



*Improving Needs Assessment and Victims Support  
in Domestic Violence Related Criminal Proceedings*

## **Rights and needs of victims of intimate-partner violence in criminal proceedings in Portugal**

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# 1. Introduction

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<sup>1</sup>. 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.

In Portugal, the combat against domestic violence has mainly been developed through the criminal system, with a special focus on prosecution, conviction and rehabilitation of perpetrators. Although recognising that domestic violence affects mainly women as victims and is frequently perpetrated by men, policies and legal regulations in Portugal still address domestic violence in a gender neutral way.

Indeed, although Portugal has a framework Law on domestic violence, a gender perspective is not included. Domestic violence or intimate partner violence are still often perceived as a family matter, which raises serious dilemmas in regard to the necessary intervention of the justice system along the different stages. Nevertheless, the present NAP – V National Plan to Prevent and Combat Domestic and Gender-based Violence (2014-2017)<sup>2</sup> – incorporates an explicit gender-based perspective into

<sup>1</sup> CESIS (coordination, PT), Dhpol (DE), IKF (AT), Safe Ireland (IE), Verwey-Jonker Institute (NL) and ZOOM (DE).

<sup>2</sup> V National Plan to Prevent and Combat Domestic and Gender-based Violence (2014-2017). Available at: [www.cig.gov.pt/wp-content/uploads/2014/06/CIG-VPNPCVDG\\_2014-2017\\_ENG.pdf](http://www.cig.gov.pt/wp-content/uploads/2014/06/CIG-VPNPCVDG_2014-2017_ENG.pdf).



the overall policies on domestic violence, by “expanding its [V NAP] implementation scope, until then limited to domestic violence, to other forms of gender-based violence.

Support services and organisations aiming at the protection of victims of domestic violence started to emerge early in the 1990’s driven by different laws. In 2009, Law 112/2009 established the legal regime applicable to the prevention, protection, and assistance of victims of domestic violence. This specific legislation regarding domestic violence focuses on measures for the protection of victims from further abuse, and although not addressing criminalisation or punishment, it introduced tools and procedures aiming at promoting the safety of victims. More recently, in September 2015 Law 130/2015 introduces a new change to the Criminal Code aiming at the transposition of EU Directive 2012/29/EU. It approves the Victim’s Standing and regulates provisions for the support and protection of victims of crime.

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). Such analysis is framed by the main features of the Portuguese context as regards the operation of the criminal justice, the existing relevant policies and the mechanisms for the protection and support to victims of domestic violence.

Chapter three details the main features of the empirical approach adopted in the study regarding both the collection of data from the case files and the qualitative dimension of the study. Chapter 4 presents and discusses the outcomes of the analysis of the information contained in the 70 files which were scrutinised, highlighting the major relevant conclusions in relation to the main characteristics of the Portuguese criminal justice system. Chapter 5 provides a comparative and contrasting analysis of the information collected during the interviews with victims and professionals and the focus groups held with different groups of relevant professionals working in the specific field of domestic violence. Chapter 6 concludes with a discussion of the main findings of the quantitative and the qualitative analysis previously conducted – keeping the centrality of the needs and voices of the women who have experienced IPV – in light of the relevant provisions contained in the Victims’ Directive.

## 2. Empirical approach – information on data collection and analysis

### 2.1. Case file analysis

Access to case files was facilitated by the direct intervention of the Attorney's General Office, which indicated two different judicial jurisdictions where the collection of data could be taken forward: Vila Franca de Xira and Loures, both in the Lisbon metropolitan area.

The choice of these two jurisdictions allowed covering two different areas, both in terms of geographical characteristics (urban vs. rural areas) and existence (or not) of domestic violence interagency networks.

Both jurisdictions cooperated actively with the research team during the whole process which facilitated access to the files and the availability of adequate facilities for the team to carry out the collection of data from the files. All the data was collected in the premises of the two courts.

- The files analysed were selected by the public prosecutors according to the criteria which had been previously agreed by the transnational partnership: Sex (women victims and male defendants);
- Age (both aged 18 years old or more);
- Intimate partner violence;
- Geographical coverage (urban and rural);
- Recent closed files (select from most recent files backwards);
- Different outcomes (dismissed files up to a maximum of 50 and tried files up to a minimum of 20).

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Most case files were collected in the Loures' jurisdiction (78.6%), which covers a significantly larger population. A total of 15 files were collected in Vila Franca de Xira (21.4%), all of them dismissed.

Data collection took place between December 2014 and February 2015. A total of 70 case files were examined, 50 of which were dismissed while 20 faced charges filed by the Public Prosecutor's Office. Each case file deals with one victim and one perpetrator. Most of the tried files were extremely complex and extensive, which delayed significantly the foreseen collection period.

The information was collected directly from the files and introduced into a specific collection tool created by the project's partnership and slightly adapted in order to take into account the nature of the Portuguese justice system.

The information was then introduced into an SPSS data basis, cross-checked for quality purposes and analysed. 70 files were analysed, corresponding to a number of in as many victims and perpetrators

### 2.2. Interviews of practitioners and women victims of intimate-partner violence



## 2.3. Sample

The decision made at the INASC Project central office was to draw up, *a priori*, a list of practitioners to be interviewed, namely 3 judges and 10 public prosecutors. In addition to this, two discussion groups were included, one of them aimed at the police authorities working in the Public Safety Police (*Polícia de Segurança Pública, PSP*) and the Republican National Guard (*Guarda Nacional Republicana, GNR*) and the other targeting practitioners working in the victim-support services.

During the project, and in a meeting convened by the Portuguese committee following-up the Project, it was felt that it would be pertinent to interview another class of practitioners – the lawyers. The Project team therefore decided to reduce the number of public prosecutors on the list to be interviewed owing to the fact that this class of practitioners belonging to the justice system was represented more widely in the sample. The sample was thus adjusted to 8 public prosecutors and 2 lawyers.

The procedure whereby our sample was made, was based on the one hand, upon the interest and the willingness shown by some of the people in the Project follow-up committee (5) precisely because they belonged to the justice system itself and were working in the representative bodies of this class of practitioners (such as, for example, the Public Prosecutors Union (*Sindicato dos Magistrados do Ministério Público*), the Portuguese Association of Women Lawyers (*Associação Portuguesa de Mulheres Juristas*), the Union Association of Portuguese Judges (*Associação Sindical de Juizes Portugueses*) and the Supreme Judicial Council (*Conselho Superior da Magistratura*)). On the other hand, we completed our sample by getting directly in touch with the practitioners who had been referred to us (7).

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We also sought to include the various District Prosecutor-Generals in the Public Prosecutor's Office where we interviewed the Prosecutor-Generals of the Districts of Lisbon – namely in the District Courts in Lisbon (Almada), North Lisbon (Loures and Vila Franca de Xira) and East Lisbon (Sintra and Cascais); and the District Courts of Évora and Oporto.

Regarding the women victims of intimate-partner violence, and based on the fact that it had been agreed to interview 10 women who had gone through the justice system, we sought to interview women whose cases had been tried and judged. We sought to ensure a measure of the geographical distribution of the women and interviews were carried out in the cities of Lisbon, Évora, Leiria and Aveiro.

The procedure followed for building up the sample of women victims of intimate-partner violence was divided into two different stages. In a meeting of the Project follow-up committee, it was thought to be relevant to include both women who had been accompanied by some of the victim-support services and other women who had gone through the justice system without any help from the services.

Accordingly, steps were taken to involve public prosecutors in the distribution of a leaflet aimed at the women and containing information about the Project and the reasons why they were being contacted; the prosecutors explained to the women what they were doing, giving them the leaflet and requesting their permission for the CESIS research team to get into touch with them so as to



conduct an interview. The whole procedure proved to be very lengthy and it took about 2 months to receive only two consents. However, when the women were contacted, they had in the meanwhile decided not to take part in the interview.

We therefore decided to talk to the District Victim Attendance Centres (*Núcleos Distritais de Atendimento a Vítimas, NAV*) by going through the Portuguese Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e a Igualdade de Género, CIG*). Four of the Centres were willing to get in touch with the victims. Due to the Project's time constraints, we decided to conduct the interviews only in the following centres: Aveiro (2), Leiria (2) and Évora (2). Four other interviews were conducted in Lisbon by going through a victim-support service.

## 2.4. Conducting the interviews

In terms of the interviews held with the legal practitioners, telephone calls were made and e-mails sent requesting their cooperation and suggesting dates on which the interviews could be conducted. Most of the people contacted agreed to being interviewed. The interviews were held between 11 May and 14 July 2015. Almost all the interviews took place in the facilities in which the practitioners worked. All the interviews were successfully recorded, the average length of the interview lasting 1 hour 50 minutes, where the shortest lasted 60 minutes and the longest 2 hours 49 minutes.

With regard to the victims, in most cases, contact was made by going through the support services although in one of the services, the first contact was made by the support services and the subsequent contacts were made by the research team. The interviews were held between 14 July and 6 August 2015. All the interviews were held at the facilities in the various victim-support services and were successfully recorded. The average length of the interviews lasted 1 hour 20 minutes, where the shortest lasted 37 minutes and the longest 2 hours 10 minutes.

## 2.5. Analysing the information

All the interviews were fully transcribed. The first step that was taken when analysing the interviews was to read the transcriptions right through and choose the sections that in some way illustrated the perspective of both the practitioners and the victims in terms of four important domains: the victim's stance regarding expectations, needs and steps to be taken; legal proceedings, experiences and the effects of such experiences on the victim; protection and support measures during the criminal proceedings; and lastly, professional training, cooperation and networking.

The second step involved undertaking the analysis proper which will be presented further on. The domains referred to above were used as the foundation of the study and a comparative approach between the discourses of the victims and the discourses of the legal practitioners was adopted. It should be mentioned, however, that the resulting analysis did not follow any particular data processing methodology; rather, a narrative study was made of what the interviewees said.



## 3. Results of the case-file analyses involving intimate-partner violence

This chapter focuses its analysis on criminal proceedings based on violence against women in intimate partner relationships.

As pointed out above, not infrequently, the cases were extremely complex and fairly lengthy, above all the cases that went on to be judged in court. The complex nature of these cases lies mainly in the number of complaints included in them or whether they had been grouped in other proceedings (owing to interconnected matters that were criminally relevant).

The following analysis has been based on data processing of information from these cases files by means of applying the tool<sup>3</sup> developed by the INASC partner to be used by the five participating countries. This is why not all the data deemed relevant to the project were available in the case files analysed or were collected in an organised, detailed manner. Likewise, it should also be mentioned that the data we wished to gather by applying the instrument created for the project, and the data found in the court cases, served totally distinct purposes.

The cases that were dismissed contain less information particularly with regard to setting background contexts, etc. In some of these cases, there is a dearth of information which would otherwise have allowed us to draw up a personal, family and socio-economic profile.

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### 3.1. The Victims

#### *Socio-demographic profile*

The ages of the 70 women, victims of intimate-partner violence, ranged between 19 and 75 years of age at the time the incident was reported. In terms of age groups, seven out of ten women were aged between 19 and 39 (71.4%) when they made the complaint / indictment<sup>4</sup>. The average age of the victims was 36.

<sup>3</sup> See the INASC framework for data gathering on criminal proceedings.

<sup>4</sup> In legal terms there is difference between the Portuguese term '*queixa*' (complaint) and '*denúncia*' (indictment). The complaint concerns a private or semi-public illegal act and is lodged either by the victim or by any other person when the police are called and arrive at the place the incident has taken place. The complaint may not lead to a criminal charge being made, unless upon the instructions of the Public Prosecutor. On the other hand, when the victim (or any other person) goes to the police station or to the Public Prosecutor's Office with the idea of bringing about a criminal charge and thereby transferring the illegal act into the public domain, an indictment is made. In situations such as these, the police fill in a [criminal] police report ('*auto de denúncia*') that is recognised by the law court as the basis for a case (See: Articles 24, 41, 49 in the Portuguese Code of Criminal Procedure (*Código do Processo Penal*) at:

[http://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=199&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=199&tabela=leis) .

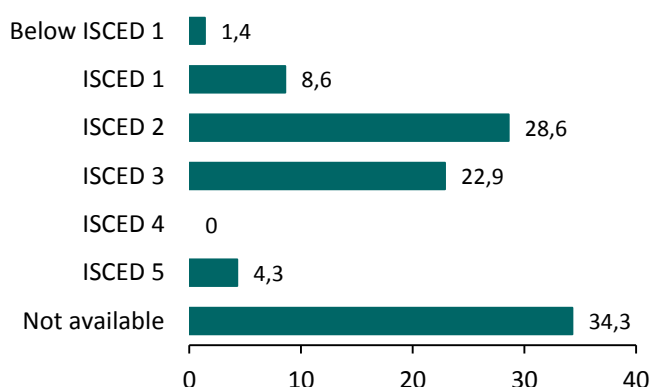


**Table 4.1.1 Age of the victim at the time of the reported incident**

Age group	N	%
19-29 years	22	31.4
30-39 years	28	40.0
40-49 years	10	14.3
50 and more	10	14.3
Total	70	100
Average age	36 years	

Regarding the educational level of the victims, it may be seen that 28.6% had completed their compulsory education (International Standard Classification of Education - ISCED 2) at the time they reported the incident; this was followed by victims who had completed their upper secondary education (22.9%). About 4% of the victims had higher education (ISCED 5). These data were not available in 34.3% of the cases.

**Figure 4.1.1 Victims' degree of education at the time of the reported incident (%)**

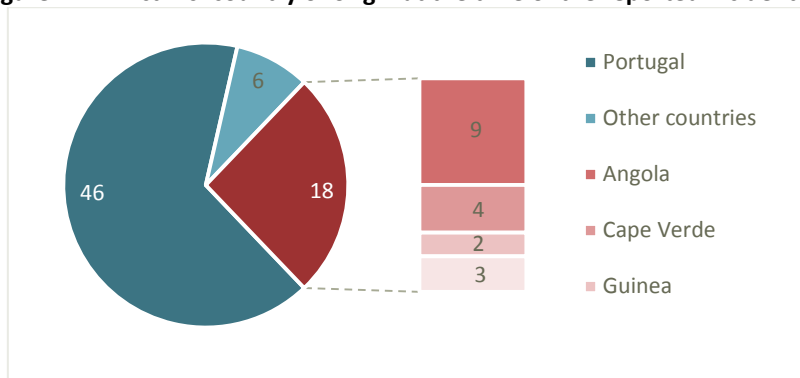


Furthermore, where personal data collecting is concerned, Portuguese law, namely Article 7(1) in Law 67/98 of 26 October, forbids the processing of personal data that refer namely to religious beliefs, and racial or ethnic origins, as well as data pertaining to health or sexual orientation. These limitations hinder a more complete profile from being drawn up of the people involved in the case.

With regard to the victims' place of birth, it was seen that most women were born in Portugal (65.7%) and had Portuguese nationality. Most of the victims in the remaining 34.3% (18 victims) came from countries speaking Portuguese as their official language - Angola, the Cape Verde Islands, Guinea-Bissau, and the Islands of São Tomé and Príncipe – representing 75% of the victims who had migrated to Portugal. There were also women coming from Moldavia and the Ukraine. No data was available pertaining specifically to migrant victims and Portuguese suspects / perpetrators or to their respective off-spring.

Given this panorama, it is therefore not surprising that no case pin-pointed any victim who had obvious difficulties in understanding, speaking, reading or writing Portuguese, even among victims coming from other countries.

**Figure 4.1.2 Victims' country of origin at the time of the reported incident (N)**



As regards the complaint / indictment that was lodged, more than half of the victims were employed (58.6%) while about 19% were unemployed.<sup>5</sup> Although the source of income was unknown for about one third of the victims, the most women were wage-earners (58.6%). It should be added that the source of income of a total of four women came from their pensions. This meant that 6 out of every 10 women had their own sources of income.

**Table 4.1.2 Victims' working status and source of income at the time of the reported incident**

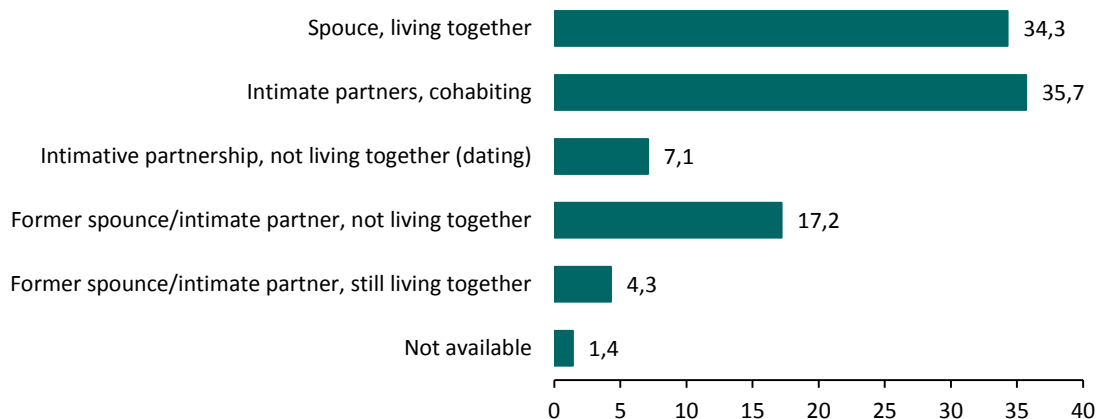
Working status	N	%
Still in education	6	8.6
Employed	39	55.7
Self-employed	2	2.9
Unemployed	13	18.6
Homemaker	3	4.3
Retired	4	5.7
Not available	3	4.3
<b>Total</b>	<b>70</b>	<b>100</b>

In terms of the relationship between the victim and the suspect/perpetrator at the time the incident was reported, 70% were married or were living in a de facto relationship. In 17.2% of the cases, the

<sup>5</sup> Unemployment in Portugal is not always reflected in receiving unemployment benefit. Long- or short-term unemployment are an example of this fact. If the case files failed to provide this information, we decided to use the term 'not available' for data about situations involving unemployment where the source of income was not clearly stated.

perpetrator was a former partner/husband. Furthermore, even if they were no longer engaged in an intimate partner relationship, three of the victims (4.3%) cohabited with the suspect/perpetrator.

**Figure 4.1.3 Victim – suspect/perpetrator relationship at the time of the reported incident (%)**



When taking into account the rest of the cases, it was seen that the average duration of the relationship between the victim and the suspect/perpetrator at the time the incident was reported, was 11 years, 6 months. The shortest relationship was recorded as 2 months while the longest was 43 years.

About 37% of the victims were engaged in an intimate relationship lasting between one and four years at the time the incident happened. It should be noted that 6 victims were engaged in intimate relationships that had lasted 30 years or more, and that four women were victimised right from the start of their relationships (less than one year after living together). In 32 of the cases, there were insufficiently clear data or no data at all about the duration of the victim-suspect/perpetrator relationship, where the lack of information mostly pertained to the cases that had been dismissed (91%).

**Table 4.1.3 Duration of the intimate relationship at the time of the reported incident**

Duration	N	%
< 1 year	4	10.5
1-4 years	14	36.8
5-14 years	7	18.4
15-29 years	7	18.4
≥ 30 years	6	15.8
<b>Total (valid info)</b>	<b>38</b>	<b>100</b>
Not available	30	
Unclear	2	
<b>Total of files</b>	<b>70</b>	

When taking into account all of the case files, it is possible to perceive that 49 of the victims had children (70%) while 21 had no children (30%). Among the women who had children, 38.8% had children under the age of 18. In more than half of the cases (58%), the children were the joint offspring of the victim and the suspect/perpetrator; one of the victims had children coming from a previous relationship; seven victims (37%) had underage children fathered either by the suspect/perpetrator or by another partner.

It was possible to see the victims' households by analysing the case files; 85% cohabited with the suspect/perpetrator although in 53.3% of these situations, apart from the perpetrator, the victim also lived with children whether they were minors or not. Six victims lived alone with their children (10%).

**Table 4.1.4 Victims' household at the time of the reported incident**

Victim lived with:	N	%
Suspect/Perpetrator	18	30.0
Perpetrator and victim's and/or perpetrator's children	32	53.3
Perpetrator and victim's parents	1	1.7
Victim's children	6	10.0
Other partner and victim's children	1	1.7
Parents and victim's children	2	3.3
Total (valid info)	60	100
Not available	10	
Total	70	

### *Evaluation of risk factors and substance abuse*

Before the incident had been reported, 31.4% of the victims were separated from their violent partners or had said that they wished to do so, opposite to 38.6% of the victims who had not separated and had not expressed any wish to do so. These data were not available in 30% of the cases, mainly in the cases that had been dismissed (85.7%).

After the victim had been abused, the number of victims who had separated from the suspect/perpetrators or who tried to do so, rose to 52.9%, thus showing a greater desire to change the violent circumstances in which they were living.

When analysing the break-up of the relationship or attempts to separate, it was seen that there was a meaningful history of break-ups or at least, a significant history of attempted break-ups (41 cases, representing 58.6% of the total).

**Table 4.1.5 History of break-ups involving separation or the intention to separate prior to and/or following the reported incident (N)**

		Following the reported incident			
		Yes	No	Not available	Total
Prior to the reported incident	Yes	18	0	4	22
	No	10	16	1	27
	Not available	9	7	5	21
Total		37	23	10	70
History of break-ups confirmed		37		4	
		41 (58.6%)			

As to be expected, there is very little information in the case files about the state of health of the victims. Out of the total number of cases, reference was only made to one victim who was suffering from cancer and four who were experiencing psychological problems (depression).<sup>6</sup>

In two of the cases, when the police first came into contact with the victim, they reported that she had seemed to be under the influence of alcohol at the time they intervened in the incident. It is not known however, if the victims, at least in these two cases, had any on-going drinking problems.

Where the custody of the children was concerned, in the nine cases where separation or divorce involved under-age children, only two cases were found where the custody of the children was operative: in one of the cases, the mother had custody of the children and the father did not have any visitation rights; in the second case, parental responsibilities were shared. Seven situations, all of them arising in the cases that had been dismissed, needed further analysis as regards parental liabilities.

### *Availability of victim support services*

When looking at the 70 case files, only three cases mentioned data related to victim support organisations: two victims were followed up by domestic-violence victim-support services where one of the victims received twofold aid in the form obtaining a welfare allowance and receiving help from the church (food and clothing). In the third case involving an unemployed victim, a circumstance that had not only forced her to become dependent on the suspect/perpetrator but also to become more vulnerable economically, the support she received from an association was vital, at least in terms of providing her with food.

Three victims were receiving medical supervision, although we were unable to find in two of the cases whether this support was received as part of an on-going process or not. Supervision was due to the victims' psychological/psychiatric states. In two of the situations, it was not known whether

<sup>6</sup> Identifying health problems has been mostly based on information given by the victims themselves or by the suspect/perpetrators. It is not founded on any medical diagnoses.

there was any connection between the need for medical supervision and the violent environment in which the women were placed. Only in one of the case files was it possible to prove by referring to enclosed medical reports, that the victim was suffering from a depressive-anxious syndrome that was the outcome of the intimate partnership she was involved in, and that had caused her to attempt suicide on a number of occasions.

Only one woman was referred to a hot-line ( National Emergency Line 144) by the police.

## 3.2. The suspects/perpetrators

### *Socio-demographic profiles*

The 70 case files correspond to 70 male suspect/perpetrators whose ages varied between 20 and 83 at the time the incident took place. The average age was 37. In terms of the age groups, 65.7% of the perpetrators were aged between 20 and 39; 15.7% were between 40 and 49, and 14.3% were aged over 50.7

**Table 4.2.1 Age of the suspect/perpetrator at the time of the reported incident**

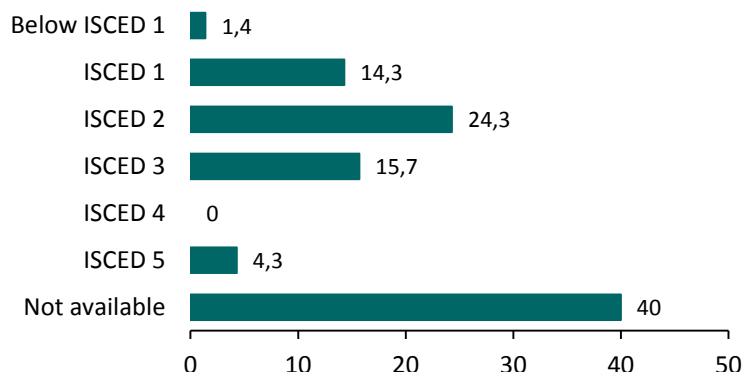
Age group	N	%
19-29 years	22	31.4
30-39 years	28	40.0
40-49 years	10	14.3
50 and more	10	14.3
Total	70	100
Average age	37 years	

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Similar to what seen when characterising the victims, the lack of information was also noted here when applying the different indicators to the suspect/perpetrators, mainly with regard to their schooling: 40% of the files do not have any data giving their educational qualifications. Working on available information, therefore, when compared with the victims, the suspect/perpetrators had relatively less schooling: at most, 40% of the suspects had completed their upper secondary education (as against 52% of the victims). The proportion of suspect/perpetrators with higher education was the same as that for their victims (4.3% in both cases).

**Figure 4.2.1 suspect/Perpetrators' degree of education at the time of the reported incident (%)**

<sup>7</sup> It was not possible to discover the ages of this last age group of suspects/perpetrators.

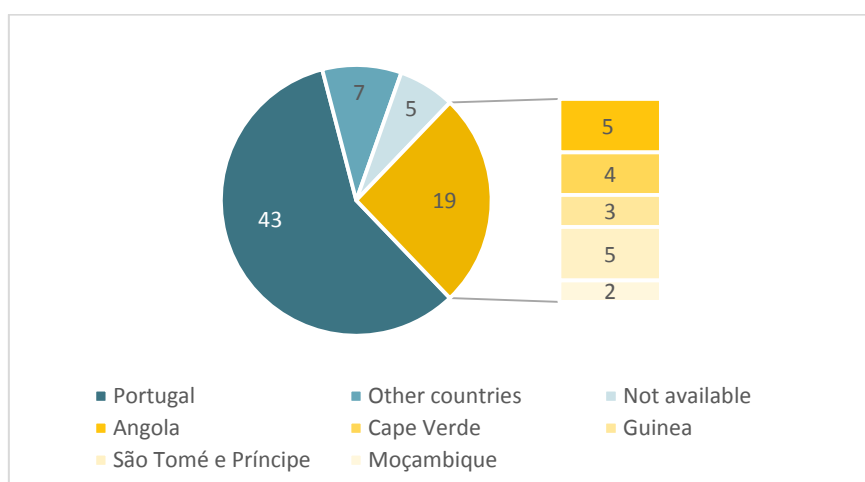


Most of the suspect/perpetrators were born in Portugal (61.4%). The remaining 31.4% (19 perpetrators) came from countries speaking Portuguese as their official language - Angola, the Cape Verde Islands, Guinea-Bissau, Mozambique, and the Islands of São Tomé and Príncipe – representing 73% of the perpetrators who had migrated to Portugal. Brazil, Moldavia, Gabon and the Ukraine were other countries of origin. There was no information provided about the country of origin in five of the files (7.1%).

No mention was made about the suspect/perpetrators having any difficulties in understanding, speaking, reading or writing Portuguese, even when they came from other countries.

**Figure 4.2.2 Suspect/Perpetrator's country of origin at the time of the reported incident (N)**

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With regard to the suspect/perpetrators' working life at the time the incident took place, more than half of them had jobs (52.8%) while about 21.4% were unemployed.

There were no data pertaining to sources of income of about 41% of the perpetrators, all of them being unemployed at the time<sup>8</sup>. In the files where it was possible to obtain this sort of information, it

<sup>8</sup> Unemployment in Portugal is not always reflected in receiving unemployment benefit. There are situations that may not be eligible for unemployment benefit: long- or short-term unemployment are an example of this fact. If the case files failed





was seen that the main source of income for 52.9% of the suspect/perpetrators came from their jobs, followed by retirement pensions.

**Table 3.2.2 Suspect/Perpetrator's working status and source of income at the time of the reported incident**

Working status	N	%
Still in education	2	2.9
Employed	36	51.4
Self-employed	1	1.4
Unemployed	15	21.4
Retired	4	5.7
Not available	12	17.1
Total	70	100

Only one case clearly showed that the perpetrator was economically dependent on the victim. This man, who came from France, was unemployed at the time the incident occurred and he was cohabitating with the victim who was living with her parents, although the partners no longer engaged in an intimate relationship.

### *Assessment of mental health issues*

Out of all the case files, two references were made to suspect/perpetrators suffering from mental health problems: Alzheimer and psychiatric problems<sup>9</sup>; one suspect had a cognitive impairment, and finally, one suspect had a physical impairment (deafness) which obliged the authorities and the court to ask for an official interpreter in gestural language when questioning him.

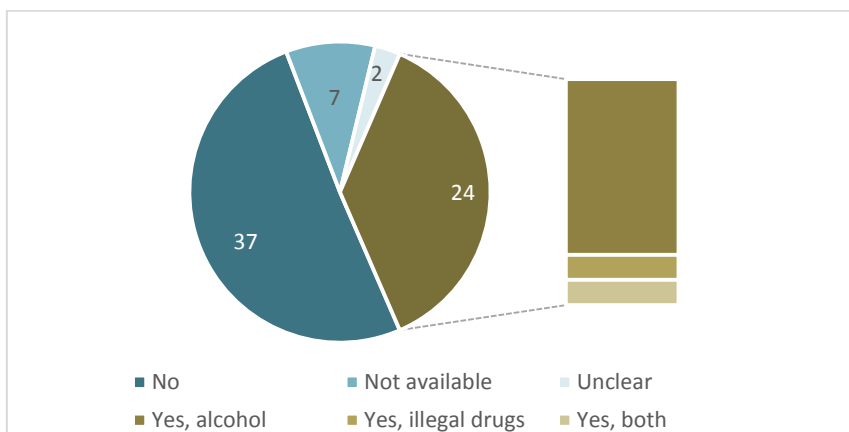
Alcohol as well as drug abuse was mentioned in 24 of the case files: 18 suspect/perpetrators had problems with alcohol abuse: 3 had drug abuse problems and 3 other perpetrators suffered from a combination of alcohol and drug abuse. The addiction rate for alcohol and drug abuse among the suspect/perpetrators was registered at about 35%, i.e. more than one in every three suspects/perpetrators.

**Figure 4.2.3 Suspect/Perpetrator's substance abuse problems at the time of the reported incident (N)**

to provide this information, we decided to use the term 'not available' for situations involving unemployment where the source of income was not clearly stated.

<sup>9</sup> It should be stressed that the data were collected on the basis of the victims' statements, or those of the witnesses or even the perpetrators themselves.



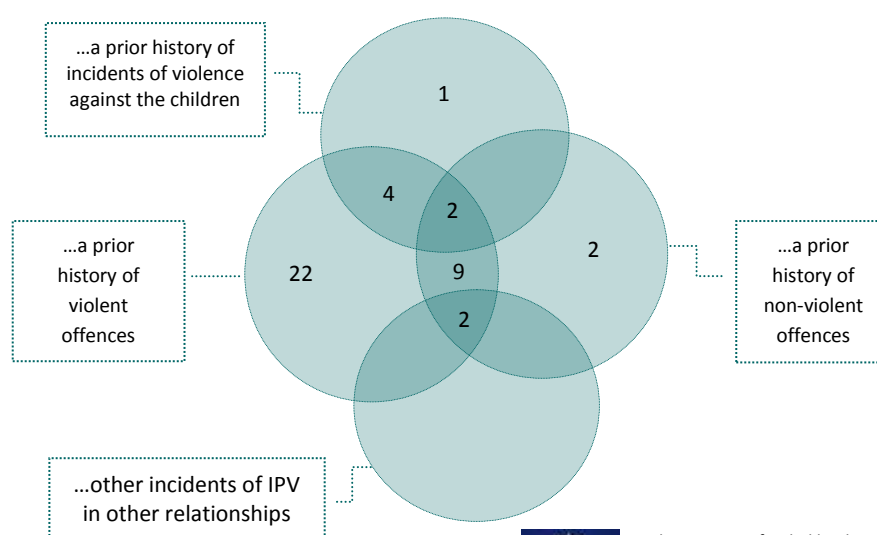


### History of violent behaviour

When analysing the criminal records of the suspect/perpetrators, we were able to see that three out of every five suspects had already committed at least one crime before the reported incident, thus corresponding to a total of 42 suspect/perpetrators out of the total.

The figure below shows the link between the different crimes: violent offences (armed robbery, grievous bodily harm); non-violent offences (drunken driving or driving without a licence, etc.); violence against the children (whether joint offspring or not), and violence in other intimate relationships. Our study showed that 22 of the suspect/perpetrators (52.4%) had a history of violent offences; 9 (21.4%) had a combination of violent offences and non-violent offences; and apart from having committed violent offences, four perpetrators (9.5%) also had a history of being violent towards their children from previous relationships (whether the children were joint offspring or not). Four perpetrators had accumulated three different kinds of crimes: two had been violent with their children, and had committed violent and non-violent offences. Another two perpetrators had a history of violence in their intimate relationships as well as having committed violent and non-violent offences.

**Figure 4.2.4 Suspect/Perpetrator's history of violence as mentioned in the case file. The suspect has...**



Out of the total number of case files, the contents of the files revealed that three perpetrators had already been condemned in court for having committed violent and non-violent crimes. It should be pointed out however, that no data were found in the dismissed cases about the suspects' criminal record (70% of the dismissed files had no such info), so that it was not possible to discover the criminal records of a large number (35 files, i.e. 70% of the total dismissed files) of suspect/perpetrators.

### 3.3. Incident-related characteristics

#### *Violence committed at the time the incident was reported*

The violence committed in the incident that gave rise to criminal proceedings was mainly levelled against the victim (84.3%), although in eight cases (11.4%) the violence was not only directed against the victim but also the children. In three of the cases, the perpetrators were also the target of violence. Nevertheless, it was seen that the injuries the perpetrators sustained were caused more by the women's self-defensive reactions than by their deliberate acts of aggression. In at least one of the cases, the injuries sustained by the perpetrator were caused by the attempts of his daughter to defend herself.

More than half of the violent offences (52.9%) were witnessed by third parties. Owing to the fact that the offences happened in the private domain behind four walls (75.7%), it is not surprising that the children were the main witnesses (65.8%), followed by other family members (26.3%).

The victim was the first one to get in touch with the police (72.9%); 8.6% of the first contact with the police was made by family members and 7.1% by neighbours. It should be noted that two incidents were reported by hospital staff and two cases were reported by the police themselves as the incidents happened in a public thoroughfare (in the street).

Curiously, one perpetrator called a medical-assistance hotline because he thought his partner was trying to commit suicide and he owned up to the (mostly psychological) violence he had committed against her, leading her to attempt suicide (a total of 3 attempts).

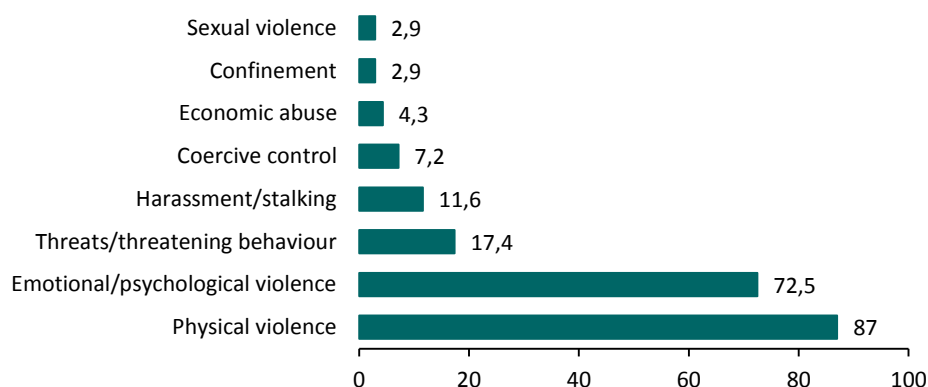
**Table 4.3.1 Person who contacted the police at the time of the reported incident**



Person	N	%
Victim	51	72.9
Family member	6	8.6
Neighbour	5	7.1
Perpetrator	1	1.4
Health service	2	2.9
Police	2	2.9
Unknown	3	4.3
Total	70	100

The two kinds of violence that were most reported at the time of the incident were physical violence and psychological violence. However, although these two were the most common forms of violence, on a par with them, were other kinds of violence, namely sexual abuse, threats and threatening behaviour, coercive controlling behaviour (taking away the victim's cell phone, her documents), attempting to confine or isolate the victim, etc.

**Figure 4.3.1 Violence experienced at the time of the reported incident (%)**



*In one file a 59 year old women has experienced intimate partner violence for more than 35 years. Both the victim and her children report physical abuse, emotional and psychological violence, coercive control, economic abuse, threats and threatening behavior. Her children refer to the behaviour of the perpetrator as “inhumane attitudes”. The victim reports a behavioural change of the perpetrator following the heart stroke she had in 2005. According to her, “he got hold of my debit card, of all my documents, as well as those of my children and of all my jewellery”. Moreover, the perpetrator controls her mail, keeps the monthly minimum income benefit, the children’s allowances as well as the invalidity allowance of one of their children. The description goes on: “he takes part of the food support given by church and locks it in a room where he kept all his things... He only buys food for himself and refuses to share it with us. He took out all lamps and wall sockets to save electricity. He also took out the water and the shower and closed down the toilet flush”.*

*The social assistants’ report included in the case file reads “one of the bedrooms is only available for storing the perpetrators’ goods (...) We can see six liters of milk stored there (...) Children’s beds have no pillows, nor duvets, only a sheet and a blanket.”*

*According to the victim he controls her movements and stalks her namely by using his friends. Moreover, he tells neighbours and friends that the victim “is ill, namely suffering from hepatitis and should not be contacted”.*

*Both her children and her sister were witnesses in the case and confirmed the perpetrator’s behavior to the police.*

Physical offences should not be analysed separately because, very often, underpinning the physical violence is a wide range of violent actions: in a meaningful number of cases, situations were identified where physical offences were an accumulation of hitting or slapping, punching, kicking, hurling objects, being dragged along the ground, pushing/shoving and attempted strangulation/smothering. Apart from these kinds of offences, one of the victims suffered attempted rape and two were stabbed.

**Table 4.3.2 Type of physical violence against victim at the time of the reported incident**

Type of physical violence:	N	%
Hit/slapped	37	61.7
Punched/beaten	27	45.0
Kicked	16	26.7
Objects thrown (at)	4	6.7
Pushed/shoved	15	25.0
Stabbed	2	3.37
Strangled	7	11.7
Raped	1	1.7
Other	3	5.0
Not available	4	6.7
Total	60	

It did not seem to be a common police procedure in this sort of crime to administer breathalyser tests or tests for drug-abuse on either the suspect/perpetrator or the victim. None of the cases mentioned any tests of this nature. Notwithstanding, 12 cases made it clear that their respective perpetrators were acting under the influence of alcohol at the time the incident was reported, where the police authorities had noted the smell of alcohol or the way the suspects were behaving (in 37.5% of the situations where this was detected, the suspect/perpetrators were being questioned by police at the scene of the crime). As has already been mentioned, and according to the statements, two of the victims also seemed to be drunk. While the police were there, two of the perpetrators attacked, or threatened to attack the victim or other witnesses.

Out of the 40 incidents registered, using physical violence caused mostly minor injuries; three victims sustained what were assessed as moderate injuries. Normally, when the victim shows signs that she has been injured, she is told to undergo forensic medical tests and medical examinations which form an integral part of the judicial system, in order to prove that physical aggression has indeed taken place.

**Table 4.3.3 Physical consequences of the reported incident**

Consequences of physical violence:	N	%
No injury claimed by the victim	20	28.6
No injury visible	4	5.7
Minor physical injury	40	57.1
Moderate physical injury	3	4.3
Major physical injury	0	0
Not available	3	4.3
Total	70	100

### *On-going violence*

In conformity with the criteria for selecting the case files, we noted that there was quite a significant number of recent cases where most of them are dated 2014 (65.7%), while the oldest go back to 2006.

**Table 4.3.4 Year of the reported incident, by type of file**

Year	N	%	Type of file	
			Dismissed	Tried
2006	1	1.4		1
2007	2	2.9		2
2008	4	5.7		4
2009	3	4.3		3
2010	2	2.9		2
2011	5	7.1		5



<b>2012</b>	4	5.7	2	2
<b>2013</b>	3	4.3	2	1
<b>2014</b>	46	65.7	46	
<b>Total</b>	70	100	50	20

Most of the cases (67.1%) had a record of only one reported incident although there were files that had two or more reported incidents (32.9%), where there were even files containing eight addenda.

An analysis of the number of addenda attached to the case and the kind of proceedings involved, showed that the cases which had gone to court and been tried had the most number of documented incidents: three tried cases had five incidents that had been reported; two tried cases had seven incidents and two cases contained eight complaints and indictments.

**Table 4.3.5 Type of case according to the number of documented incidents (N)**

Type of case	Number of documented incidents								Total
	1	2	3	4	5	6	7	8	
<b>Dismissed</b>	41	7	1	1					<b>50</b>
<b>Tried</b>	6	3		4	3		2	2	<b>20</b>
<b>Total</b>	<b>47</b>	<b>10</b>	<b>1</b>	<b>5</b>	<b>3</b>		<b>2</b>	<b>2</b>	<b>70</b>

In some of the case files, it was possible to perceive that a long time had elapsed since the time at which the first incident was reported and which led to criminal proceedings being started, and the time when the last violent incident had been recorded. The average gap between the first and the last incidents was a year and two months.

The table below allows us to analyse the proceedings where at least two incidents were involved; they account for 29% of the total number of cases. In one case, we see that there is more than a 3-year gap between the first documented incident and the last one, during which time 8 complaints (in a tried case) were lodged; in 7 tried cases, the gap between the first and last registered incidents ranged between one and two years during the course of which between four and eight addenda were inserted into the case and/or new complaints were made. One of the tried cases that had less than a one-month gap between the first and last recorded incident, managed to include 4 complaints.

**Table 4.3.6 Cases with at least two reported incidents, according to type and gap between the first and last reported incident (N)**

Type of file	Gap	Number of documented incidents					Total
		2	4	5	7	8	
Dismissed	1-2 months	3					3
	3-4 months	1	1				2
	1-2 years	1					1
Tried	< 1 month		1				1
	1-2 months	3	1				4
	3-4 months				1		1
	1-2 years		2	3	1	1	7
	≥ 3 years					1	1
Total		8	5	3	2	2	20

Physical violence and psychological violence were the two kinds of offences that were most frequently reported not only at the time the incident was happening which led to a case being opened, but also in all other incidents, whether they were reported to the criminal police authorities or not.

Moreover, with the exception of physical violence, it was noted that all other kinds of violence increased quite significantly when placed within the wider context of violence. It is important to recall that many of the victims experienced an accumulation of various sorts of violence.

**Table 4.3.7 Violence experienced at the time of the reported incident and in all incidents (no. of victims)**

Type of violence:	Reported incident		All incidents	
	N	%	N	%
Physical violence	60	87.0	60	87.0
Emotional/psychological violence	50	72.5	55	79.7
Threats (and threatening behaviour)	12	17.4	19	27.5
Harassment/stalking	8	11.6	19	27.5
Coercive control	5	7.2	10	14.5
Economic abuse	3	4.3	4	5.8
False imprisonment/confinement	2	2.9	7	10.1
Sexual violence	5	2.9	5	7.2
Total	60		60	

Similar to the trend noted above when considering the different kinds of violence perpetrated against women in the various incidents (whether or not they were reported to the authorities), the study also revealed the same trend in the typology of physical aggression used against them. There were a lot more cases in all the incidents where women were the victims of multiple aggression than



what had been reported in the first incident. Victims who were raped and choked (four more than what had been first reported) should also be pointed out here. Apart from this, one woman was the target of attempted murder (she was shot).

**Table 4.3.8 Type of physical violence against the victim at the time of the reported incident and in all incidents (no. of victims)**

Type of physical violence:	Reported incident		All incidents	
	N	%	N	%
Hit/slapped	37	61.7	42	73.7
Punched/beaten	27	45.0	28	49.1
Kicked	16	26.7	19	33.3
Objects thrown (at)	4	6.7	7	12.3
Pushed/shoved	15	25.0	21	36.8
Stabbed	2	3.3	2	3.5
Attempted strangulation (Choking)	7	11.7	11	19.3
Raped	1	1.7	5	8.4
Other	3	5.0	4	7.0
Shot			1	1.8
Not available	4	6.7	4	6.7
Total	60		60	

When investigating a set of indicators that allowed us to assess whether a high risk or even a mortal risk of violence existed, the results we obtained were worrying. This was because a large percentage of the cases under study had been dismissed and this information was not always analysed and developed further by the police.

According to the case contents, 30 victims (which means 71.4% of the women who were victims of physical violence) were severely physically menaced by their aggressors; 47.6% of the women as well as their children were threatened with death; in 45.2% of the cases, the suspect/perpetrator behaved jealously; 11 perpetrators (26.2%) attempted to strangle their victims. A large number of women revealed that they were worried about violence committed against them in the future (47.6%).

**Table 4.3.9 Type of physical violence against the victim at the time of the reported incident and in all incidents**

Indicators of violence:	N	%
Suspect strangled or attempted to strangle the victim	11	26.2
Suspect physically abuse the victim when she was pregnant	4	9.5
Suspect threatened to kill the victim or her/their children	20	47.6
Suspect threatened to kill himself	2	4.8
Suspect threatened the victim with bodily harm	30	71.4
Suspect exhibited extremely jealous behaviour	19	45.2
Suspect used weapons in IPV incidents	2	4.8
Suspect used other objects as weapon in IPV incidents	10	23.8
Suspect used a home-made weapon	1	2.4
Victim stated that she was worried about future violence	20	47.6

### 3.4. Response by the Criminal Justice System

#### *Police inquiry*

Police intervention is divided into two distinct areas: front-line intervention and second-line intervention. The frontline police have a more operational role and establish the first contact with the persons involved in the incident; the 2nd line police, the so-called criminal police authorities (*órgão de polícia criminal*, OPC) have the power to carry out the investigation upon the instructions of the Public Prosecutor's Office<sup>10</sup>.

The incident is first reported in either a statement (*auto de notícia*) or a police report (*auto de denúncia*), both of which follow a standard version that has been in force since 2006<sup>11</sup>.

The police classified all the case files as domestic violence (IPV).

Most of the incidents were reported mainly by the victims (67.4%) dialling the emergency call service (75.7%). On all occasions the police went to the scene of the trouble. It is not known if a female police officer was present when the police were asked to go to the scene as stated in 69 of the cases.

In most cases, a male police officer signed the statement/report. In 15.7% of the cases, this information was not available or was illegible.

<sup>10</sup> In some cases, the Public Prosecutor's Office did not delegate the criminal police authorities (OPC) with any power to investigate the case; this was done when the witnesses and/or perpetrator were heard in the inquiry.

<sup>11</sup> This statement includes a description about the complaint, and details about the victim, the suspect and the circumstances leading to the violent incident and differentiates the various kinds of violence perpetrated against the victim.



After they had been informed about an incident involving domestic violence/IPV (whether through a complaint or indictment having been made), the police carried out a series of measures, among which we may refer to the following: they entered the home always with the victim's (or the couple's) permission; they questioned the victim (81.4%) and the suspect/perpetrator (45.7%); they awarded the status of victim to one of the parties. This meant also supplying the victim with information about available support services to victims of domestic violence, as well as informing the victim about all her rights and duties during the criminal proceedings. Sixty victims, meaning 85.7% of the total were awarded the status of victim.

**Table 4.4.2 First police response at the time of the reported incident**

Responses:	N	%
Entering the victim's home with the permission of the victim and/or the suspect	21	30.0
Breaking and entering victim's home without her permission		
Separating the victim and the suspect/perpetrator	3	4.3
Measures aiming at temporarily preventing the suspect from contacting the victim and/or preventing him from harming or threatening to harm her	1	1.4
Cautioning the offender	1	1.4
Questioning the victim	57	81.4
Questioning the offender	32	45.7
Giving the victim information about the various victim-support services	60	85.7
Giving the victim information about the protection measures available	1	1.4
Giving the victim information about her rights and duties in legal proceedings	60	85.7
Involving domestic-violence emergency services	1	1.4
Accompanying the victim to the hospital	4	5.7
Involving child protection services	1	1.4
Taking children into care	1	1.4
Accompanying the suspect to a place for a temporary stay	1	1.4
Measures ordering the suspect off the premises temporarily (banning order)		
Taking the suspect into custody		
Forced or voluntary psychiatric hospitalisation of the suspect		
Measures aimed at defusing a situation by communicating with partners		
Involving domestic violence counselling services		
Giving the victim an information leaflet about legal measures		
Involving the medical services		
Accompanying the victim to a shelter for domestic-violence victims		
Other	4	5.7

As may be seen, the first police response was fairly restricted, namely as regards actions that would ensure the victim's safety and stop the violence. Furthermore, at this stage, in only four cases was it clear that the victim and the perpetrator were questioned separately while in at least 25 cases, there were clear indications that the suspect/perpetrator was still on the premises.

In terms of evidence where proof was collected at the scene of the trouble, only two cases included photographs of the victims' injuries. No photographs were taken of the scene of the crime or the injuries sustained by the perpetrator. Furthermore there was no record of other evidence having been collected by the police. In two cases, weapons were confiscated.

In only one case, were protective measures using a hot line put into practice together with additional police protection (patrols).

Since 1 November 2014<sup>12</sup>, risk assessment procedures are compulsory, i.e. the police is obliged to fill in a specific form for every domestic violence incident. The fact that most of the files analysed were initiated previous to that date, may explain why in only 18.6% of the incidents reported, a risk assessment was made on the basis of informed professional opinion that graded the risk level. In the case files being studied, two cases were classed as high-risk; one of them was moderate risk and two were classed as low risk. In three cases it was not possible to find what the risk level was.

If the risk factor is classed as being high, the police reassess the situation within a three-to-seven day period; if it is moderate risk, revaluation is effected within 30 days. Finally, if the risk is classed as low the police have to reassess the situation within 60 days.

In Portugal, only the police have the power to fill in a risk-assessment form, even if the indictment comes from the Public Prosecutor's Office.

### *The inquiry phase*

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The inquiry phase plays a more important role in the criminal proceedings as it covers a whole set of investigative work aimed at substantiating whether a crime indeed exists, finding out who committed it and who was responsible for it, and collecting evidence, mainly from witnesses and documentary proof that will go towards backing up the case.

In this sense, one of the most serious hurdles that we came up against when examining the contents of the 70 case files was based on the fact that most of the cases had been dismissed (71%) without any investigation having been made targeting the suspect. The suspect was only questioned in 13 out of the 50 dismissed files, i.e. on almost 3 out of 4 cases no questioning was undertaken and consequently the suspect was not held defendant. In 70% of the cases dismissed there is also no evidence of any inquiry into the criminal record of the suspect or into the existence of further Public Prosecution cases involving him. Not infrequently, cases were dismissed because the victim had failed to come in for questioning during the hearing and there was no other means of conducting additional inquiries in order to crosscheck the facts of the case; and when there were new developments they often came in the form of new notifications to the victim.

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<sup>12</sup> A risk assessment form contains 20 indicators based on violence. Answers to this set of indicators is converted into a scale and afterwards classed according to high, moderate or low risk, depending upon the number of answers in the affirmative, negative or 'not applicable/don't know' bracket.



*In one of the cases, a woman was attacked by her boyfriend with a knife at a party in the house of some friends. She was stabbed on her arms and back. The forensic medical report proved the extent of her injuries and considered that her wounds were the equivalent of 21 days of sick-leave from her job.*

*After having failed to appear at the first hearing, the victim was notified a second time without success.*

*In the meantime, the perpetrator showed up at the criminal police authorities (OPC) for questioning on the day he had been notified to come. However, he was not heard and for this reason he was not formally accused as an offender. According to the facts in the case, the reasons for this lay in the victim having failed to appear at the hearing conducted by the criminal police, thereby invalidating the proceedings.*

*The criminal police closed the inquiry and sent the case to the Public Prosecution where it was dismissed for lack of evidence. At no time did the case file show that the criminal police had made any effort to locate the victim or to hear any likely witnesses.*

The almost exclusive reliance of the investigation procedures on the active participation of the victim, and the lack of investigation initiatives targeting the suspect emerges in several of the analysed file cases:

*In one of the files, a 27 year-old women reported to the police that she had been abused by her partner for the last three years. After the victim failed to appear (and to justify her absence) to the inquiry for two times, “the Public Prosecution Office declares the dismissal of the file”, presenting the following explanation: “in spite of the efforts undertaken (two written notices and one phone call) it was not possible to question the victim, and therefore it is not possible to proceed with the investigation”.*

*In a different process, the victim was ordered to pay 2 account units (€240) because she failed to appear at the police inquiry and apart from that, the judge requests an arrest warrant to ensure that the inquiry takes place.*

*There is no evidence, at any time during the whole trajectory of any of these files, that the justice system made any attempt to understand the reasons underlying the unjustified absence of the victims. The investigation stage ends after the victims failed to show up to the inquiries.*

Five victims went to the police to inform them of their situation. All the other victims were heard when the police arrived at the scene of the crime.

Within 48 hours of having made the complaint / indictment, the police questioned or tried to question only 14 victims (20%); 53 victims were heard by the criminal police or by the Public Prosecutor’s Office after 48 hours had elapsed following the complaint.

In the two cases in which the both the victim as well as the suspect/perpetrator had been questioned during the first 48 hours, they were each heard separately.

Most of the interviews involving the suspect/perpetrators were carried out by the criminal police already during the course of the inquiry (although 48 hours after the complaint was lodged). When considering the total number of cases, very few suspect/perpetrators were interviewed by the Public Prosecutor’s Office (6) or even by a Criminal Inquiry judge (6).

**Table 4.4.3 Places where the victim and the suspect/perpetrator were questioned during the proceedings (N)**



	Places:	Up to 1h later	Up to 48h later	> 48h later
Victim	Scene of the incident, other than victim/suspect's home	8		
	Victim's and/or suspect's home	57		
	Police station	5	14	53
	Public Prosecutor's Office			24
	Places:	Up to 1h later	Up to 48h later	> 48h later
Suspect/ Perpetrator	Scene of the incident, other than victim/suspect's home			
	Victim's and/or suspect's home	32		
	Police station		2	32
	Public Prosecutor's Office			6
	Judge's office			6

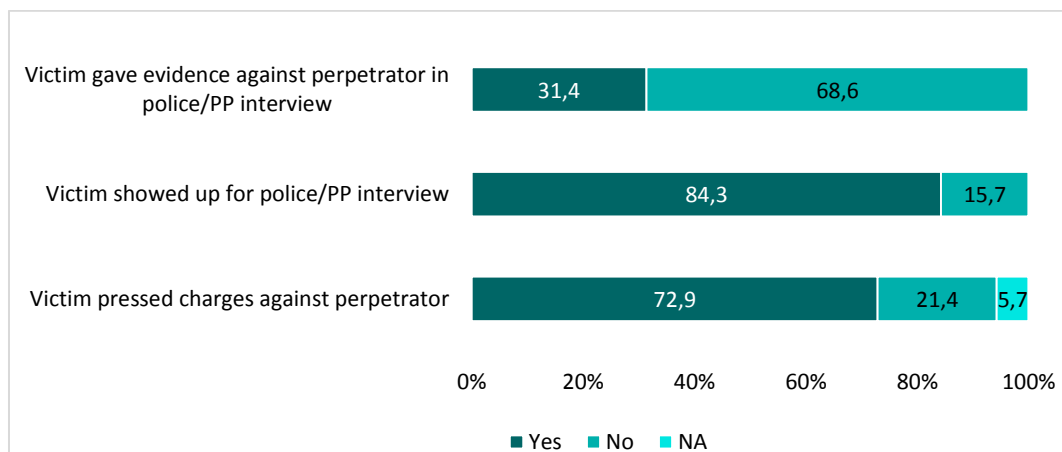
Very few cases showed that referrals had been made to other institutions following the violent incident. Only six situations were referred to the Committee for the Protection of Children and Young People (Comissão de Proteção de Crianças e Jovens, CPCJ) although 20 incidents involving children/minors had been attended to.

Two situations were flagged for medical attention: two were referred to the victim-support services, and one victim was referred to a hotline. There was no information available or it was not clear in the remaining situations.

The victim's cooperation is essential in proceedings based on domestic violence: 51 victims (72.9%) wanted to press criminal charges against the perpetrator. In four of the cases, this information was not available and when 15 victims were asked whether they wanted to press criminal charges against their aggressors, their answers were no.

Most of the victims (84.3%) appeared at the criminal police authorities when they were notified about the hearing. Only 11 victims failed to show up although they had been notified. Despite the large number of victims showing up at the criminal police this did not mean that they made statements or provided proof of the facts. In 48 cases (68.6%), victim either failed to make a statement or failed to present evidence (whether spoken or in writing) in terms of the abuse they had suffered; most of these situations relate to dismissed files (94%).

**Figure 4.4.1 Victim's cooperation in the investigation procedures (%)**



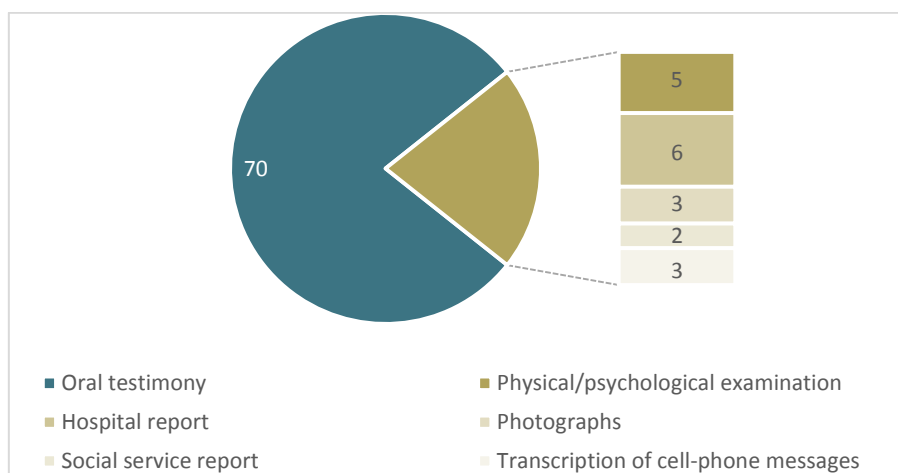
During the inquiry phase, 24 victims (or their children), as well as five witnesses were followed/stalked or harassed by the suspect/perpetrator of the violent incident. Despite this, no witness-protection measures were enforced.

During the investigation, 51.4% of the victims were notified that they had to undergo forensic medical examinations. Only two victims were given psychological assessment; in one of the women it was proved that the depressive period she was going through was the outcome of the IPV she was subject to. A psychological examination was only made on four of the perpetrators.

Apart from the two weapons (firearms) that were confiscated during the first police intervention, the police seized two more weapons (also firearms) during the course of the inquiry – belonging to a total of four perpetrators.

The main means of obtaining evidence was by oral testimony (in all 70 cases) although in 19 cases, apart from given oral evidence, documentary evidence was also used, above all, the forensic medical reports, photographs, medical and social reports, and the transcriptions of cell-phone messages from the suspect/perpetrator to the victim. Two victims sought help at the hospital to provide proof of the abuse before they contacted the police.

Figure 4.4.2 Means of providing evidence (N)



Starting 48 hours from the time the complaint / accusation had been made, the criminal police began to question the victims (82.9%), the perpetrators (45.7%), their respective children (15.7%) and other witnesses (25.7%).

The majority of the interviews were carried out under the criminal police orders. Out of 32 cases where information was available about the police officer interviewing the victim, it was found that 84% were male while 9% were female officers.

Eight victims were heard by the Public Prosecutor's Office, mainly by court officers who had been empowered for the effect by the respective Public Prosecutor. The conditions in which the victims were questioned are not clear in the eight cases. In the rest of the cases this information was not available and it was not possible to undertake a deeper study into the whether the victim's right to privacy was a guaranteed. In terms of the interviews conducted by the criminal police, normally the hearings are carried out by a male police officer. When women are questioned by the Public Prosecutor, another female has to be present in the room.

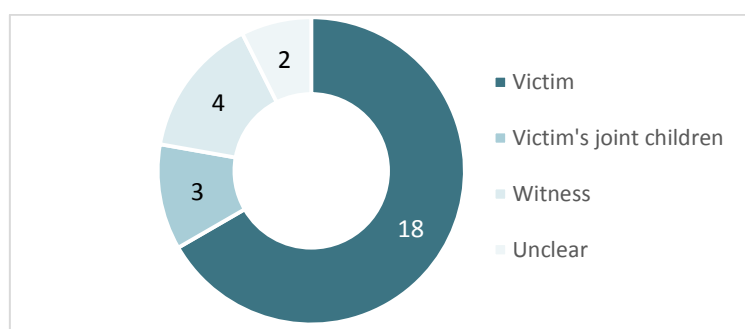
Table 4.4.4 Persons interviewed in the inquiry phase, 48 hours following the complaint

Persons:	N	%
Victim	58	82.9
Suspect	32	45.7
Intervention centre for victims of DV		
The victim's joint children	11	15.7
Any witness (other than the victim/children)	18	25.7
DV support service providing aid to the victim		



During the inquiry phase, a Criminal Inquiry judge decided to apply coercive measures in only eight cases: provisional pre-trial custody (2); restraining order banning contact with each other (6), and banned from cohabitating (3). With the exception pre-trial custody, the other two measures were accumulative in three cases. Compliance with these preventative measures lasted at least until the trial. Only two cases clearly referred to breaches committed in the measures handed down. However, in the cases that were tried, out of the 20 offenders who had committed some sort of violence against the victims, their joint children and against witnesses following the inquiry phase, 25% received at least one banning order (that did not involve pre-trial custody).

**Figure 4.4.3 Perpetrator's violent behaviour towards... (N)**



The sort of violence involved was mostly physical (not sexual) and psychological, where both kinds were levelled against 68.4% of the victims, the children and the witnesses. Moreover, there were nine victims of harassment or stalking (47.4%) and eight women who were threatened with beatings-up or even with death (42.1%). In most cases, these threats were not isolated one-off occurrences.

**Table 4.4.5 Types of violent behaviour against victims, joint children and witnesses after police intervention**

Type of violence:	N	%
Physical (non-sexual)	13	68.4
Psychological	13	68.4
Harassment/stalking	9	47.4
Threatening to kill/severely injure	8	42.1
False imprisonment/confinement	2	10.5
Others	2	10.5
Total	20	

Data concerning the victims' legal counsel was not available in most of the case files. Only 10 case files clearly referred to a lawyer representing the victim. It should be pointed out that in these kinds of cases, the victim is usually represented by the Public Prosecutor who has the duty of ensuring her defence. However, the victim is also able to seek the services of a lawyer whose services may or may not be paid for by the State through the Social Services. There was also a lack of information in the

case files about the people who accompanied the victim on her trips to the police station or to the Public Prosecutor's Office (97.2%). The only mention of family members or technicians working for the victim-support services accompanying the victim was found in two different cases.

### Accusation/charge

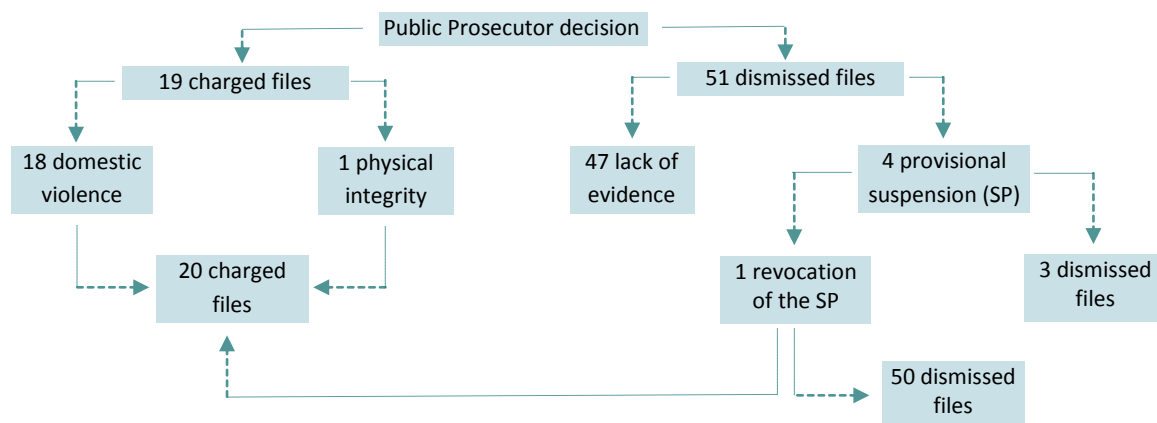
Once the inquiry phase was completed, the criminal police forwarded the case to the Public Prosecutor's Office. Owing to the fact that the Portuguese Criminal Code made domestic violence a public crime in 2000<sup>13</sup>, the Public Prosecutor's Office is compelled to file charges. Furthermore, because intimate partner violence is now a public crime, a complaint may be lodged by any person and the victim is unable to withdraw it.

Almost all the incidents were classed by the Public Prosecutor's Office as domestic violence (IPV) (97.1%). The classification of two cases (2.9%) was revised and they were subsequently re-classed as battery / physical assault where one of the cases went on to be tried in court.

As was mentioned in an earlier point, 71.4% of the cases were dismissed and did not get to be heard in court. Only 20 cases went on to be tried in court (28.6%). Four offenders were subject to a provisional suspension of their court cases ranging from between six to eight months. All of the suspensions applied to these cases complied with certain conditions (brought about by injunctions) that unless observed, would overturn the suspension and the case would go on to be tried in court.

One of the offenders who breached the injunctions placed on him saw the provisional suspension of his case rescinded and the case sent to court, whereupon he was convicted.

**Figure 4.4.4 Criminal proceedings (decisions)**



<sup>13</sup> Law 7/2000 of 27 May, which was the 5th amendment of Decree-Law 400/82 of 3 September, passing the Criminal Code, Articles 152 and 281 (*Lei n.º 7/2000 de 27 de Maio, Quinta alteração ao Decreto-Lei n.º 400/82, de 3 de Setembro (aprova o Código Penal, Artigos 152 e 281)*). Available at: [http://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=113&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=113&tabela=leis)

The provisional suspension of a case presumes that both parties are in agreement about applying this measure. The suspension is normally associated with a series of injunctions which are nothing more than conditions the offender has to comply with in order to see the case in which he is the plaintiff is dismissed by the Public Prosecution. Some examples of the injunctions applied to the four cases that were examined, are as follows:

- Follow-up by the Directorate-General for Rehabilitation and the Prison Services (*Direção-Geral de Reinserção Social e Serviços Prisionais*);
- Suppression of any aggressive behaviour (physical or psychological) towards the complainant and respective children;
- Alcohol rehabilitation;
- Community service order.

## Court

Twenty offenders were charged, where 18 were charged with IPV and one person was charged with battery / physical assault. A total of 13 accused (65%) gave evidence in court; five failed to do so; and in two cases this information was not available in the files.

When facing the charges they were accused of, only in one case did the offender accept the charges made against him and pleaded guilty. Fifteen offenders (75%) were represented in court by their lawyers (although clarification is needed as to whether this representation was officially appointed). In four case files there were no data available. In one case file, there were signs that the offender was not represented by a lawyer.

Where the victims were concerned, four victims in five gave evidence in court (80%). Only three files referred to the fact that the victim had given her testimony in the courtroom in the presence of the accused, while nine women preferred to give their testimony with the offender out of the courtroom. The information contained in the files regarding this question is either unavailable or not clear for the remaining number of cases.

Four of the victims took advantage of their rights as laid down in Article 134 of the Code of Criminal Procedure and refused to take the stand.

In 10 court cases, reference was made to the fact that the victim had legal representation although in half the cases (5), legal representation was paid for by the State owing to the victims' economic hardship. No data was available about people who accompanied the victims to court, although it is understood that the witnesses appearing for them (members of the family, friends, children) and their respective legal counsels would have been the main actors.

Out of the total analysed case files, there is evidence of only three victims acting as assistants to their legal case and all of them demanded civil compensation<sup>14</sup>. No case files referred to requests made to the State for advance payments on compensation<sup>15</sup>. Only two victims requested that they be reimbursed for travel expenses incurred in coming to court.

Out of the total tried cases, more than half (13) included the presence of witnesses, mainly members of the family (69.2%), followed by the children (61.5%) and then by friends came to court to give evidence. In three cases, the police also took the stand and gave evidence.

**Table 4.4.6 Witnesses who gave evidences at the court hearing (Nr. of files)**

Witnesses:	N	%
Children (of the victim, the accused or joint)	8	61.5
Family members (other than the children)	9	69.2
Victim's or accused's friends	6	46.2
Neighbours	1	7.7
Police officers	3	23.1
Workmates	1	7.7
Total	13	

Out of the total number of cases, only three victims gave their testimonies without the plaintiffs being present in the courtroom so as not to disturb them as they gave evidence. In none of the cases were the statements included in the records.

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## Sentencing

Out of the cases that went to court to be tried (20), the judge's decision mostly involved condemning the offender: 17 offenders convicted. Out of this number, 2 lodged appeals although in all cases the appeals were overturned and the verdicts confirmed.

Out of the total, three cases were absolved of the crime of domestic violence (IPV).

As regards the sentences passed down to the 17 offenders who had been convicted, almost all of them (16) involved a suspended prison sentence. Apart from a suspended term of imprisonment, four offenders were sentenced to pay a fine that varied between 200€ and 900€; and three offenders

<sup>14</sup> In order to demand civil compensation from the offender, the complainant has to become an assistant to her legal counsel in the trial. The deadline for applying for compensation is 20 days after the court's verdict has been made regarding the charge (or, if there has not been a decision, then the writ stating the decision after the inquiry has been completed). The complainant will only know whether compensation has been granted when the sentence is read in court.

<sup>15</sup> Law 104/2009 of 14 September validates the system for granting compensation to the victims of violent crimes and IPV. Where IPV crimes are concerned, the victim has the right to request an advance payment on the compensation from the State (by going through the Commission for the Protection of Victims of Crime (*Comissão de Proteção às Vítimas de Crime – CPVC*) when she is able to prove that the economic hardship she is experiencing is the outcome of the domestic violence she had fallen victim to. The CPVC should be redressed by the person responsible for inflicting the injuries (the perpetrator) for any advance on the compensation awarded, pursuant to the above-mentioned law.



had to start paying the compensation requested by the victims (2000€, 4000€ and 4500€). One offender whose case had been re-classified (and went from being a crime involving domestic violence to battery /physical assault) was only sentenced to pay a fine equivalent to 130 and 150 days at a rate of 5€ a day, totalling 1150€.

The mean duration of prison terms (in suspended sentences), was two years and six months, where the shortest sentence was two years and the longest three years and six months.

Out of the 16 offenders who received suspended prison sentences, 11 offenders also received other sentences which may be summarised in the following way:

- Donating a sum money to an institution providing support to victims of IPV;
- Rehabilitation for alcohol abuse;
- Banned from establishments where alcoholic drinks are served;
- Being followed up by the Directorate-General for Rehabilitation and the Prison Services (DGRSP);
- Compensation paid to the victim for property and moral damages;
- Banned from harming the victim and the children;
- Restraining order banning contact by any means with the victim;
- Restraining order preventing access to the hitherto common dwelling;
- Attending IPV prevention programmes;
- Attending parenting education programmes;
- Attending psychotherapy sessions;
- Reimbursing the victim for the expenses she accrued for medical treatment and hospital bills;
- Forbidden to carry firearms among other weapons.

### *Duration of the court proceedings*

With regard to the duration of the court proceedings, generally speaking, they continue to be lengthy despite the fact that they have an urgent nature. The cases that were dismissed lasted an average of five months where the shortest lasted a little more than a month while the longest lasted two years, five months. Regarding the cases that were tried in court, the average duration for concluding them was three years, the shortest case lasting three months while the longest lasted six years, five months.

The cases that were dismissed fell between 2012 and 2014. 78% of the dismissed cases were concluded in less than 6 months. In terms of the cases that were tried in court, owing to the complexity of many of these cases, the time it took to conclude them was quite a lot longer: half the cases took at least three years to wrap up.

**Table 4.4.7 Duration of the criminal proceeding, according to the type of case and the year the incident was reported (N)**

Type	Duration	2006-2008	2009-2011	2012-2014	Total
Dismissed	Up to 6 months	--	--	39	39
	6-11 months	--	--	6	6
	≥ 12 months	--	--	5	5
Total		0	0	50	50
Tried	Up to 6 months	--	--	1	1
	6-11 months	--	1	--	1
	1-2 years	1	4	3	8
	3-4 years	--	5	--	5
	≥ 5 years	4	1	--	5
Total		5	11	4	20

When speaking only of the cases that were dismissed, it was seen that the time spent between lodging the complaint or indictment, and the beginning of the inquiry phase took a median duration of 11 days.

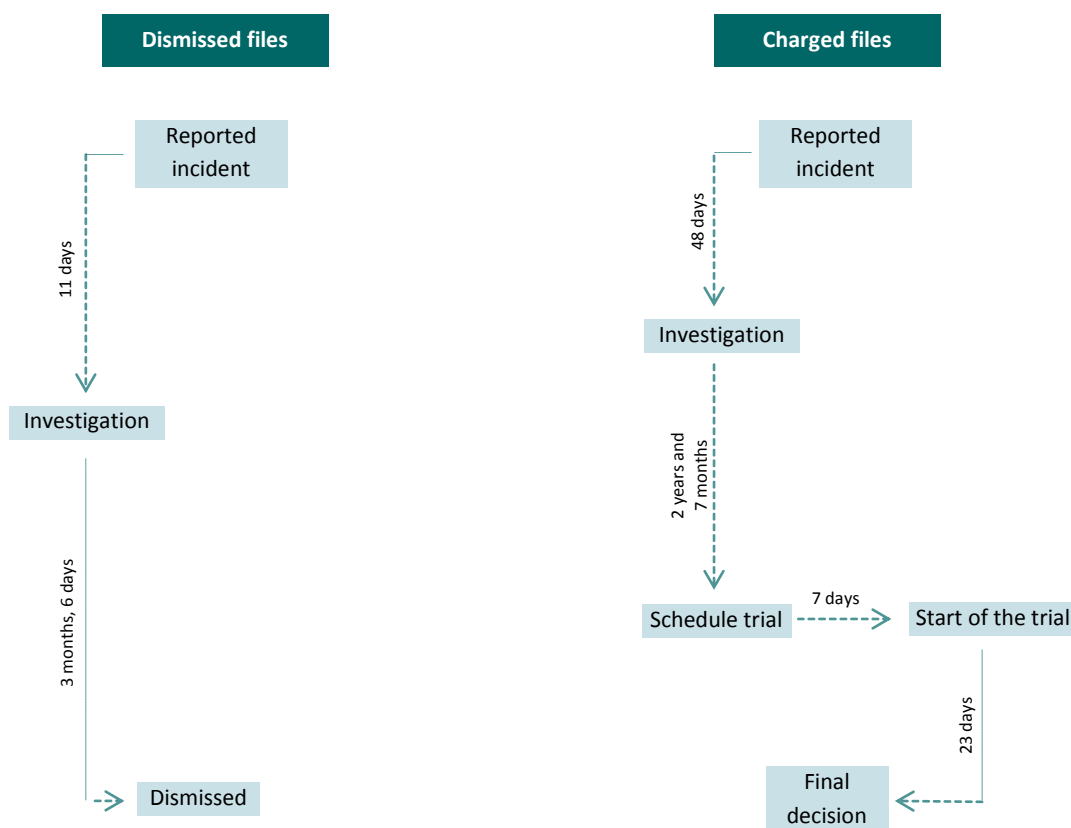
It took a median duration of three months to go between the start of the inquiry phase and the dismissal of the case (although there were cases where this period lasted two years and five months).

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Where the cases that were tried in court were concerned, the time spent between lodging the complaint or indictment, and the beginning of the inquiry phase took a lot longer: a median of 48 days. It should be added, however, that there were some cases where it took approximately one year before the inquiry phase started. As regards the surprisingly long gap between the reported incident and the beginning of the investigation phase it must be stressed that this delay was calculated taking into account the record of the date when the Public Prosecution Office delegates authority to the police for proceeding with the investigation. This date is included in all the files.<sup>16</sup>

<sup>16</sup> During the qualitative stage of the research it was possible to identify an alternative mechanism (generic delegation of authority) used by some Public Prosecutors which enables the police to start the investigation before receiving the aforementioned formal delegation of authority. However, there is no evidence on the extent to which such practice is actually used.

Figure 4.4.5 Duration of criminal proceedings according to the type of case (median)



The length of time between the beginning of the inquiry phase and the date set for the trial was a median duration of two years and seven months (although there were cases where this took approximately six years). Be that as it may, the trials were not always held on the dates they had been set and there was a slight delay. If the date of the first court session is taken into account, the median length of time between the inquiry and the trial registered an increase of seven days (in some faster cases the delay was at most, a year and a half).

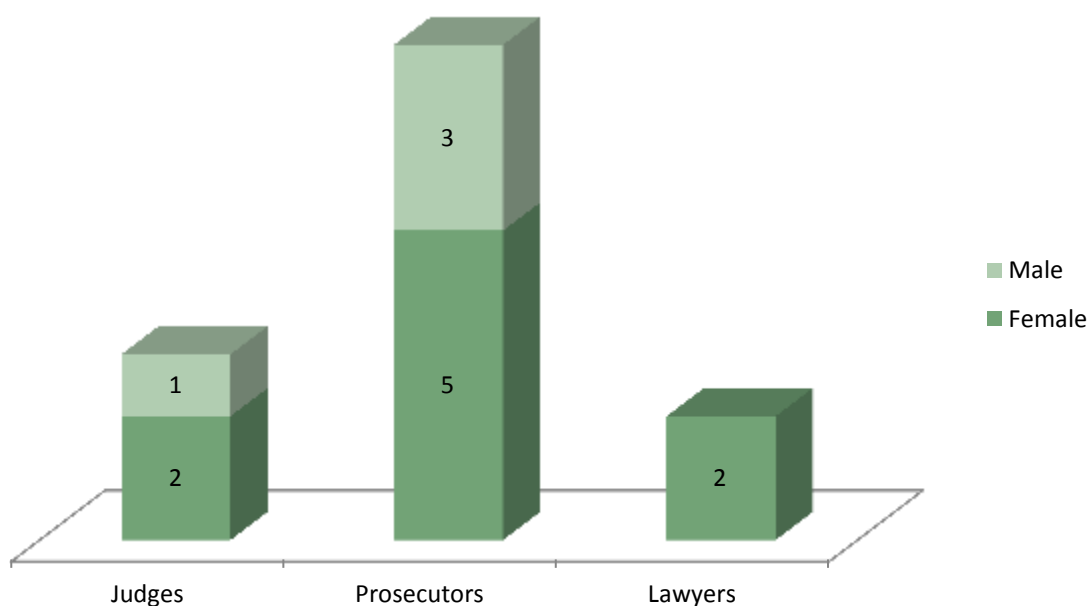
Apart from this, and due to a series of different factors (a large number of witnesses to be heard, not knowing the whereabouts of the accused, the justified or unjustified absences of the different protagonists in the court case: the victim/complainant, the offender/plaintiff, respective legal counsels, the judges), some of the trials were to last quite a lot longer than was desirable. In the 20 cases examined, the trials lasted an median of 23 days. However, there were cases where it lasted nine months. The following figure seeks to show the duration of the criminal proceedings, differentiating between the cases that were dismissed and the cases that went on to be tried at court.

## 4. Results of the interviews: perspectives of victims and practitioners on criminal justice proceedings

### *Interviews with the practitioners / Sample profile*

Thirteen interviews with the practitioners and two discussion groups were held; the group activities included the participation of other people besides the 13 practitioners.<sup>17</sup> Out of the 13 people working in the justice system, 9 were women and 4 were men.

**Figure 1 – Practitioners in the justice system interviewed according to their sex (N)**



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The judges have been in office for an average of about 18 years; two female judges have been on the bench for more years (one for 32 years, the other for 14 years) than the male judge, who has been in service for 8 years. Among the practitioners from the Public Prosecutors' Office, most of them occupy the positions of Assistant Public Prosecutor while two of them are full public prosecutors (who coordinate sections of the Investigation and Criminal Activities Department (*Departamento de Investigação e Ação Penal, DIAP*) in the different District Courts, and have a service record that goes

<sup>17</sup> The excerpts from the interviews that will be illustrating the analysis made below, have been coded in the following way: P.1 to P.8 refer to the interviews conducted with the public prosecutors; J.1 to J.3 refer to the judges; L.1 and L.2 refer to the lawyers; V.1 to V.10 refer to the women who have been victims of intimate-partner violence; PA refers to the discussion groups with police authorities, and finally, VSS refers to the practitioners in the victim-support services.





beyond 30 years). The Assistant Prosecutors have been in office for an average of 9 years, where one of the (female) Assistant Prosecutors has an 18-year service record, while another has been an Assistant Prosecutor for fewer than 5 years. We only know that one of the lawyers (female) has been working as a legal counsellor in a victim-support service since 1999 (i.e. for 16 years).

The professional experience each of these practitioners has is varied. The (male) judge and one of the female judges are what are called ‘career judges’ who, under Portuguese law, are qualified from the start to follow their careers on the bench. They have very broad experience as they pronounce on cases in the district courts, and exercise general powers “*where we do everything, crime, criminal law, civil law*” (J.1), judging criminal cases, acting as examining judges and Appeal Court judges.<sup>18</sup> Among the Public Prosecution practitioners, all of them have had experience with working with cases of domestic violence, whether in the past or currently. Except for the two who are presently coordinating sections of their respective District Court’s Investigation and Criminal Activities Department, most of the public prosecutors (6) are engaged in investigation work “*with inquiries*”. Among the practitioners engaged in inquiries, four belong to special units dealing only with the crime of domestic violence, crimes committed against vulnerable persons and sex crimes.

In the discussion groups, the tendency was for female practitioners to take a more active part in the conversation. Nevertheless, it should be pointed out that the distribution according to sex between the different groups showed that more men belonged to the police authorities present while more women belonged to the professions working with victim support.

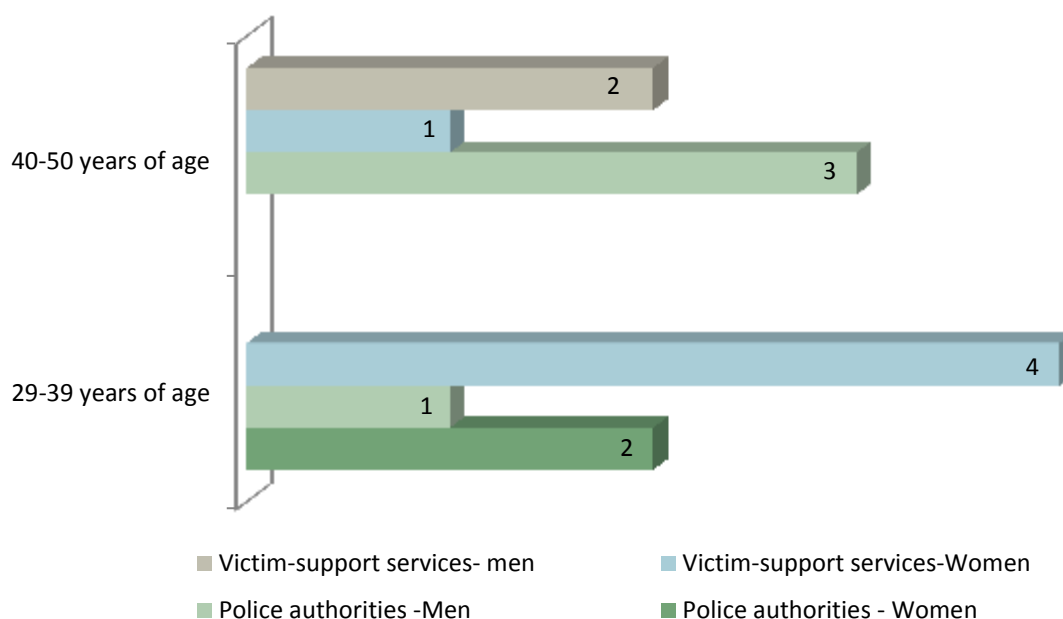
**Figure 2 – Participants in the discussion groups, per group and according to sex (N)**



<sup>18</sup> It is important to mention that one of the judges mentioned that she had never sat in judgement over any court case connected with the crime of domestic violence.

The age of the people taking part in the discussion groups ranged from 29 to 50 years old; the average age among the women was 35 while that of the men was 45 years old. The average age of the participants in both of the discussion groups was 38 years of age.

**Figure 3 – Participants in the discussion groups according to age groups, discussion group and sex (N)**



While the participants in the discussion group with the police authorities were from the militarised (GNR) and civilian (PSP) police, the participants in the discussion group with the practitioners in the victim support services were composed of 4 psychologists; the remaining 3 were a social assistant worker, a social educator and a criminologist.

In terms of the participants' experience in the field of dealing with domestic violence, it was seen in the discussion group with the police authorities, that their professional experience varied between one and five years (an average of 3 years, 7 months); in the victim support services discussion group, the participants' experience varied between 3 and 14 years (giving an average of 7 years).

The practitioners who were interviewed, and more in particular, the practitioners who were working in specialised units, very often deal with crimes involving intimate-partner violence whether they are at the investigation stage - *"Normally during the weeks in which I do the night-shift, there's at least one inquiry involving domestic violence"* (J.2), *"Everyday"* (P.8), - or at the trial stage – *"I daresay that not a week goes by that there's not a DV case that we have to handle. One or two, around about that number. It gives us an idea of the seriousness [of it]"* (J.1); *"at least one or two cases of domestic violence appear every week"* (J.3).

Furthermore, the relative weight that violence plays in intimate relations, where this load represents *"practically everything"* (J.2), and *"always predominates"* (P.1), circumscribes gender violence in that *"DV crimes mostly involve men against women. It happens as much in marital relations as it does against the elderly"* (P.4).

## Interviews with the victims / Profiles and profiling

Ten women victims of intimate-partner violence were interviewed; their cases had gone to court. The victims were aged between 41 and 60 years old (the average age was 48 years old). One of the women interviewed cannot read or write, two have completed the 6<sup>th</sup> year and two of them have attended the 3<sup>rd</sup> cycle (one finished the 9<sup>th</sup> grade and the other only the 7<sup>th</sup> grade). Two women completed secondary education and one has a university degree.

Most of the women interviewed are employed. Only three of them are not working, either because they are presently unemployed (two cases) or on sick leave (one case). As regards their professional situations there is a wide diversity of professional areas: restaurant, gardening, masseuse, teaching, sewing and technical assistant. Their main source of income is their salary (4), the sick allowance (2), the minimum income benefit or the income they get from their activity (sewing).

As regards their family situation, the information collected shows that most women are living with their children who – in all cases except one – are joint children with the perpetrator. Children's age ranges between 10 and 30 years old. One of the women is living with relatives, and two are not living with their children (one is living with the aggressor/father and in the other situation the children were taken away and are living in children's homes).

Health related problems (e.g. depression and high blood pressure) are reported by five of the women; one of them reports several health problems, among which the blindness of one of her eyes was a direct consequence of the abuse endured. Only one woman refers needing help to carry out her daily activities.

It should be pointed out that at least two of the victims (up to V.3) referred to the fact that the perpetrators/suspects had tried to lodge complaints or a formal accusation alleging abuse that the victims had inflicted upon them: *"at the time, he telephoned the Police and I thought he was just play-acting, but he really did. You can imagine my surprise when I saw (...) two GNR patrol cars drive up to [name of the place], yes, two patrol cars and everybody running up because they didn't know what was happening, isn't that so? Afterwards, they got speaking to me: what happened? And then I told them that my former husband had been beating me up (...), and he [the GNR officer] said to him [the perpetrator/suspect]: so who do you want to be taken off to jail? Do you want to go or do you want your wife to go? You'd better be careful if it's not you to go". (V.1)*

This circumstance may eventually impact on the rising number of domestic violence complaints made by men in Portugal and which are registered by the police (in 2014 this figure reached a total of 15.9%<sup>19</sup>). The number of male complaints may therefore be hiding an intentional strategy which although later on unveiled by the investigation process is translated into a statistical reality that is, at least partly, not entirely true.

The profiles of these women who have experienced IPV should not be confined to the above socio-demographic characteristics. The contexts and dynamics in which the abuse occurred are equally

<sup>19</sup> Ministério da Administração Interna, Secretaria-Geral do Ministério da Administração Interna (2015), *Violência Doméstica - 2014. Relatório anual de monitorização*. Lisboa: MAI. pág. 34. Available at: [http://www.sg.mai.gov.pt/Noticias/Documents/Rel%20VD%202014\\_vfinal\\_14agosto2015.pdf](http://www.sg.mai.gov.pt/Noticias/Documents/Rel%20VD%202014_vfinal_14agosto2015.pdf).



crucial and can be summarised. Long duration violent relationships (between 18 and 30 years or more) are the most common. Very often the violent episodes started even during the dating period: *“He started to beat me up as soon as we got married. Around one month later”*. (V.1) *“He abused me since we were dating. Then I got pregnant and at that time it was shameful to be single mother. Then he abandoned me with my two older daughters”*. (V.7)

Women report temporary break-ups and returns along their intimate relationship trajectories. Sometimes they believed they were still in love with him or they believed things would get solved: *“I hadn’t decided to get divorced. I guess I need to think a lot before getting to the limit”*. (V.2); others expressed fear to leave their children behind: *“then I had my son at home, he was 13 or 14 and I felt sorry for him, I could not leave him alone and so, the next day, I came back home again”*. (V.1)

Continued verbal abuse, personal diminishing is reported by women and frequently translates into similar expressions used by perpetrators: *“you’re worthless, you’re not good working for yourself, let alone for others”*. (V.1) Violent physical abuse and assault is often reported even during the investigation phase: *“since then he never left me alone again. I was beaten up every day, pushed by the hair, punched on the face and mouth... he would beat me up any way possible and he started to break things at home. He would break everything and again I called the police”*. (V.4)

Several forms of strong coercive control by the perpetrators are also clearly visible within these violent dynamics: *“He wouldn’t let me go out, I couldn’t go to the coffee-shop (café), I was not allowed, I had my driving license but could not drive.”*(V.1) *“He did not want me to work; he wouldn’t let me get out of the house. I couldn’t go out to buy the bread, couldn’t go to the café, and couldn’t get out buying anything. We always did the shopping together. I could never get out on my own. Till today I find it difficult to get out on my own”*. (V.2); *“He kept hitting me out of the blue, on the street, anywhere. I couldn’t get out, go anywhere, couldn’t go to work, because he said I was getting out meeting my lovers”*. (V.8)

This coercive control which is imposed throughout women’s lives, together with threats, physical violence and continued stalking, ends up overflowing to the public space and often triggers women’s decision to move on and file a criminal complaint against the aggressor: *“He started to threaten me, pulled me by the arm, shoved me, threatening to break my neck and kill me like a chicken, which was something he often said. Then, threatened me again on April 1<sup>st</sup> and on the 4<sup>th</sup> he came up to my working place, sent for me and once I came down, he said ‘I will hit you right here in front of everyone, because you’re no one, not even a person!’ For him, I was nothing! Then I said: ‘You’re not entering my house again’. He then threatened me once more while I was walking to work”*. (V.5); *“He stalked me, but I did not know ... and when I left he kidnapped me. He kidnapped me, got into my car and said ‘you come back to me, you’re mine or you’re nobody else’s. I will kill you and then kill myself. I have nothing to lose’. I was traumatised and went along. I said ‘I’ll do anything you want but don’t hurt me’. And he said ‘And promise you’ll marry me. Next week, I’ll deal with the paperwork”*. (V.10)

Even long after breaking up, the fear and the coercive control still persisted within intimate relationships where all sorts of abuse were present: *“I was separated for 12 years, divorced and even so he continued to tell me that I had to be his until I died. He threatened me that if one day he saw me with someone else he would shoot him first and then me. Then I was forced to have sex with him”*. (V.7)

Sometimes women used isolation as a strategy to cope with the coercive control and to protect their children: *“I always tried to hide things. Whatever happened between us I tried to ensure that my daughters would not be around... I didn’t want the girls to realise what was happening.”* (V.2)

In order to protect themselves and their children from these abusive relationships women learned to implement a set of measures and strategies. One of the women interviewed explains: *“My system was to get home from work, feed the kids, do everything in a rush and put them to bed. If their father had not arrived yet, he would arrive drunk. It was like this for years”.* (V.3)

However, filing a criminal complaint was often triggered by a particularly violent episode, such as the one described by one interviewee whose partner strangled her and tried to kill her, or the following one: *“It was ugly that day! I was sleeping and he started dragging me by the hair to the floor and kicking me continuously. From then on, I don’t recall a thing. It was a total black-out...”* (V.8)

Finally, there are similar family situations which lead to the decision making process at older ages: *“I have another domestic violence situation in the family with my younger daughter. And she had to go to a refuge. I... well, the problem with my daughter ended up helping me, because I did not know and it ended up helping me too”.* (V.2)

#### 4.1. The starting point | What led women victims of intimate-partner violence to start court proceedings

What led the women who were victims of intimate-partner violence to sometimes start the whole process of going through a court case, was having suffered in an extra violent episode. In addition to this was the fact that the children were old enough to understand why their mothers were doing so and would help them at times. One woman referred to the fact that what had caused her to lodge a complaint, was the attempt to strangle her whereupon both she and her son were sent to a refuge: *“One time he started beating me up, and my son took, he took photographs; (...) he squeezed and squeezed and then afterwards he ran into my son’s bedroom afraid of him, and he [my son] between the bed and the what-you-call-it, and oh! I was really afraid then. And that’s when I went to make a complaint against him here. (...) he really tried to suffocate me; all this was bruised and my son was only (...) 14 years old when I ran away to this place. I ran away, I was forced to and he tried to kill me”.* (V.1).

Children often come up within women’s descriptions of their trajectories and they seem to be playing an ambivalent role – their children make them want to change their lives and they are also the reason why they fear the change: *“we are afraid for our children and we try to endure but, now after filing the complaint, I realise things are not as I imagined... because I was afraid... I complain and they will take the children away from me and I will not have my children taken away from me... because whatever I can do for them, for them I continue till the end”.* (V.4)

In many cases, the trigger to break the cycle of violence comes when children reach adulthood; the desire to change which had been there for a long time finally gets real: *“I think it was the fact that my daughters were adult, married, that they had their own lives and to continue being abused in front of strangers that, at that time, were my sons in law and that I already had grandchildren”.* (V.2)

One of the professionals interviewed considers that economic reasons are the main reason why women experiencing domestic violence continue living with the perpetrator: *“every time the woman wanted to leave home... she couldn’t cope with the violence anymore and had to leave, she always thought twice: either because her salary was too low for her to rent a house and to provide for herself and her children alone, without her partner’s support; or because, she was under such a strong control from her husband that she felt she would never be able to move on with her own life”*. (P.6)

Thus, there are situations in which the women returned home to the perpetrator/suspect after a first complaint or accusation and /or after leaving home. The ambivalence was quite marked when it came to making a decision, not infrequently due to the pressure applied to the victims by others/relatives, and /or also due to the inability of the victim to provide for her own basic needs (housing, food, school, etc.). We noted that for the women we interviewed, going back home and/or returning to the violent relationship was not always guided by the so-called honeymoon stage which the literature calls the ‘circle of violence’. Rather, their return was due to their not having any means with which to satisfy their basic needs. Indeed, such decisions ended up by complying with what was waiting for them at home, and in the situations related to us by the victims themselves it was exactly what these women did not want either for themselves or their children: *“the next day I thought: ‘what am I doing here? I’m leaving’, and afterwards I went away. I said: ‘It’s not worth living here. I’d come back home; I was making an effort; he didn’t appreciate anything; he’ll make me go crazy or tomorrow, he’ll kill me right here.”* (V.1).

## 4.2. The victims’ stance in terms of the criminal justice system | expectations

The expectations the victims had with regard to the criminal justice system are necessarily informed by the personal experience they had with the various actors intervening in the system. Accordingly, the police are frequently the first team of practitioners with whom the victims interact.

Thus, one should note that there are at least two interviewees who reported that the first time they went to the police to tell what happened, no formal complaint was made; on the contrary, the police ‘listened’ but did nothing: *“I was expecting them to advise me, to tell me ‘Go on, file a complaint... but the first time, no! (...) For many years I had wanted him to leave, I did not want to go on like that. But he (the police officer) would get there and say ‘no one should get between husband and wife’<sup>20</sup> and simply walk away”*. (V.4)

The importance of this first contact with the justice system is, according to the people we interviewed, *“the victim’s first impact with justice. There’s an old saying that says there’s no second chance to make a first good impression. I think it’s also true here, in DV crimes such as these, in the contact that people have with justice. Why so? We’re speaking about an apparatus that is geared to work indiscriminately with all kinds of crimes.”* (J.1). This perspective is validated by victim support services whose perception is that *“unfortunately, from the moment where the file is lodged, not*

<sup>20</sup> It is not possible to provide a literal translation to the Portuguese quote *“entre marido e mulher, ninguém mete a colher”*.

*everyone is prepared, neither the victims nor the system. Very often when the victim arrives to the police station, there is not the necessary understanding and sensitivity which is needed to welcome that person, who in many cases has suddenly taken that decision, totally unaware of what will happen afterwards". (SAV)*

It should be remembered that many of these women who have been victims of intimate-partner violence had lived their lives, influenced by the symbolic power of the sacrifice women are expected to make – the sacrifice of love and the family framed within a social and ideological concept that places men and women in fixed social roles: “He stalked me constantly and always found a way to ‘I’ll pick you up. I’ll do this.’ And I thought that was normal, that it was love. He likes to be with me and wants to be with me all the time. I always understood that behaviour as being love, not abuse.” (V.5)

This sacrifice is underpinned by not wanting to find help: “*I didn’t want to search for help*” (V.3).

Moreover, in agreement with the literature, there were other kinds of obstacles to prevent them from seeking help, such a feeling of guilt and shame, isolation and the slur of going to the police station to make a complaint; this came up very lively during the interviews with the women: “*At that time, I felt it was my fault because I accepted my children to grow up like that. There is guilt and it is very hard to free yourself from that feeling of guilt. Very hard! Before you manage to break free from that thing you feel inside which tells you ‘This is my fault, that is my fault...’*”. (V.3)

Indeed, in the discourse of the practitioners, particular reference was made to the victim resorting to an indictment or a complaint as a sort of mechanism to reduce or stop the violence: “*very often, they don’t want to convict the other person, they just want the abuse to stop. The abuse stops and things get back to normal*”. (PA)

But there are also practitioners whose experience in this field lead them to encourage women who experience intimate partner violence to take a decision and to continue the path they had initiated and which is often interrupted, hoping that the perpetrator will change his behaviour: “*And one of the police officers, whom I will never forget, told me ‘So you, women, think this will go away, but it doesn’t, things will not change!’ And those words stroke me, I kept those words, people do not change like that.*” (V.5)

The victim’s stance may, thus, take shape during the first contact when she is a witness and if she “*is at ease, or less at ease, or more willing to speak, or less willing to speak, or if she is willing to go back [home], or less willing to go back. And this depends on the quality of the human resources.*” (J.1).

In attempting to meet the victim’s expectations, an approach explaining the criminal procedures is favoured by the practitioners we interviewed, where they would like to see it developed further: “*The victim, who is by nature in a fragile position, should know right from the start who she can count on. I think that an important step forward lies there. And that also means knowing who she can count on in terms of the time it takes to solve the case*”. (J.1).

Besides, according to this judge, people in general, victims/complainants in a court case “*give more value to a court case if they know from the beginning, the way it will be conducted and the time the case will take.*” (J.1).



At times, expectations end up by being disappointed because the legal system and the victim support system have been lacking, although *“the victims are convinced that if it comes to the worst, if they can’t manage to solve their problems by going to the police, they’ll solve them by going to the victim support associations. But this is not true either. Very often, they [the victims] go back to the police hovering between frustration and anger because they had lodged a complaint, got involved, expected to be helped and protected, had spoken to them, heard what they had said, and in the end, it was nothing like they said.”* (PA).

Obviously, for women with children, there are more challenges and constraints that although spilling over from the crime, have an impact on and affect the victim’s stance. Rulings on parental responsibilities are an example of these side effects: *“streamlining the exercise of parental responsibilities, for example. When contact has been banned, finding support from the family so as to help make contact feasible without the parents ever seeing each other. Finding relatives or friends or even getting the Criminal Police Department (Órgãos de Polícia Criminal, OPC) to make things feasible – it’s a constraint.”* (J.2).

One of the interviewees reveals how that kind of constraint operates; that fear to disclose what is happening at home to third parties, namely at her children’s school: *“The teacher told me ‘You should have told us a long time ago’ and I said. ‘I wanted to, but then you would take my children away from me... You would have someone taking my children away from me’ and, my children, I will not leave. I can end up with nothing, but my children have to be with me always.”* (V.4)

Victim support organisations also referred that *“many women lack the information; they are always extremely afraid that children will be taken away from them. It is an issue they often bring up ‘I’m not leaving because my children will be taken away’.”* (SAV)

### 4.3. Victims’ stance in terms of the criminal justice system criminal | needs

*“these crimes destroy a family and they’re always people who feel very low, they’re emotionally drained.”* (P.4)

Directive 2012/29/EU stipulates that in all contacts made with the suitable authorities when criminal proceedings are undertaken, the personal situations and the immediate needs of the victims must be attended to. According to the practitioners we interviewed, *“the most important need is having an overall view of their needs”* (J.3). It is necessary to avoid court cases mainly when there are couples with children involved; they are veritably Kafkaesque, where on the one hand, the victim has to try and accuse the perpetrator (in a criminal court case) and on the other hand, defend herself from this same perpetrator (in the family court).

Nevertheless, some of the interviewees advocated that the main concrete needs are connected with the justice system itself owing to the fact that what the victims *“want [is] information about their rights and for things to get moving as quickly as possible.”* (P.1).





Promptness and safety are often referred to by interviewees as important needs victims have during the process: *“when women lodge a complaint, there are issues mounting to social and economic problems; they have no money to find a house for them and their children and they run the risk to having a small place to live and to be subject to promptness and safety issues. Neither speed is there, nor safety.”*(SAV)

Many of the needs that were spoken about by the interviewees ended up by revealing a panoply of actors within the justice system itself because *“what happens is that the criminal system has one answer and the family system, for example, has other answers [like] parental responsibilities, and then the educational system has yet other answers, etc., and these answers are not integrated globally. They are not integrated because the law, our own law and the law in other countries, still work on the 20<sup>th</sup> century compartmentalisation of the branches of the law, and as a result, the answers are what each of these branches of the law give.”* (J.3).

Many of the interviewees picked out various kinds of needs connected with the victims of intimate-partner violence (ranging from housing, economic and social needs, etc.), where the gap is generally bridged by networking: *“What we usually do (...) is flag situations that are able to provide us with an answer; if it is a need calling for assistance with housing, with providing immediate economic support, we flag it. I’m referring to my own experience working with the people in the Criminal Police Department as they’re very aware of this and very often, they themselves promptly activate social responses.”* (P.1).

Notwithstanding, the identified needs are well beyond the skills and the direct scope of intervention of the courts themselves, since *“the court itself, the court cannot, per se, in my opinion, replace the whole of the State in this respect. Courts’ intervention is a reactive intervention. It is not a prevention intervention. It is not up to the court to prevent the crime from happening. The court intervenes when the crime occurs. It acts, it investigates, evaluates who and how the crime was committed, and it punishes. This is the court’s role.”* (P.6)

Other practitioners in the justice field point out how victims’ needs call upon different areas of court intervention, going beyond criminal courts’ responses and often lying on the intervention by family courts, since very often *“the criminal case is not their priority. For them the priority lies on all the issues which need to be settled in order to move on with their lives. And what is of the utmost importance is regulating parental responsibility, divorce issues also and then the issue of assets sharing or assets splitting or pending debts.”* (A.1)

For the public prosecutors, the main concern arising with the victims of intimate-partner violence *“is that the victim may go home and rest easy (...). As we step in at the beginning of a case, our main concern when we detect that a serious crime has been committed, that it’s been a serious one, our main worry, effectively, is to provide protection. And that he [the perpetrator] gets out of the house – for us, he is always the one who has to leave the house – and she stays at home without changing her routine, more protected because of the call-lines, coercive preventive measures, being monitored by electronic surveillance.”* (P.4).

Safety and protection safeguards for women within their own homes are also concerns which came up clearly during the interviews with the victims. One of them said: *“Then one day the police made the reports and asked me ‘Do you want us to take him out the house?’ And I ‘You should have done*

*that before, this will get to a point where there will be no... how to explain?! One of these days a disaster will happen in here'." (V.4)*

One of the women interviewed emphasized that she felt the police officers were genuinely concerned regarding her safety, since *"at that time they asked whether I thought I was at risk, if I believed that a special protection measure should be imposed and I said no."* (V.2)

And one of the measures which the police have been implementing in the domestic violence is a close monitoring of reported cases, within a framework of community policing; i.e. police officers often move around those areas where there are reported domestic violence cases in order to ensure some protection to the victims, contributing towards their sense of security. One of the women interviewed shared her experience: *"they (the police officers) often came to the neighbourhood (...) they told me: don't worry that we are often around. And they did... They moved around a lot. I was often at the window waiting for the mail because of the letters from court – just in case he decided to open the mail box and take them – and they would come by and ask me if everything was OK. And I said yes, and they would go away."* (V.4)

#### 4.4. Victims' stance in terms of the criminal justice system criminal | decisions connected with proceedings

An overall perspective of the justice system's intervention is still hard to come by in Portugal and it lacks structure, and obviously, operativeness. This lack is reflected in the stance of the victims themselves who have to make more or less frequent trips to the various services (the Criminal Police Departments, the Public Prosecutor's Office, the Social Security) and even to the courts; it is also reflected in their mood swings, going between optimism and pessimism, the desire to go on and the wish to stop their journeys through the justice system. It is worthwhile considering the fact that the time spent on this journey is fairly lengthy according to the results achieved – in cases brought to trial by the Public Prosecution and judged, the time spent varies between 3 months and 6 years; in cases that have been dismissed, the case lasts from between 6 to 12 months (see Chapter 4 of the Report herein). It should also be mentioned that *"in terms of the law, the crime of DV is deemed to be an urgent crime and therefore all DV acts placed on the agenda take precedence over all other acts."* (J.1). However, according to the victims the duration of the procedures is very lengthy: *"this was in October and I left in November. And the complaint was filed in June last year. It is a very lengthy process. It takes too long. Anyone can give up and do many things in between. It takes too long."* (V.9)

If the victim's stance changes during the course of the investigation and the criminal proceedings – sometimes at the beginning of the proceedings the victim wants to go ahead and press a criminal charge against the perpetrator but in her first statement keeps silent about it – this should not be interpreted as an obstacle to continuing the investigation itself. Besides, one should take into account the conditions under which women are firstly asked whether they wish to criminally proceed against the perpetrator (who often is their present partner); their emotional conditions or their ability to fully understand what they are being asked often impacts on the way they will respond: *"then the police asked me if I wanted to criminally prosecute him. And I understood that if things*

ended up in court he would go to jail. That was my understanding at that moment in the middle of all that confusion of questions and answers. And then I said no, I don't want to." (V. 5)

Even though the crime of domestic violence is a crime 'happening behind four walls' where the victim is often the only witness, the fact is that in Portugal, domestic violence is a crime in the public domain. Indeed, owing to this fact, attending to or respecting the victim's wish or lack of it, is contrary to the nature of the crime: *"in these kinds of crimes (...), the victim does not have the autonomy to say what she wants, so there's no need to respect this principle."* (J.3). In the victims' interviews generally speaking, this ambivalent attitude influences how these women decide about what they would like to do. Rather, *"the victim should be given help in reconstructing the process so as to decide what they want to do"* (J.3).

The effects of this help so as to (re)build the way in which the victims decide what to do, needs to be linked up with the kinds of concepts the practitioners have formed about this sort of crime, as well as the profile of the victim underpinning the case. The concepts should be based on a gender perspective because *"in knowing what its origin is, its reason of being (...) we may understand the phenomenon."* (J.3). And this gender perspective which is culturally binding, is more marked in certain areas of the country than it is in others, as one of the interviewees observed: *"In [the region of the country], the gender issue is much more noticeable – 'they're fighting for what is his'. The victim herself doesn't have any idea that she deserves to be protected."* (J.2).

We often come up against the discourses of women who have been the victims of intimate-partner violence where defending their honour comes before their partners' insults and defamations even when they are the targets of such abuse in public thoroughfares: *"He insults me everywhere we go. It's like this, I have friends and friends. Men living with me is what I don't have."* (V.4).

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Interiorising the idea of being a victim – *"the victim has to be good, still and act like a victim. Rebuilding her own life again?! No way. She will have to remain single for eternity."* (A.1) - quite, follows the same rationale and is closely associated with the idea that victims need to be protected, and as such, they should be interested in cooperating with the justice system. Nevertheless, it is *"the ideas, the social images or the prejudices about women [that] interact in the daily life of the courtroom, and namely in the production of legal discourse"* (Duarte, 2012: 68). Therefore, right from the start, *"we have formed a view and a stereotype of the victims as being a poor helpless thing, and a woman who has to take the stand in court (...) and who does not play the role of a poor helpless thing, who shows that she is assertive, is not a victim."* (J.3).

Such prejudices are often restated in the court rooms through questions women are asked as IPV victims: *"He told the judge that I'd gone away on holiday and that I didn't care a fig about him. This among other things. Because before I came in, the judge had been talking to him. When I came in, the judge asked, he confronted me: 'Is it true, Ms. \_\_\_, that you went away on holiday and didn't care a fig about your husband?' It was the first question the judge asked me! That's why I said I cried snot and tears when I left. I told him: 'Your Honour, Mr. \_\_\_ and I have been separated four years although we have lived in the same house. He doesn't care a fig about me either. He went away for a month's holiday with a mistress of his. I've got proof that he did'. And the judge replied: 'This subject has not been called into evidence here'."* (V.9) This way of formulating questions, apparently neutral, may transform the justice system's external questioning into an internal self-questioning by the



victim herself – ‘what have I done wrong?’ – which are rooted in strongly differentiated gender identities and roles which still prevail within the Portuguese society.

Regardless of the relevance which the victims’ statements have throughout all the stages of the proceedings, and the fact that the victim is expected to cooperate with the justice system in gathering the evidence, this kind of crime is atypical. It is atypical in that the person who was abused has to be willing and rely upon her experience to continue with the case and find the evidence against the perpetrator who happens to be her partner/former partner. There are justice officials who try and encourage the victim to testify although they are aware that only the victims have the power to decide what to do: *“You [the victim] need to weigh things up. Your safety is in cause’. I’ll explain things to you. I’ll make things clear to you but you have to decide. I’ll respect whatever you choose to do. If you don’t wish to speak, that’s your right, I can’t force you to speak”*. (P.4).

However, it is still possible to observe in some situations and geographical contexts “ a set of constraints of the system itself, of lack of training among public prosecutors, among the people running the investigation, who often do not explain victims the importance of providing evidence and how they can provide such evidence.” (SAV) In short, it is not a common practice across the whole national territory to provide IPV victims the necessary information, rationally explaining what they should know and let them decide.

It should be taken into account that in drawing up a solid accusation, it is vital to recognise and learn to what degree the violence a particular victim has suffered has impacted on her attitude during the criminal proceedings. This may be observed in the following statement: *“psychiatric examinations or psychological tests made on the victims so as learn about the degree to which the abuse, or the stream of abuse, or a specific period of her life, has disturbed her psychiatric balance or her life.”* (J.3). These tests which are confined merely to the perpetrators/suspects, may also form one of the extended duties of the Public Prosecutor’s Office because it involves the person in whose name the case has been brought to bear and the entity that *“has to investigate all the facts relevant to the crime that has happened, and therefore all the outcomes of the crime. And afterwards, these fact are very important for applying the law.”* (J.3).

However, there are particular stances the victims adopt - whether they are conditioned or not according to the way they have been treated by the practitioners in the justice system – that impact directly upon the case proceedings or the final decision/sentence related to the cases. This state is witnessed by the practitioners: *“And very often, all too often, this is absolutely decisive; [the offenders] are absolved simply because the victims don’t speak.”* (J.1). In relation to the victim’s stance, the perpetrator/suspect’s stance throughout the entire criminal proceedings as well as the type of proceedings carried out by the services, is not innocuous. This is owing to the fact that *“there are many crimes even now, in which or because the inquiries were carried under the auspices of the former law, or because there was no inquiry phase because the suspect never showed up, or because the suspect refused to speak, or because the victim purely and simply refused to speak.”* (J.1).

The practitioners also know about or are aware of the fact that, in particular cases involving domestic violence, *“there are cases where the families exert pressure so that they give up or they remain silent when statements are taken.”* (P.1). Due to various individual or family reasons, but also owing to deeply-embedded social habits surrounding them, private crimes that take place in intimate-partner relations help to establish *“family setups where they are against the State reacting*

*with a criminal charge, which is viewed as something to avoid and is undesirable; it's undesirable if the suspects are placed under duress or if it's genuinely what people want. There are many cases like this. But very often, so I have noticed, it's the family's reluctance to have the State intervene."* (P.1).

On the other hand, some of the interviewees pointed out limitations in the way the practitioners did things, such as, when the victim remains silent, except when *"the lady doesn't want to give a statement; she refuses to, and that's that. [The judge] isn't there to tell her: 'Look, think well about it', he just isn't there."* (P.1). In the opinion of the police authorities who were interviewed, the victim herself has to *"understand that she needs to play an active role in the proceedings; she can't act as if she were taking a phone call and hand over the burden of the task to others"*. (PA).

But if there are cases where there is pressure from victims' own relatives to persuade them to give up, there are also situations where the intervention of practitioners, such as lawyers, may determine the course of the proceedings, such as the example given by one of the women interviewed: *"In 2006 I filed a complaint and I had my daughter witnessing on my behalf. In the meantime he managed to convince both of us, because he is very controlling, and we said nothing had happened. It was the first time and ... And the file was dismissed. Then I made a second complaint... I had a necklace and he pulled it harshly and I got a big mark on my neck. This among other things that happened every day. In the meantime, we made an agreement at his lawyer's office and when I got to court I said I did not want to make a statement, and I didn't."* (V. 5)

It is true that victims' waiving from carrying on with criminal proceedings is also related to housing and economic needs. One should, nevertheless, recall that many IPV victims end up by leaving their homes for safety reasons, and are then confronted with a wide range of obstacles whilst they feel that the State leaves unpunished those who committed the crime: *"he is there living at our house, relaxed and happy with his new wife, he doesn't pay the rent, doesn't pay anything... and we (she and her two children) have to live in this situation (rented apartment)... now I can understand why many women do not go forward."* (V.9)

Some people get sceptical and wonder about the true usefulness of moving on with the criminal proceeding, mainly taking into account the judicial decisions of crime proceedings (most cases are dismissed and among those which go to trial a significant percentage ends up with an acquittal sentence and most convictions are suspended sentences. In reality, "what are criminal proceedings useful for? It is not yet very clear. Whereas the use of proceedings for the exercise of parental responsibility is clear. If criminal proceedings were more useful for solving victims' life issues there would also be a greater involvement of victims in their own criminal proceedings." (A.1)

Now one of the women interviewed, fully aware of the fact that many women end up 'withdrawing their complaint', made a very thoughtful comment: *"I think that any woman who is experiencing domestic violence must go forward. She should file the complaint and never stop. I know there are people who are abused and then they go there and withdraw the complaint and they continue to be battered and again complain and again move back... Don't do that! We are not here to be battered, abused and to keep on suffering. Go forward till the end."* (V.4)

Needless to say, the stance of the practitioners themselves acts as the basis for gathering evidence in particular cases because *"even the information provided by the victim in the sense of telling her 'you can speak, you can't speak' is decisive in many instances; it may unblock or block the person so that*



*she does or doesn't speak. Because if the officer asking the questions has the attitude of 'I need to get this over and done with quickly and this is just another case' (...) then most likely, the person giving the statement will say: 'Well, the attitude of the officer asking me all this [shows] that he just wants to get things over and done with. He wants to solve one more number, it's just another case. So what am I doing here? It's probably not worth saying anything.'* (J.1).

Be that as it may, there are practitioners who try and speed up collecting other kinds of evidence (that does not only centre on the victim's statements); they are aware of the difficulties facing a good many of the victims who take the witness stand in the courtroom, and they make use of what has been taken into account legally speaking (when dealing with a victim who does not wish to give her testimony in court): *"Of course, this is underestimated owing to the fact that the statements made by the plaintiff/suspect during the inquiry phase may lead to certain circumstances, may lead to a trial. And this may help in many ways. It's already happened to me. The victim refused to speak and I took advantage of the statement the suspect made before the judge of inquiry and which had been recorded freely; afterwards there was another version of the account made by the witnesses (...) that was added to the suspect's confession, as well as the test reports, or rather examinations, forensic reports of medical examinations, etc., and cell-phone records, for example."* (J.1). This sort of professional procedure is pursued because, for the practitioners we interviewed, *"the victim is not the only source of information, not at all"*. (J.2).

The fact that the victim may give her statement in the courtroom where the plaintiff is required to leave the room, has been shown to be positive in cases involving intimate-partner violence. The length of time the couple has been together and the history of violence which may be very lengthy in many of the situations might place restraints on the victim giving her statement in many instances. This was referred to by one of the women we interviewed: *"First, when we get there we feel shattered and then insecure. Second, we go and we don't want to go. We know we need to be there but we don't want to go because we love the person who is being tried. At least, I speak for myself. All in all, there is so much at stake."* (V.5)

Besides, women underline the importance of being able to give her statement in the court room without the presence of the perpetrator and even ensuring that victim's and perpetrator's cannot glance each other since *"not seeing the person who abused us for such a long time is very important. Because there is an emotional link. The emotional relationship does not break easily, from one moment to the other. Many years of living together are there. We share three daughters. It is a long life history and you do not make a clear cut easily. So the fact that the person is... I think it is very, very intimidating."* (V.5)

Nevertheless, if we take into account what we were told by the victims we interviewed, they did not always receive the information that they could give their evidence without the plaintiff being present in the courtroom.<sup>21</sup> When we asked one victim whether if at any time she had requested that the plaintiff be removed from the room and that she knew it was possible to do this, she answered: *"No, but I should have asked because I wasn't able to tell them about things (...). No, I didn't know."* (V.2).

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<sup>21</sup> In some, although fewer, cases victims were asked: *"Do you prefer Mr. X to be present or that I ask him to leave? And I said: if it is possible to keep him outside the room, I would prefer."* (V.7)

There are certain decisions that the victims are able to take and to know about that may cause an impact on the outcomes of the proceedings: *“If the police, if the public prosecutor, if the victim herself drew up a petition stating: ‘this and this and that happened, and even at this stage of the trial this person is harassing/stalking me and doing this and this and that’, then, if this were the case, of course the court would be obliged to apply a coercive preventive measure after officially hearing the public prosecutor and the other parties involved in the proceedings; yes in this case, it would.”* (J.1).

Not all the women who are victims of intimate-partner violence are capable of deciding or able to make certain decisions, namely if they want to be constituted assistants in the court case. In the opinion of one of the prosecutors, the women who wish to become assistants *“are people who have other economic possibilities. Normally they come from the higher social levels. Yes, this happens. They contract a lawyer and then become his/her assistants”*. (P.4).

During the interviews, it was also mentioned that there are practitioners who expect the victims to know a bit about criminal procedures; they expect the victims to be proactive because *“normally, people are quite well informed as either they’d once been [to court] or they had a friend who had been, or they are members of some kind of support group. Notwithstanding, when we hear their statements and ask them what their own position is, and whether they wanted to drop the case or not, we have to explain to them what can happen. That’s it. Usually, when I’m presiding over an inquiry, we answer everything they ask us.”* (P.4).

In the meantime, there are other decisions that may be made which can place at risk the court’s coercive preventive measures, such as this example given by a judge working in criminal investigation: *“the court ruled that the perpetrator/suspect undergo a renewed term of declaring his identity and residence at a new address that was different from the address his family was living at because he still had not left it. We understood that the victim herself had probably given him space by abandoning the family home herself. She didn’t have enough money to change the locks on the door which helped him to move back in. The victim went to stay at her mother’s place. When we realised this, and because he was manipulative and smart, it became clear that he had to comply [with the ruling]. And he had to give evidence of his new address.”* (J.2).

The public prosecutors tend to follow the same procedures when they are dealing with cases of domestic violence. These practices may be composed of the following steps: *“As soon as the case arrives at the Prosecutor’s desk, what he should do as a first step so as to issue the first order, is read the factual account and tie it in with the petitioners’ accounts, with the [risk-assessment] table, and then afterwards try and see what the best route is: deciding whether it is simply handing over the investigation to the police or whether it is such a serious matter, so urgent a matter, that the person has to be called in right away to make a statement, for example”*. (P.1). Indeed, it was possible to detect in many of the interviewees’ statements, the impact on the prosecutors’ procedures that the risk assessment conducted by the police had, together with a personal appreciation about the information contained in the report. The prosecutors commonly take into account the risk assessment report and if they realise that the situation is high-risk, they try and hear the victim from whence, they *“see whether things can’t be speeded up.”* (P.1).

When the public prosecutors take into consideration the information contained in the risk assessment form, it means resorting to different, relative weightings because some of them do not give priority to the risk assessment forms but rather rely on other evidence such as the formal

accusation claim (indictment) or the complaint: *“What I do first, is never look at the risk-assessment form beforehand. First, I see what’s written in the complaint. Then afterwards I see what’s in the statements she [the victim] has made. And afterwards, depending upon how I have evaluated things for myself, the way we used to do things before, I’ll take a look at the risk-evaluation form. If the complaint file is not factual enough or if statements weren’t taken immediately or if they are sketchy, then I’ll see what the risk assessment is. If it is high, then I’ll decide how I’m going to handle the case.”* (P.4).

However, there are also Prosecutors who *“previously didn’t bother to look at the risk assessment form that had been filled in, but now they do, and they see what’s in it.”* (PA). Indeed, the police authorities who were interviewed were unanimous in considering that the new risk assessment table has allowed for *“procedures to be standardised because if there are [police] officers who are more sensitive, there are others who are not, and therefore the point system helps them. Regardless of whether they could do more, they can’t do less; they have to deal with those points and it’s always added-value.”* (PA)

Furthermore, in accordance with the degree of risk, the (new) risk-assessment form which has to be filled in by the police obliges them to contact the victim within a certain deadline specified by the level of risk. There are, however, both benefits and disadvantages attached to this which the practitioners pointed out. If on the one hand, *“the form very often has to be assessed even if it is not part of the evidence, it incorporates the victim’s statements”* thus acting as *“close-range policing. It’s very important because we in the formal justice system do not have the facilities whereby we can constantly check up on what’s happening at home, not so?”* (P.1). On the other hand, the need to be in constant contact with the victim (in agreement with the identified degree of risk) also has the effect of scaring the victim away from the justice system: *“Afterwards, the victims end up by hanging up the telephone because in the follow-up activity, they [the police] want to get in touch with them so as to up-date the risk assessment.”* (P.4).

One of the victims who was interviewed thought it was very positive that the police patrols frequently went through her neighbourhood. The first time, it was for a purpose but the other times it became a regular occurrence given the neighbourhood’s particular characteristics. Every time the police came, they took time out to ask her how things were. This is a humanising factor in routine police patrols and is valued by people who feel that they are being cared for.

The risk-assessment form may also play a relevant role when it comes to drawing up a statement/standard report or a formal accusation/indictment. This is because *“if the officer in the criminal police department receiving the complaint looks at the table as he makes his report and uses the data in the form to describe what the report demands, then half the information is already there. It ends up by helping him.”* (PA)

There is another kind of information that the public prosecutors need to collect and that seeks to *“contextualise the person’s own lived experience in an attempt to understand what’s happening to her.”* (P.1). This kind of information is made available by the victim-support services. These data, also found in the hospital emergency ward admission records or in the family doctor’s records, are particularly relevant: *“Her clinical records are very important. Very often, the women lose their records of the [medical] tests, they don’t have them anymore, they’re low-intensity matters... Sometimes, merely recording that a person has gone to hospital is very important. She may not even*



*have sustained serious injuries but the paperwork showing that she went to the hospital is very important because she felt she needed to go to hospital, and for some reason, she went!" (P.1).*

## 4.5. The victims' judicial trajectories and experiences

*"The whole way ... it was very exhausting." (V.3)*

Article 28 (Speeding up proceedings) in Law 112/2009 of 16 September obliges cases to do with domestic violence to speed things up. In practice, what this means is that a case based on domestic violence takes on an urgent nature and has a maximum 2-day deadline. Even during the court's recession, the public prosecutor or the judge has to handle any DV case that has arisen (Article 105 in the Code of Criminal Procedure). Speeding up these cases has not met with everyone's approval and the one of the people in the justice system who was interviewed said: *"when we say that all the cases are urgent there's a negative, perverse rebound, which is: none is urgent."* (P.1).

What the victims say is somewhat different – they point out the lengthy delays in the justice system and the complexity of the cases if, together with domestic violence, there is also the problem of a divorce and parental responsibilities: *"The Court works like this: there's one case; then there's another, and another and another. The court cases never end."* (V.3).

The victims feel somewhat lost in a system that is devoted to them and that will give them safety: *"The Court told me it was giving me freedom regarding my own children: 'Go and take you children'. When I open the letter, there's a certain satisfaction, they tell me they know I am a mother who knows how to take care of my children. But they don't tell me where I should go! (...) You're giving me the freedom about something I already know, that I'm a good mother ... but I was the one to prove it to you."* (V.3).

This feeling of being lost is aggravated by the fact that the justice system and the social support system are, according to the victims, hermetic and not very friendly, thus leading to despair and emotional draining but also disbelief in the justice system itself and in its offers of justice: *"all the cases... going from the social assistants, child protection services, the courts ... everywhere is a door. These doors are closed to us right from the start. And so we have a mental block because there's not one door open (...) at the entrance of the door is a wolf. A very powerful wolf. This wolf protects the doors which, even so, don't open."* (V.3).

The judicial trajectory victims have to face is perceived as a challenge, from one stage to the other, from *"having to go to the Forensic Medicine Institute (...) the first time I went there I was standing very quiet in my corner. Hoping no one would ask me anything. Hoping no one would mess with me. I did not want to talk about what had happened. Going there was already a challenge. Another challenge was going down to the police station to be questioned. I think it is painful. It is a very big challenge. (...) and then having to go to the Public Prosecutor, to go and explain why. It was a very big challenge. And finally going to court and having to speak out there was the biggest challenge."* (V.5)

After all, there are trajectories through the justice system that have affected the lives of the women who have been victims of intimate-partner violence, and that have made them doubt justice and made them angry: *“When the Court tells me, me, you can take your children. When a social assistant tells me: we can provide you with help but your older [boy] can’t go with you and have to go with your younger [child] to an institution because of his [the perpetrator/suspect’s] troublesome behaviour, he should be the one to go somewhere else!”* (V.3).

### *The intervention of the police authorities – the Public Safety Police (PSP) and the Republican National Guard (GNR)*

Personal safety and immediate protection are victims’ expectations regarding the intervention by the police authorities: *“when I left home I was very scared. They said they would protect me afterwards... and I saw the police car hanging around there several times. And there was this police officer who would call me from time to time to ask me if I felt I was being stalked by him... if I had seen him around my working place and things like that.”* (V.9)

But as in every other professional domain, where good and bad practitioners coexist, the same happens inside the police. It was possible to confirm some of these bad practices through the experiences of the women interviewed: *“(made a complaint) 3 times. And they never cared, ‘no one should interfere between husband and wife’. So much that once, the last time I called the police, I told them... from now on I will never call them again, because they come and do nothing.”* (V.4)

Another women was very critical regarding the attitude of the police officers who registered her testimony, since *“I told them everything since the beginning, everything. And then there was nothing written on it (on the official DV report), there was nothing.”* (V.7) Another interviewee highlighted the lack of effectiveness of the police officers *“my landlord who lived below, listened to me crying, sometimes they were the ones to call the police. They arrived, knocked at our door to see what was happening and he said nothing was going on.”* (V.8)

One aspect which has been positively assessed in the intervention practices of the police authorities in Portugal is the better knowledge they have been acquiring over the last years on preventing and fighting domestic violence. The definition of common procedures in cases of domestic violence across the different police authorities all over the country as strongly contributed for such developments, namely the introduction of the standardised official notice in DV cases and the recent standardised risk assessment form. Indeed, women’s experiences revealed the significant gap between former practices by the police authorities and more recent approaches towards the same intimate partner violence incidents: *“The first times he even beat me up in front of them. And they didn’t care.(...) And I called the police and he hit me again in front of them, only this time they did care. They took him into custody, he was in jail for the night and afterwards I filed the complaint.”* (V.4)

When the women victims of intimate-partner violence decide to make a formal accusation/indictment at the police station, they mention that in doing so the first time, it is not considered [by the police] to be very important: *“I can’t recall now whether they only wrote a report but they never tried contacting me again. I think they made a report that only said what had more or less happened.”* (V.1).

This relative downgrading of importance is not extraneous to the moment in which the police authorities intervene in a case involving intimate-partner violence *“because it’s the first if not the only institution that speaks to them [the victims], and when they arrive they’re stressed out, they need to unload all that anxiety and we just can’t manage to give all the answers. For this reason it’s easier – we understand that this happens in her psychological process - for the victim to put the blame on the third party in the proceedings, which means blaming the police.”* (PA)

Additionally, and in particular when it is a first complaint and the first time the woman is inquired, there are issues which go well beyond the judicial sphere, i.e. they are often related to gender issues; in fact, although most police officers are men, having a male officer or a female officer asking the questions may not be irrelevant for the victims: *“(she was inquired) by a male officer. This, I believe, does not put us at ease. If it were a woman, I would feel more comfortable, I guess.”* (V.5)

But there are also victims who have a favourable impression of the police’s intervention; indeed, the women victims we interviewed make a positive assessment of the way in which they were treated, that even include the facilities made available to them by the police authorities: *“They sat us in a room designed for this effect and ask us some questions, how everything had happened ... the people were very friendly. They were impeccable.”* (V.2).

In Article 15 of Law 112/2009 of 16 September, it states that “from the first contact with the suitable authorities and pursuant to this law, the victim is ensured of access to the following information: a) the kind of services or organisations where she may go to receive help”.<sup>22</sup> This information, which despite being included in the leaflet about the Status of the Victim that is given the victim, should also be provided in such a way that the victims understand what they are being told. Nevertheless, for one of the victims who was interviewed, this did not always happen: *“The police have the tendency [to give information about the victim-support services] but it’s very little information. It doesn’t get to us that way.”* (V.3). *“No, nobody told me (about the victim support services). The only thing they asked was why I had not sought help from a victim support service. But since I was not aware of any...”* (V.4)

In agreement with the accounts given us by the victims we interviewed, the stance of most of perpetrators/suspects when faced with a complaint and police presence, was defensive whether it meant leaving the house the moment the police arrived:

*“he leaves, most of the times, he leaves. He doesn’t want to confront them.”* (V.3)

*“the GNR came, and he fled. He went to the coffee-shop and after 10 minutes came back and hid.”* (V.4)

or whether it meant denying that he had committed any act of violence:

*“They [the police] ask him the first questions, and he denies everything.”* (V.4)).

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<sup>22</sup> Law 112/2009, of 16 September. Available at: [http://www.pgdlisboa.pt/leis/lei\\_mostra\\_estrutura.php?tabela=leis&artigo\\_id=1138A0019&nid=1138&nversao=&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_estrutura.php?tabela=leis&artigo_id=1138A0019&nid=1138&nversao=&tabela=leis) (retrieved 7.09.2015).

*“And I screamed loudly so that my son, who was listening in and had taken off his earphones, heard my screams. He was the one to call the police (...) When the police arrived ... it still took a bit of time. The quarrelling went on until he perceived that the police had actually come and he locked himself in the bedroom. He was locked inside the bedroom sleeping, or pretending to sleep. So the police also thought it was best to leave him there as he was, quiet, and we filled in the questionnaire.” (V.9)*

Be that as it may, there was someone who complained about the behaviour of the police, in particular when they were called to the same place more than once on the same day: *“when I went back to call the police again, they took their time, they didn’t pay any attention because they had been called [before]. (...) The police only react if there’s something happening at the time. Nothing more.” (V.3).”*

Furthermore, the police do not seem to react in agreement with the behaviour code the profession is supposed to follow; an example of this is the way certain police officers handle the way in which conflicts in intimate-partner violence are solved: *“The officer said: ‘By the way, has he beaten you up today?’ And I said: ‘Not today.’ And he said: ‘Go back home and take it easy’; and he said to him [the perpetrator] ‘Leave your wife in peace at home and go back to sleep’”. (V.1).*

It is important to mention that among the police officers themselves, there is a clear awareness that the reports are not always written in the way that they should be and it is something that needs to be addressed because it acts as the first line where statements are taken: *“because it’s not us [the police authorities] to make the formal accusation, we rely upon the report to start scavenging – excuse the term. The more information the report has, the more we are able to start moving. If not, what happens is that in most cases, we hear the complainant, even if on the next day and the day after that, the witnesses ... about how often the victim was abused, when, if she went to hospital. If [this information] comes in the report, I immediately contact the hospital, the children’s school, the psychologist, and those requests are made.” (PA).*

Throughout the entire court case and during the police’s intervention it should be mentioned that there is a certain feeling of frustration felt by the police officers themselves because their role is buoyed up and sustained by decisions that are made by other practitioners in the justice system: *“they regard us, the police, as if we ourselves were solely responsible for all the decision-making. In the meanwhile, he [the suspect] commits the deed and we go to the locality to pick him up. We arrive there and we make an arrest. No, we don’t send anyone to jail. We detain someone if we have orders to detain him, with the exception of being caught in the act. We have to make this clear.” (PA).*

At last, and there has been a growing trend to implement common police practices across the whole territory, it is true that *“diverse practices exist. There are entities, either police officers or GNR guards, who deliver the contents of the complaint, for example and others don’t. They only hand over the victim’s standing”. (L.1)*

## *The inquiry phase*

In the inquiry phase, the Public Prosecutor’s Office may delegate the police authorities with the power to follow up an investigation whether under the supervision of the public prosecutor or not. An interview with the victim may be wanted afterwards, and when this happens, it is the prosecutor



or an officer of the justice who is responsible for conducting the interview. The decision about who the head of the inquiry should be depends upon *“the seriousness of the situation. (...) the most sensitive situations where what is needed is patience to hear the victims out and clarify some things.”* (P.4).

However, questioning the victims during the inquiry stage is frequently carried out by the officers attached to the criminal police authorities, as the victims whom we interviewed stated: *“I don’t ever remember going to the Public Prosecutor’s Office, I went to the GNR (National Republican Guard) police station. That’s it. I went into a small room and told the officer on duty there what had happened; he even awarded me the status of being a victim and that’s how it was.”* (V.1).

It is nevertheless relevant that some of the women interviewed could not tell who had questioned them; this was clearly more obvious – mainly given the fact that no uniform exists – regarding the public prosecutor responsible for their case during the investigation phase: *“(did you go to the Public Prosecution office to give a statement?) to the Public Prosecution office itself, I don’t think so.”* (V.1)

In terms of the perpetrators/suspects, the tendency is for the prosecutors to head the inquiries because *“now, their statements can be [read] in a court room owing to the fact that they had made it in the presence of a prosecutor and a lawyer.”* (P.4).

Working relations between the practitioners in the Public Prosecutor’s Office and the police authorities differ from district court to district court. The differences are due to following specific guidelines and are the outcomes of experience gained in the field and the fact that specialised work groups targeting domestic violence have been set up. For example, in Oporto, *“there’s always someone on duty and usually, when the more serious situations occur, what happens is that they get in touch with the investigation team which starts handling things and collecting the evidence. Very often, when the case reaches us after a week, and it’s the first time we lay eyes upon it, various steps have already been taken.”* (P.4).

This specialisation allows the police authorities to *“concentrate on the need to carry out investigative work on the very serious cases in order to decide what measures to take. Cases where a coercive preventive measure is needed which is issued by a judge, and where evidence needs to be collected as fast as possible so as not to waste time.”* (P.4). This sort of procedure helps to speed up proceedings which the law in Portugal applies to domestic violence. It also complies with the need to provide information and support that are spoken about in Directive 2012/29/EU and that ensures that the victim has been allocated an emergency contact. This contact should hear and record the victim’s statements, make a risk assessment, gather evidence, refer the victim to a victim-support organisation and/or the health services and social services – *“following up”* the case files and checking on the victims’ well-being.

Nevertheless, according to the practitioners that we interviewed, there are discrepancies among the different courts that have a direct bearing on the speedy handling of the cases and in applying mandatory restrictive measures that might help safeguard the victims: *“I can safely say that if I hand in a case containing warrants to (name of the district court) on a Friday at 2.30 in the afternoon, I can leave the court with the files and the warrants in my hand [the same afternoon]. Yesterday I sent the proceedings by e-mail to [name of the district court] together with search and arrest warrants, and*

*the court called me up to say it's going to take a while... with a bit of luck, I may still receive them this week. The time it take one court doesn't mean the same for other courts."* (PA).

Gathering evidence in cases involving intimate-partner violence is limited to a great extent by the statements and testimonies given by the victims themselves.<sup>23</sup> Indeed, underpinning this fact is the need to ask the victims several times over to tell their stories which may help to foment a long, exhausting process of re-victimisation, as one of the prosecutors pointed out: *«They [the victims] all understand that the process is a difficult one. They understand that are going to be heard at least one or two times. Almost always, they have to be heard more than just once. If not more, as there's the inquiry and also the trial. But they've already been to the police station. They've already made a complaint. They've already been contacted by phone ten times so as to update the risk assessment. After, they go to the forensic doctor for a direct medical test."* (P.4).

Women experiencing IPV often refer to this re-victimisation process, such as the case of some of our interviewees who expressed frustration when compelled to tell the same stories over and over again: *"After the complaint, yes. I went there (police station) two or three times. They were asking the same questions, the same thing they had asked before... and then they called me again, when he was no longer living at home, after the court had sent him away, and again they asked the same things..."* (V.4)

However, for the victims, *"it's very complicated when we are cast into this world [of the justice system]. We don't have the energy. We're feeling very low (...), we go there and play the same old record several times over."* (V.3).

The individual experiences in groping one's the way through and dealing with the justice system are painful and have an impact on the very health of the victims: *"was the whole path as regards the court cases healthy? No, no, it wasn't. There were bad [moments]. Because there's a whole series of situations that we assimilate."* (V.3).

The place and the way in which the victims' statements are collected are the target of casuistic choices – when the hearings are headed by the prosecutors, statements are frequently taken down in the offices of the prosecutors themselves; if they are heard by the officers of justice, they are taken down in the respective section of the Investigation and Criminal Activities Department (DIAP) or in a room reserved for questioning.

When the statements are collected at the Public Prosecution office, women often do not feel comfortable and that impacts on their statement: *"And lately I went to a room where there were several people and I thought to myself 'So, is this where I am going to talk, And all these people listening to what I'm saying? Yes, correct."* (V.5) This type of experience is confirmed by victim support workers who refer that when statements are *"given at the Public Prosecution Office, they are carried out by justice officials and, in some cases, they take place at the attendance counter."* (SAV)

Regardless of the physical conditions and the places in which the victims' statements are taken down, the stance of the woman making her statement reflects credibility, or maybe not, in terms of the uniqueness of the situation being described. One of our interviewees said: *"my first impression*

<sup>23</sup> With regard to this question, see Figure 3.4.2 Means of providing evidence, in Ch. 4 of the present report.





*was that I was being made fun of. I don't think that the officers had the air of poking fun. Get it? But that's was what I felt inside: this man must be [scoffing]. Do you understand? That's what I thought (...) The officer was solicitous, he took down what had happened. But I don't know, I had the feeling that this was just one more case. One more story."* (V. 5).

Credibility also lies on the empathy shown by someone who has the ability to understand when listening to the person giving the statement: *"The only moment I felt I was being understood was with my Public Prosecutor. She was the one who fought with all her strengths. The only one."* (V.8)

The practitioners believe that today, the victims are much more aware of what is involved in a criminal case based on domestic-violence, mainly as regards the role that they, the victims, play in all the stages of the case. They may be motivated or not by being compulsorily awarded the status of a victim, whereby they receive a document informing them that they have been constituted victims and as such have to abide by their rights and duties, mainly as far as cooperating with the court authorities and the criminal police during the course of the criminal case. The Prosecutors being interviewed stated that: *"they [the victims] have to understand that without going through a series of stages, they won't be able to convict anyone. She can't go there and say 'my husband has beaten me up' and get him convicted, and that's it. She has to prove it. I think that they're beginning to perceive this."* (P.4).

Notwithstanding, the importance the victim's statement has as the main source of proof is not by-the way, as few victims have witnesses.<sup>24</sup> According to one prosecutor, and based on her work in the field, the witnesses which these victims nominate are *"sometimes their children. Afterwards, the children don't usually want to speak ill of their father. Most times. And sometimes they come with their mothers. (...) Normally, they say that there are no witnesses. And so we ask them: 'But did no one notice what was going on? Didn't you confide in anyone?' and they say, no."* (P.4).

Out of the 10 women interviewed, several listed their (and the perpetrator's) children as witnesses, even during the investigation phase; it is obvious that this derives from the fact that we are dealing with a crime that mostly happens within one's home: *"What he did to me, he did in front of my son. He was the only witness I had."* (V.6) However, these witnesses have a difficult task given the emotional links to both parents. Women themselves are aware of these constraints: *"because my son was under age and I risked to be criticised by society, because I was calling a child to testify. And to testify against his father."* (V.6) Sometimes perpetrator's relatives try to manipulate these witnesses and have them testify in favour of their father and against the mother; one women whose only witness was her daughter, tells what happened at the court's waiting room before she gave her statement: *"there they were, his family messing up with the child."* (V.8)

On the other hand, it is often the case that during the violent incident the children react protecting their mother but, later on, either during the investigation phase or at trial, they keep silent: *"Because when she was summoned to provide her statement... before she even said that her father was dead to her. But by then she was again talking to her father (...) When she got to the Public Prosecution*

<sup>24</sup> Taking into account the study made on the 70 case files involving domestic violence (Chapter 4), in only 15.7% of the cases, were the respective children heard, while in 25.7% of the cases, other witnesses apart from the victim herself, were heard. (See Ch. 4 of the present Report.)

*Office she no longer wanted to speak and finally at court she said she had nothing to say. She kept silent. But behind all that I could see her father's doing." (V.5)*

Additionally, other obstacles arise related to the submission of evidence and the listing of witnesses willing to testify which impact directly on the outcomes of the trial; as the woman from the previous example puts it: *"You see, no witnesses, nothing is done. These are cases where it is hard to find witnesses, isn't it?" (V.5)*

The perpetrators, on the other hand, manage to call a significant number of witnesses, most of who have often not been listed during the investigation phase but who come, in most cases, add facts to the proceedings. Yet, it may happen that the defendant's witnesses end up by playing a decisive role in proving facts favouring the victim's position, such as the case that follows: *"I think he was more our witness than his. Because he couldn't lie he ended up telling in court exactly what happened. He ended up telling the whole story, he told the truth." (V.2)*

It should be pointed out that certain kinds of violence are apparently easier to prove than other kinds. Where proving physical violence is concerned, the evidence substantiating allegations comes in the medical examinations carried out or in the medical reports. However, when the *"violence is psychological, it's very difficult to prove. And serious psychological violence is generally accompanied by physical violence"*. (P.4). One of the victims we interviewed seconded this opinion: *"If anyone stabs anyone else, then he's arrested. If he didn't stab anyone, then he's not arrested. What signs of physical abuse are there? Show us! We can't see anything!" (V.3). [*

Interestingly enough, there are those who defend the idea that the support given the victim who is going through a court case, exerts a positive effect on obtaining justice, but also favours the perpetrator/suspect: *"A victim who receives the correct support is much more disposed, and I think there's no doubt about it, to behaving in a suitable, more balanced way that can even benefit the perpetrator/suspect. If she has been followed up and has managed to think things out about what has happened, she's always apt to have a more concrete, much more assertive and organised discourse." (J.1).*

Needless to say, a victim who receives help is always a good witness because *"a victim getting help is in better shape to be a more "efficient" witness, so to say, in giving her statement. One who gives her account of what happened in greater detail"*. (J.1), thus giving her discourse more credibility when presenting evidence as a witness. But a victim receiving support may also be a good witness if the support has repercussions in the way of urging the victim to want to appear as a witness: *"a witness receiving good support, who is well-informed about all the steps - about how the case is progressing, the resources at her disposal, in psychological terms and a whole lot more. A person who feels that she's being backed-up, who feels they're there to help her, yes, she may be a good witness... which doesn't mean to say that she really will be, just because she wants to be." (PA)*

There are particular possibilities at the level of gathering evidence – devices such as statements made for future reference (i.e. memoranda that act as proof later) – which may help to stop the woman from being victimised yet again. Such devices are not used very often in cases of domestic violence involving adult victims. Statements made for future reference are useful because *"if she is a victim, due to age or physical or mental disability, the law steps in and statements for future reference have to be made. In normal cases, not." (J.2).* Indeed, resorting systematically to



testimonies for future reference on the part of victims of intimate-partner violence does not have a very good reception among the practitioners of the justice system. They believe that *“there are situations where they [statements for future references] are warranted (...) if the victims are more vulnerable and say that they don’t wish to be present at the trial.”*(P.4); the device therefore, is justified as this interviewee states: *“What is certain is that the courts are geared to accept certain things. And a court of criminal inquiry is geared to handling criminal inquiry and doing the questioning and taking urgent measures. They are not there to conduct trials. And testimonies for future reference constitute the evidence to be used in a trial. And sometimes, it’s a good thing to have the victim/complainant present in court because afterwards, if the victim is only recorded the future reference, she is also not going to see any further proof that was produced.”* (P.4).

### *The trial*

According to one of the judges, it should be remembered that this is not a crime that is easily solved because *“when a criminal case reaches us, we are speaking about arriving at the end of the line. It’s when nothing before has worked.”* (J.1). Therefore in general terms, there is a ‘*masculine predominance incrustated in the practices, structures and social discourses*’ that ‘*legitimizes the existence of unbalanced love between men and women*’ (translation from the Portuguese of Bourdieu, quoted in Neves, 2007: 617), and that makes itself felt in collective discourses and representations of love and family life.

This feature may be found in the discourse of one of the victim we interviewed: *“I wanted to go out with him, but I had already noticed that he was aggressive in courtship, but I let things go on. He was my first boyfriend; I was 16 years old and I let things go on although he never beat me up. But he was already violent, he already ordered me around and was aggressive; I only noticed that now. The first time was when I wanted to go somewhere with him and he didn’t let me. That was when he slapped me for the first time and then he left me there.”* (V.1) Indeed, more than personal choices, this kind of crime ends up in a non-individualised but global context. It makes a part of more or less socially acceptable discourses and practices where *“the school failed to work, but most of all the family didn’t work, the institutions where people could eventually fit in somehow, didn’t work.”* (J.1).

The practitioners consider that the victim’s discourse as a means of providing evidence is a central part of the question. This focus is pernicious because it places the burden of obtaining a successful or unsuccessful investigation on the victims’ shoulders. This is more than obvious when we look at the cases that have been dismissed where there is a very brief gap between the complaint/indictment and the case being rejected,<sup>25</sup> and when the victims decline to make a statement when the first inquiry takes place. This state of affairs shows that the justice system has given up its search for other kinds of proof and has neglected to confer the (necessary) status of being a victim that would bear an impact on the outcome of the case.

Indeed, this focus occurs not only during the investigation phase but also during the trial where *“everything depends upon the willingness of the victim herself”* because *“most of the time we spend*

<sup>25</sup> See Chapter 4 in the present Report.

*conducting the trial, is spent with the victim. With the victim and with the suspect. My experience has led me to believe that normally, the victim is the one who has to speak the most, when and if she speaks. She's the person who has the most to say."* (J.1).

One of the women interviewed was particularly sensitive to the fact that she had to testify in court and to do it for four consecutive hours, which made her believe that her speech had not been fluid and consistent: *"When I gave evidence, I had never been to court, I must be honest, when I looked and saw three judges sitting there... I started trembling, and had to get out. I burst into tears several times, because talking about this is, it still hurts. And they started to confuse me... since there were three proceedings going on, mine, my daughter's and the guns, they started to ask me questions about, then brought my daughter's proceedings into it, the one regarding the guns and I got all confused..."* (V.7)

In other occasions and whenever possible, other people also have to take the stand in trial. Their statements, and in particular, the statement given by the perpetrator, are important parts of the proceedings. Nevertheless, it should be mentioned that the suspects' admission of guilt at court is quite rare: *"He said that he'd never beaten me up, he said we used to quarrel a lot because I was very jealous. But as for beating me up, he never touched me."* (V.2).

It should be remembered that the crime involving domestic violence is, in most cases, a crime that is committed over a long period of time. This means that the victims find it more difficult to amass the evidence in terms of space and time, which in the majority of situations, may be constituted as the only means of proof. This also means we are dealing with *"an on-going crime"* where *"the occurrence is such that it is the first and last act that establishes the boundaries of time that we are going to work with when considering one single crime. Therefore, if a person is the victim of a crime involving domestic violence that has lasted 20 years, the crime starts on the first date and ends on the last one."* (J.1).

And apart from this broad time band, DV is a crime that steals more than the victim's goods or possessions; it robs them of *"their perspective of a future life that perhaps they had when they got married, or when they were courting or when they started getting involved with each other. They built a life, shared a house, shared incomes, and then everything falls apart from one day to another."* (J.1).

Despite the duration of the violent trajectory of the victim and although victims tend to report the whole history of their IPV experience, the complaint and the trial tend to focus on the specific incident: *"At the public prosecution office I told them that this was not new, it started many years ago but when I got to court, they were only interested to know about the present story. Nothing else. They did not give any importance to what happened before."* (V.5) Among practitioners, the experience is somewhat different: *"When the complaint is filed, the police concern and even that of the woman is to report what happened that day. They tend not to make a contextualised description of the violent trajectory they endured."* (L.1)

The way in which the practitioners interact with the victims during the entire criminal proceedings exerts an objective impact on the disposition and stance of the victims when they are giving evidence. The victims of domestic violence give their versions about the facts at the places where they lodge the complaint or the formal accusation, and where the investigation and trial are held.

They are subject to acts that constantly re-victimise them, acts inflicted upon them by the justice system which wants to crosscheck the veracity of the facts. When re-victimisation occurs, *“it happens because the system has bad practices”* (J.1), and this bears an impact on the outcomes of the cases. This is because in a *“trial where the victim feels she has been placed under duress by the offender and because the court has failed to take any measures for one reason or another, where the victims feels she has been coerced or offended by the defence lawyer or the Prosecutor, or even because the judge has asked her a question that perhaps she/he shouldn’t have done, or has asked her somewhat inappropriately, I have no doubt that it would provoke this kind of outcome. And curiously, in extreme cases, I am aware that this may also lead the victim not to want to speak any further.”* (J.1).

On the other hand, the fact that in court the perpetrator is heard prior to the victim is often perceived by women as if the courts are favouring his statement over hers. This feeling gets even more real when some judges’ speeches seem to underline, probably not intentionally, beliefs regarding for example the persistence of positive intimate partner relationships and simultaneously disbeliefs regarding those who are questioning in court the nature of such intimate partner relationships: *“As I see it, I think it was because he was the first to speak. Because when I entered the room, the judge said ‘your ex-husband just told us that you have a very good relationship’. That is to say, she kept the description of what happened as he told her. From then on, I lost all credit. That’s what I felt.”* (V.5)

There are also procedures that are badly handled, for example, the social reports that are compiled by the Directorate-General for Rehabilitation and the Prison Services (*Direção-Geral de Reinserção e Serviços Prisionais, DGRSP*) that pay too much attention to the interviews with the victims: *“Producing the evidence is done in court, at the trial, and the victim had the chance, for better or for worse, but she had the chance to give her points of view at the trial. The social report is to make a profile of the perpetrator/suspect’s progress, the context in which he was living. It would quite irregular, if the victim’s account were included.”* (J.1).

And there are even some lawyers who act in divergence to what has been internationally recognised as good practice in the field of domestic violence proceedings, such as mediating between the victim and the defendant, particularly because such initiatives may intimidate victims. One of the women interviewed referred that *“his lawyer, before the hearing at the Public Prosecution Office, tried to convince me to give up. I said no, that I wanted to go forward. (...) she then talked to my lawyer, and then my lawyer came to me and we discussed it together. When she said ‘He already has another relationship’, I replied ‘that doesn’t mean anything to me.’”* (V.5)

Women themselves have been active in collective evidence namely by taking pictures of the aggressions which in many of the cases we interviewed were the trigger for filing the complaint: *“My son saw it all. Then I asked him, he already had a mobile which took picture, take a picture so that I can show and then when I went to court, he showed the photos he took. He kept them. I don’t know how he did it, I’m not sure if he told in court, but he showed the pictures.”* (V.1)

Furthermore, there are pre-judgements made about crimes of domestic violence, on the basis of the supposed credibility which the justice system wishes to attach to any complaint but which end up by limiting or conditioning the professional stance of the practitioners, such as the prosecutors, who are vital to the case. There are most assuredly exceptions, but one of the interviewees expressed reservations about the overall veracity of the proceedings involving domestic violence: *“... there are a*

*lot of cases where, after being opposed, we come to the conclusion that it's only by chance that a charge of libel has not been brought against us. At the end, the loose ends are tied up so as not to smear anyone else's life, God willing, because there are many cases involving domestic violence that could very well end up in defamation cases. I'm not saying that they are in the majority, no, they're not."* (P.1).

When the trial is being held, the victim's stance in choosing to remain silent may have a determining influence on a judge's decision, because *"if the victim keeps quiet or the offender remains silent or denies everything, very often the court – that is, the judge presiding at the trial – does not have sufficient information that is judicially rigorous or rather, that is deemed within reasonable doubt, on which pass a verdict. A world of insurmountable doubt is built, in which case Article 32 in the Portuguese Constitution applies the principle of 'dubio pro reo'."* (J.2).

The fact is that the opinion expressed above (about the impact the victim's silence has on the court), is shared by a large cross-section of practitioners working in the justice system – ranging from the police authorities, to the Public Prosecutor's Office to the judges: *"In gathering the evidence together, very often the criminal police draw up a full case and when we get to court they [the victims] keep quiet. From that moment, there's no conviction to be had. In legal terms, everything's been done, and when we get to court, they hit the post. Everything's done and the evidence that's been collected either effectively exists in the way of witnesses, forensic evidence in medical reports, or, if not, only in her [the victim's] statement, but it ends up by hitting the post."* (PA).

At this point, it must be stressed that in Portugal the judicial practice allows the perpetrator to be removed from the court room when the victim is taking the stand and such practice should be appreciated since *"while he was not there I could tell a lot of things, but with him in the room I couldn't."* (V.2)

Moreover, even safeguarding the fact that the victim is able to testify in court after having requested that the offender leaves the courtroom during the time in which she is giving evidence, the truth is that *"he [the offender] has to return to the courtroom and he has to be told everything that the victim said under the penalty of the case being declared null and void."* (J.2). This is a stress factor for the victim herself. In other words, assurances should be given that certain formalities cause the least possible impact on the victims and the witnesses so that their attitudes are the freest, least constrained possible.

One of the victims interviewed who was living in sheltered housing, gave her courtroom testimony by means of videoconferencing: *"I was always heard in a videoconference. I was never directly with the judge."* (V.1). But, we wondered, was this the case because the victim had been given help by a victim-support service?

There is a further point that is worth mentioning about the paths that the victims of intimate-partner violence traverse through the justice system. The fact is that these women have to battle their way along a lonely path, in most cases without having a person they can trust to go with them. As referred to by a prosecutor, these people are *"completely alone, unsupported, and up to now, they have never had a single person to accompany them, no father, mother, brother, sister-in-law or even a best friend."* (P.4).

As we were told by one woman: *“Up there on high, is God; below God are the judges. Here below, are the judges. Regardless of whether they are right or wrong, or the choices they make about other people’s lives. (...) Regardless of whether they are good or bad, they are playing with people’s lives. That’s the reality.”* (V.3). Still another victim: *“I think judges are people like us. They are not someone God sent down to earth.(...) they make mistakes like everybody else. They are dominating like everybody else. They are biased like everyone else. They are no different from us!”* (V.6)

Victims’ accounts contain hard criticisms particularly targeting judges, either linked to the outcomes of the proceedings (in most cases which have been tried, convictions are in average of two years of suspended sentence), or to their behaviour regarding the victims and their witnesses: *“Neither the prosecutor, nor the judge had any kind of sensitiveness for the situation. They were both rude. They undermined certain things.”* (V.6)

These women’s doubts are mainly related to the issue of providing evidence when emotional and psychological violence is at stake. When the evidence is almost exclusively based on the testimony of the victims, they feel that sometimes *“they (prosecutors and judges) don’t even listen. There were things she did not listen to and which were so serious for, immensely serious that hurt me so much at that time. And she seemed she was not listening to me.”* (V.6)

Several interviewed victims reported quite unethical behaviours from judges: *“Two witnesses told that they actually heard all that noise, they even woke up with the noise. But the judge... I guess she did not really take it into account, she even asked ‘ So you’re saying that whenever there is noise, people go...?’ , as if she meant, I don’t know, I felt she was being a bit cynical.”* (V.5)

And this rather unethical positioning seems to linger in the memory of these women and ends up taking enormous proportions: *“what can a judge say to someone who is giving her testimony for hours, and he is standing behind her, looking like a mad man, always talking and she didn’t tell him to shut up not even once?”* (V.6)

Notwithstanding there are positive experiences regarding judges’ stances, namely by trying to diminish the impacts of these proceedings in terms of the re-victimisation involved in the need to search for evidence. One of the women interviewed said *“my lawyer and the judges told me that I did not need to be heard, I had been sufficiently afflicted. It was enough, I did not need to be heard.”* (V.7)

The way in which the State applies protection for victims of intimate-partner violence is viewed as being unfair in most cases: *“I had to run away, or otherwise I would have been killed. That’s what I find wrong. I think that they [the perpetrators/suspects] should be convicted and sent to jail right from the start. They have stopped us from living at home because I’m living far away, isn’t that so?”* (V.1).

Additionally and taking into account that the Portuguese judicial system provides more guarantees to defendants than to victims, several actions undertaken by judges lead the victims to actually feel unprotected by the State: *“So, Mr. Judge... he received a one-year suspended sentence, he was forbidden to speak to me and you gave him permission to go and fetch his weapons’ The Judge gave him leave to go and fetch his guns! I cried snot and tears! He has all his guns with him at home, all of them. He can’t go hunting because he has a court order against him. It was written into the case. But he’s the lord and master, he has all his weapons in his possession. So, what’s needed is for Mr. A. to*

*grab a gun and point it at someone's head or do something silly so that they're taken away from him. After this, today, I can no longer live at home. So I went over there and rented a flat and left home".* (V.9)

### *Victims who are subjected to other kinds of discrimination*

In conformity with the working experience that the interviewed practitioners have acquired, there are groups of women who have specific needs and challenges to face. This was pointed out with regard to migrant women where they also differed according to their countries of origin. In one of the judge's opinion, perpetrators/suspects who come from *"the Ukraine are particularly violent although they [Ukrainian women] know quite well that their situation is not tenable. Very often they don't have enough strength to free themselves because they are in a foreign country, or their economic conditions are not the best, but they do not have any doubts that this sort of situation is unacceptable."* (J.2).

Even more than their countries of origin, the fact that they often don't know how to speak Portuguese is viewed as an impediment to closing the gap between the victims and the justice system, as one of the interviewees referred to: *"people from the migrant community who don't speak Portuguese, for example. I believe that this, I won't say helps to raise more red flags, but it does tend to do so."* (P.1).

Likewise, reference was made to elderly victims where age adds to their other challenges, such as a long relationship shaped by violence: *"What happens with the very long victimisation processes is that, because they are very long, going to lodge a complaint is, in itself, very painful and then, cooperating so as to reveal the truth, saying it out loud to go into the report, is even more painful. This vulnerability even contaminates the production of evidence"*. (P.1).

It is important to stress that the practitioners identify the special vulnerability of some of the victims as for example, women of advanced age, although they did not mention any particular groups of victims with special needs.

## **4.6. Outcomes of proceedings or Judges' verdicts in terms of intimate-partner violence and their effects on women**

The application of mandatory restrictive measures on the perpetrators/suspects during the investigation phase in seeking to protect the victim, is fairly successful. In one of the interviewee's opinion, and in agreement with *"my experience of five years of being a court of inquiry judge, I would say that that the failure rate of applying a restraining order, or a banning order forbidding residence in the same area in which the person [victim] lives, if it is applied together with an electronic bracelet, the failure rate is very low. Very, very low."* (J.1).

The decision to apply a coercive preventive measure during the inquiry phases takes into account *"the prior criminal record of the suspect and on the one hand, the shape the case takes."* (P.1). From



that point of view it is essential to see what is on the person's Criminal Record (*Certidão de Registo Criminal, CRC*) because *"with a CRC composed of crimes against other people, I feel much better when applying a particular restrictive measure to the person."* (P.1).

In the opinion of the interviewees, the coercive preventive measures in existence are highly suitable for applying in cases involving domestic violence: *"I think that the coercive preventive measures we have are well applied and if all of them are applied, they cover a very broad spectrum indeed. For example, we can forbid a person to live in the same locality, parish or ward, or in the same municipality. We can forbid a person to go to that parish /ward or municipality. Nowadays, we have the electronic bracelet (...) a tracking GPS which gives us a reliable assurance that we always know where the suspect is going. Afterwards, all we have to do is make sure the institutions are working in synchrony with each other, and that they act promptly at the first sign of infringement, the least suspicion of infringement."* (J.1).

Nevertheless, the suitability, or not, of the existing coercive preventive measures basically has to do with the kind of perpetrator of domestic violence being dealt with because *"if, effectively speaking, the suspect is a really violent person, the best measure would be a preventive measure (...). But for other perpetrators, being charged as a suspect facing a criminal police officer is enough. It depends on the perpetrator. Only the shame of having to go down to the local police station run by the Public Safety Police [PSP] or the National Republican Guard [GNR] to be charged as a suspect, which is a banal action for us, for him, is: 'Phew! I never thought I'd see myself in that position during my lifetime'. What's good for some, is not for others."* (PA).

The experience of one of the women interviewed shows that the joint issuing of a banning order from home and a barring order forbidding him to contact her is very efficient in terms of her safety, although it does not prevent certain types of abuse from continuing: *"He is forbidden to come near the house (...) And to get near me. That's it. And in fact he never came near or anything. The only thing happening is that he is slandering me everywhere."* (V.4)

According to some of the interviewees, one way of getting around an eventual shortcoming in applying a coercive preventive measure would be to regularly follow-up the perpetrators/suspects. This is because *"from the moment we don't have anyone following up the perpetrator, he becomes an unknown quantity to us; we don't know him; he's a box of surprises, we don't know what will come out of it. It's as if we've placed the victim with her back to the perpetrator. We haven't the faintest idea of what he's doing out there because we're not monitoring him. We're working blindfolded and this results in at least a 50% chance of failure [in applying a certain coercive measure]."* (PA).

A restraining order, according to the practitioners interviewed, is very effective when applied in cases dealing with domestic violence; removing the perpetrator/suspect from the home and ensuring that the victim continues to live there, as one of the women we interviewed mentioned: *"There were times when I thought I'd never get any help. But that day, when the GNR (Republican Guard) came knocking at the door – there were two officers – they detained him. It was like that; it's going to be this time that I'll receive the help I need. And he [the officer] asked: 'Do you want us to get him out?' And I said: 'I've been waiting a long time to do it.' That they make him leave the house."* (V.7).

Naturally, there are positive experiences and negative experiences. There are victims where the public prosecutor has decided to apply a restraining order for the victims' own protection and has forbidden any contact. But *"the victims themselves sabotage the measure because they themselves try and get in touch with him. I've had cases, I've had at least one, where after the man was forbidden to go home, he was caught in the act threatening the woman in front of a police officer and she was standing here right in front of me, and he was being restrained, and she was getting an electronic bracelet (...) And after all this, I get a first letter from the victim apologising, saying that she had left her electronic bracelet at home so that she could go to be with the suspect; and then I receive information from the Directorate-General for Rehabilitation and the Prison Services (DGRS) confirming that yes, she had taken off her electronic bracelet and left it at home so as to go to the suspect."* (P.1). Nevertheless, it should be acknowledge that as a rule these *"cases are pathological."* (P.1).

However, in certain cases that are unforeseeable conditioning factors when applying restraining orders such as that described by one of the interviewees: *"The husband and wife had been separated de facto, but lived in the same building, one on ground floor and the other on the first floor. It's a limitation because of the metres distance that is necessary, that's to say the physical and spatial distance needed for a [restraining order] to work. Or rather, so that the measure ensures us that there are no false positives. Because if there's very close spatial contact, there may not be any infringement of the coercive preventive measure but the alarm goes off anyway, because they are really very close."* (J.1). It is also a measure that is applied when forbidding contact because *"very often, the violence is only there [at home] but afterwards with the application of the restraining order itself, contacts start to be made, telephone calls are made, problems arise with the children. And this has to be protected."* (J.1).

Coercive preventive measures such as restraining orders and forbidding contact are generally applied when taking into account the victim's protection. However, it often happens that *"in fact, it is the father who has been forbidden to get into touch with or be in the mother's home, although he's not forbidden to contact his children, nor are the children forbidden to contact their parents. Therefore the measure has to be applied by going through the regulations governing paternal rights and [involves] the Family Court. This also has to be safeguarded."* (J.1).

In other words, the Criminal Court and the Family Court need to intermesh because it is only the latter court that can *"stipulate a system of visits and unravel a schedule of fetching and bringing back the children, if we may describe it thus. It has to be monitored either by the police or a member of the family that both parties trust, a person of reference."* (J.1). Here, the Public Prosecutor's Office *"has the duty and the competence to set the mechanism in motion, namely, to rule on the exercise of paternal power. Because in doing so, we have a legal tool that will allow us fight against informal arrangements which up to that point, have had to exist."* (J.1).

The intermeshing between criminal investigation and the Family Court was frequently referred to by the interviewees (both the victims and the practitioners). It needed to be improved. There are positive experiences mentioned by the practitioners, as one prosecutor stated: *"whenever a restraining order is issued and there are joint children, we inform the Family Court by means of a certificate"* (P.4) despite the fact that sometimes the criminal investigation departments do not know what the Family Court does with this information: *"Now, I can't really say that if we follow up, we*



would always do so by taking action, because afterwards they don't always tell us whether or not there has been a case. What happened in the case". (P.4).

Rather than inter-agency work what often happens in practice is a total unravelling between Crime and Family, which is to be found in particular in *"a kind of fashion where by the father visit to the children is suggested to take place in our facilities (the refuge). As legal counsellor at the refuge, I say that the refuge cannot accommodate this. Our mission is to support the victims apart from the safety issues involved. And even though we have other facilities, offices where women also come, I will not tell perpetrators 'you can use the same office where your wife will come to hand in the child'. This means that everyone will be aware of what is going on here."* (L.1)

The lack of knowledge between these two instances of the court system can be extremely counterproductive for victims, raising their feeling of insecurity and fear: *"once the judge called us. I was sitting on one side and he on the other. And after reporting all the talks we had, he asked me if it was my interest to get the divorce. And I said yes. And he replied 'You'll regret it!' right in front of the judge."* (V.9) Such a mismatch means that the victim and the perpetrator are compelled to meet in different instances even after there is a convicted crime of DV. This may in some situations endanger the safety of the victims.

The intermeshing between criminal investigation and the Family Court (or better the lack of it) has an impact of relationships that are supposed to be over, in particular when the perpetrator has already been sentenced and convicted; not least because for *"greater protection of the mother, it should allow violence to be taken into account. And it is not taken into account. The coercive measures which are enforced in the criminal proceedings are not considered, nor is the judge handling the parental responsibility regulation proceedings very interested to know if any measures have been enforced or not."* (L.1) For those seeking justice and resorting to courts to solve their situation, what comes up is a feeling of a fragmented justice system which is not able to help them.

Furthermore, there are some discrepancies which may endanger the victim: *"within crime proceedings there is a whole set of protective measures which are not available in the exercise of regulating parental responsibilities. Thus, while in the former case I can ask for the victim not to meet with the perpetrator. In the crime proceedings I can request that she is heard in a different location. In the proceedings for regulating parental responsibilities the judges want everybody there and listen all at the same time."* (L.1)

And there is still the issue of time – the times of the different courts are not the same and the speed of Criminal courts is not compatible to that of Family courts. The perceptions of victims is that proceedings are much quicker in the former than in the latter: *"I honestly believed that divorce would be sorted out much quicker. The other, the conviction, was rather quick."* (V.1)

Apart from the various actors in the criminal justice system having their own particular duties, it is not always clear to this or that section what each has to do. Take the case of the police, where according to one of the interviewees, *"what the police have to do is quite complicated but it works on a simple foundation which is investigating for or against, it doesn't matter which, the person who has been targeted for investigation and who is the suspect or the offender; collecting all the information needed to obtain the truth"*. (J.1). However, in agreement with the discussion group composed of the police authorities, at the beginning of the proceedings the search is also to check whether *"there is a*

*maladjustment between the extent of the crime which is described in the Criminal Code, and the means of proving things that are demanded by the prosecutors. And this is what we in the Criminal Investigation Department cannot manage to provide”.*(FG1). Some of the interviewees considered that sometimes, the practitioners make presumptions about the acts that do nothing to help make an unbiased investigation: *“We cannot have a police officer who goes into an investigations wearing a blindfold for better or worse as regards the person; [an officer] who has already made a pre-judgement and argues that a person should be remanded in custody. This doesn’t make sense at all”.* (J.1).

Be that as it may, it is important not to confuse being taken into custody as a result of being caught in the act or not caught in the act, and being remanded in custody as a precautionary measure. The police authorities may take a person into custody in the situations mentioned above because they are precautionary measures that work in the way of *“safeguarding; the person [the suspect] is ‘frozen’, so to say, and has to wait there quietly for us otherwise we’ll make a search, we’ll get a search warrant or we’ll take him to the judge who’ll slap a restrictive measure on him. It’s precautionary.”* (J.1). Needless to say, preventative custody is also a precautionary measure, as it *“already implies that the court judge knows whether there are clear signs or not as regards the person receiving this concrete measure, that a crime has been committed. When we speak about clear signs, we are already taking more steps in the proceedings than are based on the act committed by the suspect. Detaining him is merely a precautionary measure. It aims at safeguards the likelihood, or not, of the police bringing the suspect before the judge. But without make any prejudgements about his guilt or innocence.”* (J.1).

The public prosecutor should already have come up with concrete proposals in terms of the coercive preventive measures to apply because *“the proposal put forward by the Public Prosecutor’s Office, the request put in by the Public Prosecutor’s Office has repercussions on the proceedings. In certain cases, the judge is unable to apply more than what has been requested.”* (J.1). Nevertheless, the same cannot happen when the case comes to court because according to one of the judges, *“the Public Prosecutor’s Office plays a vital role because in particular situations the judge cannot go further than what the public prosecutor has requested. Yes, indeed. The Public Prosecutor’s Office, as the head of the inquiry, has the duty to ask. But in the trial this doesn’t happen. There’s no obligation. Although there are some prosecutors who still put in requests of the type: ‘I think that what we should ask for here is that this man gets a three-year prison sentence, or a two-year prison sentence’. But there’s no law obliging [the prosecutor] to ask this.”* (J.1).

In the interviewees’ opinions, the concrete impacts of applying restrictive measures during the investigation phase reverberate on the stance the offenders have at the trial stage: they are seen to conform more and show less latent aggressiveness owing to the fact that *“usually, when the suspect gets here to the court, he’s already a different man; he already accepts the State’s and the court’s intervention in another way; he calmer; he’s conformed somewhat if we may put it this way, no matter if he’s innocent or guilty; but he accepts the justice system’s approach better.”* (J.1).

Therefore, owing to the fact that the coercive preventive measure has been applied during the inquiry phase and sometimes decides on the kind of more or less cooperative attitude the perpetrator/suspect adopts, in the experience of the prosecutors in the field, they say that *“the*

*tendency of the court when sentencing individuals without any criminal record in this type of crime, is not to apply an effective prison sentence.” (P.1).*

As for the outcomes of the inquiries, the decisions to dismiss, suspend or accuse made by the practitioners in the Public Prosecutor’s Office, is done by referring to criteria such as: *“when the end of the inquiry phase is reached, I have to make a prognostic decision: ‘if this person is accused, can it be proved? Is there a good probability that he’ll be convicted?’ If I think no, it won’t happen, then I dismiss the case. If I think yes, then I formulate the accusation or suspend the case.” (P.1).*

On the other hand, the different stances of the victim during the inquiry phase and then afterwards at the trial – the outcomes of an eventual application of coercive preventive measures [on the perpetrators/suspects] that have really worked and have served to lessen or stop intimate-partner violence – as well as the different stances of the perpetrator/suspect during the two phases of the proceedings, may change the outcome of the cases and in the trial, help to absolve the offender of the charges brought against him by Public Prosecutor’s Office. One of the prosecutors explained that: *“when things have calmed down, they [the victims] may choose not to speak; a lot of people choose not to speak but do so mainly because during the inquiry phase, the suspects don’t have the habit of collecting together much proof. We say to them it’s needed if you want to make a plea, but the people in the inquiry phase when they’re being investigated, normally don’t gather the evidence together. Even when they have their own lawyers, it’s rare for them to collect together all the evidence. But afterwards, when they’re on trial, then they bring in all the evidence – after they been accused they collect it. And sometimes they are able to counter-prove things. [But] things that were said during the inquiry phase aren’t exactly like that.” (P.4).*

The victim’s stance is not much different from the stance of the people who support her, particularly if they are other members of the family. According to the justice practitioners, they may play a vital role in the position the victim adopts throughout the entire proceedings. This is mainly because, *“the victims’ families exert pressure on them so that they don’t speak. They not willing to help. They can’t understand the victims’ ebbs and flows: the forgiving and wanting to go back.” (P.4).*

The families signify the space where there is affection. As systems, they play a relevant role in building the identity of their members; they therefore embody the socialisation of men and women who, since the day they were born, have been stamped with the condition of their gender. The families have the educational mission of passing down values, rules and social practices – as was underlined by one of the police officers: *“They [women, victims of DV] also have to open up their mental horizons. Just because their mothers got bashed around, excuse the term, it doesn’t mean they also have get bashed around.” (PA).*

The families are the socialising agents in first place. Nevertheless, they are also spaces wherein power and domination games are played, subordinated to the symbolic violence in force. And this symbolic violence is, even today, moulded according to male domination and phenomena that continues to hold men and women in unequal positions with regards to power structures. The victims are not ignorant of this but do not have their own means of protecting themselves. This is because *“the victims themselves do not have a culture based on self-protection. Why so? Because the gender culture is still prevalent. They don’t know how to defend themselves.” (J.2).*

Added to this is the idealisation of love and marriage which the women who have been submitted to a 'strict upbringing' have, and who saw courtship and marriage *"through rose-tinted glasses. In the meantime, I realised that I was living practically alone, married (...) My husband's drinking started getting worse. At the time, I accepted things, hoped that things would get better, that the world wasn't ending."* (V.3).

Certain attitudes are not far removed from this gender culture, such as *"afterwards, her mother would tell her: 'Let things be. He'll never let you go. And it'll be worse afterwards. Afterwards, you won't find a man who'll want you'"* (P.4); or cases where justice practitioners observe that *"the victim still has her parents in the background, saying 'You made your bed, now you must lie in it'."* (PA). The victims themselves stressed such positioning coming both from wider cultural settings and from close relatives *"And then the church comes and says – women submit to your husbands. And people take it literally. And then came my mother 'you married him it's for life! I know this is not right but you married him, you put up with it.'" (V.5)*

Furthermore, the difficulty which the women victims of violence have in separating themselves for once and all from their emotions that are rooted in a loving relationship even if it is ruled by violence, should be stressed. As a woman who had lived through a violent intimate-partner relationship lasting about 29 years told us: *"Today, I would never ever live with him again, but this is not to say that deep down, even today, I still feel a little something for him. It's impossible for us to disconnect from a person who lived with us for such a long time. It's complicated."* (V.2). Another women referred that in spite of her feeling of hate, the respect she feels for him is stronger: *"since the moment I started to be beaten up with sticks and everything I stopped loving him, but I respected him. I told him: I will always respect you, but stop hitting me. I don't think I loved him, it was only hate. I hated him. And that is what I said, but then I thought he still needs him. Where will he go? I was also worried about him."* (V.4)

As regards the court's decisions about the crime of domestic violence, and taking into account that in Portugal this crime is punishable by a 5-year prison sentence, that is, if a more serious sentence is not applied under the auspices of another legal provision (Article 152, no. 1, in the Criminal Code), we know that most of the decisions made in court rule in favour of a dismissal. With reference to a study made by Gomes *et al* (2015), only 14% of the cases dealing with domestic violence result in a conviction.<sup>26</sup> Nonetheless, the above-mentioned study as well as our own analysis have shown that if they are convicted, the offenders receive suspended sentences. Indeed, decisions such as these cause a feeling of revolt in the women who have gone through the entire process: *"He was accused of domestic violence and got two years, four months in jail and had to pay 1200€ compensation, which I think is shameful."* (V.2). This anger is nothing more than the victim remarking on the light-hearted approach with which the powers of justice treat domestic violence. As one of the victims told us: *"I think that you can't fob off 33 years of life with 1200 euros ... I've got no words left to describe it."* (V.2).

<sup>26</sup> This study was based on studying 500 court decisions that were sent to the Portuguese Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e a Igualdade de Género, CIG*) between January 2010 and June 2013. The study has only made the Executive Summary available online so that for the present Report, we sought rescue in a news article written by Ana Dias Cordeiro and published in the daily newspapers *O Público* on 10 July 2015. The news article is available online at <http://www.publico.pt/sociedade/noticia/apenas-10-dos-condenados-por-violencia-domestica-vaio-para-a-prisao-1701697> (retrieved on 7.9-2015).

Moreover, in those proceedings where the defendants end up being acquitted, the outrage and the feeling of injustice is even greater. These women who have gone through the entire justice system, in some cases they went down that route more than once, and in the end they get acquitted perceive such an outcome as being the ultimate diminishing of their individual history and struggle. In the words of one of the women “he deserved to be punished because he caused a lot of harm and now that I already feel a bit more distant I can see things clearer than before. He should have been punished. Even if for little, it could have been a minor sentence. But he had to be punished, otherwise he will never realise, he will never internalise, he will never feel. I feel justice hasn’t been made.” (V.5)

The study undertaken by Gomes *et al* (2015) also notes that in only a very few cases are extra sentences passed down. By analysing the case files and the interviews held with the victims of intimate-partner violence, it was possible to confirm this observation.

The women interviewed who had experienced intimate partner violence showed only partial knowledge of the judicial decisions which had been the outcome of their proceedings. Women were able to say that perpetrators had been given sentences in average between one and 16 years, most of which were suspended sentences, but no women could tell whether apart from the main penalty there had been any other additional penalty.

#### 4.7. Effects of the victims’ experiences within the criminal justice system on their decisions related to the criminal proceedings

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In the opinion of one of the interviewees, *“the worst thing that could happen, is to have a victim, someone who has been a victim and who lacked support, above all lacked information.”* (J.1).

Risk assessment, such as is in force in Portugal and applied by the police authorities, has the great virtue of *“alerting, of being a warning to the institutions so that they can channel their efforts in this or that direction. See what people’s needs are; see what protection should to be given.”* (J.1). Generally speaking, the practitioners believe that the risk assessment form is relevant because it allows them to have a better-informed idea: *“It’s casuistic, there are predictors of risk and for this reason the form is much more pertinent; we can crosscheck it with our own idea and we can learn from it.”* (P.1).

One of the predictors is the constant threat of placing the victims’ lives in danger when the intimate-partner relationship is on-going, as one of the victims we interviewed told us: *“Even without drinking, he said to me that he would set the house on fire; that it wouldn’t go to either one of us. He would burn the whole damned thing down (...) He threatened to do it and one day he really would.”* (V.3).

However, apart from the training that is provided beforehand about using it, this kind of instrument measuring risk assessment depends upon specialised knowledge in the field of psychology so that, correctly speaking, it may be applied safely: *“I think the risk assessment forms are terribly important; by no means do I want to question them, but they are [also] terribly dangerous because they are filled in by people who do not have the technical expertise to make such assessments; (...) they are not*



psychologists, and risk assessment is basically carried out by someone in the sphere of psychology.” (J.3). Standardised risk assessment, such as the test that is applied by the police authorities only *“means that the person, during that preliminary phase, is lacking in attention, greater or less care, but only during the preliminary phase of the proceedings.”* (J.1). Or rather, risk assessment exerts an influence on the investigation phase of the case but not when the trial is held. This is not to say that during the trial, *“if the police compile a report for the judge that says the following: this person needs to have a coercive preventative measure applied for this and that reason, because of this and that risk factor. But the risk factor has to be made concrete in factual terms. It can’t be a standardised risk assessment that has an overall application based only on the statements made by the victim herself, as frequently happens in this preliminary assessment.”* (J.1).

In establishing measures and sentences, important facts should be considered, mainly *“the length of time over which the person has been abused. (...) It’s different from a person suffering three or four years of DV, let’s say, than suffering ten years of DV. Naturally, this has to be taken into account.”* (J.1). Be that as it may, the table or form which the police authorities use to make a risk assessment and weigh up the resulting risk, has had an impact on the court’s decisions, mainly when applying coercive preventive measures during the investigation phase, such as we were given to understand when a practitioner said: *“all high-risk situations resulted in more serious coercive preventive measures.”* (J.2).

One of the questions that Directive 2012/29 EU calls attention to, is the victim’s right to receive compensation (Article 16, Right to decision on Compensation from the offender in the course of criminal proceedings). However, even when compensation has been awarded, the time-gap between granting it and the victim actually receiving it may be fairly lengthy. One of the victims we interviewed referred to the fact that the judge decided to award her compensation but it still has not been paid as *“nothing’s happened yet because we still have to divide things between us and it [the compensation] has to be deducted from his share.”* (V.2).

As regards those compensations awarded in the context of the tried cases and according to what the victims reported, not all of them actually received the due compensation. The reasons given by the women which have prevented – and in some cases delayed – the receipt of this rightful compensation include among others: debts incurred before the separation (itself triggered by the abuse), the runaway of the convicted defendant somewhere abroad, unsolved issues regarding asset sharing agreements after divorce, and non-declared income by the perpetrators.

As a matter of fact, it is these women’s belief that the compensation settled by the court will never be received: *“it says there that he has to pay compensation. But that will never happen. He is a fisherman. He makes good money. He does. But he only declares a small part.”* (V.4)

It is also important to mention that it is not always the case that the requested compensations get actually settled, as it happened to one of the interviewees: *“it was written down in the file but they thought that he barely had money to survive because he said he was handling everything on his own and with the salary cuts and I don’t know what else... He made a series of allegations. He managed to turn things around.”* (V.5)



## 4.8. Other kinds of effects caused on the victims' lives by the court's decisions

There is a whole series of other outcomes and effects on the women's stances as victims of intimate-partner violence. They go far beyond the end of the relationship and the end of the criminal proceedings, such as:

- never ending fear: *"Even today when I leave at 7 o'clock for work I've got tics; I walk very fast. And very often, I keep looking at the time because I'm afraid of getting home very late after work"* (V.2).
- postponing fear – fearing for her life once he returns after having served the sentence in jail: *"while he is in jail, I'm still feeling rather quiet, but once I know he is out there, my life is in danger again."* (V.7) *"He himself says he will do the same when he leaves. He will kill me off."* (V.8)
- cutting the perpetrator/suspect's relations with the children: *"We never speak to each other. He simply stopped speaking to his daughters, to his grandchildren and to me. I can't manage to get in touch with him no matter what."* (V.2).
- losing everything that one had built up in life: *"because it's painful arriving at this point and not having anything. We lose everything, isn't that so? But little by little, we manage to win through again."* (V.1).
- the transformation process that affects women's own identity: *"(going through the process) makes us different persons. From both sides, the good and the bad. I am now able to better see the world's evil. On the good side, I am now a different person as regards taking decisions. On the bad side, maybe I wanted to be able to talk about it, maybe I never wanted to be the cold person I have become. To see things differently. Seeing evil in other people."* (V.3)
- a feeling of injustice - *"in the meantime, he has retired and lives in great style with his J\_\_\_; he doesn't pay any rent; he doesn't pay anything... and we have to live in this situation... now I understand why there are women who just can't make it... we have to really work at it... what I mean is, he doesn't have to make any sacrifice, but the one who's badly treated ... he got to stay at home; he's doing alright! Nobody bothers him."* (V.4)
- the perception that justice is not always nor globally beneficial to victims: *"He had a suspended sentence for one year. One year is almost over and he is still living there in the house. Another victory. He is full with victories, but this is the way justice works."* (V.9)

Finally, there is a whole lot of judicial bureaucracy limiting women's independence and delaying the life projects of women who have experienced intimate partner violence: *"these victims instead of being concerned with what their lives could be, with their new life project, they are coming here every day to settle paperwork! Because of the crime proceedings, but also and mostly, because of the settling of parental responsibilities."* (L.1)

## 5. Discussion of findings combining the different perspectives and recommendations: victims' needs, experiences and rights

### 5.1. Communication (understanding, information)

The way in which the justice system communicates with the victims is essential if the latter are able to give their coherent, detailed statements and testimonies safely and securely, so that they may provide the force of evidence in a court of law. In this sense, the place in which these women give their statements is particularly susceptible to cause an impact: *“very often, in terms of arranging evidence, there are district courts where the conditions in which the victims have to give their statements are not the best. For example, people go to the criminal police departments which are laid in an open space arrangement and there might be someone who’s just been robbed [nearby], someone who’s just been run over by a car, someone who’s drunk and insulting; they’re all there, everyone somewhat thrown together (...). Going through the whole ‘rosary’ and relating all the things that were done to them, even the sexual abuse, is obviously very difficult to do when you’re telling third parties whom you’ve never seen in your life before, let alone telling all of this when you’re surrounded by people who are constantly going backwards and forwards.”* (P.1).

Being understood because you’re being heard – this is one of the most serious constraints and challenges that victims face, and as a result, also the practitioners. What the victim makes of the situation she has experienced lies in her understanding of it because *“for the victim, the problem is only one, which then unfolds in n situations.”* (J.3). It also lies in the perception the practitioners have of this *single, unique* problem where proceedings must be started in which the victims have to *“be heard, not only listened to, but heard globally, considered globally.”* (J.3).

These countless situations have, as already mentioned, diverse consequences depending on where the victim filed the complaint because *“the problem with justice is that each and everyone has its little ways of doing things. This is happening in Lisbon because public prosecutors all work in the same setting, they know each other. If you go out to Santarém, there is no way you will have the crime proceedings being channelled to the temporary settling of paternal responsibilities? If you want to see it, try and ask for it. If we then complain about this to the judges or the MP they say lawyers are the ones responsible for this (...) the civil, the divorce, the settling, people are involved in so many different cases.”* (FG)

Indeed, one of the victims interviewed gave an account of her experience when she was being questioned but not really heard: *“I was asked several times; I understood but I didn’t want [to answer]. They asked whether I drank, who my children’s doctors were, who my own doctors were. I couldn’t stand those kinds of questions any longer. Although we can be understanding about things, because they’re like that, and that’s the end of it, I just couldn’t stand it anymore.”* (V.3). This attitude was also described by the practitioners working in several fields that follow up women in some way who have been victims of intimate-partner violence and are making their way through the justice



system. They could cause the women to look at their own positions when it comes their behaviour in intimate relations – is this problem because of me? – and then blame themselves.

It is therefore very important that the practitioners who interact directly or indirectly with the victims of domestic violence have suitable training that is capable of handling the public it is supposed to deal with, a public that will benefit from the professional services offered. For example: *“to provide the effective possibility of having [the victims] heard and being heard right from the very beginning, whether at the police station, or at the Public Prosecutor’s Office in conditions that respect their privacy and protect their intimacy. This has already been laid down in the Law but where in some cases, it’s complied with, in others, not.”* (J.3).

It is even more important that victims feel that *“when the person decides to lodge the complaint, in the first place there is someone there who can understand us. This does not happen in all cases. And secondly, there should be more information, because honestly, this is for the good of the whole society. It is the whole society that suffers from the entire situation.”* (V.5)

## Information

Information – access to it, understanding it and applying it – is essential as far as this sort of crime based on intimate-partner violence is concerned. It allows victims to *“assimilate their rights; put up resistance to what has been established which revolves around the natural supremacy of the abuser acting against them; men abusers, and women victims.”* (J.2).

Even if Directive 2012/29 EU states that within the sphere of providing information and support, the victim has the right to receive information about the criminal proceedings, the fact is that in terms of procedures and complying with what has been written into the Portuguese Code of Criminal Procedure, the practices referred to by the practitioners reveal some discrepancies in the way they are implemented: *“whenever a restraining order is applied, the court of inquiry is obliged to communicate this fact. If, for any reason, it fails to do so, we immediately tell the victim that a restraining order was issued, so that the proceedings may immediately be informed by some means. When it involves electronic surveillance, at least, I notify [the victim]. I tell the victim what coercive preventive measure is being applied to the suspect and she is soon to be contacted by the Directorate-General for Rehabilitation and the Prison Services (DGRS) so that she herself can receive a GPS. I normally do the communicating”.* (P.4).

But there are practitioners, namely victim support workers who take the initiative to explain all the stages of the proceedings to the people they support: *“As regards the crime proceedings, the different stages, I usually draw, because I draw a lot in order to better explain how it works. This is the enquiry stage, then there is this non-compulsory stage which is the instruction, then the trial and after the trial there may be an appeal. From this stage to this other one you can request the compensation. I draw some figures and explain through the figures. Many of the women sometimes ask me and I say ‘You want to keep the paper? But I have a terrible handwriting and you may not understand. Yes, but I do’ they say.”* (L.1)

Nevertheless, and in conformity with what has been laid down in Law 112/2009 of 16 September about the Regulations on the Victim,<sup>27</sup> the victims have the right to be informed, if they so wish, namely about the progress made on their case and about the court's sentence. According to one of the interviewees, the public prosecutors are in the habit of *"communicating [to the victim] the latest news about the case. She is notified of the accusation, even the request to the civil court, and afterwards she's notified about whether the offender was convicted or absolved. There's this kind of information, and so long as she has the status of being a victim, we are obliged to inform her."* (P.4). Some of the women interviewed confirmed this *"And regarding the identity notice, too. Yes, I got a letter informing me that those measures had been enforced."* (V.5)

However, some of the victims we interviewed and whose cases resulted in the offender being convicted, did not know about the conditions in terms of suspended prison sentences: *"he had to report in every 8 days or every fortnight so as to follow the detox programme so as to see whether he was as aggressive and suchlike, and [report in] to the Police and things like that. I know that it was some measure or other ... but no, I don't know exactly what it was."* (V.1). *"The Judge made a reference to it: 'Mr... has to appear here on such and such a day at x o'clock, and Mrs ... need not be present.' Neither the witnesses, nor anyone else. Only Mr. .... So I arranged with my son that I would go. I wanted to go; I wanted to see; I wanted to know what was what and what wasn't. Even today, I don't know how the case is doing. I don't know. Even today I don't know what the decision was about except for the details that I heard".* (V.9)

These gaps in providing the actual information also arises from a lack of coordination within court services who for example continue to use the victim's previous postal address even after the victim has left: *"The Public Prosecution never sent me a letter informing on the decision. Well, if they did, maybe they sent it to our house and since I no longer live there, he probably got hold of it."* (V.9)

There are questions that do not seem to be very important but, in the sphere of the proceedings where the victims are frailer and more likely to regard the action, or the lack of action, undertaken by the justice system as constraints, even the directions signposted in a court of law may cause the victim problems when it comes to clarifying facts and giving evidence. Anyone who has gone down the corridors of courts the size of many of the district courts which were the object of our study, would notice that signposting is very inefficient. This leads victims in particular to get lost in the buildings, which ends up by *"causing stress and frustration"* and making them arrive *"at the trial with a mental attitude that is completely at odds with what they had right at the beginning"*. (J.1).

Information is a right that helps the victims; it has now been strengthened by the appearance of Directive 2012/29/EU (Article 4, Right to receive information from the first contact with a competent authority). However this right is not always ensured by the justice system's practitioners because *"at times, we tend to underestimate correct, precise information that clearly shows the path that the person has to take, and let's face it, give an idea of how much time it's going to take to traverse that path and what the steps are that need to be taken until a certain objective has been achieved. And we tend to underestimate correct, concrete information aimed at the victim."* (J.1).

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<sup>27</sup> Order 229-A/2010, of 23 April – Models of Documents proving the attribution of the Status of being a Victim. Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1253&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1253&tabela=leis) (retrieved on 03.09.2015).

One of the interviewed women for example stated that it was particularly difficult for her to testify in a coherent and complete manner while in the court room, and in the presence of the perpetrator: *“I could not say the words.”* (V.2) When we questioned her whether she was aware that she could have asked for the defendant to leave the court room, she said she had no idea that was possible. And it is important to add that this victim was being accompanied by a legal councillor.

It would therefore be advisable to have some advice given the victim throughout the proceedings which could take quite a long time, from the moment she first makes a complaint until she eventually arrives at the court room. In this way, she would understand what is going on and how the system works, and what to expect or not; because *“information enables her [the victim] to understand the case and also to respond to it, as well as understand what response the case can give her.”* (P.1). In other words, *“if the victim has been well-informed, perhaps she’ll be able to take that leap and declaim against the situation so as the case makes progress, so as to arrive at the end of the case, arrive at the trial and speak.”* (PA).

In the Portuguese case, although the victim’s standing is regularly used as a means to inform victims both on their rights and their duties but also on the available support, the fact is that not all the victims are able to apprehend the contents of such “forms” when the police authorities hand them over to them: *“the victim’s standing is given immediately but the way it is handed over is like ‘one paper after the other, after the other, after the other.’ When they come back from the police station they are submerged in information and they haven’t got a clue what it is for.”* (VSO)

These first moments are loaded with emotion, tension and confusion. Victims are presenting evidence and trying to start a criminal procedure against someone with whom they have or had an intimate partner relationship. In those moments one must *“not only inform but also give some leaflets because if we don’t get something in front of our eyes something we can see, we don’t gain awareness.”* (V.5)

## 5.2. Protection

There is some conceptual confusion when protective measures and coercive preventive measures are spoken about. In fact, the coercive preventive measure could also act to protect the victims but they are measures that are aimed at the perpetrator/suspect in order to stop him from continuing to commit the crime. It is important to stress that one of the interviewees underlined that *“legally, coercive preventive measures act as a precaution against danger, and if this danger disturbs the inquiry because effectively speaking, it is the period in which the investigation is being conducted.”* (J.2).

There are, therefore, *“four kinds of measures that are applied at different times during the proceedings. In first place, there are what are called police precautionary measures. The police are able to go to someone’s house to remove the person committing abuse, this is a police precautionary measure. Then there are coercive preventive measures that are measures applied to the perpetrator/suspect himself namely in order to stop him from continuing to commit the crime. There are protection measures that are applied to the victims of crimes so as to protect them from the ill-*

*effects of the crime. And afterwards, there is something that is a safety measure, which are measures applied to the offenders to stop the pernicious effects of the crime.” (J.3).*

One of the coercive preventive measures that may be applied to the perpetrators in terms of the danger their criminal behaviour presents, is pre-trial provisional custody. This is a *“measure that, in itself, is most efficient, and there’s nothing more efficient than being taken into provisional custody. But now, pre-trial provisional custody is the last ratio in the system. It’s only used when no other measure works. (...) When we promote or apply a measure involving provisional custody, we have reached the conclusion that no other measure is enough to protect the victim in this case and to prevent the continuation of a criminal deed.” (P.1).*

One of the preventive measure that is applied fairly often is the measure that allows one to leave the house but forbids contacting anyone and is subject to electronic surveillance. Even so, there are occasional situations when some women mention that they had to “break” the measure enforced and that such an attitude is also used against them by professionals within the justice system: “The Public Prosecution Office ordered him to stay away and not communicate with me – a barring order. But in the meantime we needed to talk because of the IRS (Income Tax Declaration), and even this detail was brought up. That, after all, I was not at all afraid of him, because I even met him. And I decided not to mention that we were at a public place and that it had been something we had to do. But the Public Prosecution, the judge thought that was. I mean, I think she played around with it.” (V.5)

Nevertheless, it is not always possible to have electronic surveillance covering every situation given the proximity of the victim’s house and the perpetrator’s house as was referred to by a Public prosecutor: *“While neither one of them moves house, it’s impossible to use this device because it’s always going to sound the alarm. It’s impossible. It has to work within a minimum area for the device to be used.” (P.4).*

The electronic devices for protection – tele-assistance and, although it may be a preventive measure, electronic surveillance – are also used cumulatively. Notwithstanding, not all the victims who used such a device make a positive assessment of their experience. For victim support workers, *“the victim does not have the psychological and emotional tools to deal with something that bips and which they cannot turn off, i.e. if it’s too close to her house, if it’s on the bus, wherever he is, if there is no GPS that will beep and it will beep exactly the same way if the perpetrator is getting closer.” (VSO)*

Protection is also granted when victim-support care for the woman is also provided. For obvious reasons, a person who is different cannot be treated in the same way as everyone else. A victim of intimate-partner violence does not have *“the same power of recovery as a person who has been robbed or who has been the target of pick-pocketing”.* (J.1). The services, more in particular those belonging to the justice system, have to be aware of the need to adapt and line up its professional attitudes regarding different kinds of crimes, as one of the judges we interviewed stressed: *“We have to be more patient, calmer; we have to give the person breathing space so that she calms down. In other words, I think that it shouldn’t be so much the court to mark time but the victim to mark time when giving her statement.” (J.1).*

At the same time, and due to protection and safety precautions, specific care has to be given, namely *“even in the way the court works, being attentive and taking care that the victim should not cross*

*paths with the suspect.” (J.1). In some courts, there are clear provisions that have to be obeyed in the cases dealing with domestic violence, whether it simply means seating the victim with her back facing the plaintiff so that “at no moment does the person feel that the plaintiff might attack her, do her harm, or pressure her to speak to him, establish contact with her” (J.1), even if it means providing a waiting room for the witnesses to wait their turn.*

However, one of the victims we interviewed swore that whenever she had to go to court, she crossed paths with the suspect and she while she was waiting to be called in, she was put in the same room as him: To our question: ‘Did no one ever suggest that you wait in a different room?’, she answered: *“No, never. We always used to wait all together. And now at the Juvenile Court, it’s the same thing, all of us waiting together.” (V.6). Despite the fact that some courts have separate rooms for victims and suspects, as one of the victims told us: “The lawyer told me that if I didn’t want to wait there, I could go to another room. Afterwards, I went to the other place. Or rather, they were in the entrance hall and I passed them, and she [the lawyer] took me to another section.” (V.5), the fact is that “the entrance hall in this court, and I would venture to say that it’s the same in most courts, happens to be a common entrance. In other words, let’s be clear and let’s be frank, there is the risk of people meeting up at the court entrance.” (J.1). Another interviewee seconded this assertion as, “the means of entering the court [through] separate corridors - there’s no such thing.” (J.2).*

It is worth mentioning that not all victim support services seem to be working with a victim’s perspective, in the sense of promoting a wider personal protection: *“they (workers from a victim support service) were not very interested. They just said, ‘ah if you like we can talk to him personally and have him attending a alcohol rehab service. And I replied: ‘so, if you go and talk to him, he immediately realises I filed a complaint and will become even more aggressive.’” (V.1)*

There is the intention of changing the paradigm to ensure women who have been victims of intimate-partner violence that they may continue living safely in their customary habitat. To do this, *“support has to be set up as much as on the part of the police as the social organisations that make them feel safe in the sense of not hiding them, not placing them in shelters [but] effectively implementing what has been stipulated by the court, mainly that they are effectively able to go home, and that no solemn warnings need to be given [to the suspects] that they will be remanded in pre-trial custody in order to force them to accept as natural, that the court’s decision is there to be complied with.” (J.2).*

Needless to say, the change in paradigm has not been accepted with open arms by all the practitioners in the justice system. Indeed, there are those who perceive that any change in paradigm should be made operational in the way that the justice system itself deals with the perpetrators/suspects, whereby an attempt should be made to re-socialise them: *“From the victim’s point of view, I think that we also have to have another kind of approach that goes against our system. The victim shouldn’t need to make a complaint. The victim wants her abuser to stop abusing her – and the way that we in Portugal are handling the problem of DV – and we (the PSP, the GNR in the police authorities) have been saying this already for some time – is that perhaps we’re paying too much attention to protecting the victim and forgetting to follow up her abuser.” (PA).*

Moreover, the support the victims receive so that they make credible witnesses in the criminal proceedings was queried by some of the interviewees and, although it is understood that the justice system needs to have *“a good witness”*, the witness may be conditioned by violence: *“I have to*



*demonstrate a series of factors that have occurred because a crime was committed. Our criminal law states that DV is a crime involving damages or resulting from them. I have to prove that they have indeed resulted [from the crime]. According to the [Istanbul] Convention, DV has now become a dangerous crime. The damage caused now is so serious that protection has to be given in a different way.” (J.3).*

As regards the application of international legislation, Portugal was one of the first European countries to ratify the Istanbul Convention. The interviewees considered that this was very positive and they are quite used to adopting questions in international law. However, when something is ratified it means adapting national law as well as the means of implementing it. And it is here that doubts are raised: *“because one thing is the letter of the law. It’s another thing to have the “portfolio”, so to say, the financial envelope that may be allocated and the means that may, as a result, be allocated in order to satisfy the rights and duties laid down in these international laws. (...) And this is only at the level of human resources, financial resources and material resources. This seems to be a source of impediment, blocking the application of this legislation.” (J.1).*

Apart from the above developments in international legislation that has an impact on national legislation, in protecting victims of domestic violence and according to the interviewees, there is not much more to invent because, *“if we are unable to implement and implement well what we already have, then we don’t need any more legal instruments, or we don’t need to invent, let’s say, legal instruments to protect the victim conveniently and in a dignified way.” (J.1).*

### 5.3. Professional training

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Yet again, we seek our inspiration in Directive 2012/29/EU where talking about training is concerned:

*“Any officials involved in criminal proceedings who are likely to come into personal contact with victims should be able to access and receive appropriate initial and ongoing training, to a level appropriate to their contact with victims, so that they are able to identify victims and their needs and deal with them in a respectful, sensitive, professional and non-discriminatory manner. Persons who are likely to be involved in the individual assessment to identify victims’ specific protection needs and to determine their need for special protection measures should receive specific training on how to carry out such an assessment.” (Directive 2012/29/EU, No. 61)*

According to a recent European report, *“Portugal provides an example of the lack of implementation of this good practice, where 90 hours of training on DVAW is mandated by law and ministerial order for professionals working in the field, but reports indicate that only 30 hours are enforced.” (EIGE, 2012: 26).* Apart from the need to fulfil the agreed commitments as regards the number of training hours, it is also important to promote *“training in the field of gender equality which will contribute to break up gender prejudices which persist in the minds of lawyers, male magistrates and even female magistrates (...) It would be very important to break up such gender related biases, which have a lot to do with this idea that the victim must always be very kind, very obedient and nothing else; they are even related to the way judges tend to arrange proceedings.” (L.1)*





## 5.4. Services provided by the police authorities and the Public Prosecutor's Office specialising in domestic violence

An international debate has been going on as regards specialised services offered by the police authorities and the Public Prosecutor's Office. There are countries where this specialisation also covers the Court (for example, the UK and Spain). In Portugal, the path to specialising the services has been cleared particularly by the police authorities (since 2014, 24 Investigation and Specific Victim-Support Centres (*Núcleos de Investigação e de Apoio a Vítimas Específicas*) have been operating, involving 391 officers in the National Republican Guard (GNR); the Public Safety Police (PSP) have established Close-Range Victim-Support Teams (*Equipas de Proximidade e de Apoio à Vítima*), Criminal Investigation Stations (*Esquadras de Investigação Criminal*) and Criminal Investigation Teams (*Brigadas de Investigação Criminal*) composed of 594 officers)<sup>28</sup>. All of the officers have received training in handling cases of domestic violence.

When the new risk-assessment table was introduced, police officers working in the police authorities were given specific training that taught them how to fill in the appropriate form. However, criminal investigation personnel has detected errors that are due, not to the lack of information, but to the conditions and the time in which the form has to be filled in: *"A man pregnant? There's no sense in filling in this form. And we understand why. The form is filled in on the spot; the victim is in a state of pure nerves; the victim also frequently says things and the afterwards her answers don't add up. Perhaps, afterwards, when she's quietened down, when she doesn't want to be at that place, she won't want to have anything to do with legal proceedings because the problem has already been solved; perhaps what seems to be the truth in the first [risk-assessment] form, isn't afterwards."* (PA)

In the sphere of the Public Prosecutor's Office, specialisation has more to do with the Unit or Centre and not so much the practitioners that work in them. In fact, although the public prosecutors should undertake training, nothing forces them to do so in the field of domestic violence, even if they are working in special units investigating domestic violence.

And the absence of specialisations in the Public Prosecutor's Office, generally speaking in terms of domestic violence, is also felt to be a constraint by other people working in the police authorities, as it affects the response the police authorities give, and the way the proceeding goes: *"this volatility that we [police officers] have to deal with according to the prosecutor we have leading the case, who may or may not be sensitive to domestic violence... the ideal thing would be to have a prosecutor who has specialised in the field of domestic violence, just like us [in the police] - we have specialised human resources working in the area of DV. But as they don't, this intermeshing may [only] be accomplished to a greater or lesser extent."* (PA).

Experience gained in the field is crucial for this reason, as a public prosecutor mentioned: *"At the beginning, we're not all that sure of ourselves: should I issue a mandate in this situation or shouldn't I? And there have been some situation in which I didn't issue one because I thought it was better not to. He [the suspect] wasn't there to commit anything illegal. But now, after two and half years, there*

<sup>28</sup> *Sistema de Segurança Interna*, 2015: 60-61.



*are particular facts that when they are described... particular behaviours that are standard behaviours and patent in the most serious situations in conjugal relations.” (P4).* This experience in the field allows for the identification of patterns predicting risk.

The Public prosecutors that we interviewed mentioned that there were practices specific to the district courts they were attached to. Such is the case of the Loures and Oporto District Courts where guidelines were written up, giving the kind of questions to ask victims of domestic violence when they had to make their statements: *“We drew up standard questions when complaints are made, and questions we need to ask the victims during an inquiry. We also gave [the guidelines] to our justice workers. We don’t preside over all the investigation, as is obvious.” (P.4).*

These guidelines were handed out to all the criminal police investigation teams<sup>29</sup> and they form an essential element when collecting evidence. Questions centre on conjugal relations/intimacy, whether there are children, the kind of abuse inflicted and the injuries sustained in the abusive treatment, abuse happening later, the abuse in terms of time and space, medical treatment received as a result of the abuse, prior complaints and indictments, the kinds of threats and insults made, continuing to cohabitate, the likelihood of the victim leaving the home, the abuse of the children, among other questions.

The police authorities have also implemented differentiated strategies making it easier to develop rapport between the victim and the police officers, as one of the officers told us: *“We wear plain clothes (...) so as it make it easier, and it does make things easier, without a doubt, it does. Unfortunately, the uniform shouldn’t be an inhibiting factor but, rather, something that draws people together”.* (PA)

In Portugal, the judges are unable to specialise because *“it is forbidden in terms of the principles overseeing criminal proceedings, and goes against the principle of the natural judge.” (J.1).* Despite this specialisation does exist (civil courts, criminal courts, civil court judges, criminal court judges, judges in small-claims court and judges of minor criminal offences) and there is specialisation according to the court’s powers (e.g. Labour Court, Family and Juvenile Court, Commercial Court and Maritime Court). According to one of the interviewees, what cannot happen is a case involving domestic violence being channelled to a particular judge, based on the principle of natural justice, although there is no obstacle against setting up a court that is specially empowered to deal with crimes of domestic violence.

Indeed, this possibility is corroborated by another judge who believes that it is the way to train specialised judges. It is *“humanly impossible for a person to simultaneously widen his/her competences/skills”* in the various branches of the law unless by way of *“setting up a specialised jurisdiction over violence against women, or domestic violence if you will, where the people who are posted in this court align their specialisation with a thorough knowledge of the material, and a natural gift for these issues.” (J.3).*

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<sup>29</sup> In Loures, the questions are placed in the dossiers containing the orders issued by the Public Prosecutors to the police authorities when delegating powers/competences. During the course of our domestic-violence data collecting, we saw several orders that included these guidelines.



Likewise, there are those who believe that a judge who specialises in handling domestic violence will not gain anything by it because *“I think that a judge who only deals with the question of DV, well, I don’t know up to what point s/he won’t acquire tunnel vision and a person may hardly begin a case than he’s been convicted.”* (P.1). (It should be added that for this Prosecutor, working exclusively on domestic violence cases *“take years off our lives because we’re always thinking about them”*; they involve cases where *“Andreia makes a complaint against Bruno, and I don’t know if, tomorrow, Bruno’s going to kill Andreia because Andreia said here that Bruno gave her a slap that day; and I think: ‘today, he’s slapped her, but tomorrow he could bludgeon in her head with a hammer’*). In this practitioner’s opinion, a judge who only deals with domestic violence would end up *“by causing a judge to burn out mentally (...) would exhaust him/her physically and psychological very quickly”*. (P1.)

Nevertheless, working in the Public Prosecutor’s Office, there are personal interpretations about whether these cases should form an integral part of a judge’s duties or not. We encountered a certain amount of ambivalence in the replies we received, although if it is considered strictly in functional terms, assessing and taking account of the victim’s needs is something that does not appear in the judge’s list of duties. It is the *“personal interpretation”* (J.3) of an overall perspective and it is the type of crime involving domestic violence that can make the difference in a case’s outcome, *“even if she [the victim] says things that are relevant or are not relevant at the moment, so that we could say: ‘Look, Mrs. \_\_, you’ve already told us about this; it has nothing to do with me; but you should go to another section, go to the hospital, go to your child’s school, do it and it will work out...’”* (J.3).

A judge in the Court of Criminal Inquiry has a role to play; it is *“more passive in the sense that the case has already been investigated with an analysis of all the relevant facts that have to be weighed up afterwards to see whether a coercive preventive measure should be applied, and also in the decision and the investigation phases properly speaking, to see whether or not to keep all the indications that lead to the rationale deduced in the final order of the accusation, the two converging closely.”* (J.2).

Indeed, making a wager on training is very important because *“as we are working in a highly structured system dealing with all kinds of criminality, a system that we cannot change, I would say, the rites and rituals themselves in a trial; I think that the best progress that we can make, would be to train people, meaning the judge, the prosecutor, and also the lawyers themselves”* (J.1)

Training is the basic tool to improve *“the way the practitioners of justice approach the problems: the training they have, the awareness they have, the way they speak to people, how they relate to them, the care they take to explain what’s going to happen in a more detailed way. Perhaps give people an idea of what the guidelines are for this ‘via crucis’ [way of the cross].”* (J.1)

What matters is *“doubling our care, our sensitivity to see within the spectrum what the legal instruments are; use them to exhaustion for what they offer. Exhaust all the lines of inquiry, exhaust all the questions we can ask, exhaust all the devices that we have at our disposal in conformity with the time that we also have.”* (J.1).

Likewise, there is the perception generally speaking, that the suspects and victims accept the proceedings and the steps taken in the proceedings much better if they are told by someone dealing

with the law and who carries out these duties: *“only the simple condition of being a person conducting the trial, instead of the court clerk, telling the person to go away because the trial was postponed or because something was missing, or because of any other reason, and therefore the person won’t be heard that day. The fact that the court clerk tells the person or the judge tells the person, creates a completely different impact on the person. The person is more disposed towards the judge because he has to face the judge, you see, and the judge gives the explanation: ‘Mr. \_\_\_ you’re not going to do this or that; you’re not going to be heard today’. I’ve noticed that a person accepts this more readily than when the clerk sends the person away. Because the person finds it hard to understand after a while. He doesn’t know what he has come here for. (...) He feels that he’s come here at the State’s beck and call; the State bosses the person around as it wishes without an explanation.”* (J.1).

## 5.5. Cooperation and networking

The fact that intimate-partner violence is a crime that brings together a series of factors, such as intimate relations and the feelings associated with them, financial difficulties which mostly women have to face as the outcome of power relations based on the imbalance of individual incomes, and collective experiences that are more or less shared in amorous relationships where the women have to bear much more, may complicate making a vigorous decision. It is in making this decision that the support received by certain organisations is shown to be relevant: *“I think that if it weren’t for this help, I wouldn’t have managed to go to court, either at the financial level or at the psychological level because I (...) don’t have any financial means. Apart from this, the people here don’t give any psychological support. It has been very important. I think that I wouldn’t have managed to go ahead on my own.”* (V.2).

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Indeed, there are those who believe that victim support services are also enhancing to a large extent, victims’ security: *“This (victim support service) is where I started to feel more protected. When it was only the GNR and the court I didn’t feel that protected. I value the support that (name of the practitioner) is giving me and I hope it continues this way. They give me a lot support. Very often they call and ask me if everything is Ok.”* (V.4)

If the victims appreciate the help they receive from the victim support services, the practitioners working in the justice system are not unanimous as to the good offices of such services. As one of the police officers says: *“It would be great if the uniformity that exists between the two kinds of police [the PSP and the GNR] in carrying out risk assessments also exists in the NGOs, in the Public Prosecution or in other kinds of institutions. It would be great for the victims if this happened.”* (PA).

However, there are relevant issues that need to be tackled as regards the timely cooperation among services, pertaining namely to the decentralisation of public and private services which are involved in the actual cases and where bureaucracy seems to prevail over celerity. Let us see for example what happens when a woman is temporarily living in a refuge: *“we have to give the address of the Support Centre and it takes such a long time before we get things there... In between receiving and sending things, sometimes the dates for the enquiries have passed, the lawyer’s appointment has not been done, the petition was not filled in or something else.”* (L.1)



Cooperation among the different kinds of private and public organisations (the justice system, the social system, education, etc.), is, according to the interviewees (both practitioners and victims) more than desirable. It is not so much based on the individual needs of the victims as on the perception that: *“the crime of DV invites a whole lot of awareness about the problems that are not exclusively related to criminal-case problems. They are deeply-rooted social problems that have to do with people’s education, education that doesn’t only mean schooling but above all, the models that young people and not-so-young people have in their fathers, their mothers, their boyfriends, their girlfriends, the couple, husband and wife.”* (J.1). The fact is, that this is a crime that represents the maximum expression of inequality based on gender. Indeed, *“if there is a topic that touches the very centre of our lives, of people’s lives, what is the most sensitive to people, it is human relations and above all, human relations within the bosom of the family or in a semi-family environment, or amorous and affectionate relationships, whatever we wish to call them, calling in this multidisciplinary, a multidisciplinary approach, I think that it is domestic violence.”* (J.1).

The multidisciplinary approach may already be seen in many districts courts in the country. It rests on the basis of sharing information between the victim-support services and the Public Prosecutor’s Office: *“In itself, the Report drawn up by [name of the organisation] cannot be incorporated in the court case as evidence. But it has its role which is, perhaps, more important than the proof mainly in the preliminary stages of the proceedings, more precisely in the inquiry. It sounds a warning, calls attention, opens up the lines of investigation so that valid evidence may be collected validly in terms of the court case.”* (J.1).

According to the interviewees, cooperation and networking has positive repercussions on protecting the victims and in responding to their needs. The evaluation is very positive as regards this way of working collectively: *“it works well because right from the beginning of the proceedings several entities are called upon to intervene, whether it’s at the level of assistance or at the level of follow-up.”* (P.1) and because *“interagency work is also very important, there is an improvement as regards the support and protection provided to the victim.”* (VSO)

As a matter of fact, one aspect which is becoming more and more common is the existence of legal skills among the organisations supporting victims which ensure that the necessary legal information is duly provided: *“we have a legal advisor who works this issues, whether it is divorce, crime, parental responsibility, but mainly within the perspective of clarification and addressing any queries or doubts.”* (VSO)

Yet, it is also true that out there in the field *“the organisations are made up by people and when people move this has an impact within partnership work.”* (VSO)

Gains may be had so as to launch criminal cases by using the many reports coming from the victim-support services. Owing to the fact that they may not be used as evidence, they may act as sources of information that allows for a better acquaintance of the family’s experiences and lives and permit understanding its intimate-partner violence. According to a public prosecutor, in these services, *“the women always speak more in an office belonging to a victim-support service than they do in a Prosecutor’s office. They know that in a victim-support service office, no one gets arrested. So they’re more at ease in speaking to a psychologist there than they are to us. Because with us, they don’t feel comfortable. They’re ashamed.”* (P.4).

On the other hand, the reports produced by the Directorate-General for Rehabilitation and the Prison Services (DGRSSP) have another purpose in the sphere of criminal proceedings (they rule on issues). *“Social reports which are really made about the perpetrators/suspects, may be [referred to] and the information they give is governed by the law. They are and have been very important later on in drawing up a profile of his personality, the environment, the context in which the person has lived and afterwards, they are taken into account when determining how heavy the sentence should be.”* (J.1).

Despite this, assurances have to be made that the multidisciplinary approach and the links among the different services are made official, mapping out powers and duties undertaken by each of the services and avoiding *“behaviour that overlaps the functions of [other] people”* (J.1). This is due to the fact that *“the worst thing that can happen is the pretext for very often interfering in one case or another, or even interfering in the general exercise of our profession.”* (J.1). Therefore, it is convenient to make a clear definition of the roles played by each of the institutions and organisations which make up the network. A start, for example, would be in holding *“meetings to define the role of each agency. Investigation falls to us, victim support falls to other institutions.”* (PA)

It is essential to be aware of *“what very often also conditions our efficiency as practitioners; we form prejudices and erratic conceptions about other people’s work. It’s not our business, it’s the other person’s. Very often, perhaps the police don’t contact people they should contact because they think it’s not worth it, or they don’t do the job as we would like them to do it or because it’s not in their job description in the first place. So, sometimes, only by knowing what one’s role is, and what each one is doing and what projects they have, it’s already a great step forward. Also, it’s in the way we handle the case. We get to know who’s who, and whom we should ask.”* (J.1). This attitude is seconded by another practitioner who considered that: *“very often there’s a gap in understanding among the various agencies who have been called to intervene in the proceedings. There are, maybe, agencies who haven’t understood very well what the parameters are that decide other agencies’ intervention, and it could be this that makes other people perplexed.”* (P.1).

It falls to the judges to *“exchange information with other agencies in this sense: if it’s to back up a verdict, it’s the DGRSSP; if the police need to be asked for information for any reason, then it should be given. Through official channels. Or if forensic evidence is needed,”* (J.1). However, the exchange of information has to be official. In the equation of formal networking, the professional class composed of the judges has to be excluded for reasons of objectiveness, as *“the judges have to be ‘tabulas rasas’. It would never cross my mind to include a judge in the networking about this topic or indeed about any other because the judge has to come into the courtroom and be an empty slate.”* (P.1).

In terms of the police authorities and the Public Prosecutor’s Office, a more informal exchange of information that is connected with the investigation may happen; that will allow new lines of inquiry to open up.

And there are agencies which are important to include in the network as they may exert an influence on both the timing of the proceedings and the quality of the evidence to be presented – meaning organisations in the health sector. The justice system practitioners were categorical in saying that the time it takes a Hospital to reply to a request is so lengthy that it jeopardises the evidence and the outcomes of domestic violence court cases: *“sometimes we need clinical documents – we spend two months waiting”*. (P.1).

The cooperation, the way networking functions and the way in which the services work have to be adjusted to victims of domestic violence owing to the fact that *“the crime of DV calls upon a set of knowledge, a series of approaches that are not compatible with the normal way the services work, which normally support victims in general.”* (J.1).

Lastly, cooperation should act together with the compulsory measure of communicating situations that the Law, to a great extent encourages, and in some cases obliges: *“Everyone’s communicating with everyone else (...) But afterwards, everyone expects [action]. They think that just because they’re getting in touch, they’re not forced to do so. It’s like the teacher who notices the child has been beaten up. He reports it to the Committee for the Protection of Children and Young People at Risk (Comissão de Proteção das Crianças e Jovens em Risco, CPCJR) and then does nothing more. He doesn’t go the mother’s house, he doesn’t speak to the mother, he doesn’t do anything. ‘I’ve washed my hands of it, now it’s up to them’. Afterwards when nothing has been done, he criticises them for not doing anything. If they think it’s got nothing to do with them, the CPCJR communicates this fact to the Court and washes its hands. The Family and Juvenile Court communicates this to the Criminal Investigation Department (the DIAP) and washes its hands. And between this washing of hands, sometimes it’s not easy for us to articulate all these things”.* (P.4).

Irrespective of the practitioners’ and the victims’ sound assessment of the cooperation among the different institutions and agencies, because it allows for *“a discussion based on anonymous cases and this ends up by being a good thing, and we also end up by getting into touch with each other in face-to-face encounters and not only by phone, and this makes things a lot easier. (...) It’s important. [However] the only problem is the means of doing so [i.e. contacting each other] – the physical means and the human means (...) and we have to do a certain amount of juggling to come up with an answer (...) it’s very important but our work in the field doesn’t stop.”* (PA) ~

Notwithstanding, refuges and victim support services end up by playing an important role in contributing for providing quicker and fairer responses to a set of needs which most IPV victims present: *“even regarding RSI (minimum income) requests, if the decisions are not favourable we contest. They know us for contesting. If they do not accept the child’s transfer, we contest. If within the administrative procedure code it is necessary to negotiate the labour contract’s suspension or the contract’s termination we also attend to that. Because many women had their jobs and they had to terminate their contracts in order to come here.”* (L.1)

## 5.6. Working with the perpetrators/suspects

Working with the perpetrators/suspects is, in the interviewees’ opinions, something that has to be cultivated as *“working with the perpetrator is fundamental. Perhaps it is killing the problem at the root.”* (J.2). According to some of the interviewees, if these kinds of programmes are aimed at the perpetrators, then future episodes might be avoided even including relationships ruled by violence. This is because *“the obligation to attend special programmes is made with a view of preventing [violence]. Or rather, the fact reflected in the person who committed [the crime] and working with the person so that he is re-socialised.”* (J.2).



Practitioners working in the justice system have been very receptive to the idea that a wager needs to be placed on working with the perpetrator: *“if, when the police have received a complaint about a DV crime, at the same time that provisions are activated to protect the victim, provisions are also made to follow-up the perpetrator, not resorting to the electronic bracelet, then it would be to make the perpetrator more aware and reintegrate him, which is what the victim wants. So the victim doesn’t need to pursue the case because a good part of the problem has been solved, which is controlling the aggressive behaviour of the perpetrator. What the victim wants, not always but in most cases, is to continue living with the perpetrator; she simply wants him to stop abusing her”*. (PA).

The reason that stepped-up work with the perpetrator has been welcomed is, according to the practitioners we interviewed, because it helps to stop domestic violence; *“even though they are remanded in pre-trial custody, they come out again. Even though they have to wear an electronic bracelet, they continue living the same life. When they can’t or are restrained from the victim they get themselves another [life] because they have never worked in any way. Even if they have to go to jail, it’s not by being inside that they’re going to stop being the perpetrators, it’s just the opposite.”* (PA)

One woman or another also feels that it would be important to work with perpetrators in order to avoid further victims: *“I also think the perpetrator should get support because if he doesn’t he won’t be able to change (...) Therefore, I think there should be an entity which could start working with him immediately and not only the court. Because whilst waiting for the court to intervene, many women get killed.”* (V.5)

However, there is also evidence that the impact arising from the perpetrator’s attendance to certain programmes may be limited and with little consistency: *“Because he used to drink a lot of beer. He used to drink up to 7 or 8 litres a day, not counting what he used to drink when he went out, in half-pints. (The court suggested he follow a alcohol treatment but) he gave up because he said neither the judge nor the prosecutor could give him orders. He only went to those three. Only those 3 that .... He didn’t go to any of the other sessions. He thought that no one could order him about... And he said that ‘the only one to order me about is myself’”*.(V.4)

## 5.7. Other recommendations

Giving the victims tacit information about what criminal proceedings are all about, what the signposts are that point out the judicial routes to take, a sort of map that guides and gives directions, a “mental signposting”: *“It’s important that the victim knows right from the beginning, what took place in that occurrence, which involved a disturbing event, a terrible event. Knowing first hand who they can go to, who the interlocutors may be, what paths they have to go down to reach these interlocutors, who pays for this first contact, what the follow-up is after making this first contact, what the timing is to solve their case, have someone to [supervise proceedings] (although this is something that I’m not sure we can provide in the near future), for example at the court, a case manager.”* (J.1).

Train and identify the key professions that act as front-line contacts in the justice system’s services, the health services, the social services and the educational services.



Make it compulsory to give information to the public prosecutors heading the investigation with respect to the outcomes of the arraignments and cases that have been judged in court, thus avoiding the situation whereby the person who made the accusation is ignorant of how the case ended. What happens even today, is that the public prosecutors apparently *“never get to know anything more about the case unless they ask about it. Or unless I am lucky enough to know a colleague who was at the trial and who telephoned me to say: ‘I defended an accusation that came from you today’”*. (P.4).

Make psychological counselling available at court to the victims of intimate-partner violence; this could help a lot to make the job of the prosecutor easier when it comes to collecting the evidence as well as help the victims to speak about their experiences: *“Having a psychologist at the court is essential. (...) a psychologist who belonged to the staff of the criminal investigation department; similar to school where there’s a psychologist.”* (P.4).

Greater availability / capability of the victim-support services in providing more help: *“there should be a work group composed of people concentrating on helping and priming the people who have to speak.”* (P.4).

*“There should be support groups dealing with families who have victims of DV. [Helping] not only the victims but also their families so that they know how to perceive and handle the problem”*. (P.4).

*“(...) inject capital into civil society. Make a good-sized [injection], I don’t know the amount needed at the moment, but fund the associations that support victims, and afterwards, encourage civil society’s willingness in wanting to take part in such associations, in their neighbourhoods, in their buildings. And create the conditions [for doing so]”*. (P.4).

Promote serious evaluation of existing programmes, namely those addressing perpetrators: *“We want an actual assessment of the ability to solve conflicts, of the empathy skills, this is what matters. In the end, what is needed when a perpetrator’s programme is implemented is to know whether or not in the future he will have that ability or not, to avoid recidivism and a repetition of this kind of behaviour.”* (L.1)

Simplify the bureaucracy involved in the procedures for obtaining legal support from State: *“We need to make so many requests for legal aid as the number of legal proceedings in place (...) (the lawyer) is never the same for all the cases. It would be advisable to have the same lawyer dealing with the different proceedings. Except that in terms of competence, the criminal proceedings always have to run where the facts occurred. The parental responsibility case and the divorce do not.”* (A.1) although according to the article 25º of Law 112/2009 it is possible to have the same lawyer dealing with all the proceedings.



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