decided not to check if all files matched the specifics in situ. Instead, the sample was slightly enlarged to make up for cases that would have to be excluded later. As some of the files requested were also temporarily out of the archive and had to be replaced, the available sample consisted of 80 cases:

- 22 cases that went to court
- 22 cases concluded with penalty order
- 36 cases dismissed by the PP

Of these, 70 cases were analyzed, two did not match the sample requirements, and 8 were not analyzed. When it became evident there were more than 70 files matching the requirements, the cases not yet analyzed were screened for indicators of specific victim's needs, and the ones containing such indicators were selected for analysis.

² This form of preliminary conviction may be used for less severe cases when the PP believes it is probable the suspect committed the crime. The penalty order can be contested, which leads to a standard court trial.

3.2.2 What is missing from the files?

The public prosecutor's files used for analysis are intended for collecting information regarding the suspect's legal prosecution, not in order to evaluate the victim's needs. Therefore, they contain precise and detailed information for identifying suspects, victims and witnesses (foremost date of birth, residence and nationality), as well as information regarding the incident, police (and sometimes PP) intervention and investigation, transcripts of interviews, documentary evidence and copies of all correspondence relating to the case. The German files also frequently contained the suspect's federal criminal registry entry, which provides information about previous convictions and sentences (without mentioning the respective victims).

Although this kind of information is important and necessary for prosecution, it does not show the complete picture of the case. The files analysed showed a distinct lack of personal information regarding the victim and suspect, e.g. education, employment, income, household members and custody for children. Although the police templates for personal data collection request some of this information, the spaces were often left blank, and the information was only systematically requested from the parties concerned if and when a case was tried in court. The same goes for the "domestic violence template" the Hesse' police are supposed to use to document previous incidents, intoxication during the incident and presence of children: it was only rarely used at all.

Alongside this, special needs, particularly the victim's, were not specifically documented in the file outside of interview transcriptions. The only cases in which it was noted that a victim indeed had special needs were those in which her (or the suspect's) lack of language skills were complicating standard procedure.

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As the prosecution focuses on the incident at hand, background information from other institutions is quite rare. There does not seem to be a systematic collection of information from other agencies that might be involved, and even documentation from child protective services, who had been informed in an third of all cases, was only rarely included (6%). Likewise, there was almost no documentation of court protection orders, even if a victim stated during the interview that such an order had been issued.

Of particular concern for this analysis is the lack of documentation regarding information given to the victim and protection/support measures applied by the police. For example, in many cases we cannot tell from the file if a victim was informed about her rights or about applicable protection measures during investigation and trial. Neither can we assess if a court protection order was applied for or issued, if the victim had contact to support or counselling organisations, or if any kind of risk assessment has been done.

These systematic lacks of data do not only hinder research, but might very well influence the outcome of court proceedings as well: As the police file is often the only information the public prosecutor's office has before deciding whether to prosecute or dismiss a case, this lack of information seems crucial.

3.3 Case file analysis: results

3.3.1 Victim related characteristics

Socio-demographic features

The sample consisted of 64 victims involved in 70 cases (3 victims in two cases each). At the time of the most recent reported incident, the victims were aged between 18 and 58 years (Medium 31.86 y, SD=10,295). As figure 3 shows, 70.3 % of the victims were under 35 and almost half (46.9%) under 30 years of age.

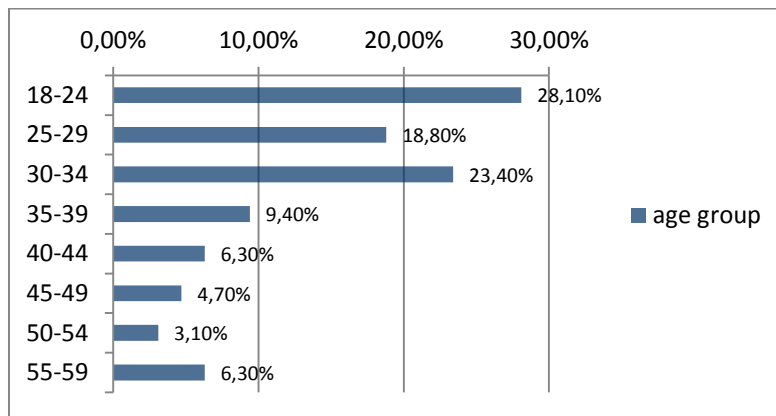


Figure 3: victims' age at most recent reported incident (N=64)

Education and employment

Data regarding the victims' educational status is not systematically collected and therefore rarely available from the files (82.8% not available). Of the 11 victims we know about, 4 (6.3%³) had finished or were currently attending upper secondary education, another 4 (6.3%) vocational training, 2 (3.1%) had completed lower secondary education and 1 (1.6%) tertiary.

Data regarding employment status is available to a greater extent, but still only at our disposal for 29 of the 64 victims (35 NA). Of these 29, six (20.7%) were still in education (two of those were training on the job, which means they were in education and also employed), 15 (51.7%) were employed (two of these also in education), one victim (3.4%) was self-employed and employed at the same time (2.8%), four (13.8%) were unemployed, seven (24.1%) homemakers and three were categorized as "other" (one victim was on parental leave, one retired and one had a side-job while going to school).

³ Percentage of all victims

Table 1: Victims' occupation at the time of the most recent incident (N=29 victims for whom information is available; multiple answers per victim possible)

	N	% of victims
Still in education	6	20,7%
Employed	15	51,7%
Self-employed	1	3,4%
Unemployed	4	13,8%
Homemaker	7	24,1%
Other (e.g. retired, no work permit)	3	10,3%

Table 2: Victims' source of income at the time of the most recent incident (N=24 victims for whom information is available, multiple answers per victim possible)

	N	% of victims
Salary	16	66,7%
Pension	1	4,2%
Welfare allowance	5	20,8%
Perpetrator's income	5	20,8%
Other	4	16,7%

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Information regarding the victims' source of income is even rarer. There is no information for more than half of the victims (N=40). Most of the 24 victims we know about were receiving regular salary (66.7%; n=16), five (20.8%) were living on welfare allowance, another five (20.8% on the perpetrator's income (2 of those vice versa) one (4.2%) on pension, and 4 (16.7%) on other income (one from self-employment in addition to salary, and three very young victims were receiving child allowance for themselves or still living with their parents who provided for them). None of the victims were obviously dependent upon the suspect in terms of income.

Place of residence and housing situation

As the files were obtained solely from the public prosecutor's office in Frankfurt /Main, all victims except one were residing in Frankfurt itself or in smaller towns in the vicinity. The city of Frankfurt lies at the centre of a large metropolitan area, the Frankfurt Rhine-Main Metropolitan Region, therefore there are hardly any towns or villages in the public prosecutor's jurisdiction that could be classified as rural or lacking in infrastructure. Most of the victims in the sample (78.1%; N=50) were living in Frankfurt itself, a smaller percentage (20.3%; N=13) in the surrounding towns. Only one

victim, who had illegally immigrated to Germany only days earlier, had no residence status; her home address was also unknown.

As figure 4 shows, most of the victims (85.9%; N=55) were living at home at the time of the most recent reported incident, 3.1% (n=2) in an institution (psychiatric assisted living facility, women's shelter), and one was living at her partner's apartment, but only in-between ("other"; 6.3% /N=4 NA, 3.1% / N=2 "unclear").

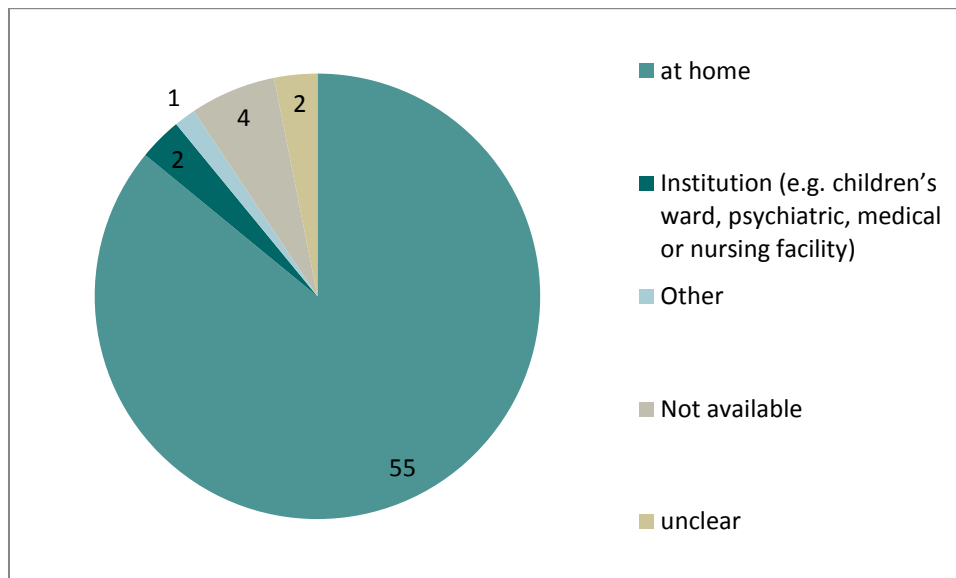


Figure 4: Victims' housing situation at the time of the most recent reported incident (N=64)

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Children

As far as we know from the files, 41 (64.1%) of the 64 victims had 50 children living with them altogether, between one and 4 children each (average: 1.62; SD=.828). 32 victims had one or more children with the perpetrator, seven (10.9 %) had children with someone else.

Of the 50 children, 48 were underage and between 0.5 years and 13 years of age (mean=4.88 yrs., SD=3.644); one adult child of 20 years was still living with the victim (1 NA).

Three victims had (further) underage children living elsewhere. Of these, two were living in another country the victim had immigrated from (1 NA).

Table 3: Victims' children

	N	percentage	With suspect	With so. else
Victim has children	41	64,1	32 (50%)	7 (10.9%)
Victim has no children	1	1,6		
no information available	22	34,4		
total	64	100,0		

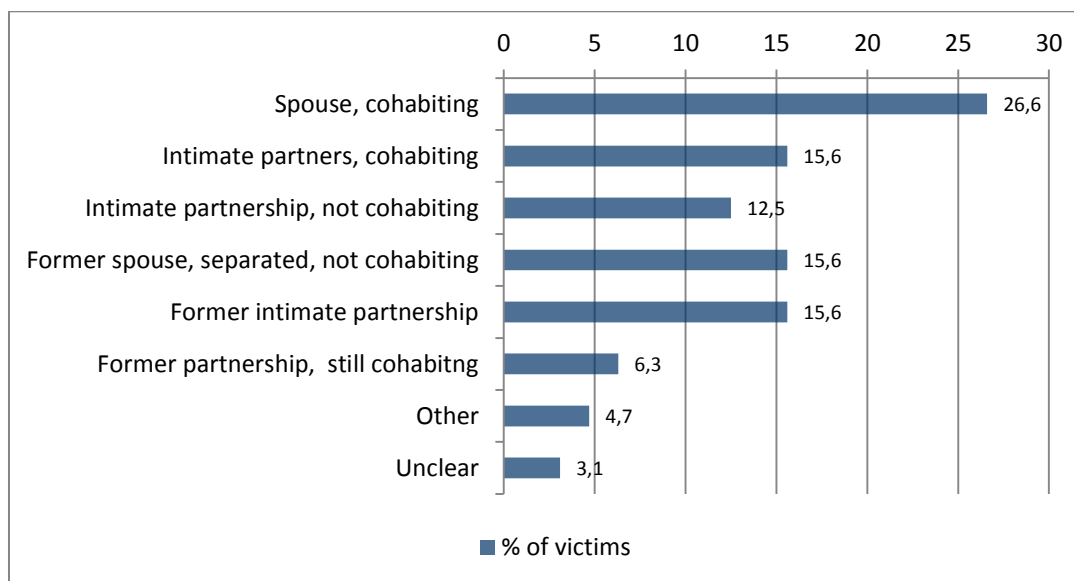


Figure 5: Relationship status (N=64, percentages)

Relationship status

As figure 5 shows, a little under half of the 64 victims (42,2% / N=27) were in an ongoing relationship and living with the perpetrator (26.6% / N=17 married, 15.6% / N=10 not married). Eight victims (12.5%) were in an intimate partnership with the suspect, but not living together. 24 (31.2%) victims were not in a relationship any longer; of these, 10 (15.6%) had been (or were still) married, 10 (15.6%) had not been married. Four of the victims (6.3%) who were not in a relationship any longer were still living with the suspect. Of the five (7.8%) "other/unclear" relationships, 3 were in an on-off relationship and not living with the suspect, and one married couple who had formerly been living together were apparently in the process of breaking and/or making up. One victim had only moved in with the suspect until she found a place of her own.

The victims we have information about (N=44; 20 NA) had been in a relationship with the suspect for between one week and 20 years; medium 5.8 years (SD 4.5). As most of the victims were under 35

years of age, it is not surprising that the majority of relationships was shorter than five years (51.1%; N=24), followed by five to under ten years (29.8%; N=14) (see figure 6). Only six victims (12.8%) had been in the relationship for ten to fifteen years, and one each (2.1%) for fifteen to under twenty and one for 20 and up years. Only one victim had been with the suspect for less than a year (in fact, in that case it had only been one week).

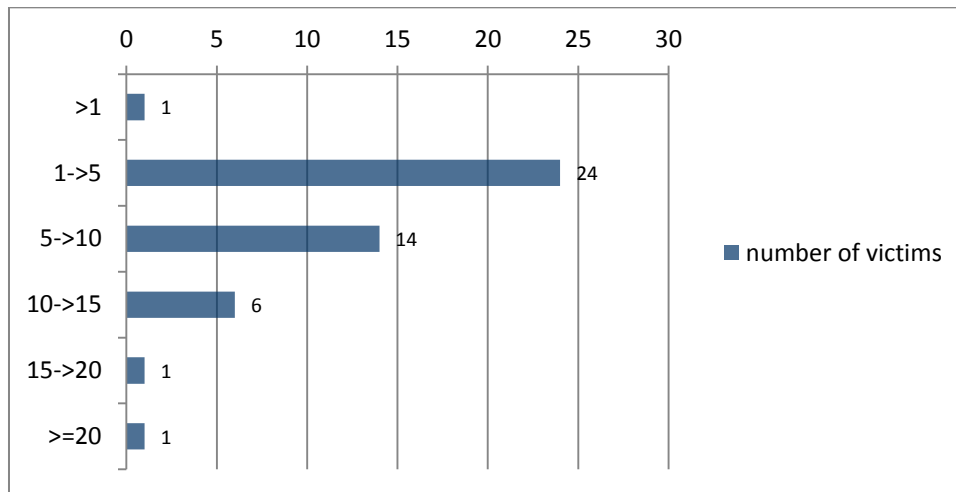


Figure 6: Relationship duration / years (N=41)

Victims' nationality and migratory status

Half of the victims were German citizens (50%; N=32), 30 were not (46.9%; 2=NA). Of the 30 foreign victims, 12 (40%) were citizens of the EU (2 UK, 3 Polish, 2 Bulgarian, 2 Italian, 1 French, 1 Romanian and 1 Austrian). 18 victims (60%) who were not citizens of other EU countries were citizens of Morocco (4), Turkey (3), Serbia (2), Kenya (1), Nigeria (1), Colombia (1), Iran (1), Ukraine (1), Nepal (1), and Croatia (1), and two were stateless (see figure 7).

Although 50% of the victims were German nationals, at least 11 (17,19%) of the German victims had been born in another country or with another nationality and acquired German citizenship later in life. Therefore, about two in three victims did have a migration background (Frankfurt average: roughly 50%).

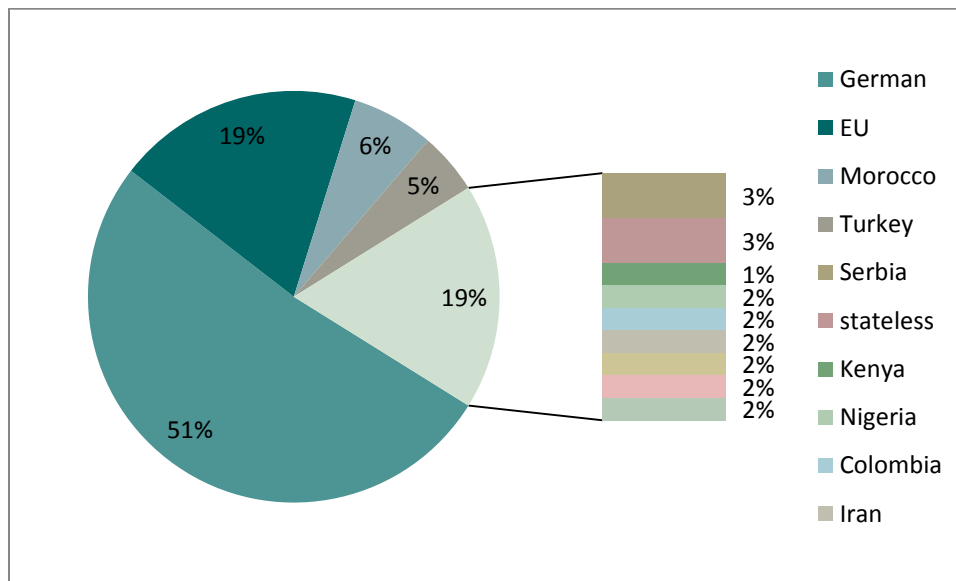


Figure 7: victims' nationality (N=64)

Table 4: Victims' citizenship and migratory status (N=62; 2 NA)

Nationality	N	Migratory status	N
German Citizens	32 (50%)	Born in Germany	11 (17.2%)
		immigrated	11 (17.2%)
		NA	10
Non-German citizens	30 (46.9%)	EU citizens	12 (40%)
		Other countries	18 (60%)

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There is not much data available regarding the victims' minority status in the "classic" categories, like *race/ethnicity*, sexual orientation or gender identity. We decided to consider the eleven victims who had immigrated into the country and acquired citizenship as members of ethnic/*racial* minorities. Of these women, five had an Asian background; five had immigrated from other European countries, and one from an African country. About the other victims who had German citizenship, only little information is available regarding minority status. We have no information regarding *race/ethnicity* or sexual identity/orientation. However, six victims were members of other minorities: three of these women were Muslimas (apparent from what they told the police, or wearing of religious clothing), two were psychiatric patients, and one was an illegal immigrant.

Evaluation of risk factors and dependencies

Intention to separate

The act of separation from the perpetrator is often considered to constitute a high risk of violent assaults (cf. Schröttle & Ansorge 2009, Bundesministerium für Familie, Senioren, Frauen und Jugend 2004). At the time of the most recent reported incident, 39 (60.9%) of the victims were in an ongoing relationship⁴ with the suspect, while 25 (39.1%) had separated from the suspect.

As table 5 shows, seven (17.9%) of the victims who were still in a relationship had intended or attempted to end the relationship prior to the most recent incident, and 14 (35.9%) told the police they intended to do so immediately after the incident. Altogether, 17 of the victims who were still engaged in a relationship with the suspect planned or had planned to end it at one time or another (and had let the investigating police officer know).

On the other hand, this means that only about a third (N=22) of the 64 victims in the sample had not informed the police they intended to break up; at least two thirds of all victims had planned to sever ties with the perpetrator or had successfully done so, at least at one time during the relationship.

Table 5: Relationship status and intention to separate

	Ongoing relationship		Did victim ever intend to separate?		Intention to separate prior to incident		Intention to separate after incident	
	F	%	F	%	F	%	F	%
yes	39	60,9	17	43.6	7	17,9	14	35.9%
no	25	39,1	NA					
total	64	100,0	64	100,0	39	100	39	100

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National language skills

As the command of the national language is essential to understanding and participating in criminal justice proceedings, the victims' skills in speaking, reading and writing German were also analysed. Although this kind of information is not specifically mentioned in the files, police officers note down if they cannot or have difficulty communicating with the victims. The statement given to the police has to be read and signed by the victim, and it is usually noted whether she read it herself or had to have it read to her by the officer. In cases in which the victim did not provide a proper police

⁴ Including four cases from the "other" category, namely on-off relationships and an ongoing relationship with interim cohabitation.

statement, it was assumed the victims were able to read and write if they were attending or had finished higher education, or if they had submitted written statements (correct use of words, spelling and punctuation were not required).

Most of the victims in the sample (N=53; 82.8%) spoke German, two (3.1%) somewhat, but not fluently (both not German citizens), and five (7.8%) did not speak German (all not citizens; 4 NA/unclear). Accordingly, the majority of the victims (36; 57.1%) were able to read and write in German, 6 (9.5%) were not (all non-citizens), and 4 (6.3%) only somewhat or with difficulty (2 citizens, 2 non-citizens; 17 NA).

Other factors

As was to be expected, there is only little information regarding victims' health issues in the files. As far as is contained in the files, two victims showed strong signs of alcohol abuse (two unclear, one unclear for illegal drugs), two were diagnosed with and treated for psychiatric disorders (borderline disorder and Schizophrenia, another one unclear), and one each was suffering from a physical illness /physical disability (another one unclear each).

As regards the residency status of the non-German victims, we inferred from the police's response that all but one were permitted to live in Germany at least temporarily. Information regarding residency and work permits for victims for whom the EU Agreement on the Free Movement of Persons does not apply (23⁵) is not part of the files; however, we inferred that five victims had a work permit from the fact that they did not mind telling the police they had a job. One of the victims was an illegal immigrant and was therefore neither allowed to reside nor to work.

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In cases of intimate partner violence in Germany, one factor that is habitually pointed out as important or endangering victims who have separated from the perpetrator is joint custody of and visitation rights for children (cf. Amann 2010, Schweikert & Schirmacher 2001, bff 2012). Although, again, this information is not systematically collected in the files, sometimes information is available from the victim statements; usually in cases where the violent act was committed when the former partners met to hand over the child or were arguing who would pick up the child. Therefore, we have data regarding six victims who were separated and had children with the perpetrator (total: N=16). Of those cases, five perpetrators had regular visitation rights, one did not, and in one case, victim and perpetrator had joint custody. In all cases in which the suspect had (joint) custody or visitation rights for a joint child, victim and suspect had to stay in touch and meet on a regular basis, providing opportunity for further violent acts.

Regarding support structures available to the victims prior to the most recent reported violent incident, there is hardly any information in the files as this is not part of the investigation. We know that two women had had contact with a shelter at some point in the past, one was living in an

⁵ Victims from non EU countries and Bulgaria /Romania.

assisted-living facility, one had a legal guardian, and two were being supported by social/youth services.

3.3.2 Perpetrator related characteristics

Socio-demographic features

As seen with the victims, the 70 files correspond to 64 perpetrators, of which three were investigated in two cases each. The suspects were aged between 21 and 62 years with an average of 35.3 (SD=11.019). The suspects' average age was slightly higher than the victims'; still, more than half of the suspects (54.7%) were under 35 and more than two thirds (68.8%) under 40 years of age.

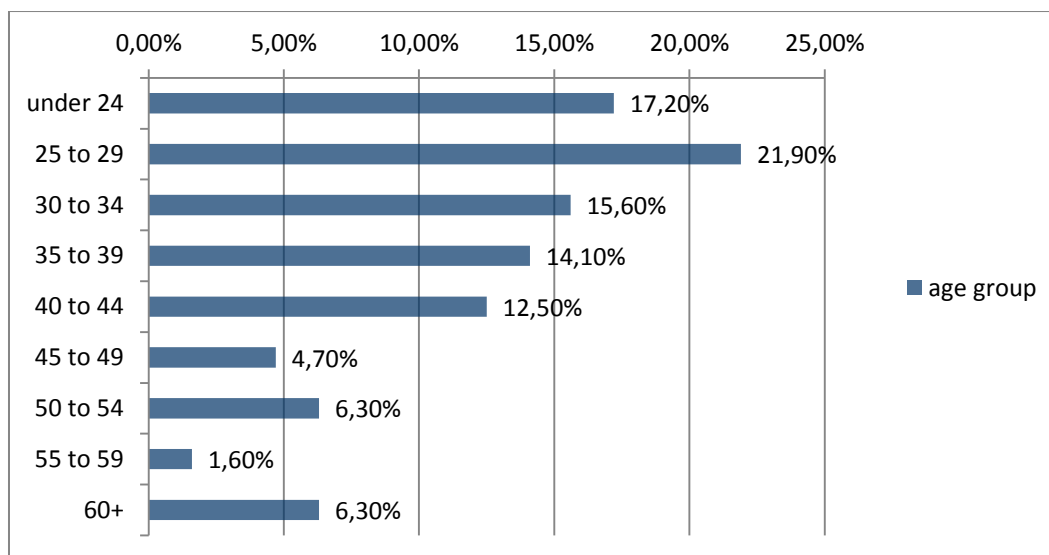


Figure 8: suspects' age at most recent reported incident (N=64)

Education and employment

Corresponding to the lack of data for victims, we also do not have a lot of information about the suspects' level of education. There is no information available for more than two thirds of the suspects (67.2%, N=43), and in those cases where we do have information, most of the suspects had completed or were still attending vocational /work-oriented trainings (ISCED-levels 3/4, 14.1%, N=9; see figure 9).

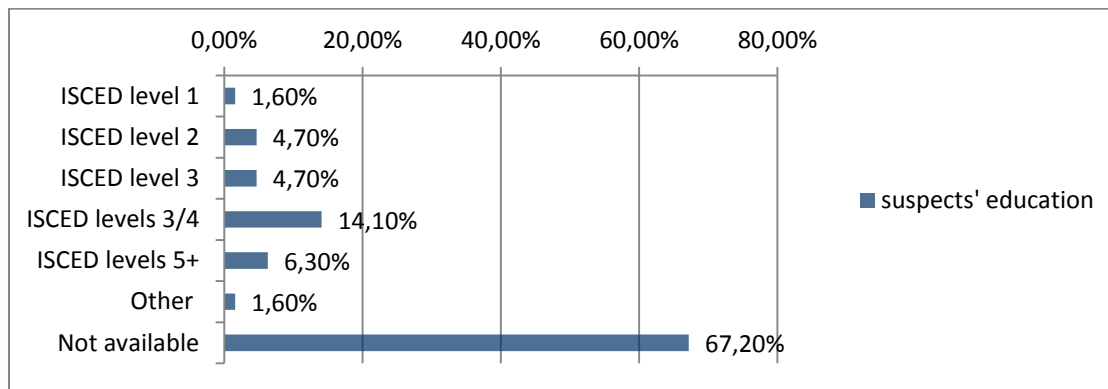


Figure 9: suspects' education (N=64)

Information on employment is seldom collected during the investigation, although there is a sheet containing personal information about the suspect in all files. However, the information is collected in court documents if a trial is held in order to determine possible fines, which means we know about the suspect's working status if the case goes to court. As figure 10 shows, about a third of the suspects (35.9%, N=23) were employed at the time of the most recent, about a quarter were unemployed (26.6%, N=17). Two more suspects were self-employed (3.1%), another two in education (3.1%), one of which was currently undergoing vocational training. Four suspects (6.3%) were categorized as "other"; one of these was assumed to be a professional low-level criminal (the police thought he was a pimp), another one an illegal immigrant who was not permitted to work (and who was also assumed to be a professional criminal, as he had procured false IDs at least twice and wanted his "girlfriend" to work as a prostitute), another one was retired and one was suffering from a long-term illness that kept him from working (NA: 37.5%, N=24).

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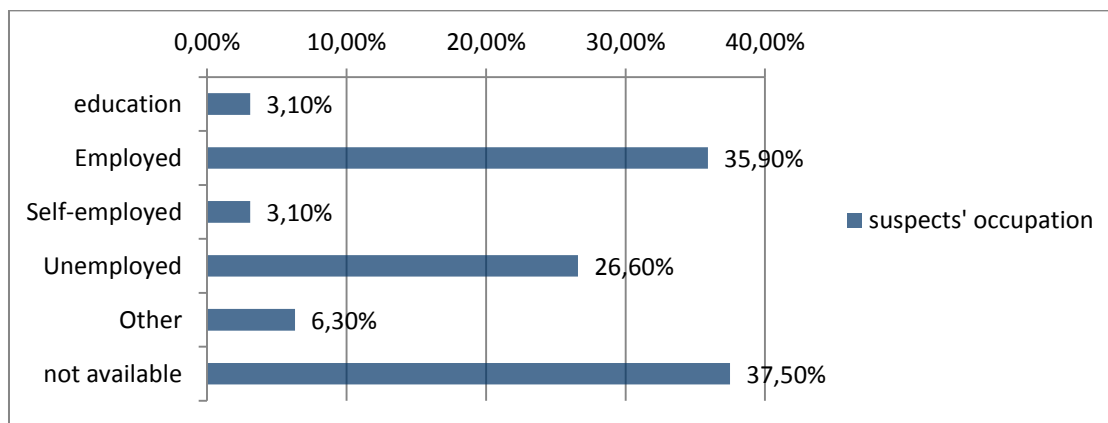


Figure 10: suspects' occupation (N=64, multiple answers)

In almost half of all cases (48.4%, N=31), there is no information about the suspects' income. In those cases in which data is available, all employed suspects (35.9%, N=23) had salary as a regular income (see figure 11). Fifteen suspects (23.4%) were living on welfare, one (1.6%) was a pensioner, and two (3.1%) were living on the victim's income (and vice versa). Two suspects (3.1%) received salary and additional government allowance because their income was low.

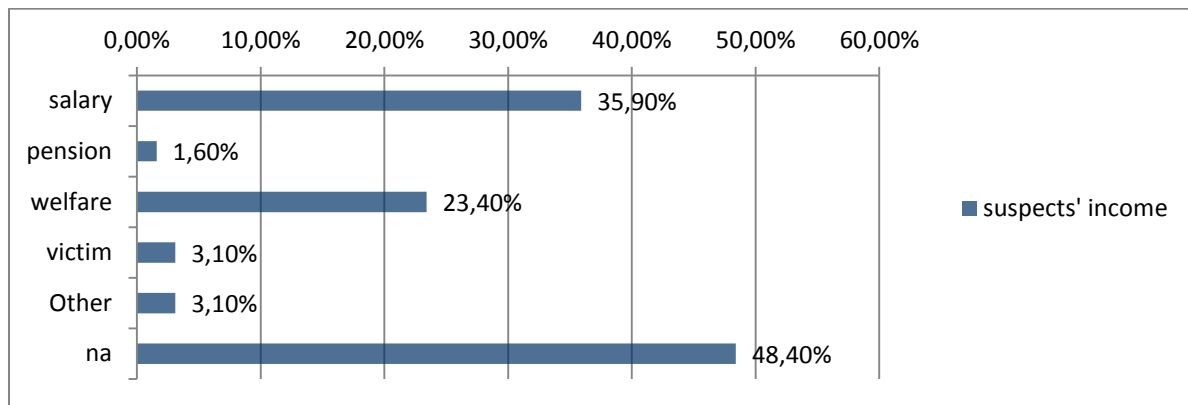


Figure 11: suspects' income (N=64, multiple answers)

Suspects' nationality and migratory status

As with the victims, there is a high percentage of foreign nationals and immigrants among the suspects⁶. Although more than half (53.1%, N=34) of the 64 suspects were German citizens, almost half of these (21.9%, N=14) had been born outside Germany and with another nationality (see table 6).

As figure 12 shows, 29 (45.3%) suspects were citizens of another country, nine of which (14.1%) were citizens of the EU. Another 20 (31.3%) were citizens of other countries (7 Turkish, 4 Moroccan, 2 Pakistani, 1 Croatian⁷, 1 Guatemalan, 1 Ethiopian, 1 Iranian, 1 Tunisian, 1 Bhutanese, 1 Russian).

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Table 6: suspects' citizenship and migratory status (N=63, 1 NA)

Nationality	N	Migratory status	N
German Citizens	34 (53.1%)	Born in Germany	14 (21.9%)
		immigrated	14 (21.9%)
		NA	6 (10.9%)
Non-German citizens	29 (45.3%)	EU citizens	9 (14.1%)
		Other countries	20 (31.3%)

⁶ For one suspect, no information was available because he was never in contact with the police / PP.

⁷ Croatia joined the EU on 1st July 2013; EU citizenship was attributed according to date of the incident.

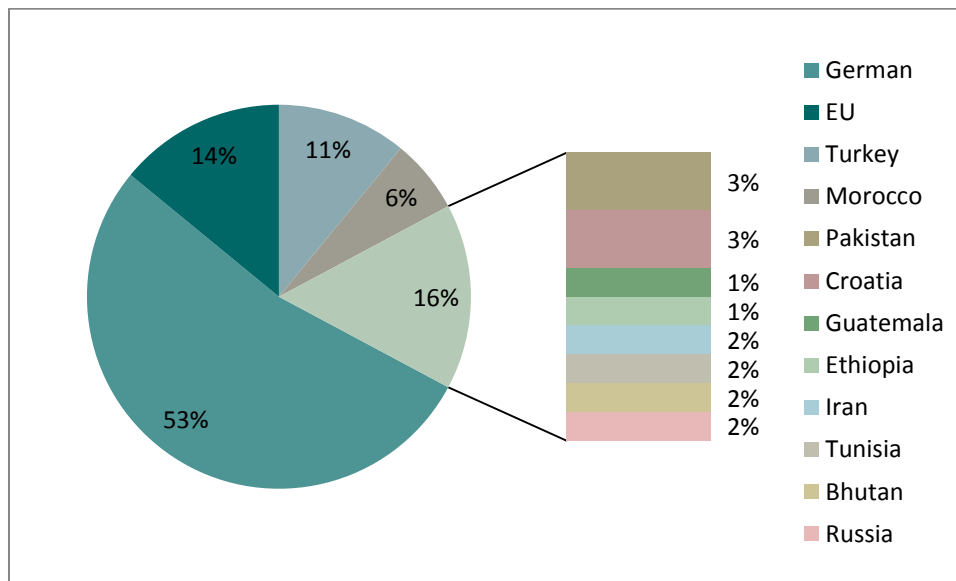


Figure 12: suspects' citizenship (N=63, 1 NA)

The 14 suspects who had immigrated into the country and acquired citizenship were considered members of ethnic/racial minorities. Of these, six had an Asian background, four had immigrated from European countries and another four from African countries. Altogether, about two in three suspects had a migration background (Frankfurt average: roughly 50%).

Of the 64 suspects, 6 were considered to be members of "other minorities", namely Muslim (3), illegal immigrant (1), psychiatric patient (1) and deaf-mute as well as illiterate (1). In 1 case, it was suspected, but not certain if the suspect was Muslim (his wife was). Muslim religion was only coded when it was explicitly mentioned, not inferred from nationality and/or cultural background.

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Risk factors and dependencies

Health

Regarding the suspects' health, there is equally little information as regarding the victims'. Four of the suspects had substance abuse problems with alcohol or other legal drugs (no information was available for illegal drugs). Two other suspects had been ordered to do „addiction therapy“ without further specification; these were coded "unclear" for legal and illegal drugs, bringing the total for substance abusing suspects to six. Furthermore, two suspects were diagnosed with psychiatric disorders (3 unclear), one was suffering from a long-term physical illness, and one had a physical disability (1 unclear).

National language skills

With regard to the suspects speaking, reading and writing skills in German, there is not much information available, in particular because most of the suspects did not attend scheduled police

interviews and were only encountered by police (if at all) at the scene of the incident. If, on the other hand, professional interpreters were summoned to the court trial (2 cases), they were there to translate for suspects who did not have sufficient command of German (whereas no interpreters were summoned to translate for the victims, even if they did translate for them in the end). As for the victims, police statements, letters to the prosecutor and German higher education were used as indicators for language proficiency. That being said, of the 64 suspects, one was not able to speak German, and another one only somewhat, but not fluently. Two of the suspects were not able to read or write in German⁸, and another one could only read/write with difficulty.

Residence and work permits

Information about residence and work permits could in many cases be inferred from the files⁹. Of the suspects who did not have German citizenship (29), all but one were permitted to reside in Germany at least temporarily; of these, six (20.7%) had a permanent legal residence status. Five (17.2%) suspects had only temporary or no residence status, one of which was an illegal immigrant (1 unclear, 17 / 58.6% NA).

Twelve (41.4%) of the suspects had a work permit (4 covered by free movement of persons/workers), two (6.9%) suspects were not allowed to work (15 / 51.7% NA).

Of the 29 foreign suspects, two (6.9%) were married to German women and therefore assumed to be dependent upon the victims for continued residence, 13 (44.8%) were not (most often because they were not married); one (3.4%) was unclear (also married to a German woman, but no work permit), and there was no information regarding 13 (44.8%) suspects.

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Regarding economic factors, one suspect was dependent upon the victim because she was his employer. One was unclear because he seemed to at least partly rely on income he wanted the victim to earn by prostitution.

History of violence

In order to assess repeat victimizations and the risk for escalation, the suspects' history of violence, according to the victim's account and/or previous investigations, was analyzed as well. As table 7 shows, we found that the vast majority of the 64 suspects (79.7%, N=51) had a history of violent offences against the victims referred to in the files; only eleven victims (17.2%) did not state they had been victimized by their partner /ex-partner prior to the current incident. Three suspects had committed violent acts against the children of the victim. A prior history of non-violent offences was

⁸ One of these suspects was both illiterate and deaf-mute. As he was a Turkish citizen and the case was dismissed without trial, it could not be determined whether he used Turkish or German sign language.

⁹ We assumed the police would note down if the suspect was residing in Germany illegally and that the suspects would not tell the police /court about their work if they were not permitted to work.

mentioned for 34 suspects, 27 had no such references. However, there was no information about IPV in former partnerships of the suspects.

Table 7: Suspects' prior history of violent / non-violent offences according to victim's statement (N=64)

	F	%
No prior offences	10	15.6
Violent offences	51	79.7
Non-violent offences	34	53.1
Violence against children of victim	3	4.7
Prior IPV convictions	3	4.7

As the identity of the victim is typically not part of the criminal history of a suspect, there is little information regarding convictions for violent acts against one particular victim. Information regarding this is therefore only attainable from hand-written notes and statements made in court. We were able to identify that three of the suspects had prior court convictions that were definitely connected to acts of intimate partner violence against the victims referred to in our analysis. Of these suspects, one had been convicted for assaulting his partner four times; he had been sentenced to 4 and 6 months unsuspended prison sentence (which he was appealing against at the time of the incident) and to one suspended and one unsuspended fine. Another convicted suspect had been sentenced to a suspended sentence as well as a fine, and one to a fine only.

Although we have only very little information regarding convictions for crimes against the suspects' current or former partners, we do have data for 51 suspects from the federal criminal registry (Bundeszentralregister) regarding violent and non-violent criminal acts the suspects were convicted for in court. This registry contains concise information about previous sentences and cautions (but entries get deleted after a certain time, dependent on the severity of the offence).

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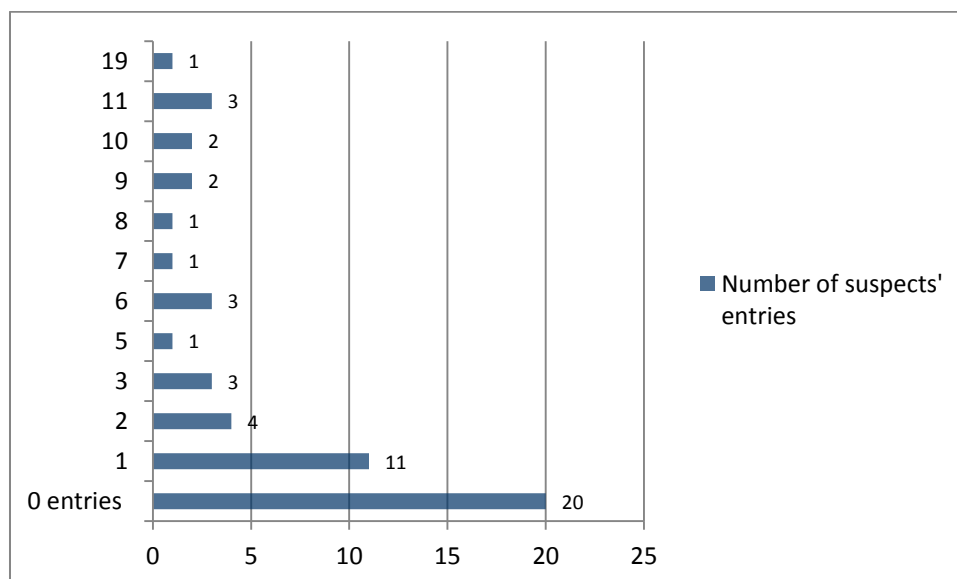


Figure 13: Number of suspects' previous entries in the federal criminal registry (N=51 suspects with a history of violence)

Of those 51 suspects, 20 (38.5%) had no previous convictions mentioned in the registry, while 31 (61.5%) had between 1 and 19 sentences for violent and non-violent acts recorded (average 3.06, SD=4.263; see figure 13). Most of these 31 suspects (49%, N=25) had previously been sentenced for violent acts (bodily harm, deprivation of liberty) between 1 and 4 times (victim not specified). 34 of the suspects had been convicted for non-violent offences, and most of these (91.2%, N=31) also had previous sentences for violent acts (see figure 13).

Furthermore, four suspects' entries showed they had, on top of being convicted for violent acts, committed offences against the weapons law or had their gun license revoked.

There is hardly any information about previous violations of criminal justice rules. That said, there is a clear history of repeated violence and failure to comply with criminal justice rules for some of the suspects (see figure 14).

Seven (10.9%) suspects had violated court or police orders (2 unclear, 55 NA). Of those seven, five had failed to comply with a banning/barring order, of which again one had also failed to attend a domestic violence programme.

The suspects who violated court orders seem to assemble the group most prone to violent behavior. Most of them had a history of violence referred to in the file (N=6) and previous convictions for assault (N=5). Furthermore, all suspects who had previous IPV convictions (N=3) were found in this group. Although this is by no means a representative sample, it seems like the violation of court orders might be an indicator for elevated risk.

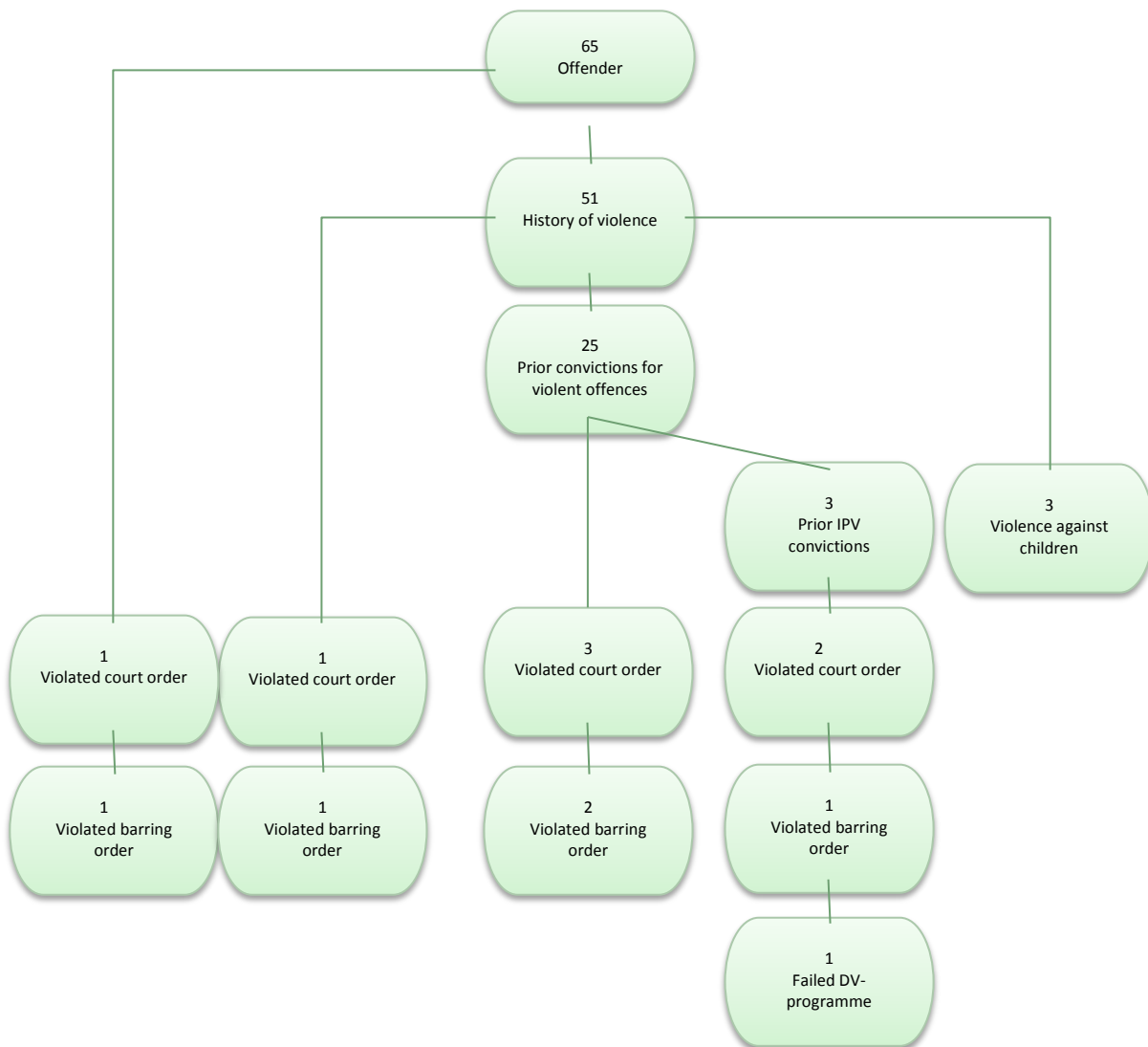


Figure 14: Overview of suspects' history of violent offences and violation of court orders (N=64)^{10,11}

¹⁰ One suspect violated the barring order issued during the most recent incident, without having a history of violence reported.

¹¹ "History of violence" according to victim and/or previous IPV investigations.

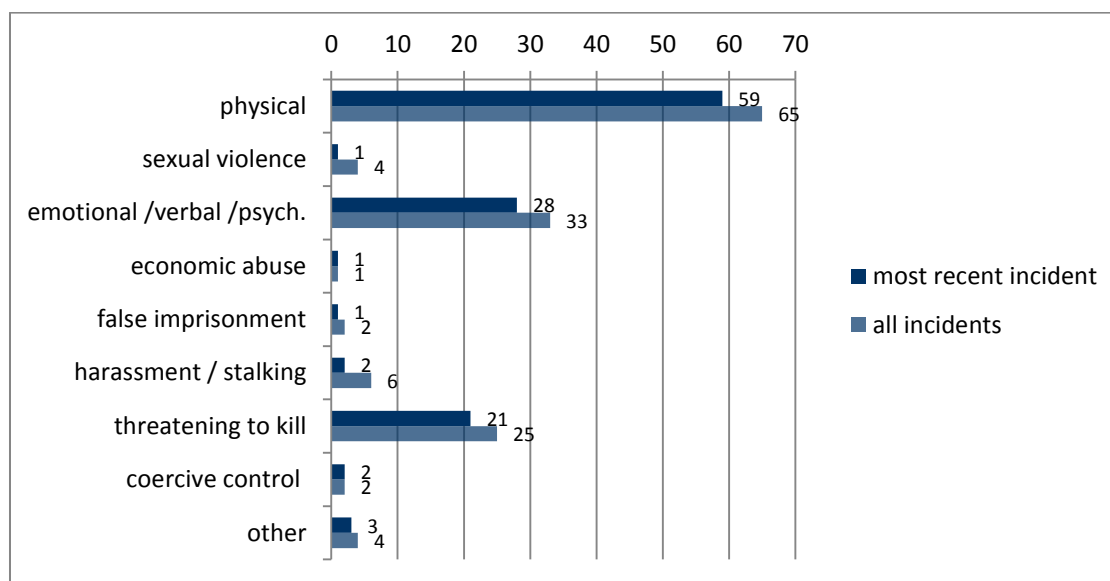
3.3.3 Incident related characteristics

In all 70 cases, a separate incident of violence against the victim was investigated by the police, although many of the victims interviewed told the police about prior assaults on themselves. For six of these police cases, the public prosecutor jointly charged three suspects for two acts each.

Experiences of violence in the most recent reported incident

In all 70 cases, the victim was attacked in some way during the most recent incident¹². Not all of the incidents that made the victim report her (former) partner to the police were acts of physical violence; in some cases, the victims reported the suspects for threatening to kill them.

Although most of the cases reported consisted of unilateral physical violence, in 11 cases the suspect was hurt /attacked by the victim as well; these were mostly defensive actions of the victims who tried to fend off the perpetrator. Only in one case the victim attacked the suspect's sister and broke her hand.



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Figure 15: Type of violence against the victim in most recent incident / all incidents (number of cases, N=70, multiple answers [118 /142 answers])

¹² As in many cases, the suspects denied having committed the acts, we decided to treat the incident description in the final police report (which largely rests on the victim's account of events) as "real". Although this may in some cases have been warped or even entirely untrue, the alternative would have been to only use data for cases that had been proven (convicted), which would have meant we could not have investigated cases that got dismissed.

The violence inflicted on the victim during the most recent incident was in many cases not a single act or form (e.g. physical), but a combination of two or more. Although in most cases physical violence (84.3%, N=59) was the motivation for the report, many victims mentioned being insulted and threatened as well (40%, N=28; see figure 15). About a third (30%, N=21) of the victims had been threatened with death or severe injury by the suspect. Almost half of these death threats (12.9%, N=9) had not occurred during a physical abuse situation, but were standalone acts. Acts of harassment / stalking and coercive control¹³ were mentioned twice (2.9%), sexual violence, economic abuse and false imprisonment once (1.4%) and “other” three times (4.3%; property damage in concurrence with other violent acts).

It is important to keep in mind that most of the acts reported in these cases are not sole occurrences. If we compare the figures for the most recent incident to the wider context of violence experienced over the course of the entire relationship, we find a similar distribution with slightly higher numbers of occurrences for each type of violence, meaning that some of the women were also subjected to other types of violence than the one reported for the most recent incident. Almost all victims (92.9%, N=65) reported they had been physically attacked at least once during the entire course of the relationship. 33 (47.1%) reported previous emotional, verbal or psychological violence, in particular insults and name-calling, and in 25 cases (35.71%), the suspect had threatened to kill or severely injure the victim, either during the most recent incident or at some point in the past. Furthermore, the number of sexual violence incidents was four times higher compared to the most recent incident (1.4% / 5.7%), and the numbers for stalking / harassment tripled (2.9% / 8.6%).

The physical violence inflicted on the victims was highly diverse and often happened during a violent situation encompassing many forms of violence. About half of the victims who were physically attacked during the most recent violent incident (N=59) reported being hit/slapped (47.5%, N=28) and/or punched/beat (37.3%, N=22), but many also reported kicking (22%, N=13), pushing/shoving (32.2%, N=19), strangling (22%, N=13), being thrown at with objects (6.8%, N=4), and other forms of violence (42.4%, N=25) alongside, like being dragged across the ground, shoved against a wall, held or carried by the throat, being stabbed with objects (pen, plastic rod), being bitten, head-butted and having limbs twisted (see figure 16). Although no weapons designed as such were used during the most recent incident, eleven perpetrators (15.7%) reportedly used other household items to inflict harm on the victims or threaten to do so, like carpet / kitchen knives, chairs, desks, bottles and electronic devices.

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¹³ Instances of coercive control identified in the files: forcing victim to stay at perpetrator’s place, controlling and checking her phone, forcing v. To unlock phone, “waiting” for her after work.

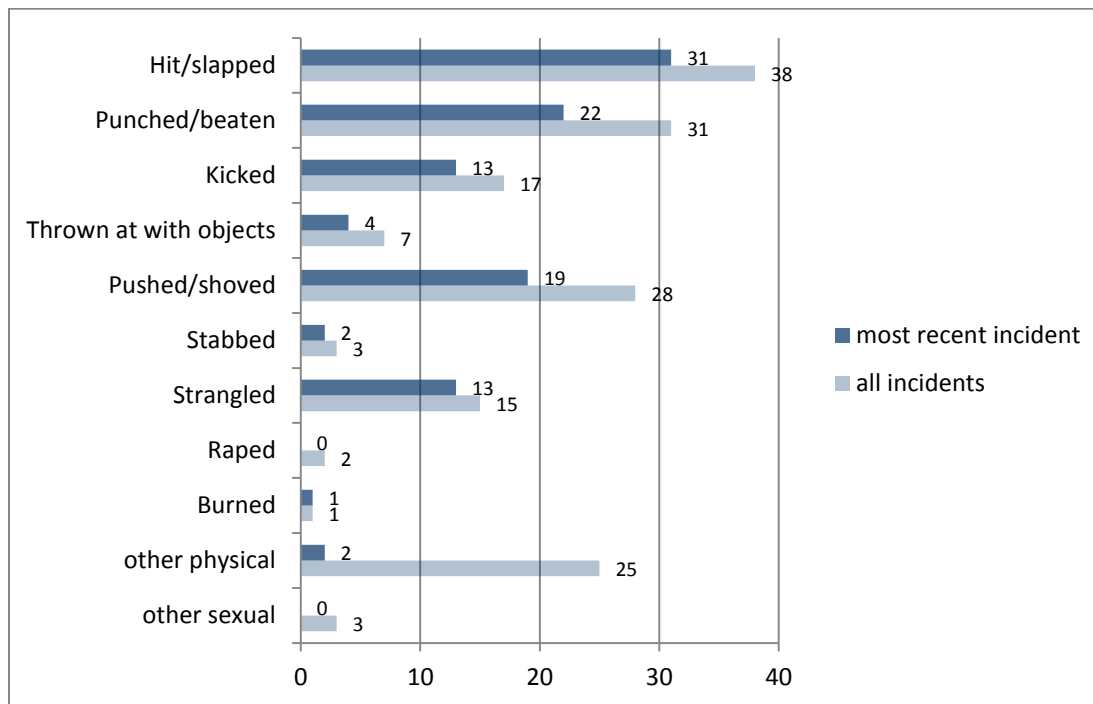


Figure 16: Type of physical violence in most recent / all incidents (number of cases, N=59, multiple answers [127 /167 answers])

Even though the incidents covered in the files were, according to their provenance, expected to be of a less severe nature, there is also a worrying percentage of stabbing (4.8%, N=3), strangling (23.8%, N=15) and rape (3.2%, N=2) / sexual assaults (4.8%, N=3) over the course of the entire relationship, indicating not a singular case, but a violent relationship of a more severe nature.

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Intoxication

It should also be noted that almost a third of the suspects (30%, N=21) and 11 (15.7%) of the victims were noticeably intoxicated during the most recent incident, while only seven suspects (10%) and nine victims (12.9%) were definitely sober (NA: suspects 60%, N=42; victims 70%, N=49). Twelve of these intoxicated suspects were subjected to a blood test; their results showed in part very high levels of blood alcohol that indicate regular abuse: the blood alcohol concentration ranged from .114 % to .297%, averaging at .202% (SD .552). As medical examiners use the most conservative calculations for BAC at the time of the incident, the actual BAC may in fact have been even higher for some suspects. The victims results were equally high, blood alcohol concentration ranging from .029% to .31% with an average of .194% (SD=.910).

Physical consequences

Most of the victims who had been physically attacked reported less severe physical consequences, and photographs as well as medical reports submitted in some of the cases supported these statements. As figure 17 shows, most of the victims (38.8%, N=27) reported minor injuries like scratches, minor bruises, bloody nose/lips or redness/abrasions. However, about a quarter of all victims suffered injuries that required medical attention. Of those, 13 (18.6%) women had suffered

moderate injuries (cuts requiring stiches, black eyes), and five (7.1%) sustained major injuries, like head injuries, unconsciousness, broken bones or multiple injuries.

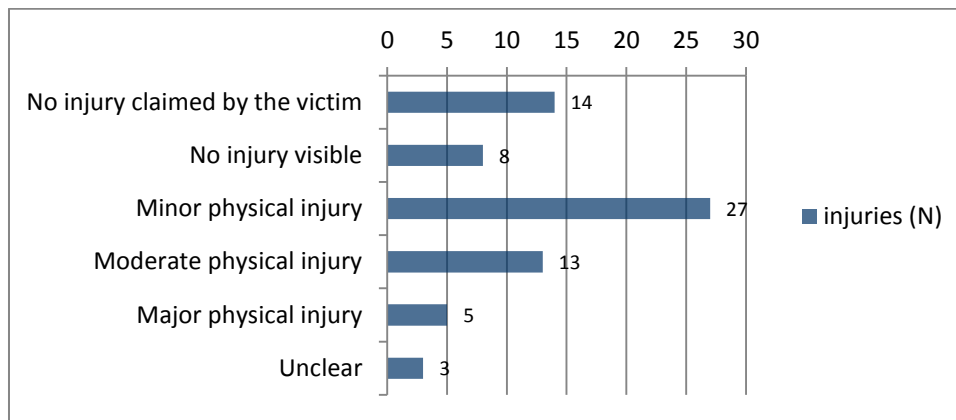


Figure 17: Physical consequences of most recent violent incident (number of cases, N=70)

Visibility

Visibility, and therefore the possibility for witnesses, was generally low in the cases analyzed. About two thirds (65.7%, N=46) of the incidents took place at either the victim's, suspect's or the couple's joint home, where usually only the children would be able to witness such an incident. Only about a quarter (22.9%, N=16) happened in a public space, and another four victims (5.8%) were threatened by phone or text message. Accordingly, only in a third of all cases (31.4%, N=22) there were eye-witnesses to the respective incidents (62.9% / N=44 no, 5.7% / N=4 unclear). More than half of these were the victim's or couple's children (52%, N=13), other family members (20%, N=5), friends of victim/suspect (24%, N=6), neighbours (16%, N=4) or passers-by (20%, N=5).

37

Repeat violence and high-risk victims

As mentioned before, many of the cases were no single occurrences, but had a history of violence that at least in some cases extended to previous police investigations and convictions for intimate partner violence. Although almost all cases analyzed were investigating a single incident, more than half of the victims (or witnesses) (52.9%, N=37) reported previous victimizations at the suspect's hand during the police interview. In 20 cases (28.8%), there were between one and nine further incidents mentioned in the file. In another 17 cases (24.3%), the victims (or witnessing neighbours) told the police there had been more than a few incidents, but they couldn't remember how many (33 cases: NA).

In those cases in which a first documented incident is available from the police reports (24 cases)¹⁴, the violence had started between ten days and almost ten years ago. The average time passed since the first documented incident was a little under two years (21.48 months; min.: 0.33, max.: 109.86; SD= 28,248).

As figure 18 shows, 50% (N=12) of these victims had first been attacked less than a year ago according to police information. For a fourth of these women (25%, N=6), the first documented incident had been two to three years ago. An eighth (12.5%, N=3) had experienced violence for one to two years, and another eighth had the first documented incident more than six years ago.

In 22 (31.43%) of all cases, law enforcement agencies had known about (some of) these previous incidents; there is only very little information regarding knowledge of other institutions.

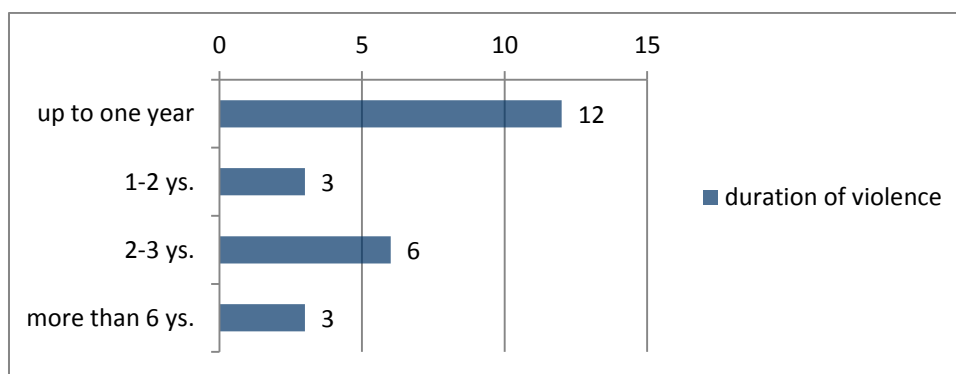


Figure 18: Duration of violence (N=24 cases with first documented incident available)

38

Indicators for high risk

As mentioned before, some of the victims had experienced types of violence often associated with high risk of escalation or lethal outcomes. As the German police currently do not use established standardized risk assessment tools¹⁵ (like e.g. ODARA, Danger Assessment or SARA), information typically used in these tools was collected from the files in order to assess the victim's risk, whenever it was available.

Even though the information sought after could not be found in many of the cases, we were able to find at least some data for most of the items covered in the Ontario Domestic Assault Risk

¹⁴ The first documented incident according to the police; not necessarily (or even likely) in all cases the first violent incident ever. Some of these cases only got reported alongside the most recent incident, but were not investigated.

¹⁵ Apart from a trial run currently being conducted in Rhineland-Palatine; the Saarland police use indicators from the Danger Assessment, but not the complete instrument.

Assessment (Hilton, N.Z., Harris, G.T., Rice, M.E., Lang, C., Cormier, C.A., & Lines, K.J. 2004) (see table 9).

Table 8: Prevalence and availability of ODARA items for cases in the sample (N=70)¹⁶

	yes	N/A ¹⁷
Prior domestic assault in police records (<i>history of IPV reported by victim</i>) ¹⁸	51 (79.7%)	19 (27.1%)
Prior non-domestic assault (<i>previous assault convictions</i>)	25 (35.7%)	45 (64.3%)
Prior sentence of 30 days or more	2 (2.9%)	68 (97.1%)
<i>Failure on prior conditional release</i>	---	70 (100%)
Threat to harm or kill during index assault	21 (30%)	49 (70%)
Confinement of partner during index assault	1 (1.4%)	69 (98.6%)
Victim is concerned about future assault	20 (28.6%)	50 (71.4%)
More than one child	18 (25.7%)	52 (74.3%)
Victim has biological child from previous partner	7 (10%)	63 (90%)
<i>Violence against others</i> ¹⁹	---	70 (100%)
Suspect's substance abuse	6 (8.6%)	64 (91.4%)
Assault on victim while pregnant	4 (5.7%)	66 (94.3%)
Barriers to support (<i>underage child in victim's household + intoxication during index assault</i>)	1 (1.4%)	69 (98.6%)

39

Table 9 shows that prior domestic (79.7%, N=51) as well as non-domestic (35.7 %, N=25) assault, threat to harm or kill (39%, N=21) and victim's concern about future assault (28.6%, N=20) are most prominent within our sample, while information about barriers to support, suspect's substance abuse and violence during pregnancy are hardly ever or not at all available from the files.

¹⁶ Description in brackets, e.g. "*(history of IPV reported by victim)*", refers to the information available for analysis.

¹⁷ No (conclusive) information regarding this item is available from the file.

¹⁸ Information in brackets denotes the questionnaire item(s) available for this indicator.

¹⁹ It was not possible to differentiate "prior non-domestic assault" and "violence against others" within our files. As all information regarding violence against others is related to previous convictions, it was decided to only use "prior non-domestic assault".

To predict the risk of recidivism, the ODARA only allows for a certain number of missings, depending on the overall score. As most of our cases would exceed the number of missings allowed, the ODARA would not be applicable, because it might group the victim in too low a category and lead to underestimating the actual risk. Keeping this in mind, we added the applicable items for every case to build a *minimum* ODARA score. The results presented below cannot replace an actual risk assessment, but provide a rather conservative assessment of a minimum risk category: with more information available, every case could score higher, but not lower.

As table 10 shows, the majority of cases (58,6%, N=44) scored between 0 and 2 indicators, which means they would at least be in the ODARA risk category 1 to 3. Cases in these categories are considered “low risk”; the rate of offender recidivism reported to the police within five years is estimated to lie between 7% and 22%. Another 34,3% (N=24) of the cases analysed scored between three and four indicators, which put them in ODARA’s risk categories 4 and 5 with an expected reoffending rate of 34 to 39% during the next five years.

Although none of the cases fell into the highest ODARA risk category, five cases (7,2%, relating to four victim/suspect dyads) were in the second highest category 6. More than half (53%) of the offenders within this category can be expected to attack the victim and be reported to the police again within the next five years.

Table 9: Minimum ODARA risk score and category (N=70 cases)

Sum of indicators	F	% of cases	ODARA risk category	Predicted recidivism within five years (%) ²⁰
0	6	8,6	1	7
1	14	20,0	2	17
2	21	30,0	3	22
3	11	15,7	4	34
4	13	18,6	5	39
5	3	4,3	6	53
6	2	2,9		
7-13	---	---	7	74%
total	70	100,0		

40

²⁰ Constructed and tested by Hilton et al.(2004, see footnote 16) with a sample of 589 Canadian IPV offenders.

It should be noted again that the information sought after was not specifically asked for by the police officers and is therefore in many cases not available from the files. Therefore, it seems very likely the figures would have been significantly higher if the ODARA or another standardized risk assessment tool had been used by the police. Even though this approximation cannot replace a thorough risk assessment, the results indicate it would be highly advisable to implement such a tool on a wider scale.

3.3.4 Criminal Justice Response

Immediate response by law enforcement

The majority of the incidents in the sample (82.9%, N= 58) were classified as acts of domestic violence by the police, only eleven (15.7%, 1 NA) were not distinctly marked as such²¹. Eight of these non-marked cases were incidents in which victim and suspect were not engaged in a relationship any longer; only three were still in an unmarried relationship (one of these the illegal-immigrant-case, one an on-off relationship, and one was classified as “couple arguing again”). This might indicate some police officers do not consider violence between ex-partners as domestic violence.

Table 10: first contact to police (N=70)

	F	%
The victim	43	61,4
A family member	1	1,4
A neighbour	12	17,1
A friend / other person from the social network	1	1,4
The suspect / perpetrator	1	1,4
A hospital / any health service professional	3	4,3
Other person	7	10,0
not available	2	2,9
total	70	100,0

41

²¹ There is no particular domestic violence crime in Germany, but officers are advised to treat domestic violence cases in a particular way (guidelines provided), and therefore they usually get indicated as “relating to domestic violence”.

As mentioned previously, most incidents happened at home, so there were hardly any witnesses. Corresponding to these results, the first contact to the police was in most cases initiated by the victim herself (61.4%, N=43) or her / the suspect's neighbours (17.1%, N=12); only some cases that took place in public were reported by other persons (10%, N=7), all but one of these passers-by (see table 11).

In the majority of all cases (68.8%, N=48), the police were notified by an emergency call and came to the incident site, and in most of these cases (70.8%, N=34), a female police officer was part of the unit dispatched. Only in a third of all cases (31.4%, N=22), the victim came to the police station to report the incident.

When responding to an emergency call relating to intimate partner violence, the police are not only supposed to conduct criminal investigations, but also to prevent further danger/harm to the victim and to inform her about options for support²².

Figure 19 gives an overview of measures taken by the police after arriving at the scene or after seeing the victim at the station. In most cases, the police officers would question the victim (92.6%, N=63) and, if possible, the suspect (48.5%, N=33) about the incident, temporarily ban the suspect from the victim's / joint home (51.4%, N=36) and, if necessary, take further measures to keep him from contacting her (42.9%, N=30). Almost all barring and restraining orders covered a duration of 14 days, only two were reduced to one day: in one of those cases, the police explained the short duration by noting the suspect seemed "civilized", although this incident seemed to have happened while a previous banning order was in place.

42

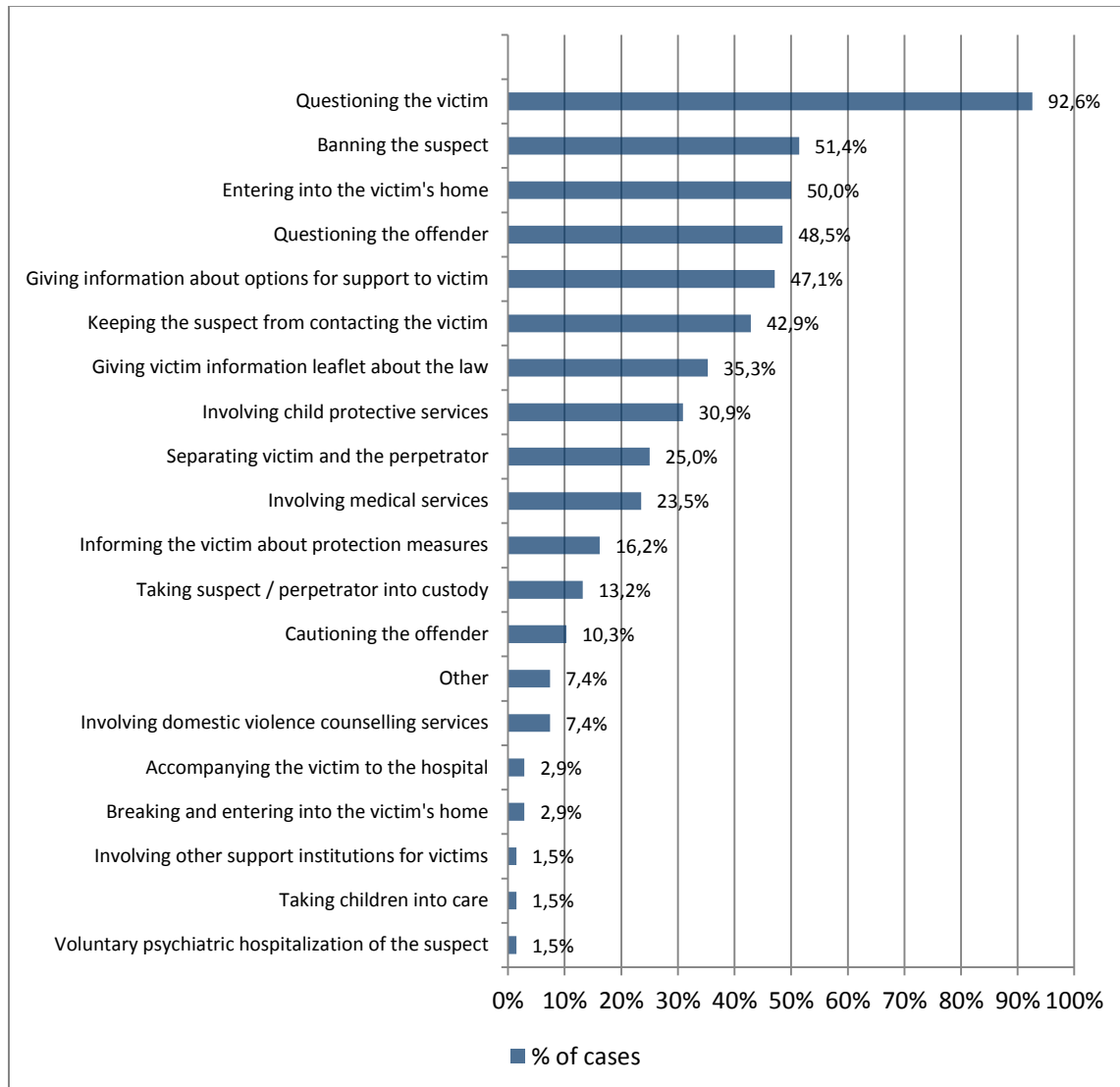
In nine cases (13.2%), the suspects were taken into custody and brought to the station for further questioning / identification. Only seven (10.3%) suspects were reportedly cautioned, even though the guidelines implicitly prescribe this intervention procedure. It is, however, possible the officers at the scene did actually caution the offender without mentioning this in the report.

According to the police reports, less than half the victims were informed about questions of protection, rights and the law. Although the guidelines clearly state the officers should advise the victim about options for protection and support, only 32 (47.1%) police reports clearly state they provided information about support, and even less officers provided information about options for protection (16.2%, N=11). As this is supposed to be a standard procedure, again it seems likely the officers did give information to the victim in more cases, but failed to document this in the report.

The police are also supposed to give a leaflet to all victims of crime, containing brief information about the law, proceedings and the victim's rights to be involved²³²⁴ and document this in the

²² see Hessische Polizei (n.d): Polizeiliche Handlungsleitlinien zur Bekämpfung häuslicher Gewalt. URL: <https://www.polizei.hessen.de/File/2009-02-Handlungsleitlinien-haeusl-Gewalt-Internet.pdf> [27.10.2015].

victim's personal information data form. However, only in about a third of all cases (35.3%, N=24), the officers ticked the checkbox provided; in almost half of all files, the checkbox was left blank, meaning we cannot assess if the victim received the information (47.1%, N=33).



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Figure 19: Immediate police measures and actions (N=70, multiple answers, 349 total)

In general, the police should refer the victim to a counselling or intervention center, which can provide further support and advice. However, by state law the police can only do so if the victim

²³ English version of the leaflet is available at the Northrhine-Westphalia ministry of justice' website https://www.justiz.nrw.de/BS/opferschutz/allgemeine_informationen/opferschutz_strafverfahren/avr_32/avr_32_englisch.pdf

²⁴ Civil protection orders are also mentioned in the leaflet, but very broadly and without referring to intimate partner violence. It was therefore decided to not regard the leaflet as sufficient information about protection measures available.

signs an agreement to have her personal information forwarded to the center. In our sample, only five (7.4%) victims agreed to being referred to intervention/counselling organizations. Although some victims had explicitly refused to be contacted by a counselling service, in most cases it was not evident from the files if the police had asked the victim for permission. Child protective services were informed in 30.9% of all cases as this is a standard procedure when underage children live in a household where violence occurs; it does not necessarily mean the children are victims of or witnesses to the violent incident.

In conclusion, the police applied imminent measures relating to criminal prosecution and the victim's imminent safety requirements adequately; however, police measures targeting the information and support needs of the victim seem to be subpar or were, in any case, not sufficiently documented.

Evidence

Interviewing

In cases of intimate partner violence, the victim's oral testimony serves a crucial function, as it is often the only means of evidence. It is generally regarded important to interview the victim as soon as possible, because the longer the time between the incident and interview, the less likely the victim is to give evidence and/or press charges.

All but one of the victims (98.6%, N=69) were interviewed during the investigation, and most of them (88.6%, N=62) during the first 24 hours after the incident. Regarding the interviews conducted during the first intervention, it is often unclear if the victim was interviewed by a female or male officer (or both). German police patrols mostly work in teams of two officers, which are frequently, but not always mixed gender. Even if there is a female officer at the incident site, the information who conducted the interview is generally not part of the police report (although it is advised in many state's guidelines that a female victim of IPV should be interviewed by a female officer). That said, according to the police reports, in 29 cases, a female officer at least took part in interviewing the victim, and in twelve cases, she was definitely interviewed by a female officer alone. In another twelve cases, she was only questioned by a male officer. Although this is not explicitly stated, there is no indication in any of the files that victim and suspect were interviewed jointly at any time during the course of the investigation.

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Table 12 gives an overview of all victim and suspect interviews conducted during the investigation. It shows that while the initial interview was mostly done at the scene of the incident, be it the victim's /suspect's residence or another place (unless the victim reported the incident directly at the station), and later in-depth interviews were usually conducted at the police station. While all victims but one were interviewed, only 64.3% (N=45) of the suspects were, because they had frequently left the incident site when the police arrived and did not come to a scheduled police interview. As the summoning letter explains that if a victim or suspect does not attend a scheduled interview, the police will accept this and assume they invoke their right to refuse to give evidence, the high percentage of victims and suspects who failed to attend is not surprising. Altogether, 22 (31.4%) victims and 61.4% (N=43) suspects missed a scheduled interview appointment.

Table 11: Interviews place and time (victims: N=69, suspects: N=45)

	Place of interview	F	Up to 1 h later	Up to 24h later	> 24 h later
Victims (69 interviewed)	Incident site, other than victim or perpetrator's home	6	6		
	Victim's / perpetrator's home	37	35	2	
	Police station	42	10	10	22
	Written interrogation via template	4	1	1	2
	Public Prosecutor's office	1			1
	Judge's office	2			2
	Other (public place)	8	4	2	2
Suspects (45 interviewed)	Incident site, other than victim or perpetrator's home	2	2		
	Victim's / perpetrator's home	27	24	3	
	Police station	20	3	5	12
	Written interrogation via template	2	1	1	
	Public Prosecutor's office	1			1
	Judge's office				
	Other	2			2

45

Besides the victim and suspect, in many cases other witnesses were interviewed as well. During the first 24 hours after the incident, children were interviewed in two cases at the scene (2.9%), and other eye-witnesses in 10 (14.3%). In-depth witness interviews at the station were conducted in 15 of the cases with neighbours and other eye-witnesses (21.4%); none of the children were interviewed after the first police intervention, neither at the station nor in court, although 13 children were eye-witnesses.

Altogether, 74.3% (N=52) of the police reports contained written and signed oral testimonies from victim, suspect or other witnesses.

Physical evidence

In nearly all cases, the police collected further means of evidence. Although in only three cases (4.3%), physical evidence was collected (e.g. smashed mobile phones, print-outs of threatening text

messages), almost all cases (95.7%, N=67) contained some kind of documentary evidence. As table 13 shows, a little below half (46.3%, N=31) of the case files contained photographs, mostly of the victim's injuries, but about a third of these also of suspect's injuries and incident sites. About a fifth of the victims (22.4%, N=15) also provided medical opinions regarding their injuries; four files (6%) contained reports from child protective services and one (1.5%) a social services' report. Surprisingly, almost all files contained some other form of evidence, ranging from suspects' (and sometimes victims') criminal records and transcriptions of prior trials and hearings relating to IPV incidents, protection orders and custody to reports from court assistance, IPV offender trainings and parole officers, as well as written statements submitted by some of the victims, suspects and witnesses.

Table 12: Documentary evidence in the police report (N=70, multiple answers)

	F	%
Report from a social service	1	1,5
Report from child protective services	4	6,0
Report from a health care service	15	22,4
Photographs	31	46,3
<i>victim's injuries</i>	27	
<i>suspect's injuries</i>	7	
<i>crime scene</i>	9	
Documentary evidence: other	63	94,0
total	114	170,1

Risk assessment

In all cases analyzed, it is unclear whether the police used any kind of risk assessment. It is, however, clear that they did not review any of the cases in official team meetings or case conferences or used a standardized risk assessment instrument²⁵.

²⁵ Bürger (2014) interviewed Bavarian police officers tasked with investigating IPV cases and found that although they did not hold official team meetings or case conferences, they did frequently ask colleagues and superiors for their opinion.

Most cases contain victim and suspect interview transcripts, and many include the suspect's criminal record (regarding all incidents investigated) and his federal criminal registry (all cases sentenced/cautioned), but there is no indication these were used to assess or estimate risk.

Ten (14.3%) cases contain a standardized "DV template" that collects very brief information about the case, namely intoxication (victim and suspect), presence of underage children in the household and prior incidents. It is not clear if these templates are intended or used to evaluate risk, and in any case, they do not contain sufficient information to do so.

Measures for victim protection and support

Victim protection

As has been shown before, in the majority of cases in which victim and suspect were living together, the suspect was immediately banned from home by the police. Although this is an effective measure and seems well implemented, the banning order can only be issued for a maximum of two weeks. This time is intended to give the victim opportunity to apply for a long-term court protection order²⁶ should she choose so.

Again, there is not much information in the files regarding protection orders, as these are not directly linked to criminal prosecution. Of all 70 cases, only seven (10%) mentioned a granted protection order, and only in one case, documentation of the proceedings was included in the file. In the other cases, the order was only mentioned during the victim's statement, so the information is often rather vague. In five of the seven cases (7.1%), the court order definitely included a restraining order, forbidding the suspect to approach or contact the victim or seek out places she regularly visited (e.g. place of work), and in two of the cases (2.9%), the joint home was allocated to the victim. In one case, a victim had applied for a protection order, but been refused by the court.

Only two (2.9%) of the banning /protection orders were reportedly violated. Still, as the police do in general not follow up on barring orders unless a breach is reported by the victim, this does not indicate that all other barring orders were complied with. Furthermore, five perpetrators (7.1%) reportedly pursued or harassed the victim or her children during the investigation (NA: 90%, N=63), and nine (12.9%) used some type of violence against her (87.1% / N=61 NA). The actions reported were mostly physical violence (8.6% of all cases, N=6), frequently combined with other forms, like emotional/verbal violence (4.3%, N=3), dangerous threats (5.7%, N=4), harassment/stalking (2.9%, N=2), and breaking/entering into the victim's apartment (1.4%, N=1).

²⁶ The court protection order cannot be issued indefinitely if the banned person has a legal right to the home, but there is no particular duration mentioned in the law. The usual timeframe seems to be six months, which can be extended for another six months.

Victim support

As victim support is not part of criminal prosecution, there is not much information regarding support given to the victim during the proceedings, and information like this is typically not collected in the police report. Of all 70 cases, we know of only three victims who were supported by a domestic violence service (compared to five that were referred to one by the police), although others might have been in contact with such a service as well without the police's knowledge (or mentioning it in the report). Seven victims were contacted by court assistance, who were tasked to evaluate the situation, determine if the victim would give evidence in court, find out if there had been any more incidents since, and inform the victim about options for support. Five of these victims attended the scheduled meeting with court assistance, two did not.

Two more victims were being treated for psychiatric disorders, and both of them were living in a supported situation (one in an assisted-living facility, another had a legal guardian). Both were accompanied to the police interview by their guardians. Another four victims brought persons from their social network/family, mostly in order to translate for them as they did not have sufficient command of German, and one victim brought the suspect.

Information regarding legal counsel is typically not part of the files, unless an attorney represents the victim and requests access to the file. Ten victims (14.3%) clearly had a legal representative during the investigation, nine did not (51 NA). Only one of these was provided by the state, four were definitely not (5 NA).

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Recognition of victim's needs

A surprisingly high number of victims in the sample were classified as "special needs victims" for the purpose of the analysis. In total, ten of the 64 victims (15.6%) had some kind of special need regarding their abilities; seven of these were not able to speak, read or write German sufficiently or at all; one of these was an illegal immigrant who had been brought to Germany by her "partner" to work in (supposedly forced) prostitution. Furthermore, two victims were suffering from psychiatric disorders to such an extent they needed guardianship (one borderline disorder, one schizophrenic), and one had a physical disability and needed the suspect's support.

However, there is no genuine classification of „special needs victims“ in the Hesse system that would lead to mandatory actions or measures (like e.g. providing a professional translator, which is done for the suspect). Instead, victims who did not have sufficient command of German were advised in the (German) summons letter to bring someone they trust to translate for them. In one case, the investigating officer spoke Spanish and judged himself to be capable to conduct the interview in the victim's mother tongue. All victims who were not able to understand German were sent the standard German letter to summon them for an interview, which they likely did not understand. As mentioned before, this letter informs the victim that if she does not attend the scheduled appointment, the police will assume she invokes her right to refuse to give evidence.

In only one of these ten cases, the file provides evidence of adequate victim support: As the victim didn't speak German, she was referred to a police officer who spoke the same mother tongue, even

though she had brought a friend to translate for her. For another victim, the file mentioned she received the victim's rights-leaflet in her mother tongue, and in the case of the schizophrenic victim, the PP decided to have court assistance interview and advise her about support options.

Only one victim was supported to give evidence in court. In this case, the victim was so afraid of the suspect that the public prosecutor assumed she was not likely to give true or complete evidence in court with the suspect present. Therefore, she was interviewed in the judge's office before the trial. But even so, the victim was questioned again in court with the suspect present, and the fact that her statement differed from the one given before was, in the judge's opinion, reason enough to not believe her account and dismiss the case.

Another case of particular concern dealt with an illegal immigrant who had been brought to Germany by her "partner" several days ago to be forced into prostitution. The victim told the interviewing officer her partner habitually beat her, raped her and threatened to kill her, especially when she wanted to break up, and had also stabbed her previously. Despite this, the victim was not informed about options for support and protection, and no barring or restraining order was issued. Decisive might have been the fact that the perpetrator had only hit her once since coming to Germany, and that both had been issued an order to leave the country within seven days.

Victim's support of proceedings

It is often assumed that the outcome of IPV-related criminal proceedings relies heavily on the victim's support of the investigation, as her oral testimony is in many cases the only means of evidence. It is implied in this perception that one of the reasons for low IPV conviction rates is the non-compliant behavior of the majority of the victims.

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There is no question that the victim testifying against the suspect is crucial in these cases. As was to be expected, in the 70 cases analyzed, the 64 victims did not always behave and comply in a manner best suited to criminal prosecution. However, given the opportunity, about half of the victims did comply with every single measure, meaning they pressed charges and did not withdraw them, attended a scheduled police interview, gave evidence against the suspect in a police interview and in court.

As table 14 shows, more than half of the victims (59.8%, N=38) pressed charges against the suspect, and only 13 of the victims (20.3%) withdrew the charges later or tried to²⁷. About half of the victims who were summoned to the station to give evidence did show up (37.5% of all victims, N=24), 18.8% (N=12) were not summoned in the first place. A quarter of the victims (26.6%, N=17) did not have the opportunity to provide evidence against the suspect, either because they were not interviewed at the crime scene, not summoned or did not attend their interview. Of those who were in a position to give evidence (71.8%, N=46), more than two thirds (N=31, 48.4% of all victims) did testify against the

²⁷ Includes one victim who did not press charges in the first place, but tried to withdraw them later (in the German system, most civilians are not able to differentiate between reporting a crime and pressing charges).

suspect. In court, again almost half of the victims (17.2%, N=11) gave accusing evidence against the suspects, the other half (18.8%, N=12) did not (62.5% / N=40 NP as there was no trial held).

Table 13: Victims' support of criminal proceedings (N=64)

	Yes	No	n/a	unclear	NP
Press charges	38 (59.4%)	22 (34.4%)	2 (3.1%)	2 (3.1%)	---
Withdraw charges	13 (20.3%)	26 (40.6%)	3 (4.7%)	---	22 (34.4%)
Attend interview	24 (37.5%)	27 (42.2%)	---	1 (1.6%)	12 (18.8%)
Evidence in police interview	31 (48.4%)	15 (23.4%)	---	1 (1.6%)	17 (26.6%)
Evidence against suspect in court	11 (17.2%)	12 (18.8%)	---	1 (1.6%)	40 (62.5%)

To analyze the combined stance towards criminal prosecution for every single victim, we aggregated the aforementioned items (did the victim: a) press charges, b) attend a scheduled interview, c) give evidence in police interview, d) give evidence in court) into an index ranging from 0 to 4 that describes the victim's overall support of the investigation procedure. Figure 20 shows that the group of victims who did not support the prosecution at all (0 items "yes") was not at all in the majority; rather, the groups of victims who complied with 0, 1, 2, and 3 different prosecution requirements were about the same size. The only group considerably smaller was the one who complied with all four procedural measures, because allocation to this group was only possible if the case went to court.

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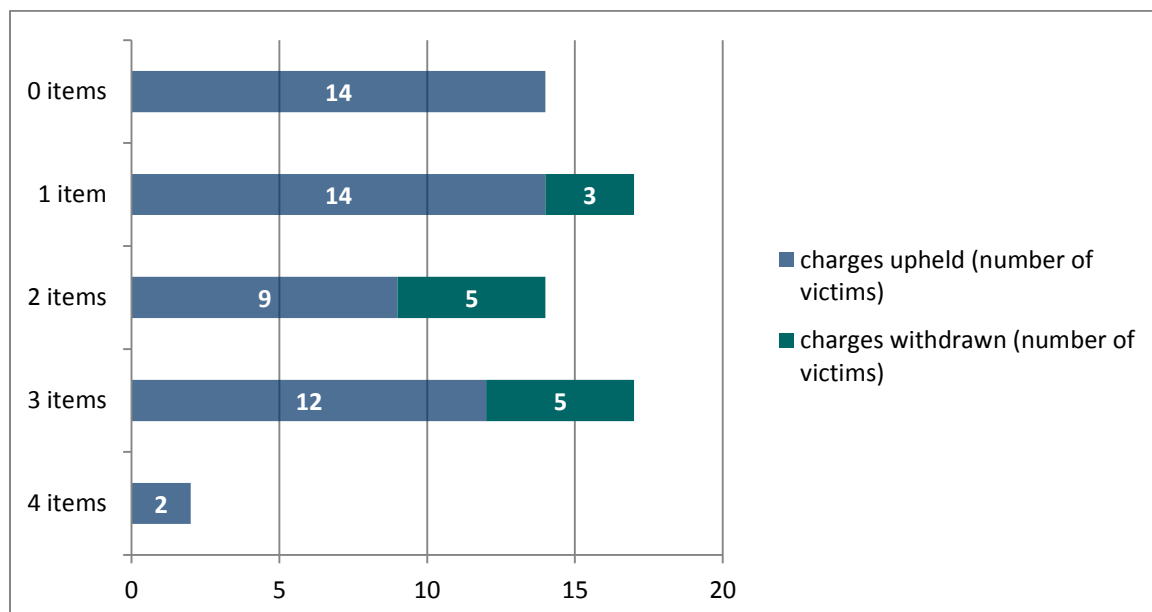


Figure 20: Victim's support of the investigation index (N=64)

3.3.5 Accusation and charging phase

After the police investigations were closed, all case files were forwarded to the public prosecutor's office, which decides whether to press formal charges or to dismiss the case. As all files were selected by a domestic violence marker assigned by the public prosecutor's office, it is not surprising that almost all incidents (97.1%, N=68) were classified as domestic violence.

Only four (5.7%) of the incidents were offences that mandatorily have to be prosecuted by the state; the majority were crimes / offences that can only be prosecuted if the victim or another party concerned presses charges (90%, N=63; 3 unclear). In many IPV cases, the victim cannot be expected to seek prosecution due to a personal relationship with the suspect. If this is the case, the state can act as a concerned party and assign "public interest" to a case, thereby eliminating the need for charges pressed by the victim²⁸.

In recent years, intimate partner violence has become to be regarded as a matter of some public concern, which means public prosecutors assign public interest quite frequently to those cases. Of the cases in our sample, the prosecutor assigned public interest to 25 (35.7%) that would otherwise only be proceeded with if the victim had pressed criminal charges.

In total, half of the cases analysed (51.4%, N=36) were forwarded to criminal court, 34 (48.6%) got dismissed by the prosecutor. Three (4.3%) of the cases dismissed were conditional; in one case, the suspect had to complete ten therapy sessions, and in two cases, he had to make a donation to a non-government organization.

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Table 14: Charges brought in cases that were referred to court (N=36)

Criminal charges	F	%
Insult § 185 CC	3	8,8%
Simple assault § 223 CC	27	79,4%
Aggravated assault § 224 CC	4	11,8%
Coercion § 240 CC	4	11,8%
Dangerous threat § 241 CC	7	20,6%
Property damage § 303 CC	2	5,9%

²⁸ Nr. 234 Abs. 1 RiStBV

Most cases (58.8%, N=20) got dismissed due to lack of evidence (§170 II Code of Criminal Procedure), almost all of them because the prosecutor assumed the victim would not give evidence in court. Other dismissal reasons were the minor nature of the offence (23.5%, N=8; § 153 CCP), and two cases each (5.9%) were dismissed as an insignificant secondary offence (§154 CCP) and under orders and conditions (§153a CCP).

The charges brought in the cases forwarded were mostly (79,4%, N=27) simple assault, followed by dangerous threat, aggravated assault, coercion and insult (see table 15).

Of the 36²⁹ cases that were referred to criminal court, 26 (37.1% of all cases) had a full hearing. Nine cases were dealt with by penalty order, which means the PP judges it likely the accusations are true, but the crime not significant enough to warrant a full trial. In these cases, the PP suggests the judge issue a preliminary penalty order (usually a fine) and send it to the offender. If the offender objects, the case goes to court for a full trial. The latter was true for five of the 26 cases that were tried in court.

The sentences issued in the nine uncontested penalty orders were fines ranging from 500€ to 8000€ (average 1862,50 €, SD=2516,765) that were related to 20 to 160 daily rates (average 72,86, SD=60,474). Two of these fines were suspended, among them the highest fine in the sample (8000€) that was transformed to community service upon the perpetrator's request.

3.3.6 Court's action

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In total, 26 cases were tried in 25 court trials (one was a joint trial for two cases in the same relationship).

When being presented with the charge, 20 (80%) of the 25 offenders gave evidence at the trial, but only six (24%) of them accepted the allegations brought against them³⁰. One suspect did not give evidence, but accepted the allegations after being presented with the charge. The other 19 suspects denied having attacked their (ex-)partners or presented a completely different rendering of events. More than half of the accused (56%, N=14) were represented by an attorney during the trial.

Almost two thirds of the victims (60%, N=15) gave evidence as well, but only eleven of them told the same story as in the previous police interviews; the other victims had changed their account of events. The right to refuse to give evidence was invoked by 8 (40%) victims. Only two victims were not given the opportunity to testify against the suspect in court; one because the suspect had already accepted the charges, and one because she was on an extended vacation and hadn't received the summons in time.

²⁹ In one case, the suspect was not available for trial.

³⁰ As there is no formal plea bargaining in Germany, there is no incentive to do so.

All victims had to give evidence with the suspect present in the court room. As regards legal counsel, only four victims (20%) were represented by an attorney during trial, of which one was obviously provided by the state and one obviously not (2NA).

Three victims were supported in giving evidence by means of the court. Two of those were assisted by an independent professional translator because they did not speak German well or at all; one was interviewed by the judge before trial. The PP had requested the victim be interviewed by a judge so her statement would be admissible in court; she was not likely to give complete or true evidence with the suspect there. The judge, however, interviewed the victim again in court in the suspect's presence, noted discrepancies to her previous statement, and decided the victim wasn't trustworthy.

In half of the trials (48%, N=12), other witnesses besides the victim were heard (see table 15). In nine of these trials, police officers testified and recounted their perspective on events, as victim statements given to the police are not admissible in court. Every third statement was given by a neighbour who had witnessed the incident (N=4), and two statements each were given by family members, friends, and passers-by who had seen what happened. Furthermore, in one case each the suspect's parole officer and his legal guardian were questioned. Although five of the incidents that went to court had been witnessed by children, none of those were heard in court.

Table 15: Witness statements given in court (N=21 in 12 trials, multiple answers possible)

	F	% of statements
Family member(s) (other than the children)	2	16,7%
Victim's or suspect / perpetrator's friend(s)	2	16,7%
Neighbour(s)	4	33,3%
Police officer(s)	9	75,0%
Passers-by	2	16,7%
Other (suspect's legal guardian / parole officer)	2	16,7%
Total	21	175,0%

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Victim support

Information

Most of the victims whose cases were tried in court were informed about their legal rights, albeit in a rather basic form (see table 16). As has been mentioned before, many victims were handed a "leaflet on the rights of aggrieved and injured persons in criminal proceedings" (see footnote 24) containing legal information like the right to an attorney, options for support and compensation, when the investigation started. This leaflet also describes how victims can apply to be informed about the

proceedings, which indicates they would generally not be. The *right to be heard* and the *right to understand and be understood* are not yet implemented and therefore not part of the information. The leaflet is available in most major European languages as well as in Arabic, Turkish and Vietnamese.

The majority of the victims were informed about their rights regarding participation in the trial (60%, N=15) and options for support during the trial (56%, N=14). It needs to be pointed out that the leaflet was the only source of information in most cases, at least as far as can be obtained from the files.

Table 16: Victim's rights respected in trial (N=25)

	Yes	No	n/a	unclear
Victim informed about rights regarding participation in trial	15 (60%)		9 (36%)	1 (4%)
Victim informed about options for support during trial	14 (56%)	---	10 (40%)	1 (4%)
Victim informed about applicable protection measures during trial	---	---	23 (92%)	2 (8%)
Victim kept informed about the proceedings	1 (4%)	---	23 (92%)	1 (4%)

We do not know from the files if any of the victims were informed about applicable protection measures during the trial. Of the several court houses in the Frankfurt PP's district, only the main court house has a separate waiting room for victims staffed with social workers, and this institution is covered in a brochure for "witnesses in court". Victims who are to give testimony in the main court house are being sent information about this option with the summons³¹.

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Support

There is not much information as to the question whether the victim was receiving any type of support during the trial. As far as the files go, three victims whose cases were tried in court (16%) were approached by court assistance, and two of these victims (8%) actually went to see court assistance during the investigation. In another case, the prosecutor ordered witness accompaniment to be informed, but there is no indication they ever made contact or accompanied the victim to the trial. There is no information either whether any of the victims was supported by any service not affiliated with the judiciary, like IPV counselling.

In only three cases (12%), provisions were made to support the victim to give evidence. In two cases, an independent professional translator was provided and translated for victims who did not have sufficient command of German, even though at least one of the translators was initially summoned to support the suspect. In one case, the victim was interviewed by the judge before the trial – but, as

³¹ According to e-mail correspondence with the PP.

has been mentioned earlier, this victim was interviewed in court again, and the discrepancies to her initial statement were, in the judge's opinion, reason enough to dismiss the case.

Only two victims requested to have their expenses reimbursed, both were granted.

As all trials were open to the public, information regarding whether anyone accompanied the victim to court is not available.

Court's decision

The majority of the 25 cases tried in court (60%, N=15) were dismissed during the trial. Four of these cases (16% of all cases tried) were dismissed under conditions, like attending IPV-offender therapy / social training, or donating money to a service for victims of domestic violence.

In the other ten cases (40%), the court passed a verdict. Eight of the accused were convicted (32% of all trials, 80% of verdicts), and two were fully acquitted (8% of all trials, 20% of verdicts).

All perpetrators were convicted for physical assault, two of them (2%) also for other offences (one for property damage, one for dangerous threat as well as insult). The convicted perpetrators were sentenced to suspended prison sentences (12.5%, N=1), unconditional (50%, N=4) and received a warning with suspended sentence to a fine (37.5%, N=3). The condition for the suspended prison sentence (6 months) was that the offender undergo therapy and pay 500 € to a fund.

The suspended fines ranged from 600 € to 4800 €³² (average 2100 €, SD=2343,075), the unsuspended from 600 to 1750 (average 917,50€, SD=557,875). For both suspended and unsuspended fines, the number of daily rates was between 60 and 90, with an average of 70 daily rates (SD=14,142) for unconditional fines and an average of 76,67 daily rates (SD=15,275) for suspended fines.

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No other legal consequences were imposed, and no appeals filed.

Regarding compensation applied for by the victim herself, there is no information. In four cases (6.3%), the police had filed for compensation on the victim's behalf; it is unknown if compensation was granted.

Duration of proceedings

The time passed between the first information given to the police and the end of proceedings was in many cases quite long, although the police always started investigating immediately. As was to be expected, the duration depended highly on the trajectory of the case, but was in many cases also extended by the lack of information about the suspect's (and sometimes victim's) location.

³² Fines are composed of two factors: the offender's daily rate, which depends on his/her income, and the number of daily rates, which reflects the severity of the sentence.

As table 17 shows, the 34 cases that got dismissed without trial by the public prosecutor lasted between 28 days and a little over a year, with an average of five months.

Table 17: Duration of proceedings in months (N=70)³³

	N	Months min.	Months max	Months average	SD
Dismissed by PP	33	0,92	13,57	5,0834	3,65297
Penalty order	8	4,04	23,98	13,4867	8,03537
Court trials	26	4,60	22,24	8,5080	3,88753

The proceedings that included a formal charge and were concluded by penalty order or court trial took longer in general. The nine cases in which a penalty order was issued and not contested lasted between four months and a little under two years, the average duration was 13.5 months. The 26 cases that were heard in court were in the same range, taking between five and 22 months, with an average of eight and a half months (256,23 days, SD=3,888). All trials but one were concluded within a day.

3.3.7 Factors influencing the proceedings

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As has been stated before (3.2.1), four in five cases matching the sample description in the source PP's office in 2013 were dismissed by the public prosecutor without ever being brought to court. In order to analyse the distinct properties of "successful" cases, we selected a larger percentage of files that were referred to court. Still, only a minor fraction of these cases ended with a judge's verdict (10), and eight of these were concluded with the suspect's conviction in court. As the most crucial bottleneck therefore does not seem to be the court decision per se, but the question if the case goes to court in the first place, we tried to identify factors that might have influenced the *case outcome*, here and in the following chapter meaning whether the case was dismissed by the PP or referred to court and dealt with by penalty order or full trial.³⁴

Victim-related factors

As was to be expected, the victim's support of proceedings showed a strong correlation to case outcome. Regarding the index describing the victim's proceeding support introduced in chapter

³³ Data missing for one case dismissed and one in which a penalty order was issued

³⁴ For this purpose, we used the initial case outcome intended by the judiciary. This means that for cases in which a penalty order was issued, but contested and tried in court, the case outcome will be regarded as "penalty order".

3.3.4, there was a significant trend that the higher the victim's combined support³⁵, the more cases got to court ($p^{36} = -.289$, $p < .01$). While two thirds of cases with low support (score 0 and 1) got dismissed, only one third of the cases in which the victim actively supported the proceedings (score 2 and 3) were dismissed by the prosecutor. Most prominent among the factors in the index was the victim's oral testimony ($p = -.438$, $p < .01$): Cases in which the victim had testified against the suspect ($N=31$) were dismissed to a much lesser extent (26.5%) than the ones in which the victim had not (60%).

Cases in which the victim was physically assaulted were most distinctly influenced by the severity of injuries: As figure 21 shows, the more severe the injuries, the less cases were dismissed and the more likely they were to be heard in court ($p = .394$, $p < .01$).

Incident related factors

Cases in which the victim was physically assaulted were most distinctly influenced by the severity of injuries: As figure 19 shows, the more severe the injuries, the less cases were dismissed and the more likely they were to be heard in court ($p = .394$, $p < .01$).

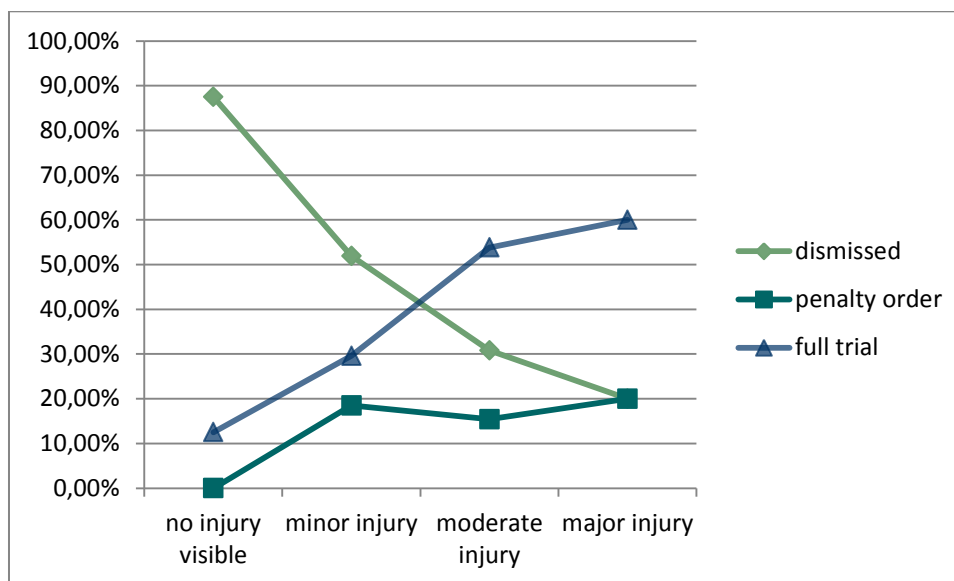


Figure 21: Severity of victim's injury and case outcome (N=59 cases with physical violence during most recent incident)

³⁵ To ascertain the chances of cases going to court, we disregarded the factor "did the victim give evidence in court?", thereby lowering the maximum score to 3.

³⁶ Spearman's Rho

Repeat violence

The suspect's history of convictions for assault did not show any correlation regarding dismissal by the prosecutor. However, the 36 cases that were forwarded to court were significantly more often dealt with by full trial (N=17) instead of a penalty order (N=2) if the suspect had previously been convicted ($p=.615$, $p < .01$). Furthermore, all three suspects who had been convicted for IPV before, and most (57.1%) who had violated court or police orders, were tried in court.

Cases in which the victims had reported a prior history of violence (N=51) were dismissed considerably less than cases without ($p=.339$, $p<0.01$), and all cases tried in court had a history of violence (according to the victim's statement).

Regarding the minimum ODARA score constructed for recidivism (see 3.3.3), there is a moderate but significant correlation to case outcome ($p = .383$, $p<0.01$), which means that the higher the risk, the less cases got dismissed. While the majority of all cases in the low risk categories of 1 and 2 were dismissed by the prosecutor without ever going to court, all cases that were grouped in the second-highest risk category 6 were referred to court, and all but one were heard in a full trial.

However, information used for the minimum ODARA score used for this analysis was not directly requested from the victim, but was based on data contained in the public prosecutor's file. It is therefore characterized and most likely influenced by the high amount of missing information – data that could easily have been collected by police officers, but wasn't. If the police had done so, some or even all of the low-scoring cases might have been in a considerably higher risk category, which would obviously influence the interdependence of risk and case treatment.

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Support factors

There was a strong correlation between information given by the police and case outcome, especially for the handing over of the victim's rights leaflet ($p = .461$, $p<0.01$). Of all cases in which the police had (according to the file) handed over the victim's rights leaflet (N=24), only 16.7% were dismissed. Case outcome also correlated with information about support options provided ($p=.315$, $p<0.01$), meaning only about a third of these 32 cases were dismissed, and information about protection measures ($p=.432$, $p<0.01$): none of the 11 cases in which the police had informed about protection measures were dismissed, and most of these had a full trial.

This does not have to indicate that the police giving the victim information or referring her in itself leads to trial; it is equally likely that these factors are related to the severity of the offence³⁷,

³⁷ The police' perception of severity of the offence cannot be systematically obtained from the files, especially since most cases in the sample were simple assault. We tested the provision of information against type of offence and found a slight correlation between dangerous threat and police giving information about protection measures (.258, $p<0.05$). Furthermore, we found a slight correlation between severity of injuries and police referral to counselling (.224, $p<0.05$); the other variables proved not to be significant.

meaning police might only inform the victim about options for protection and support in more severe cases.

Altogether, the cases in our sample were more likely to be referred to court if the victim had been severely injured during the incident, if she was supporting the investigations, particularly by way of oral testimony, and/or if the suspect had a history of violence, be it directed at the victim or other persons.

4 Interviews and focus groups

4.1 Research aims

The main objective of the interview study is a qualitative analysis of needs of victims and victims' expectations towards the criminal justice system and their experiences within the system. This includes a close look at mechanisms of assessment of needs and risks, measures for ensuring safety, protection and support – including cooperation and referral procedures – and access to procedural rights. The study aims at identifying g factors influencing the extent to which victims' needs are taken into account within the criminal justice system and also analyses the influence of victims' experiences within the criminal justice system on their willingness and ability to participate and contribute to criminal prosecution.

4.2 Methods and foreseen selection of interviewees

The study combines the views of experts and victims on the justice system's practices regarding victims' needs. In the application qualitative expert interviews with 3 judges and 10 public prosecutors with experiences in DV cases and qualitative in-depth interviews with 10 victims of DV who have experienced the criminal justice system were foreseen. One focus group was foreseen with police officers from the criminal investigation sectors and one focus group with victims support services.

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On the basis of our knowledge of significant differences between the criminal justice systems of the participating countries the research group agreed upon a general flexibility as regards the choice of interview techniques, the sample composition and – within clear limits – the interview guidelines. The group decided to stick as closely as possible to the proposed empirical methods (interviews vs. focus groups) and the sample composition but adjust it to the specific needs of each country. Basically every partner had to carry out 25 interviews / focus groups, from which 10 interviews with victims and a minimum of 5 interviews with public prosecutors were fix. Travel costs and time-resources as well as geographic dispersion of interviewees were accepted as relevant factors for planning the empirical program. A random sample and theoretical sampling were not seen as useful given the size of the sample. It was agreed that regarding the expert interviews "known" persons with experience, expectable willingness to participate and commitment to the topic can contribute best to interviews, especially as the intention of the interviews is not to expose deficiencies and problematic attitudes, but to gain expert knowledge.

The research group decided to consider the following criteria when choosing interview partners:

- Cover experts and victims from urban and rural areas
- Cover misdemeanours and felonies
- cover different working cultures / routines

- Include country specific relevant professions and experts involved in model projects relevant for the project
- include different types of victims' support organisations
- include victims with different experiences within the criminal justice system - starting from acquittal by police, public prosecutor or judge to a penalty order and conviction

4.3 Interview guidelines

First drafts of the guidelines for the interviews and focus groups were developed by Zoom e.V. and finalized after discussing them at the transnational meeting in April 2015. Partners translated the guidelines in the national languages and adapted it to national specificities and to the professions.

The interview guideline for experts starts with information on the interviewee, his/her professional background and on the professional experiences with victims of intimate partner violence in criminal proceedings. Information about the EU-Directive 2012/29 on victims' rights is given and interviewees are asked about the relevance of the Directive for their work. As an introduction to the issue reasons for the difference between the number of cases of intimate partner violence known to the police and the number of cases that go to trial are explored.

In the beginning of the interview with the victims the structure of the interview is explained and permission to record the interview requested, telling the interviewees what would be done with the content of the interview and the recording and assured the women that everything would be kept confidential. The interviewees are requested to sign a declaration of consent and receive a written assurance that their statements would be treated confidentially and only used for research purposes. The interview guideline for victim opens with a trigger for a narration on the victims' experiences both with the violent relationship or event and the criminal justice system's response:

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"As I mentioned, I am especially interested in experiences of women who have experienced violence from a partner and who sought help from the police and the courts. You [or xy - the person through which the contact was made] told me, that you have such experiences. Could you please tell me about your experiences? How did that come about / How did that happen?"

After the interview a social data file structures questions on some basic socio-demographic data.

The main part of the guideline for the experts and victims is structured along the trajectory of the criminal justice proceedings and asks for needs and experiences of victims, focussing on specific challenges and burdens, how they are taken into account and how their experiences influence their contribution to the investigation and trial. It covers – as a mental walkthrough – the different stages and actors involved. It starts with the first contact with the justice system, which in general is an emergency call to the police or a police complaint by the victim, covers the investigation phase and follows the proceedings until trial and – if it comes so far - a possible sentence. It asks for good experiences / good practice and explores ideas for improving the support for victims in criminal proceedings.

Beneath that the guidelines explore a couple of comprehensive aspects:

- effects of the proceedings on women and how they evaluate them
- expectations of victims from criminal proceedings
- factors influencing the stance of the victims over criminal prosecution
- support needs and experiences with support, influencing factors
- proceedings in other legal fields

4.4 Access to interview partners

Access to judges and public prosecutors was sought by written requests to the directors of the courts or office of the district attorneys, contact to other professions was established to some extent through already existing contacts or were in parts communicated by other experts and members of the advisory board. Except one public prosecutor, all contacted professionals were willing to participate.

However, access to victims of partner violence was rather difficult. Some interviewees were recruited with help from the police; some with help from the federal association of rape crisis centres and women's counselling centres in Germany and the association of women's shelters and court assistance. One interviewee was contacted via psychosocial proceedings assistance. Moreover, the research team tried to reach interviewees by publishing an article about the project which resulted in recruiting one more participant.

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4.5 Sample description and analysis

The research team of Zoom e.V. developed a temporary questionnaire program on basis of the national report Germany and investigations which was modified and adapted according to the results of first explorations during the study. The aim was to take the selection criteria (named above) into account and to include public prosecutors, judges and victim support services with a minimum of two federal states. Lawyers, court assistants and psychosocial court assistants were supposed to be included additionally; the number of public prosecutors was therefore reduced. Shelters, interventions agencies and victim support services should be questioned as essential services of victim protection. Once again, support services from two federal states and different degrees of urbanization were supposed to be questioned to give consideration to the regional differences in Germany.

All in all, fourteen expert interviews were conducted: five with public prosecutors, four with district judges, one with a lawyer, three with court assistants and one with a psychosocial court assistant. Furthermore, three instead of only two focus groups were conducted: one with seven police officers, one group with three staff members of victim support services and another one with two staff members of support services and a lawyer.

The interviewed experts mainly were located in Lower Saxony, some also in Hesse, Bavaria and Northrhine-Westphalia. Table 19 lists all expert interviews and focus groups as well as institutional background or function, the Länder and the type of interview (focus group or interview). We had a total of 3 focus groups. They consisted of at least three persons, and the participants were carefully selected beforehand following defined criteria. Three of the 11 interviews were carried out with two persons.

All interviews with victims were face to face interviews. Only in one case was the minor child with the mother. The interviews were partly carried out in the flats of the interviewed persons, partly in the office of Zoom and partly in the offices of local police stations or counselling services.

Three of the interviewed victims lived in Brandenburg, one in Northrhine-Westphalia and six in Lower Saxony. Their reports referred to violent incidents in those Länder, only in one case the location of the violent incident and the location of residence were different.

Table 18: Victim interviews

Victim's place of residence	Number of victims interviewed
Lower Saxony	6
Northrhine-Westphalia	1
Brandenburg	3

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Table 19: Expert interviews – overview

Interviewpartner - institution	Number of persons involved and kind of interview	Land
Public prosecutor	1 (interview)	Lower Saxony
Public prosecutor	1 (interview)	Lower Saxony
Public prosecutors	2 (interview)	Lower Saxony
Public prosecutor	1 (interview)	Hesse
Judge	1 (interview)	Lower Saxony
Judge	1 (interview)	Hesse
Judges	2 (interview)	Lower Saxony
Police officers from different departments	7 (focus group)	Lower Saxony
Experts from a refuge, an intervention centre and a lawyer	3 (focus group)	Lower Saxony

Experts from two refuges and an intervention centre	3 (focus group)	Bavaria
Expert in charge of psychosocial accompaniment	1 (interview)	Lower Saxony
Lawyer	1 (interview)	Northrhine-Westphalia
Court assistants	2 (interview)	Hesse
Court assistant	1 (interview)	Hesse
<i>Total number of persons interviewed</i>	<i>27</i>	

A total of 14 interviews/focus groups with 27 experts from the following professions and functions were carried out:

- public prosecutors
- 4 judges
- 3 experts from 2 court assistancies
- 7 police officers from different hierarchy levels and departments in urban and rural areas (in charge of patrol duties, part of special investigation units for domestic violence)
- 3 experts working in refuges for battered women
- 2 experts from intervention centres
- 1 expert working as a psychosocial process accompaniment
- 2 lawyers for criminal and family law

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The interviews were carried out from June to August 2015. The mean duration of the victim interviews was two hours, the interviews with the experts lasted about 1.5 hours. All interviews were recorded; all victim interviews were transcribed, the interviews with the experts were summarised in detailed records. For the analysis of the material we made case summaries on the basis of the transcripts of the victim interviews. Those, as well as all records and transcriptions were coded and analysed using the software MAXQDA.

5 Results of the interview study and the case file analysis

In the following we present the results of the case file analysis and add relevant information from the case file analysis. First, we focus on general issues related to dealing with cases of domestic violence in law enforcement (investigations, prosecution, and results). In a second step we present the findings linked to specific articles of the EU Directive on Victim Protection 2012/29/EU of the European Union.

5.1 Results I: Dealing with cases of domestic violence in law enforcement (investigations, prosecution, results)

Generally speaking, it is stated that many improvements have been made in the criminal prosecution of offenses in the context of violence perpetrated against partners and that such violence is for the most part no longer treated as a private matter. In the police files examined, “domestic violence” is usually given as the context for the offense, with reference to “family disputes” being rare (cf bff Bundesverband Frauenberatungsstellen und Frauennotrufe 2012).

With regard to police investigations, other actors (victim protection, the judiciary) voice the criticism that investigations at times focus on the reasons for the police action without examining the prior history and context in any detail. The case files on the other hand clearly indicate, however, that this information is requested, but that usually no further investigations are carried out of the offenses described therein.

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From the perspective of the victims surveyed, it would appear that production of evidence plays a key role. It is at the same time criticised that the investigatory authorities do not always follow up on their own evidence (documentation of stalking, notice that weapons have been found and identification of potential witnesses) and victims see themselves as being in charge of producing witnesses.

The situation regarding evidence in cases of domestic violence that has not been documented by physicians or police calls is generally speaking problematic, with children often being the only witnesses, although they are usually not questioned.

From the perspective of the judiciary as well, there are major differences with regard to the intensity and forms of investigations and their documentation. The amount of hard evidence contained in police investigation files and their form and hence the collection of evidence differs greatly, for instance. The judiciary considers photographs of the scene of the crime and injuries, spontaneous statements such as emergency calls or the citation of verbatim statements in records of questioning to be useful. This is not standard, however. Women wearing veils, thereby hiding their injuries, is mentioned as a problem in taking evidence in the procedural files.

While in particular aspects relating to (deficient) willingness on the part of victims to cooperate are stated by the police and judiciary as important factors in criminal prosecution with regard to the various groups of victims, some of the victims surveyed – who displayed a high level of willingness to cooperate during these interviews – create the impression that acts of violence were not adequately prosecuted and punished even in cases of repeated attacks, with charges being dropped or small fines being levied.

Significant local differences in the manner of prosecuting cases of domestic violence were clearly evident among all the groups surveyed. The police and judiciary state as reasons for the manner in which cases of domestic violence are subjected to criminal prosecution the (imputed or actual) willingness of victims to cooperate, secondly the desired preventive effect of charges being filed and sentencing (confronting perpetrators with laws and penalties, setting of borders) or charges being dropped while issuing requirements applying to conduct and behaviour. At some locations, it would appear that dropping charges while issuing requirements – inter alia work with offenders – is the rule. On the whole, one gains the impression that the manner of dealing with cases of violence against partners is marked by considerable latitude on the part of actors involved and that the manner of dealing with such cases appears to depend greatly not just on the individual case, but also on local attitudes and procedures. Members of the judiciary themselves in addition mention personal attitudes and different interests in criminal prosecution as factors explaining why slaps in the face, for example, are alternatively treated as trivialities or the tip of an iceberg.

While the experts surveyed in part play down the importance of the outcome of the procedure for the victims, this is assigned a different weight at least from the perspective of the victims surveyed. Sentences, the type of punishment and degree of penalty or dropping of charges (with and without requirements being attached) are in the view of victims highly relevant to subsequent coping (gaining more control or helplessness), to practical aspects of violence (e.g. to achieve enforcement of civil law regulations and claims to compensation of victims) and especially their future security (setting effective borders for perpetrators).

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5.1.1 Protection of victims in criminal procedures: general assessment

Protection of victims or the provision of appropriate help and aid are generally not considered to be the main task of public prosecutors and courts. Here contact to victim witnesses is exceedingly rare in the first place. The task of protecting victims is above all viewed as a task of police and external third parties. The questioning of victims and experts clearly shows that there are many arrangements and measures relating to protection, support and procedural rights for victim witnesses in criminal procedures involving cases of violence perpetrated against partners. These are not always applied, and not in any obligatory way, however. In some cases, especially with public prosecutors and courts, this involves optional measures that can be applied for. Implementation first of all depends on the powers and attitudes of the respective actors involved in the area of the police and judiciary, but on a significant scale also on external support and assistance for victims as well as their own powers and possibilities. No sanctions can be applied in the case of failure to adhere to or implement these

measures (e.g. with regard to police rules governing the forwarding of information), while protection of victims is not actionable or enforceable.

In individual cases it is moreover evident that victims in some cases do not always exercise their procedural rights for strategic reasons or are advised to display so-called desirable behaviour or in order to avoid negative consequences.

Some experts also mentioned that the interpretation of domestic violence laid down in existing laws and regulations usually reflecting a gender-related power relationship and the high level of victim rights is not (yet) shared by all the actors involved. Experts and victims also state that societal images of victims, perpetrators, but also “marginal groups” and groups of persons recognised by society have an impact on the perception of cases and hence investigations, measures to protect victims and the outcomes of procedures.

5.2 Results II: The police and judiciary’s manner of dealing with victims in light of the victim’s rights directive

Art. 10: right to be heard and to testimony by witnesses

The interviewing of victim witnesses at the police, but particularly at the court as well, is viewed by all groups of persons surveyed first of all to constitute a difficult burden (reactivation of the violence, confrontation with the perpetrator). On the other hand, it is evident that the possibility for victims to testify is crucial in order to state what injustice has been perpetrated upon them, but also to be able to “close the chapter” with the perpetrator and the violent relationship. Testimony by victims is not provided for when proceedings are terminated and orders for punishment are issued anyway, however, and according to the persons surveyed procedural arrangements made before a court, so-called “deals”, are rather unusual. The procedure files also contain information on individual cases in which victims did not provide any testimony because perpetrators admitted to the offense or the victim did not receive the summons to the main hearing because she was on holiday, which meant that the hearing took place without her.

Experts assess the avoidance of testimony by victims before courts as on the one hand being positive and offering victims relief, but at the same time as denying victims an important opportunity to come to terms with what has happened. This ambivalence is also reflected in the reports of victims surveyed. Thus, individual victims express great regret that testimony was “no longer needed” because the procedure was terminated or a settlement was reached and they were not heard as a result and it was hence not possible to confront the perpetrator with his deeds before an official authority.

In qualitative terms, empathy on the part of experts in the judicial system for victim witnesses, who are often under tremendous strain and have in part been traumatised, and understanding for what they say and what they have endured is viewed to be key criteria for an effective execution of the proceeding in the surveys of experts and victims. To this end, (improved) knowledge and

understanding of the dynamics of domestic violence and the consequences of traumatisation are required, especially among judges.

Art. 11: Rights in the event of a decision not to prosecute

The respective victims were not aware of the existing right (OpferFibel³⁸, 15) to a review of a decision not to prosecute. Nor did experts report on this.

Art. 12: The Directive states the following criteria for restorative justice processes: the right of victims to be safeguarded from secondary and repeat victimisation; safe and competent restorative justice services, restorative services are based on the victim's free and informed consent which may be withdrawn at any time, information, the offender has acknowledged the basic facts of the case, confidentiality, separate discussions with the victim and offender.

The judiciary is clearly characterised by different manners of dealing with domestic violence. In some places it is decided not to apply restorative justice processes in cases of domestic violence as a result of the power and dependency relationships that usually exist, while these are applied at other locations. Facilities for the protection of victims usually adopt a critical view of this. Participation in restorative justice processes is voluntary – this has to be ensured by the authority assigned. Victims have described such a process in scattered cases. At the same time, it is evident that voluntary participation is perceived as merely being of a formal nature as a result of the invitation being served by the judicial authorities, or victims are not aware of it in the first place. In a few cases, consent was provided to participation for strategic reasons within the framework of the legal procedure (“show willingness to cooperate”).

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Art. 18: Protection of the dignity of the victim during questioning and when testifying

Experts and victims on the side of Investigative parties – and police officers specialised in domestic violence – almost always take an understanding for victim witnesses and the incidents they report as a given. The introduction of the German Act for Protection against Violence (*Gewaltschutzgesetz*) and the training and police guidelines on conduct associated with such have contributed to considerable improvements in (respectful) interaction with traumatised victim witnesses and with respect to an understanding of the dynamics involved in domestic violence. Although victim witnesses perceive the setting for the investigative questioning as “interrogation”, they are able to cope with it if the mode of procedure and nature of the interview is clearly stated by the police in a transparent manner.

With respect to the initial interview at the police when charges are filed, some persons interviewed experienced an inappropriate and insensitive manner of dealing with their report or they felt that their reports of stalking and threats were not taken seriously.

³⁸ Bundesministerium für Justiz und Verbraucherschutz (2014), from here on abbreviated as OF.

The way that courts deal with such situations is described by experts and victims as predominantly respectful. Experts familiar with a large number of cases criticise lack of sensitivity on the part of individual judges, however, as a result of insufficient knowledge of domestic violence, the burden placed on victims and the consequences of traumatisation, but also due to lack of interest.

The state formulates it as an obligation of courts to protect victims against insults and humiliation before the court. There are only scattered reports by victims who viewed themselves to be subjected to insults and threats by the offender without there being any intervention against such, especially in connection with a foreign language.

The manner in which some defence attorneys interact with victim witnesses is criticised both by victims and experts. The questions posed by defence attorneys are according to these interviewees aimed at discrediting victim witnesses and demoralising them, for example by means of long periods of questioning about personal issues that do not have much to do with the substance matter. Individual reports by victims confirm this. In some cases courts and public prosecutors did not perform their duty to protect victims.

Art. 19: Separation of victims and offenders in proceedings, possibility to avoid contact, separate waiting areas and entryways for victims

One result of the survey was that it showed that witness rooms are available in many places, but not everywhere. Courts attempt to take security precautions such as separate waiting areas and entryways, but cannot always guarantee this; on top of this, it is offered to personally escort witnesses, with this being viewed as helpful. Analysis of the files indicates that in particular the satellite offices of courts, where hearings also take place, do not have witness rooms. The survey of victims also indicates that witness rooms tend to be standard more in urban areas.

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Art. 20: No unjustified delay in interviewing victims, medical examinations are kept to a minimum, the number of interviews of victims is kept to a minimum, victims may be accompanied by their legal representative and a person of their choice, [this is in principle possible in the case of interviews (information leaflet) if the persons being interviewed consent to such (OF, 16); right to be accompanied by a legal representative; if so requested: possibility to testify before court with a legal representative present OF, 23]

There is a right to be accompanied by a female legal representative. In addition, a person of the victim's choice can also accompany the witness in interviews or in giving testimony in court. Especially experts note that aside from the legal representative it is in many cases not desired for the witness to be accompanied to police questionings (influencing of the victim). The presence of an accompanying person/a legal representative before the court, e.g. in connection with psycho-social support in the proceedings, is generally possible if only because the public is admitted to criminal proceedings, and persons providing psycho-social support are usually allowed to sit next to the victim during testimony. In scattered cases – usually when the defence petitions such – the presence of persons providing psycho-social support or these persons sitting next to the victim is denied.

The files as well as interviews with experts and victims create the impression that interviews are generally scheduled and performed within a period of two weeks. In some cases there are delays of another two weeks, however, as a result of shortages of personnel, but also due to the summons being sent by mail. The time period of two weeks is viewed by many to be too long because the willingness of victims to testify decreases over time. With excessive delays of half a year and more – according to all the groups surveyed – proceedings are generally terminated, especially when this applies to an indictment and the main proceedings.

The repeated interviewing of victims (at least 3 times: when the charges are filed or during intervention, by specialised police departments, and before the court) constitutes a heavy burden in the view of all the groups surveyed and victims usually have little understanding for such, as the importance of the different phases of the proceedings and the different parties involved in the proceedings are not transparently described to them. It is also above all considered burdensome that statements have to be exactly the same at each stage, which is perceived as a difficulty over the course of time.

Art. 21: Protection of privacy

It is only possible to exclude the public if negative details from personal lives are to be discussed in the main proceedings (OF, 27f). Several victims criticise the presence of the public during the proceedings. Although it is possible to petition for the public to be excluded, according to the survey of experts this is rare and the courts tend to be “disinclined” to do so or, if they do so, then in the case of sexual offenses where it is foreseeable that intimate details will be discussed.

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Art. 22: Individual assessment of specific protection needs of victims (and assessment of such repeated during the proceedings) in order to determine whether the victim has a right to special measures as provided for under Articles 23 and 24 – which is already clear-cut in the case of children; assessment of vulnerability; special attention is in particular to focus on: the personal characteristics of the victim, the type or nature of the crime; particular attention is to be paid to “victims whose relationship to and dependence on the offender make them particularly vulnerable”, victims of gender-based violence and victims with disabilities; the wishes of the victim are to be taken into account in the assessment

In addition to their task of conducting investigations if there is a suspicion of criminal offenses, the police have the statutory task of assessing the overall danger and taking counter-measures. Surveys of experts and victims both indicate, however, that information on specific needs of victims such as provided for in Article 22 is not regularly collected by the police at least following and in addition to a police call. Nor is such a subject in the subsequent course of investigations or as a result of the files. There are pilot projects at individual locations on how to deal with high-risk cases, however. In some cases the police focus on the event that led to charges being filed, but not always on the ongoing threat that might underlie it. Individual surveys of victims also indicate that in spite of numerous indications, high-risk cases are not always recognised as such. Special needs of victims are at times viewed to be predominantly problems hindering investigations if the victim for example does not speak German or might not tell the truth as a result of psychological illnesses. Facilities for the

protection of victims and at the same time in particular psychosocial support in proceedings can play an important role if these are involved both regarding specific needs of victims well as with regard to dealing with the current vulnerability. This was also clear from the individual reports by victims. In some cases they informed respective police and judicial actors, e.g. in order to clear up questions regarding guard protection at the court. Such external offices for advice do not have any mandate from the judiciary, however, and their assessments are not requested in any systematic way.

From the perspective of the judiciary, the fact that it makes key decisions on the further proceedings, but generally can only gain a picture of the situation of the victim by means of the investigatory file, also poses problems. In some cases public prosecutors report that they summon some victim witnesses for this reason. As a rule, however, the public prosecutor is not supposed to have any contact to the victim witness. Public prosecutors are increasingly making use of the so-called victim report through court assistance at scattered locations, which is laid down in the Criminal Procedure Code, but is scarcely used in actual practice at many courts, including due to constraints on resources. This instrument is used by some courts to collect information on the consequences of offenses and situation of victims, but is also frequently used to assess needs of victims. Positive effects for victims are described, as they are informed about the future course of the proceedings and are possibly referred to support organisations, but primarily for the criminal proceedings themselves: the victim report provides information on willingness to testify, offers information useful in taking victim's needs into account in the structure of the proceedings and the type of the penalty, and frequently serves to increase willingness to cooperate by taking victim needs into account and hence helps improve criminal prosecution. Assignment of an internal office or person from the judiciary appears to be crucial to the success of this instrument. The victim report by the court assistance is part of the investigatory file.

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Art. 23: Measures in the event of specific protection needs (victims with specific protection needs, victims of gender-based violence): interviews being carried out in premises designed for such purpose, trained professionals, interviews being carried out by the same persons, by a person of the same gender; at court: no unnecessary questioning, prevent visual contact, use of communication technology

In the course of the introduction of the German Act on Protection against Violence, police personnel specialised in offenses in the area of domestic violence have been increasingly introduced and police officers provided comprehensive training. All groups of persons surveyed – experts and victims – note without exception that victims as a rule find interaction with the police investigating the matter to be positive, empathetic and competent in spite of the strain and stress involved in the interview situation. In some cases victims receive continuous contact persons in the guise of individual police officers – both police and victims attest to this – establishing an intense relationship based on trust and confidence, with victims contacting these persons in situations of vulnerability. Experience with police offering protection and police responding to calls of course differs. In the case of emergency calls, victims experience the police as rescuers offering protection. In the case of charges being spontaneously filed at police stations they at times find that non-physical attacks such as stalking and threats are not taken seriously, even if they experience strong support in others.

Victims can usually be interviewed by a woman at specialised police departments. Female officers are not always available, however. The analysis of the files, for instance, indicates that one-fourth of staff performing the interviews were males.

With regard to public prosecutors and the judiciary, above all other experts criticise the lack of knowledge about domestic violence and the results of traumatisation along with deficient sensitivity. In particular, judges are not obligated to undergo further training. Still, victims reported largely positive experiences in their interactions with judges.

Avoidance of visual contact – technical communication of testimony by victims before court

Testimony by victim witnesses with the aid of technical communication methods (video conference) was reported to be possible only for children and in cases of exception if there is an acute danger of severe negative effects on the physical and psychological well-being of the witness (OF 29). There are similar barriers to a petition for testimony without the indicted party being present (OF 28).

Testimony by the victim witness in the presence of the indicted party is described as posing severe stress and strain by all groups of persons surveyed. The desire for separate interviews using communication technology is frequently voiced by facilities providing support for victims and by victims themselves. In the view of the experts surveyed, these only take place in absolute cases of exception. The right of the offender to be present at the hearing is considered by the judiciary to be one of the highest goods in the Criminal Procedure Code, viewing it to be a crucial fundamental right of the party facing charges which should not be curtailed. Medical-psychological expertise evidencing that victims cannot be interviewed in the presence of the offender and the severe re-traumatising effects of a confrontation is also generally required if video conferences are to be used. Nor are all courts equipped with the equipment required. Facilities providing protection to victims note that use of these resources also poses a burden, moreover harbouring the danger that the interview has to be repeated if any problems crop up with the communication equipment or in the execution.

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In the view of experts, separate interviews before courts take place more often in the case of children; one victim report notes, however, that separate interviews are not standard with children acting as witnesses, either, and that victim witnesses are not generally alerted to this possibility.

One of the options to avoid testimony by victims in the presence of the offender cited by representatives of the judiciary that is rarely used is having the investigatory judge perform the questioning and acting as a later witness. In individual high-risk cases reported, this was demonstrated to be a good instrument with which to protect victims and encourage willingness to testify. Analysis of the files shows, however, that this instrument only makes sense in offering protection of victims if the victim is not to be summoned before the court once again, thus producing the risk of differing testimony. In one case the proceedings were terminated as a result of conflicting testimonies and thus insufficient credibility.

Above all in the area of protection for victims, many victims and experts report the importance of shielding the victim with an advisor or legal counsel. Victims report that although they experience

every movement and statement with extreme intensity, they feel strengthened by the physical presence of advisors. Some judges consider the possibility of defence and for the court to observe authentic reactions by victims to offenders and hence unprotected confrontation to be important factors in arriving at the truth of the matter.

Art. 24: Children as victims, the possibility to use audio-visual recordings before the court

Analysis of the files shows that the role of children as indirect victims of violence perpetrated against their mother is not perceived even though in many cases the youth welfare office is notified as a result of “domestic violence between adults”.

Art. 10: Children as witnesses: children’s age and maturity is to be duly taken into account when a child victim is to be heard

Generally speaking, children have the right to refuse to testify against their fathers. Interviews of victims and above all analysis of the files at the same time indicate the potential importance of children as witnesses; they account for more than half of all witnesses and are frequently the only ones. No police interviews of children as victims took place in any documented case, however, even when the children were in some cases over 12 years of age. According to one victim report, although her children were interviewed by the police, there was no possibility to make use of the recordings of the interviews or conduct a separate interview before the court, nor were they alerted to this possibility. Because the child did not want to testify in the presence of his father and the public once again, and no other options were provided, the case was dropped.

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Understanding and being understood

From the perspective of victims, an understanding for their situation and what they report are the key criteria for them to be properly perceived by the police and judiciary. Experience gained here can also have repercussions for the behaviour of victims in the criminal proceedings – this is indicated both by surveys of victims as well as statements of witnesses (willingness to cooperate, confidence in the protection). Being taken seriously and perceived as a person who has suffered harm is one of the main concerns of victim witnesses. The ambivalence of victim witnesses - they provide information and have at the same time suffered harm – is generally reflected in experts’ statements. With almost all groups of profession, especially the police, progress is seen to have been made especially with investigating police as many of them have been trained and are specialized in DV issues.

Art. 3: Support depending upon the needs of the victim to understand and to be understood; communication in simple language, orally or in writing; the right to support in the first contact by a person of the victim’s choice in order to be understood.

Art. 5: Possibility to make a complaint in the language that victims understand and receive written acknowledgement of the complaint in a language they understand

Art. 7: Right to interpretation and translation at interviews or questioning; right to translation of important information to exercise victims’ own rights in the criminal proceedings (if so requested)

[information leaflet available in 11 languages besides German] – e.g. ending of the proceedings + reasons for such; right to information about the time and place of the trial in a language that they understand, the right to translation of the most important passages in documents; the obligation to assess needs for translation; possibilities to challenge a decision not to provide interpretation or translation

Victims have a right to translation and interpretation. While only moderate problems were reported in this regard in the survey of experts, analysis of the files showed that there is a greater need for improvement with regard to translation work and the availability of information in victims' mother tongue. Experts point out that although there is a pool of translators available, there is shortage in some languages; the shortage of female translators and neutral translators (not having any contact to the offender) is considered to be a problem (cf Kavemann 2013). Police and organisations for the protection of victims in some cases make use of the different languages offered on the national assistance telephone line, which has proven to be very helpful in many cases, even if it was not set up to provide assistance in proceedings.

Analysis of the files shows that no professional interpreting was offered at the police interview and victims who were imputed to have a need for interpretation were called upon to bring an interpreter with them in the summons letter. Summons letters to the court and relating to testimony are written in German, with cases in the analysis of the files indicating that this might lead to victims not appearing and this being interpreted as refusal to give testimony. Translators and interpreters before court were in most cases summoned through the party facing charges and then translated the testimony of the victim as well. An interview with a victim indicated that this can cast considerable doubt on the neutrality of the translation.

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Although leaflets providing information to witnesses are available in many languages, these are assessed by the experts surveyed as almost impossible to understand for German speakers as well. Information leaflets and brochures in an easy-to-understand language are lacking. Experts from the judiciary assume that relevant information must be provided through explanation and for this reason are assigned a central role in the support of victims.

Information

Art. 4: Right to information on support, possibility to file complaints with regard to a criminal offense, proceedings, protection, legal advice / legal aid, compensation of victims, rights – inter alia to translation, international rights, possibility to make complaints when rights are not respected; restorative justice services, reimbursement of expenses incurred) [information leaflet on the rights of injured parties and persons suffering harm in criminal proceedings, victim primer]

All groups of persons surveyed emphasised the great relevance of information on proceedings and rights of victims, opportunities for protection and support for victims and proceedings. Experts and victims underscore that access to information is highly dependent on external personal support and explanation, however. It is above all the task of the police in its capacity as first contact to provide the information required on the upcoming proceedings and additional possibilities for support in a

suitable manner as well as establish contact to a support structure by means of referral to an intervention office. There are stipulated modes of procedure in the *Länder's* action guidelines on how the police are to deal with cases of domestic violence. Thus information leaflets should be issued with all the required information as a rule.

From the perspective of experts, forwarding of information, for instance using information leaflets or via and at intervention offices through the police is generally seen as positive and well established. Written information available (information leaflets) is usually not considered to be sufficient, however, and is assessed as inappropriate for many groups of persons. Oral attention to support for victims and psycho-social assistance, however, which offers support and case management for many proceedings above and beyond initial intervention, appears in part to depend on whether the victim makes the impression of being emotionally under pressure. Mistaken assessments can occur here. One fundamental problem is that psychosocial support related to criminal proceedings is not yet known everywhere. There will probably be a change in a positive direction here with the implementation of the Victim Protection Directive and the planned strengthening of psycho-social support in trials.

It became clear especially with respect to victims as well as in individual case files that in spite of established procedures there is still in part a need for improvements with regard to the police, but also in part with regard to the accessory prosecution counsel. One relevant part of the persons surveyed did not receive any information on support possibilities in their first contact with the police, sometimes after even asking for such, nor did they receive the information leaflets providing this information, although they found these facilities through other channels or were only told about them later when they came into contact with specialised police departments. Nor did the analysis of the files provide any insight on regular and documented forwarding of information in the first contact with the police; it is also possible that the provision of information leaflets, for example, might not be documented.

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Surveys of victims also indicate a need for improvement with regard to information on the possibility of protection against violence under civil law and about procedural rights in the further course of the proceedings. Deficits are also due to faulty / insufficient advice from attorneys, however. In some cases deficient or incorrectly understood information (relating to protection against violence, purported financial advantages in a case where charges were withdrawn, refusal to testify due to ignorance of separate interview possibilities for children) have had a significantly (negative) influence on the course of the case and proceedings, leading to prosecution being dropped or an escalation of the violence.

Experts from the judiciary term it a problem that they cannot determine whether written summons and the information provided to victims in this connection are understood by them. One useful instrument to ensure that victims are informed about proceedings and possibilities for support has proven to be the public prosecutor assigning the court assistance service to work in a proactive way. This function has not become one of the standard tasks of court assistance at all places so far, however.

Art. 6: The right to information on the case: any decision to end the investigation and a brief statement of the reasons [given, OF 13, 31], the time and place of the trial [upon request – if the victim has not been summoned as witness (OF 32)], the nature of the charges; the right to information on request (unless this is already granted as a procedural right): the state of the proceedings [always: with a victim complainant in criminal proceedings (OF 31), always upon request (OF 32)], the decision and brief summary of the reasons for such, notification of victims upon release of the offender, escape of the offender if there is a danger or an identified risk of harm to the victim [also here: always upon request, otherwise not (OF 32); in the case of victim complainant in criminal proceedings: information on the offender being remanded in custody, even if no evidence of a legitimate interest in such is provided; also more far-reaching rights if there is a legitimate interest in such – information on address, financial situation]

Special information and participation rights with regard to the trial can generally be derived without any special obligation to justify such from the power to join in criminal proceedings as complainant depending upon certain offences, including offenses against the sexual self-determination, physical integrity, personal freedom, stalking and a violation of orders issued under the German Act for Protection against Violence (OF 35). These often include cases of domestic violence. Even if the victim does not join in the criminal proceedings as complainant, victims can apply for information on the case if they demonstrate a legitimate interest in such. Information on release from custody is supplied upon requested, but not automatically.

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It is clear from the reports by experts from the area of victim protection and also in reports by victims that even in the case of victims joining in criminal proceedings as complainants they are not informed about the outcome of the proceedings or whether the offender will be released from custody with any certainty. According to statements by individual victims and experts from the area of victim protection, it is apparent that victims are in some cases not informed when proceedings are ended, or are only provided such information in response to a query. In one case a victim of attempted manslaughter only learned officially from the youth welfare office that the offender had been released from prison prematurely. The persons interviewed called for this information to be provided on a regular, pro-active basis.

Availability and access to victim support services; referral

Art.9: Type and availability of support services: minimum services: information, advice and support relevant to the rights of victims; access to compensation for victims; preparation for attendance at the trial, information on criminal proceedings and the role of the victim; forwarding to specialist support services; emotional and, where available, psychological support; advice relating to financial and practical issues arising from the crime; advice relating to the risk and prevention of secondary and repeat victimisation; specialist support services are to provide shelters or appropriate interim accommodation for victims; specific services for victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling

Art. 8: Referral after charges are filed must be ensured [in the information leaflet – note regarding Weißer Ring and victim support offices]; support: confidential, free of charge, attorneys; before, during and after the criminal proceedings, including for family members; establishment of services where they are lacking, use of services in place; specialist services in addition to or integrated in general victim support facilities; access to support: not dependent on a complaint or charges being filed by the victim [advice for victims and witness assistance offices + contact addresses OF18]

Generally speaking there is a network offering good coverage at various decentralised support facilities that are free of charge, confidential and provide legal advice from attorneys in connection with domestic violence (women's shelters, intervention offices as first contact points, advice centres in general, specialised in gender-based violence, emergency hotlines) and also specific support in proceedings (victim support offices, psycho-social support in trials). The national telephone hotline also offers first-contact information in various languages. There is a broad range of services, but these do not offer blanket coverage throughout the country, especially in rural regions. Funding is not secure or it is permanently up in the air for a majority of advice and support services. The funding of psycho-social support in trials during proceedings has not yet been clearly laid down in most of the German *Länder*. This important instrument in the implementation of the European Victim Protection Directive is only in the process of being established in many places.

The reports by experts from the area of victim protection and the judiciary but also from individual reports by victims reveal that these have the potential to meet the wide-ranging needs of victim witnesses along the lines of comprehensive support in proceedings and preparation as well as along the lines of case management. These structures have not yet been set up in some *Länder*, however. Thus the analysis of the files for one of the German *Länder* did not document one single case of psycho-social trial support, nor did the experts surveyed report scarcely any experience with this instrument.

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Major gaps are described in various places in the area of psycho-therapeutic services as well. Here victim support facilities in some cases fill in as a temporary replacement.

On the whole, the surveys indicate the major importance of various support possibilities with regard to coping with the aftermath of offenses, but also with regard to coping with criminal proceedings. In most cases, positive effects are described not only for victims themselves, but also for proceedings as well (capability of testifying). Some experts from the area of the judiciary and victim protection note, however, that support of victims (in particular psychological advice) is at times considered to contradict the interest of discovering the truth in the criminal proceedings and at times is considered (by judges and defence attorneys) to cast doubt on the credibility of victim witnesses.

The police statutes of the German *Länder* provide arrangements for referral to intervention offices, which have the task of contacting victims in a proactive manner and of also informing victims about various protection and support possibilities in the first advisory meeting, including of a legal nature, if need be referring them to specialist facilities.

The forwarding of information on cases from the police to intervention offices takes place automatically in some German *Länder*, while in others this only takes place if the victim consents in

writing to her contact data being forwarded. The police are obligated to inform victims thereof and ask for their consent. In the files of one of the German *Länder* where the forwarding of data is tied to conditions, it is often not clear whether victims were asked for their consent to their data being forwarded, and actual forwarding of data is only documented in a small number of cases.

The surveys of victims also suggest that referral to or information on support services is not always provided especially aside from specialised police departments and in rural areas. The information leaflets that the police are supposed to provide in calls relating to domestic violence, which are available in 12 different languages, contain information on various support services. These services are very wide-ranging and differentiated in major cities. There are indications that these information leaflets are not always handed out.

Court assistance also performs a proactive advice and information function with respect to the proceedings at individual courts. This is used in part only after the investigation phase, but in other cases already shortly following the first intervention by the police.

Cooperation between actors

Experts from the area of the judiciary and victim protection state that good cooperation and networks are helpful in making the differentiated help network already in place available to victims, but also in some circumstances for case-related cooperation as well. The round tables on domestic violence are described as helpful in offering insight into the activities of other professions. Especially the judiciary has to rely on a network in taking into account the needs of victims, as it otherwise has little contact to victims or knowledge about their needs. There are generally scarcely any case-related contacts between the public prosecutor and police, however. Good existing cooperative relationships and networks frequently depend on the personal commitment of individuals, but also on the continuity of persons and the size of the community. The high fluctuation rate at local courts in particular is considered to pose a problem impeding involvement in round tables and working groups and hence the conveyance of knowledge about domestic violence.

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Legal aid

Art. 13: Legal aid / legal assistance for victims who participate in criminal proceedings [provided for in principle, right to legal advisor when participating in criminal proceedings, right to examine file, support, accompaniment to police questioning and before the court]

There is also a right to legal representation for victims who are entitled to participate as complainants in criminal proceedings in the case of offenses against sexual self-determination, physical integrity and stalking.

Experts and victims draw attention to the key importance of legal representation when taking part in criminal proceedings as complainant with regard to preparation and support of the victim witness in the criminal proceedings, but also with regard to the application for civil-law protection against violence or the trial cost support. Attorneys view the restriction on the right to examine files that can

be observed at present at some court locations following a ruling handed down by Hamburg Superior Regional Court in a case as problematic. This has denied key procedural rights on the part of the victim complainant in criminal proceedings, and in cases in which this precedent is quoted, the victim's right to examine the procedural files is sometimes withheld. Some persons interviewed also viewed the scheduling of hearing dates without coordinating this with the legal representatives of the victim complainant in the criminal proceeding to pose problems as well.

From the victim's perspective, it is evident that they are overwhelmed by the search for a suitable legal representative and dependent on information from victim support facilities. Above all, attorneys with experience in the area of protection against violence prove helpful.

Financial aspects that may have an influence on separation and criminal proceedings (costs of a dwelling, procedural costs for criminal proceedings and possible proceedings for protection against violence, visit contacts)

In the area of civil-law proceedings for protection against violence, victims have to accept the risk of bearing the costs of the proceedings (including court expenses and attorney's fees of the opposing side) themselves if they lose the case when there is a hearing (instead of an injunctive order without any hearing). In some cases victims report having withdrawn their petition after the court explained that the financial burden could be considerable.

Art. 14: Right to reimbursement of expenses in criminal proceedings

Right to reimbursement of costs in criminal proceedings [costs of legal representation for victims of severe offenses as a result of active participation in criminal proceedings, (information leaflet, OF, 41); the right to compensation for losses of earnings and travel expenses for witnesses (OF, 26); possible support for advice and trial expense support for persons with low income

The right to assignment of a legal representative in the case of gender-based violence and serious criminal offenses are considered to be a positive step and constitute major progress with regard to victim protection. Above and beyond this it is generally speaking possible to apply for trial expense support if victims cannot assert their interests adequately themselves or it is unreasonable to expect this of them or they cannot pay the costs of such by themselves (OF, 40). Trial cost support must be applied for and the prospects of success must be assessed by the court in advance. It is reported at particular sites that funding of legal counsel by means of trial expense support is being treated ever more restrictively with the exception of cases of gender-based violence and it is scarcely possible for victims to receive a legal aid voucher without support. For many victims, trial costs constitute a major impediment.

With other costs incurred in connection with a separation (removals, etc.), applications can be filed with the (voluntary) Weißer Ring, although there is no entitlement to receiving these benefits. In the case of costs incurred in the area of medical treatment or compensation payments for support, applications can also be filed for victim compensation benefits with the German *Länder*. These benefits are only granted in response to a small portion of applications, however, and usually only if

the offender has been sentenced in criminal proceedings (cf Grundel & Blättner 2010). Interviews of victims show that the review procedure and assessment put a heavy strain on victims, but that the compensation benefits granted to them are experienced as important and indispensable support.

Art. 16: Right to compensation payments by the offender (unless this is provided for in other legal proceedings) [given: compensation claims in criminal proceedings: adhesion proceedings, (information leaflet, OF 44f.)]

In addition to the payment of money for pain and suffering as a requirement imposed on the offender, additional civil-law compensation claims may also be considered in criminal proceedings within the framework of the so-called “adhesion procedure”. The criminal court judges surveyed do not consider this to make much sense because it causes delays in the proceedings and know-how in the area of civil law is required to decide the matter. Instead, it would expedite things if sentences resulting from criminal proceedings were binding on the civil courts as well. At present, evidence has to be taken and assessed completely once again – several victims also report this. This constitutes a considerable strain on victims, in some cases producing contradictory assessments and hence costs risks for victims in the civil proceedings. Several victims criticise that in spite of the offender being sentenced under criminal law and being ordered to pay pain and suffering they have to make the effort of initiating a civil procedure and making advance payment of the costs (attorney fees) and furthermore face the risk of losing the case and having to bear additional costs. Some victims would therefore rather waive compensation payments, in part also because they assume that there “is nothing to get” because of the income situation of the offender.

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The surveys of victims indicate that not only the direct costs incurred as a result of the offense and coping with the aftermath of the offense pose a financial burden, but also the permanent loss of income due to health impairment and work disability or a reduction in earning capacity as well as opportunity costs due to disruptions in the working career. Nor can these permanent financial costs incurred as a result of the offense be completely compensated for by victim compensation benefits, even if the application for these is successful.

Support by the police, public prosecutor and court

Art: 18 Protection from secondary and repeat victimisation, intimidation, retaliation, protection against emotional or psychological harm / suffering

Protective measures against repeat victimisation include first of all measures to prevent dangers by the police: police orders in situations involving acute danger and cautioning the person posing the danger OF 19]. If a police order is issued (for a maximum of 2 weeks), or also independently of this, civil-law protection orders may also be petitioned with a court under law affording protection against violence. These orders may involve a prohibition against contact or coming near the victim and/or eviction from the common household.

Measures taken by the police to preclude dangers are assessed as very positive by all the groups surveyed and also considered by victims to offer effective protection in a situation of acute threat.

And although no standardised risk assessment is performed, experts attest to the police generally having a keen awareness of risk.

At the same time, it is clear in all surveys and analyses of files that police orders and protection orders as well are not (consistently) monitored or followed up on and that effective sanctions are not applied if they are not obeyed, either.

Nor are victims always alerted to the possibility of protection against violence under civil law by the police. If victims fail to contact an intervention office or another support facility, there is a danger that they will not learn about this possibility.

All the experts as well as the victims surveyed themselves draw attention to the close connection between subjective feelings of security and protection against repeat victimisation and revenge on the one hand and the willingness to cooperate in criminal proceedings on the other. Various needs for improvement are evident with respect to security and protection measures:

- Victims surveyed in some cases did not receive sufficient protection in cases of stalking and threats – however, in the files analysed, threats were taken quite seriously and investigated and prosecuted meticulously. The police in some cases also draw attention to deficits in legal powers to intervene, even in relationships that have been known for severe violence, as long as the offender does not become physically violent in an overt manner. Especially in cases of stalking, it would appear that the legal situation would need to be changed in order to improve the police's capacity for intervention and also criminal prosecution of stalking (cf. Clemm 2012). The legal conditions for criminal prosecution and sanctioning stalking have been criticized as a barrier: the victim has to prove that stalking has led to a substantial change in their conduct of life. After this problem has been being broadly discussed by many experts the German Ministry for Justice has recently (02/2016) drafted a Criminal Law Reform to lower the threshold for prosecuting and sanctioning stalking.
- Needs for improvement are clearly evident in some of the victim reports with respect to the police in charge of protection and responding to calls. Thus, emergency calls in the case of stalking and threats are sometimes not taken seriously, even in high-risk cases, or that which happens is played down if no direct physical violence was involved.
- In particular, experts surveyed from the area of victim protection, but also victims surveyed who have common children with the offender point to the problem that decisions on visitation and custody of the children first of all do not take violence into account as posing a danger to children's well-being, and secondly, that orders issued under the German Act on Protection against Violence can often be undermined in de facto terms in actual practice, with monitoring to ensure orders are respected only taking place for a short span of time (cf. Göpner & Grieger 2012; Ladenburger 2011).
- In scattered cases the judiciary addresses the aspect of protection against victimisation as being of direct relevance to the criminal proceedings. Thus, in cases of exception an

investigatory judge is assigned to ensure that victim and offender are kept separate and the victim is willing to testify. The members of the judiciary for the most part voice that victim protection is not one of their primary tasks, however.

- The various data sources suggest that the practice of only communicating with the victim by mail might pose certain problems. If the victim does not respond to letters from the police / public prosecutor or does not attend a scheduled police interview, the case is generally dropped, as it is assumed she does not wish prosecution or will not testify. However, especially in high-risk cases, it is possible that the offender intercepts such letters. The use of legal assistants at some places may contribute to a more personal contact being established with the victim and make situations like these less likely.
- In the case of particular vulnerability, the victim's home address is not stated in questioning in presence of the perpetrator (OF, 17), with a contact address being provided instead as a special protective measure. This is described by experts as not posing any problem in general. Nevertheless, some experts reported some high-risk cases in which the victim's place of residence was not kept from the perpetrator.

General aspects

Art. 25: Training of practitioners regarding needs of victims (police, judges, public prosecutors, attorneys, victim protection)

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Since the introduction of the German Act for Protection against Violence, training has taken place especially at the police on the dynamics of domestic violence and how to deal with victims. In addition, the establishment of specially trained police units, leading to specialisation and expanded competences and skills, is assessed as positive. The intensity and continuity of such training varies among the German *Länder*, however. In some cases it is criticised that this training does not take place on a continuous basis (any longer) and that the percentage of properly trained staff is in permanent decline.

Experts see an expanded need for skills and competences above all among public prosecutors and judges. Here knowledge of dynamics in relationships in connection with domestic violence, the ambivalence of victim witnesses, the effects of traumatisation and ability to communicate, typical modes of behaviour on the part of offenders as well as the strain and stress associated with criminal proceedings is relatively limited and depends on personal commitment. In this context it is often noted that judges are not obligated to take part in further training.

Special departments for domestic violence in the public prosecutor's office are also assessed in positive terms by experts. At the same time, it is noted that the standard practice for cases not dealt with in specialised departments, whereby all cases against a given person are assigned to the same prosecutor, offers the advantage of the entire range of offenses committed by offenders also being taken into account. Specialisation at local courts may perhaps be a good idea in order to make it easier to carry out training programmes in this area of offenses.

Art. 26: Member States must act to ensure that the Directive is made known

Most police staff and members of the judiciary were not aware of the Victim's Rights Directive and the national process of implementation as of the period of the survey (summer of 2015), with this applying in part to representatives of victim support facilities as well. Nor were most actors aware (yet) of the greater role being planned for psycho-social support related to criminal proceedings.

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