



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

**Dealing with IPV in five European countries –
treatment of cases and victims by the criminal justice system,
procedures of protection and support**

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Introduction

The actual outcome of most cases of intimate partner violence (IPV) seems to be dominated by discharges and by a persistent gap between the number of complaints and the number of convictions. At the beginning of the project it was assumed that the particular vulnerability of victims of violence in an intimate relationship often makes it more difficult for them to co-operate with the justice system, which prior studies had recognised as one of the factors influencing the outcomes of criminal proceedings. The project INASC aimed at improving existing understanding of victims' experiences of IPV cases at each stage of criminal proceedings in different EU countries. It was co-funded by the Directorate-General Justice of the European Commission.

The transnational team consists of six partners from five countries: Austria (IKF), Germany (German Police University DHPol and Zoom e.V.), Ireland (SAFE Ireland), the Netherlands (Verwey-Jonker Institute) and Portugal (Cesis as project coordinator).

In all countries, national analyses of victims' experiences and needs in criminal proceedings and of the criminal justice response (risk assessment, victims' protection mechanisms, referral and support procedures) to those needs were carried out. The practice-oriented research has identified crucial aspects of supportive measures provided to IPV victims within the criminal justice system and of elements that influence the way victims are being supported and protected at the "entrance door" (filing a complaint), at the investigation stage (security forces/ public prosecutors initiating investigation) and in court (courts procedures and final decisions). A second question is how assessment procedures relate to the outcomes of criminal proceedings.

This comparative report is based on the national reports with regard to the above mentioned questions and presents the results mainly against the background of standards for provision of rights and support for crime victims as defined in the European Victim Protection Directive 2012/29¹, which had to be transposed in national law in all EU countries until November 15, 2015.

¹ Directive of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.

1 Methodology and data

The project team chose a mixed methodical approach to a better understanding of victims' needs and victim support in IPV related criminal proceedings and also to a better understanding of how criminal justice agencies deal with IPV. The first approach was a quantitative analysis of police and public prosecutor files, the second method used was a qualitative one by conducting interviews with criminal justice experts and victims and focus groups with practitioners.

Figure 1: Overview of methods

Method used	Professional background	Austria (AT)	Portugal (PT)	Ireland (IE)	Netherlands (NL)	Germany (GE)
File analysis		70	70	0 (instead: data from 40 standardised victim interviews)	70	70
Interviews with victims/ number of participants		10	10	40 standardised	7	10
Focus groups – number of participants	Police	9	6	0	8	7
	Victim support organisations (counselling/protection/assistance)	10	7	13	8	3
	Multiprofessional (Police, judicial system, VSOs)			7		3
	Total number participants	19	13	20	16	13
Interviews with professionals – number of	Public prosecutor/ State solicitor	4	8	4	10	5

participants						
	Judge	4	3	3	2	4
	Lawyer/ barrister	1	2	2	5	1
	Court service/ Clerk of the court			3		
	Probation officer/ court assistant			2		3
	Police	1				
	Victim support organisations (counselling/protection)	3		1		1
	Total number of participants	13	13	14	12	14

1.1 File analysis

1.1.1 Aim of the file analysis

The overall aim of the analysis of police, public prosecution and court files is to explore how they assess the risk of (further) violence against victims of IPV and how they respond to protection needs. Thus, a special focus is put on (i) the identification of weaknesses in risk assessment procedures, (ii) the collection and preservation of evidence and (iii) the assessment of specific needs of IPV victims with regard to their personal characteristics (e.g. strengths, vulnerabilities), as well as type and circumstances of the crime. That is, the analysis addresses especially article 22 “Individual assessment of victims to identify “specific protection needs” of the Directive 2012/29/EU and three main aspects regarding the Directive’s national implementation: (i) the capacity of police, prosecutors and judges to deal appropriately with victims; (ii) the identification of vulnerable victims’ needs and (iii) the provision of protection for all victims during the whole process of criminal prosecution (investigation and court proceedings). The project is built upon the premise of article 3 of the Directive, stating that any victim has the right to understand and to be understood from the first contact and within the context of criminal proceedings. The ability to understand or being understood cannot rest entirely on the victims’ personal characteristics but rather on the context and circumstances of the interaction. The

quantitative and qualitative file analysis will not only highlight the victims' attitude towards criminal prosecution, but also the daily practice of police, public prosecution and judiciary as it is reflected in the files. The findings will be the basis – together with the outcomes of the analysis of victims' interviews – for the development of a toolkit which should promote a more efficient and protection sensitive criminal justice system with regard to IPV victims.

1.1.2 Implementation of file analysis

Each participating country except Ireland analysed 70 case files. The reason for this exception was that the Garda Síochána responded that they were unable to participate in the project, citing both data protection concerns and changes in policy and practice being implemented in the light of the Garda Inspectorate's Report. Instead, the research team collected quantitative data from 40 IPV victims. These women were interviewed based on a semi-standardised tool and their statements were analysed quantitatively and qualitatively. Nearly every team (except the Dutch) faced serious impediments in gaining access to files. These problems resulted from reluctance of some courts and public prosecutors with reference to data security but also from lengthy procedures in contacting the right authorities with respective areas of responsibility and discretionary powers.

The criteria for file selection were in every participating country but Ireland mostly identical. Files were selected as follows:

- Offences should be **intimate partner violence** (some partners specified criminal offences according to the criminal law)
- offenders should be **current or former partners**,
- the **suspect** should be male and 18 years old or more,
- the **victim** should be female and 18 years old or more and
- all files should be **recent cases** (the research team of Portugal requested recently closed files; the project team of Germany inquired cases dealt with in 2013; Austria preferred recent cases that should not have been concluded before 2011 and the research team of the Netherlands requested recent cases from 2013 and 2014).

Besides these general selection criteria some partners considered regional diversity (urban and rural) like the Portuguese and the Dutch team. Some requested a specified sample according to the out-

comes of the proceedings as regards dismissals or court trials, with or without convictions (PT, GE) or the type of the proceedings (fast interventions by PPs, regular interventions by PPs and court proceedings - NL).

Since the Irish team (as mentioned above) did not get the chance to analyse official files, they instead focused on securing information directly from victims of IPV. Therefore they identified the following very similar criteria as aforementioned:

- The victim had experienced violence at the hands of an intimate male partner,
- had reported at least one IPV incident to the Garda between 2010 and 2013,
- was aged 18 at the time of that report and
- had a sufficient understanding of the English language to be able to answer the survey questions.

The research team of Ireland also sought participants from around the country in proportions that roughly replicated the spread of the national population and considered that all these information would still allow them to contribute to the wider European project contributing official files.

1.1.3 Content and structure of data collection instrument

The information contained in the police and public prosecutor files was collected using a customized quantitative template that included various sections. The first sections explored victim and suspect characteristics, especially focusing on characteristics and circumstances that might influence either the victims' ability to seek help or law enforcement's treatment of the case, like disability, care dependency, citizenship, *race*/ethnicity, sexual identity/orientation and language proficiency/literacy. The tool further explored the history of violence and incident-related characteristics, especially the type(s) of violence perpetrated against the victim and factors indicating a risk of escalation, like (attempted) strangulation and use of weapons. The section on criminal justice response analysed the police and/or public prosecutor's first response, interviewing procedure and evidence collection, victims' support of the criminal prosecution process, use of risk assessment instruments and protection measures, as well as recognition of special needs, information about (and provision of) support and applicable rights during all stages of the proceedings.

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

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

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

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

1.2 Qualitative research: Interviews and focus groups

Besides file analysis, the second method used was a qualitative one by conducting interviews and focus groups. The interviews focused on the perspectives of experts and victims of IPV on experiences of violence and victims needs as regards support and protection as well as criminal proceedings. First, the research teams were supposed to conduct qualitative interviews with three judges, ten public prosecutors and ten in-depth interviews with victims of IPV as well as a focus group with police officers working in the investigation service and another one with staff members of victim protection services. Due to huge differences in legal systems and procedures and victim support systems in each of the participating countries the research teams agreed to a high level of flexibility concerning methods of interviews, composition of samples and survey methods. The total number of interviews/ interviewees was to have remained the same and each research team was to conduct a minimum of ten interviews with victims of IPV and five with public prosecutors. Random and theoretical samplings were not considered as useful because of the expected difficulty with recruiting IPV victim interviewees. Therefore and due to the small size of the total number of interviews the research teams preferred to preselect persons that actually were able to contribute to the topic. However, a set of selection criteria were considered as important to follow:

- Interviews with experts and victims should be conducted in urban and rural areas.
- A varying severity of criminal offences should be included.
- Relevant professions and model projects should be included.
- Various forms of victim support organizations should be included.
- When interviewing victims, it should be ensured that they had made different experiences in criminal proceedings and that the outcomes would include dismissals by the police, public prosecutors or court as well as convictions of the offender.

Moreover, it was expected that decisions on selection and regional distribution of interviewees would be influenced by the travel costs and time resources available..

1.2.1 Selection of and access to interviewees / participants

In this section the actual number of interviews and focus groups of each participating country will be presented and variations compared to the proposal explained.

▪ *Experts*

In all countries the experts were mostly contacted via existing networks, in the Netherlands and in Germany additionally members of the board provided contact information for relevant experts.

The Portuguese team conducted a total number of thirteen expert interviews involving eight public prosecutors, three judges and two lawyers. In order to include lawyers the number of interviews with public prosecutors had to be reduced. Two focus groups took place involving one group of six police officers and one group with seven staff members of victim support services.

The German research team of Zoom e.V. aimed at including a range of relevant professionals from the justice system as well as from victim support organizations covering at least two federal states. All in all fourteen expert interviews were conducted: five public prosecutors, four district judges, one lawyer, three court assistants and one professional providing psycho-social assistance related to criminal proceedings. Three instead of only two focus groups were conducted: one with seven police officers, one with three staff members of victim support services and one multiprofessional group.

The Austrian research team conducted altogether thirteen interviews. Among them were only four public prosecutors due to the fact that they do not have any contact with victims, four judges instead of three in order to cover regional and district courts, a police officer, a lawyer, three representatives

of victim protection centres and a counselling centre for women. Two focus groups took place, one with nine police officers, another with ten representatives of victim support organisations in the field of DV.

The Irish research team conducted in total fourteen interviews: Two representatives from the office of the director of public prosecutions, three recently retired district court judges, three staff members of different court services, two state solicitors, two lawyers and two probation officers. The selection aimed at covering rural and urban areas. Furthermore, three focus groups were held, two involving thirteen representatives of non-governmental domestic violence services from around Ireland, and another one involving a range of professionals involved in the justice system.

The Dutch research team conducted all in all twelve interviews. Among those were five public prosecutors, two district judges and five legal officers. Furthermore, two focus groups took place: one with eight professionals from different victim support services in the field of domestic violence and child abuse, the second focus group consisted of eight police officers in various districts in the Netherlands.

▪ *Victims of partner violence*

Four project groups (GE, AT, PT, IE) conducted at least ten interviews with victims of IPV. The research team of the Netherlands only interviewed seven as three women cancelled the appointment at the last moment. Austria even conducted eleven interviews but one did not contain much useful information, so they decided to analyse only ten.

In Portugal, Ireland and Austria the victims were contacted via support organisations for victims of domestic violence. The first contact was made by the support services and the subsequent contacts were made by the research team. The Austrian team additionally presented the project in the online-forum of the 24-hour women's emergency helpline and on the helpline itself.

In the Netherlands as well as in Germany victims were contacted by victim support organisations (mostly specialized on DV) as well as by police and lawyers. As in Germany the access to IPV victims who had contact to the police turned out to be difficult, the German team tried to reach interviewees by publishing an article on the project which led to the recruitment of one more participant.

2 Background of victims and perpetrators according to files

As stated above, the information available in the police and public prosecutor files varies both on the national and on the comparative level to a large extent which makes it difficult to do a (transnational) comparison. The large differences with regard to legal regulations of DV and criminal proceedings do not allow an alignment of data like measures taken by police, public prosecution and court, length of proceedings, victims' support of criminal proceedings either. Additionally, due to constraints regarding the access to police and public prosecutor files some countries had to choose a different way of file selection, which also influences the outcomes (see in detail above). Despite these limitations some characteristics of victims' background and their history of violence can be described.

▪ *Age of victims and perpetrators*

The majority of all victims were 35 years or younger at the time of the most recent incident. Table 2 illustrates that the German victims were the youngest and the Irish ones the oldest on average. With the exception of Ireland, the suspects are slightly older than the victims.

Figure 2: Average age of victims and perpetrators

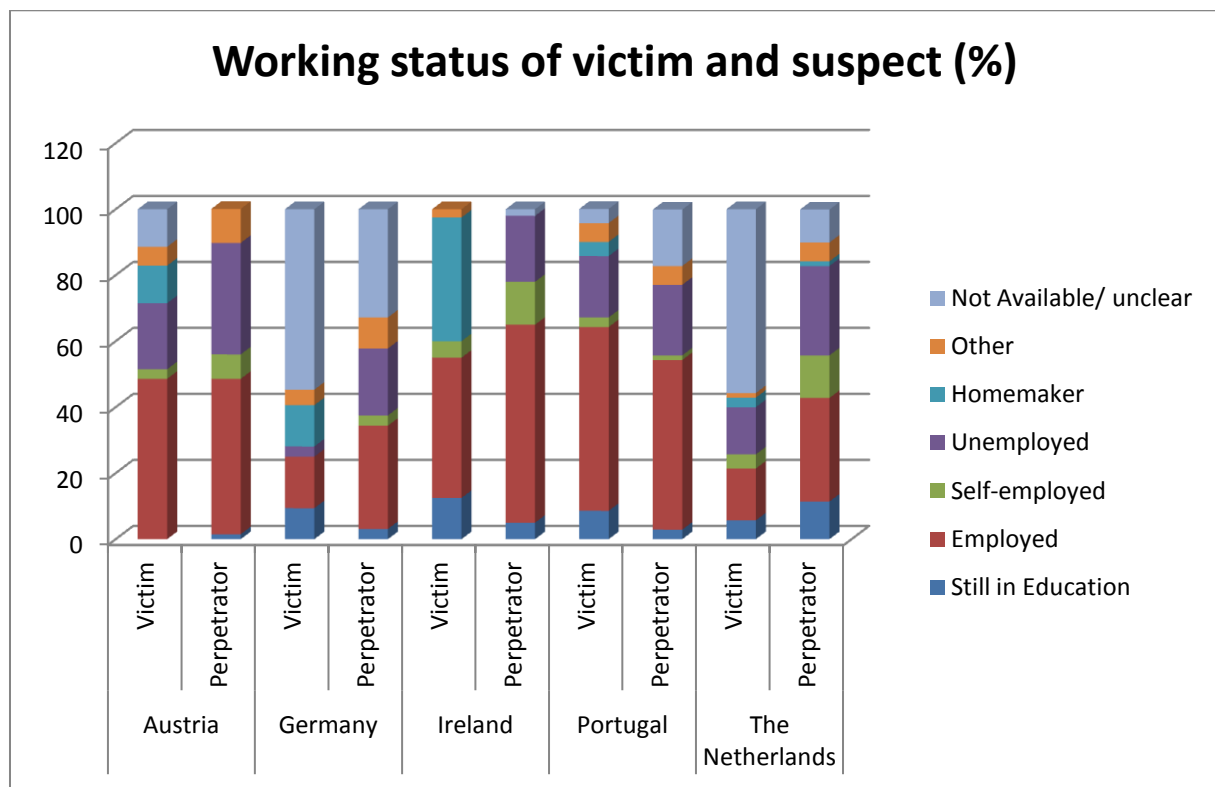
Country	Average age of victim	Average age of perpetrator
Austria	33.8	37.2
Germany	31.9	35.3
Ireland	40.2	32.0
Portugal	36.3	37.5
The Netherlands	35.4	37.3

▪ *Victims' and perpetrators' working status*

The working status of the victim and the perpetrator might tell us something about economic dependencies. Here again the respective information available is very scarce. For Austria, Ireland and Portugal we know at least the working status of the majority of women, but further data like the source and amount of income are missing, too. However, in Austria and Portugal about half of all victims were employed at the time of the last reported incident (see figure 3). In Ireland, however,

nearly 40 per cent were homemakers what indicates a high dependency on the partners' income.² As in more than half of the analysed German and Dutch files no information about the employment status was found, no reliable statements can be made. Concerning the suspects' working status more information is available as they are in the focus of criminal prosecution. In total, the employment rate is rather low compared to the respective national situation and the unemployment rate rather high.³ (see figure 3) From both, the working status of victims and suspects, we can conclude that the couples' economic situation seems to be precarious in many cases, but we cannot draw any conclusions about economic dependencies from the partner.

Figure 3: Working status of victim and perpetrator at the time of the most recent incident (%)



² The working status of the Irish victims refers not to the last reported incident but to their status at the time of the interview. The category "other" includes parental leave, retirement and multiple answers (e.g. when a person is self-employed and dependently employed or in education and employed).

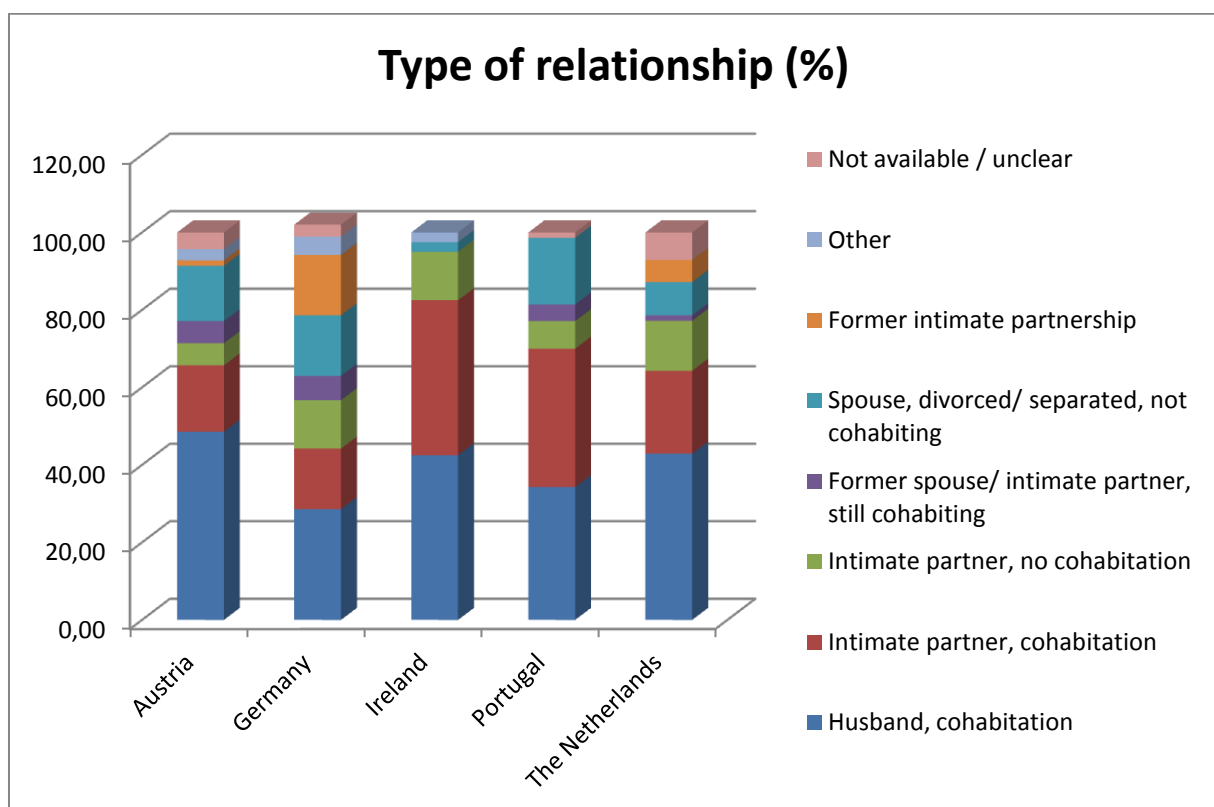
³ The category "other" includes retirement and multiple answers (e.g. when a person is self-employed and dependently employed or in education and employed).

■ *The type of relationship*

The type of the victims' relationship with their abusers discloses few surprises. Figure 4 shows that the overwhelming majority of victims lived together with the suspects, either married or not. With the exception of Germany, where only half of the couples cohabited (50.5 per cent), in all other countries between two thirds of the couples in the Netherlands (65.7 per cent) and 86 per cent in Ireland lived in a common household.

More than one third of the German victims (37.5 per cent) experienced violence from their former spouse or partner, in Austria and Portugal every fifth woman (21 per cent). 15.7 per cent of the Dutch files and only 3 per cent of the Irish case studies depicted violence exerted by the former partner.

Figure 4: Type of the victim-suspect relationship at the time of the most recent incident (%)



The mean duration of the relationships varies considerably (from 5.8 years in Germany and 11.6 years in Portugal) (see figure 5). However, the range of the length is very broad. Figure 5 depicts that some partnerships lasted only a few weeks and others over some decades.

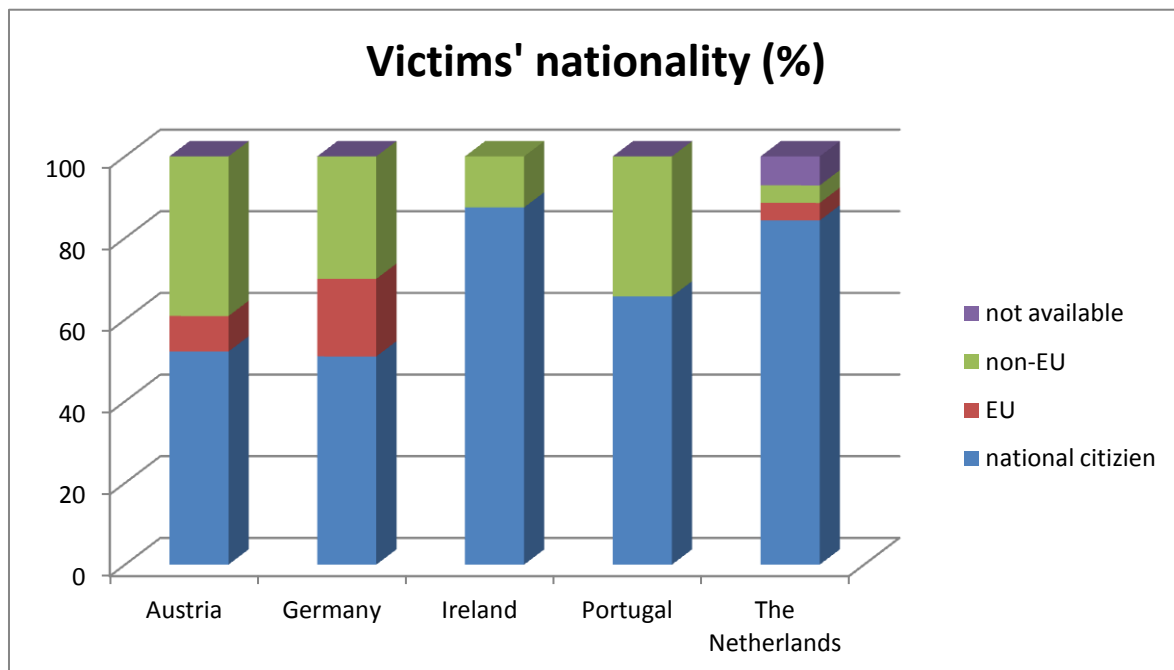
Figure 5: Mean duration of relationship and range of duration

Country	Median duration in years	range of duration
Austria	8.0	7 months – 37 years
Germany	4.17	1 week – 20 years
Ireland	13.0	12 months – 39 years
Portugal	5.0	2 months – 43 years
The Netherlands	5.0	3 months – 40 years

■ *Victims' nationality*

Rather big differences can be found with regard to the nationality of victims. Whereas in Ireland and in the Netherlands⁴ more than 80 per cent had the national citizenship this was only the case for about half of the Austrian and German victims and about 60 per cent of the Portuguese. (see figure 6) The amount of third-country nationals among the victims is the highest in Austria (39.1 per cent), followed by Portugal (34.3 per cent) and Germany (30.0 per cent).

*Figure 6: Victims' nationality at the time of the most recent incident (%)**



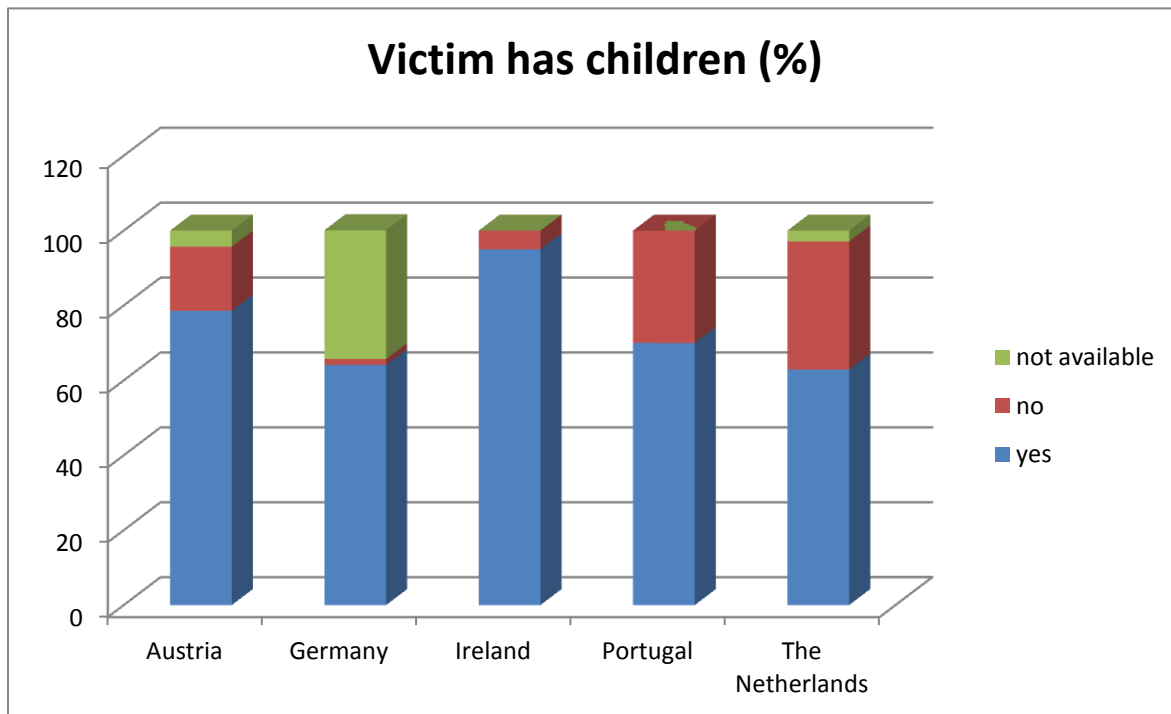
⁴ But when we look at the ethnic background instead of nationality, nearly one third of the victims are members of an ethnic minority in the Netherlands.

* There was no distinction between national and EU citizens made in the Irish case study. Therefore, the national citizens in the graph include also EU citizens.

■ Children

The chart below illustrates that the majority of victims had children at the time of the last reported incident. In most cases these were joint children with the perpetrator and minor children who lived in the victim's/perpetrator's/common household. Although according to the police and public prosecutor files only a few children experienced violence themselves during the last incident, one can assume that the majority of them has been somehow affected by the violence against their mothers. They often witnessed the assault.

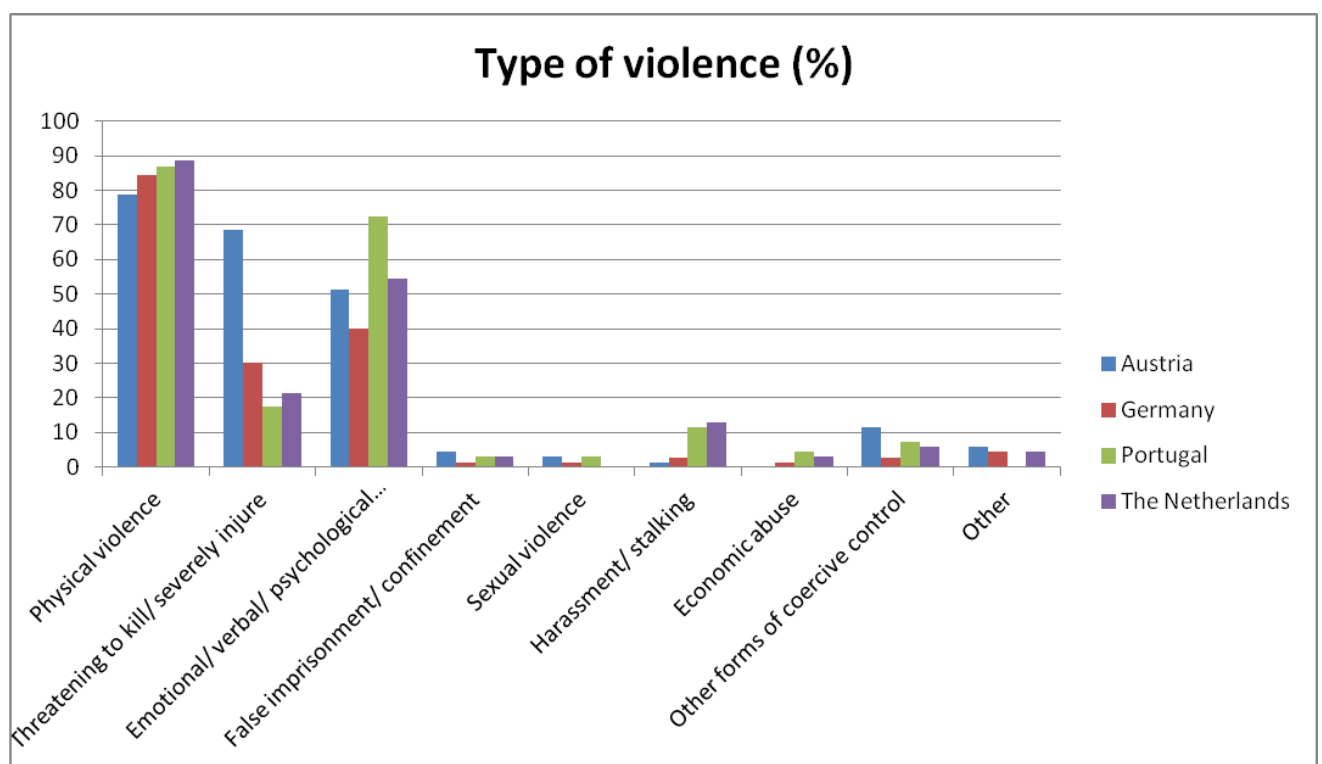
Figure 7: Victim has children at the time of the most recent incident (%)



■ *Type of violence in the most recent case*

Nearly every victim reported physical violence (the figures range from 79 to 89 per cent) (see figure 8).⁵ Except for Portugal, about half of the victims also experienced emotional/ verbal/ psychological abuse. In Portugal the figure for emotional violence with 72 per cent is much higher than in the other countries. The Austrian cases constitute an exception with regard to dangerous threats: the amount of dangerous threat is twice as high as in Germany and four times as high as in Portugal. Other forms of violence have seldom been reported.

Figure 8: Type of violence in the most recent incident (%; multiple answers)

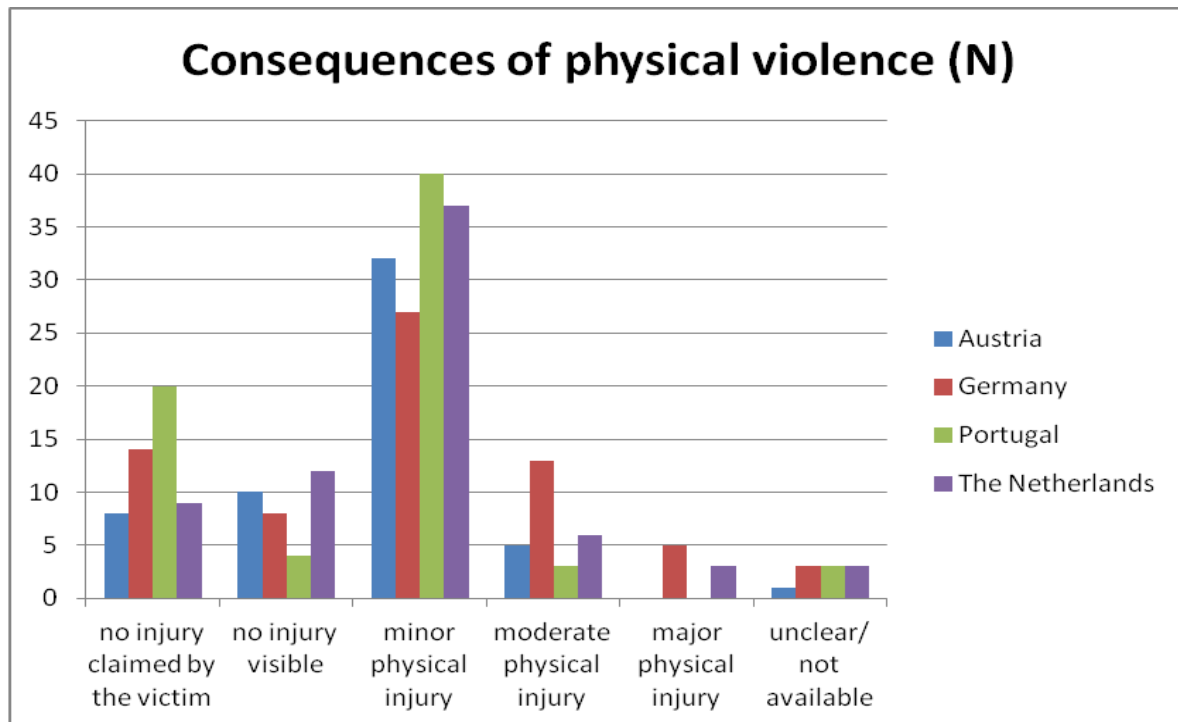


■ *Physical consequences of the most recent incident*

Physical violence caused injuries in many cases. Between 53 and 61 per cent of the victims suffered minor or moderate injuries. The higher number of German victims with moderate and major physical injuries might be due to the selection of the sample as a specified number of court files was selected. Only seven to 20 victims per country claimed having not been bodily injured by the suspect's attack.

⁵ As Ireland focused in the interviews on whole history of violence and not on singular incidents figures about the last incident are not available.

Figure 9: Type of violence in the most recent incident (N)



▪ Repeat violence and indicators of high risk

Although not always reported the majority of women experienced violence by their partner more than once and often over long period of time. The figure 10 shows situations of elevated risk of severe or lethal violence which happened at least once to victims. Threats to kill the victim or her/ joint children and threats of bodily harm occurred most frequently. About every fifth victim was strangled and one in ten was physically abused during pregnancy. Weapons designed as such were rarely used, but in one fifth of all incidents another weapon was employed.

Between 100 per cent (Portugal), 85 per cent (Austria) and 50 per cent (the Netherlands) of victims indicated at least one high risk factor. The average number of risk indicators is also the highest in Austria (2.3) and the lowest in Germany.⁶ (see figure 11) Against this background the high numbers of dismissals are worrying.

⁶ For Portugal this figure is not available.

Figure 10: Indicators of elevated risk of severe or lethal violence in all incidents (%)

Elevated risk factors of severe or lethal violence (%)

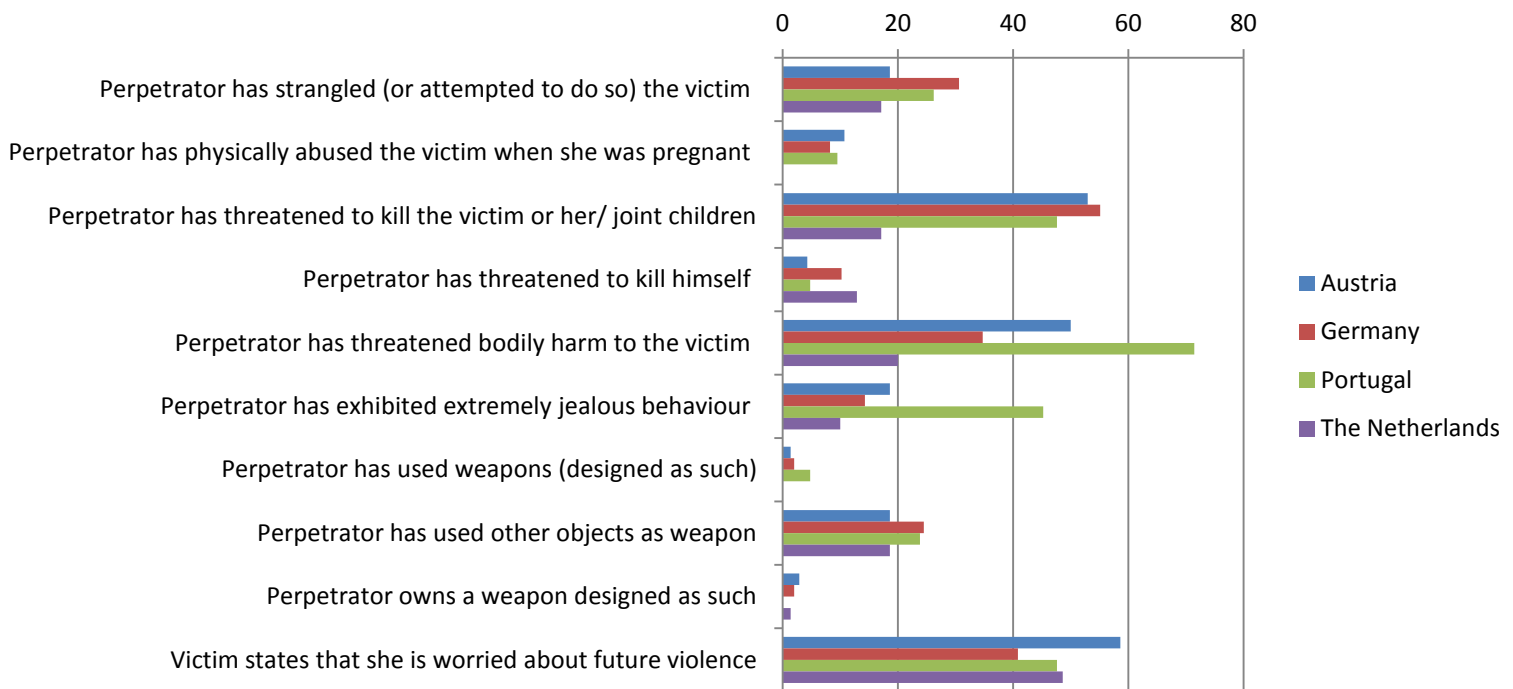


Figure 11: Number of victims with at least one high risk indicator (N=70) and average number of high risk indicators

Country	No. of victims with at least one high risk indicator	average number of high risk indicators
Austria	60	2.3
Germany	49	1.6
Portugal	70	n.a.
The Netherlands	35	1.9

3 General treatment of cases and victims by police and court & communication

3.1 General treatment of cases

3.1.1 IPV/DV a criminal offence?

The countries involved in this study have two different approaches with regard to the criminal prosecution of offences carried out in the domestic sphere.⁷ With the exception of Portugal, in the project countries no specific legislation about IPV/DV exists. Crimes like assault, rape or murder committed in a partnership are treated in the same way as such crimes committed by strangers. In the Netherlands and in Austria, IPV/DV is considered an aggravated circumstance; in the Netherlands this fact might raise the punishment by one third of maximum penalty. In Portugal DV is a typified crime (Art. 152 CC): *“The crime consists ‘in the infliction, whether repeatedly or not, of physical and psychological maltreatment, including corporal punishment, restriction of freedom and sexual offences to a partner, ex-partner, person of the same sex or different sex who have maintained or have a relationship analogous to that of partners’, it is punishable with a prison sentence of 1 up to 5 years.”* (Baptista et al. 2015a: 8)

There are no special criminal proceedings in cases of IPV/DV in any country involved. Due to its public nature in four of the five countries, criminal prosecution can start without a formal complaint by the victim although in Germany and in the Netherlands a few offences (e.g. stalking in the Netherlands and simple body assault in Germany) are exempted. That is, with the exception of the Netherlands and partially of Germany, when police or public prosecutors (PP) get notice of an offence they are obliged to commence proceedings. But as our research showed, it is not always done so: Sometimes because victims object criminal prosecution, another time because police do not take DV as serious as other offences (e.g. related with drugs). According to an Austrian representative of a victim support organisation, this behaviour is partly a result of misogyny, and partly rooted in imaginations of

⁷ For a more detailed description of the various legal approaches towards DV/IPV please see Baptista/ Silva/ Carrilho 2015: 13ff. Besides the provisions in criminal law all countries have established DV/IPV laws: *“A common feature of the legal framework of the five countries under analysis is the adoption of dedicated DV/IPV laws which are particularly relevant from the perspective of victims’ protection rights. (...) In all countries, these legal acts were important milestones in defining remedies to protect victims of intimate partner violence.”* (Baptista/ Silva/ Carrilho 2015: 14)

the ideal family (see Amesberger/ Haller 2016b: 88). In Ireland, victims have to file a complaint when they wish criminal prosecution and they can withdraw the complaint.⁸ As a result “*domestic violence incidents do not usually form the basis of a criminal prosecution. The interviewees indicated that the civil courts most frequently deal with such incidents in the context of the Domestic Violence Act 1996*” (Safe Ireland 2016: 73).

A sign for specific attention of IPV/DV within criminal proceedings is whether the files are marked as DV/IPV case or not: In Austria, PP files and court files at the regional level are tagged with “FAM” (“family”), but not at the district courts. The German PP offices have different approaches: some mark the files, others not. In the Netherlands, the police marked DV cases with a special DV code. In Portugal, DV is a specific crime and therefore all files are marked as such.

3.1.2 Specialisation & training

Along with previous studies (e.g. Libuda-Köster 2002, Greuel 2009, Schröttle & Hornberg 2012a) victim interviews and partly also interviews with practitioners confirmed in unison that specialisation and enhanced competency in DV leads to better relationship with victims, better evidence collection and improvements in victim protection and the recognition of victim needs. It also affects the outcomes of investigations and court proceedings.

The degree of **specialisation at the level of police** in the five countries is rather different. “*All over Austria, there are police officers specialised in DV and violence in close relationships without being limited to such cases. In a few Viennese districts police departments have additionally established structures where specialised violence protection officers are exclusively responsible for contact with DV victims, perpetrators and other institutions.*” (Amesberger/ Haller 2016b: 107) All police officers have to undergo a curriculum in DV in their basic training and additional courses are offered for specialisation in DV and interviewing traumatised DV victims. In Germany, specialised police departments for offences in the sphere of DV were established with the introduction of the Violence Protection Act (VPA) and police officers were trained comprehensively. These departments are in charge

⁸ A victim complaint is almost always what initiates an investigation and possible prosecution. Victims can withdraw complaints. Technically it is possible for cases to proceed without a complaint but this is very rarely done. Where complainants refuse to give evidence in court out of fear, it is possible to have their original statements become part of the evidence instead. This is also rare, and will only be done if there is enough independent (forensic, medical usually) evidence to convict the accused.

of investigating IPV/DV offences and cooperate with victim support organisations. Specialised general victim protection officers (no focus on DV) exist at the level of police directorates (not departments), but they are seldom involved in investigation.

The Dutch situation is described by the research team as the following: *“A number of police officers are specialists in domestic violence cases, they have ample knowledge and experience in the field of domestic violence. But part of the police force has too little (basic) knowledge, which causes a lack of proper and adequate action at the moment a crisis report on domestic violence arrives.”* (Lünnemann et al. 2016:74)

In Ireland, the *“primary responsibility for the implementation of the law and policy on domestic violence has been assigned to the Irish national police, An Garda Síochána. The Garda Síochána has set out a Domestic Violence Policy since 1996”* (Safe Ireland 2016: 9). The Irish police use specifically trained interviewers for victims under the age of 14 and for persons with intellectual disabilities or mental illnesses, but these specialists are employed for other victim interrogations, too. Regular Garda investigators have some, not extensive, training in DV issues. There are no specialist officers working in the DV area so far⁹, apart from a national unit based in the Garda Headquarter (part of the new Garda National Protective Services Bureau).

The Portuguese police also employ specialised police officers and departments. In 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”*¹⁰. *All of the officers have received training in handling cases of domestic violence.”* (Baptista/ Silva/ Carrilho 2016: 87)

As different and diverse the specialisation at the level of police is, a situation of **non-specialisation at the level of PPs and judges** seems to be rather similar across the countries. Although there might be

⁹ Gardai are about to begin to establish specialist units around country.

¹⁰ Sistema de Segurança Interna, 2015: 60-61.

specialised PP departments for DV/IPV like in Austria¹¹ or in Portugal or partly in Germany, this is no guarantee that PPs have special training in this subject as it is no precondition for working in these specialised units. Each public prosecution office in the Netherlands has a special DV coordinator who is responsible for supporting the professional expertise in the field of DV. They are the contact points for colleagues with issues concerning DV cases and with the more complex cases they deal themselves. At court level, there are no specialised judges in the Netherlands. In Ireland, there are no specialised prosecutors.

In Austria, specialisation at court exists only regarding sexual violence. A general lack of specialisation and training at court is noticed in all countries involved. Some of the interviewed PPs and judges across the countries argued that specialisation on DV is incompatible with objectivity (because of the empathy DV victims need), whereas others countered this argument with pointing at already existing specialisations within judiciary (e.g. criminal law, family law, juvenile courts, labour courts). Additionally, the latter deemed specialisation important as there is specialised jurisdiction over DV. That there is a lack of understanding and knowledge about DV/IPV is underpinned by some judges' view that further qualification is not necessary as DV cases do not differ so much from other ones.

The interviews with victims, victim support and police representatives provided evidence that experiences with specialised (investigative) police officers are viewed much more positively whereas victims' experiences with uniformed police are more ambiguous with regard to personal behaviour, competence, handling the case, empathy etc. (see below). The victims primarily recalled negative experiences with the judiciary, other than with the police. Practitioners in the field of victim support and police related the disrespect of victims' needs and challenges as well as the lack of empathy for victims to deficits in knowledge about DV. If PPs and judges were better informed about and trained in handling DV cases, they would recognise victim's needs and challenges during criminal prosecution and at court. Some interviewees identified negative outcomes for victims (e.g. being not believed; perpetrator acquitted).

Therefore, a need for increased expertise in particular at the level of PPs and judges is seen by many outside of the legal system but also by a few PPs and judges themselves and also by all national re-

¹¹ "At the level of public prosecution specialised departments for sexual crimes and DV are obligatory when at least ten PPs are working for the authority. Nevertheless, PPs who specialised in DV and sexual crimes work on 'ordinary' cases, too." (Amesberger/ Haller 2016b: 107)

search teams. Training is seen as a key to improvements. As the Dutch team put it having found huge differences in the DV expertise of both, police and PP: *“Legal employees and jurists who are not trained in domestic violence issues have less understanding of the needs of the victims; they look at the crime primarily from a legal perspective. In this way the serious character of the violence cannot be explained and chances are high that the settlement will not be adequate.”* (Lünnemann et al. 2016: 71) The Portuguese team stated quoting a judge: *“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.’”* (Baptista et al. 2016: 89)

Under the heading “Training of practitioners” in Art. 5 of the EU Directive 2012/29 is stated: *“Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner.”* We can conclude from our research that this guideline is not observed in full extent. It seems that police officers are better qualified with regard to DV than PPs and judges, but here improvements are necessary, too. On the one hand there are huge differences among the various police forces; on the other hand there are indications that due to reduction of courses/ training hours the number of qualified staffs will decrease (this is feared in Germany) or the staff is unevenly qualified (as is the case in Portugal). Austrian victim support organisations feared – despite acknowledging the know-how of police – that the observed trend to do internal training without the involvement of intervention centres/ violence protection centres will lead to a narrowed understanding of DV/IPV. The general lack of qualification and specialisation in DV/IPV issues among judges makes the need of fundamental improvements obvious. This would not only help DV victims and other victim-witnesses, but might improve the quality of criminal proceedings in general.

3.1.3 The collection of evidence

The collection of evidence and its quality are essential for criminal proceedings and their outcomes. As this task primarily lies with the investigative police in all five countries, the quality and the documentation of collected evidence is dependant on police work. The interviews with victims and practitioners alike as well as the quantitative file analysis showed that there are huge differences in each

country with regard to quality, intensity of investigation and documentation. But the results are not always consistent. For instance, German victim support organisations and representatives of the legal system noted that in some cases the police do not ask about the history of violence. The file analysis showed that the history of violence was usually an issue in police interviews. Austrian victims directed their critique towards evidence collection and acknowledgment by PPs and judges. They would not use all possibilities, would consider documentary evidence (e.h. photographs) not reliable and refrain from hearing other witnesses. *“The victims especially complained that some judges would not reflect the context (e.g. history of violent relationship, the perpetrator’s behaviour) in which the incident at stake had taken place. The judges on the other hand stressed that they always considered former incidents regardless whether they had been dismissed or acquitted, but that they had to evaluate the evidence provided and to respect the suspect’s rights.”* (Amesberger/ Haller 2016b: 108f.) The Austrian case file analysis backs the judiciaries’ statements as cases with prior history of violence ended more often at court. Nevertheless, only in one quarter of all cases with prior violent incidents a court trial was held finally.

In all countries criticism that the police did not go deeper into the couple’s relationship by police was addressed. The Dutch colleagues summarised the situation as following: *“(...) the police do not always continue the questioning. No proper assessment of the seriousness of the violence is made because the focus is on the incident, and the context within which the violence takes place is left out of the picture.”* And they continued later on: *“The demands listed in the ‘Directive Domestic violence and honour related violence’ are not always followed, and as a result the crime reports do not contain all relevant information.”* (Lünnemann et al. 2016: 68) For Ireland failures by police are reported: *“(...) failures by the gardaí to properly collect the evidence necessary to convict an abuser of domestic violence. (...) Nevertheless, the gardaí have been specifically trained in evidence gathering, and in the proper preservation of evidence. Further, a perceived unwillingness by the gardaí to properly investigate a case scarcely meets the promise of the Garda Domestic Violence Policy, and is unlikely to create a sense of confidence among victims. Thus, again, steps need to be taken to ensure that the gardaí implement their own domestic violence policy.”* (Safe Ireland 2016: 75). This has, along with other shortcomings in evidence collection, severe consequences for further proceedings. Some Portuguese district PP offices have reacted to this problem by developing an interview guideline which is handed out to all criminal police investigation teams within their territorial jurisdiction. *“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.” (Baptista et al. 2016: 88)

Another criticism concerns flawed interview protocols as an outcome of superficial questioning on the one hand and as a result from imperfect documentation on the other. In all countries PPs rarely interview victims themselves, they (have to) rely on the documentation of evidence for coming to a decision about the case. Therefore, proper case files are essential. Austrian victim support organisations held the police’s deficient evidence collection responsible for the high number of dismissals and acquittals. *“An improvement of evidence collection would – according to them – make criminal proceedings more independent from victims’ testimony.”* (Amesberger/ Haller 2016b: 109)

The German team reports that “in cases of exception an investigatory judge is assigned to ensure that victim and offender are kept separate and the victim is willing to testify.” (Nowak et al. 2016: 82) The investigatory judge is allowed to testify in court instead of the victim, even if the victims withdraw their former statements (which is not possible for the police)

As all country reports showed, evidence gathering with regard to IPV rests primarily on the interviewing the victim and to a lesser extent on perpetrator interrogation. This is reflected in interviews with victims, practitioners and in the case files. Nevertheless, this does not mean that all victims were questioned as the results of the national case file analyses showed.¹²

In Austria, the PP file analysis illustrated that nearly all victims were interviewed twice, once at the incident site (when police received an emergency call) and the second time at the police station. In those cases where the proceedings ended at court (16 in total), all victims¹³ were additionally summoned to give evidence at court. The same is true for the suspects.

Germany has a similarly high rate of interviews as Austria: *“All but one of the victims (98.6%, N=69) were interviewed during the investigation and most of them (88.6%, N=62) during the first 24 hours for the first time.* (Nowak/ Goergen 2016: 44) As has been shown above, most of the victims were interviewed directly after the incident. During the course of investigation, all victims and suspects in

¹² As different selection criteria for case files have been used the following data are not comparable transnationally, but they show at least how much weight is laid on testimonies of victims and perpetrators within national criminal proceedings.

¹³ In two cases this information is not available.

the sample were summoned to the station for a more comprehensive statement about two weeks later.

The Portuguese team concluded: *“In fact, it seems that all DV files have to be based on(ly) the willing of the victims to speak up and talk about their experiences.”* (Baptista et al. 2016: 82) And the quantitative file analysis revealed: *“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%).”* (Baptista et al. 2016: 30)

Even though also the Irish criminal proceedings rely heavily on the victim’s statement, remarkably fewer victims were interviewed: *“As part of their initial response to the report, the gardaí spoke with the victim in twenty-three cases (63%) and with the offender in fourteen cases (39%). In thirteen cases, the gardaí subsequently interviewed the victim as part of their enquiries, and in one case they interviewed the victim’s child. (...) In six instances, the interview was completed in one sitting, although in one case, the interview took four sittings to complete.”*¹⁴ *In eight cases, these interviews took place within twenty-four hours of the initial report.”* (Safe Ireland 2016: 40) These figures have to be treated carefully as victims might not know in all cases whether the offenders were interviewed or not.

Additionally, the Dutch and Portuguese national reports suggested that when victim and perpetrator were both present when police arrived, many victims were interviewed in the presence of the perpetrator during the first police intervention:

“From the 27 remaining files, only in 37.1 per cent did the police separate victims and perpetrators.” (Lünnemann et al. 2016: 30) But when both victim and perpetrator were questioned by the police at the same time, in almost all cases the police interviewed them separately (92.3%). (Lünnemann et al. 2016: 32)

“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.” (Baptista et al. 2016: 27)

¹⁴ In three cases, the data was missing.

That is, essential standards of proceedings were not observed by the intervening police which possibly had an impact on victims' willingness and courage to testify, but also on the way the victim talked about the incident and its context.

Although in all countries police, PPs and judges often claimed victims' unwillingness to testify, it has to be stated that according to victim interviews sometimes police were (perceived as) not willing to record victims' reports in several cases: Some women had to call several times until police showed up at the incident site; police did not come to the incident site at all (this happened in half of the Irish cases); victims had to go several times to the police station until their statement was accepted; they had to make a statement in the public hatch or they were warned of committing libel several times (see Amesberger/ Haller 2016b: 61)

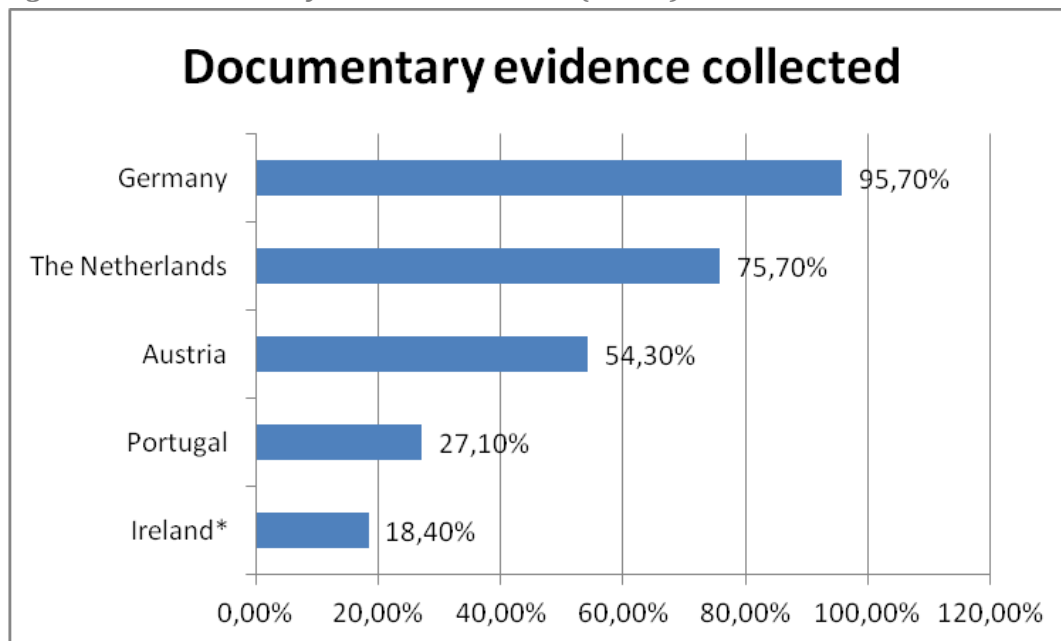
As most violent incidents happened in the private sphere there were only few other witnesses – among them mainly children living in the same household, followed by other family members and neighbours. About half of the assaults were witnessed by third parties of whom again about two thirds were children; these configurations are rather similar in all countries. However, victims and victim support organisations complained that police and court are hesitant to hear them. The victims' impression that the case was not taken seriously increased when they provided witnesses who were not heard. The case file analysis showed that other witnesses than the couple's children are questioned either by police and/ or court more or less frequently, but they are understandably cautious with regard to interviewing children. The German police and courts seem to be very vigilant. The Irish courts seem to be reluctant to use children as prosecution witnesses in criminal trials generally, and even more so in DV related cases.

Medical, forensic and photographic evidence of damages and injuries were collected to a much lesser extent and – as it is criticised by victims and practitioners alike – often even not in appropriate cases. The interviews indicated that victims play and have to play a vital role in supporting the collection of further evidence. As they are representative of other countries, the German findings are quoted: *“From the perspective of the victims surveyed, it would appear that production of evidence plays a key role. It is at the same time criticised that the investigatory authorities do not always follow up on their own evidence (documentation of stalking, notice that weapons have been found and identification of potential witnesses) and victims see themselves as being in charge of producing witnesses.”* (Nowak et al. 2016: 65)

Ignoring hints by victims is the one side, the other is that police do not document noticeable evidence of an assault, of criminal damages or fights as for example the Irish DV services suggested: *“Gardai at the incident scene often advise victims to seek a domestic violence order, while ignoring evidence of an assault, criminal damage and the availability of witnesses. Thus, criminal behaviour is ignored, which has a discouraging effect for victims while simultaneously offering little incentive to the abusers to restrain their violence.”* (Safe Ireland 2016: 53)

The findings from the file analyses only partly support this critique. The standards and the range of evidence vary to a great extent (see figure 12), but are difficult to evaluate as evidence collection is deeply connected with the type of violence (e.g. when there are no injuries or they are not visible no pictures are taken).

Figure 12: Documentary evidence collected (n = 70)



* Ireland: n = 38

To sum up, the gathering of evidence for the allegations seems to be rather comprehensive in Austria, Germany and the Netherlands, whereas it leaves much room for improvements in Ireland and Portugal. Nevertheless, it has to be stressed that the collection of documentary evidence might not be overestimated as they are assessed differently. To give an example: Austrian PPs dismissed cases although injuries were photographed by the police or the victim. In such cases the PPs often argued that a picture is not a proof that the accused has inflicted the injuries. According to interviewed PPs in Germany, they favour photographic documents of the incident site, emergency call tapes and

literal transcriptions of investigation protocols, but especially the latter are not standard. In as far the differences in evidence collection have an impact on the outcomes of the proceedings will be dealt with in the following subchapter.

Art. 20 of the Directive 2012/29/EU demands that victim interviews are done *‘without unjustified delay’* and *‘kept to a minimum’*. The overwhelming majority of victims in Austria and in the Netherlands were interviewed by the investigative police within 24 hours after reporting the incident. That is, that many have been interviewed two times within one day: a short interview at the incident site (if appropriate) and an extended interview at the police station. The Portuguese files revealed that only 20 percent of the victims were questioned or tried to question within two days.¹⁵ The Portuguese PPs interviewed 24 of 70 victims (34 percent). The German *“files as well as interviews with experts and victims create the impression that interviews are generally scheduled and performed within a period of two weeks. In some cases there are delays of another two weeks, however, as a result of shortages of personnel, but also due to the summons being sent by mail. The time period of two weeks is viewed by many to be too long because the willingness of victims to testify decreases over time.”* (Nowak et al. 2016: 70)

The Irish Garda policy is that interviews should be conducted promptly. The findings were that twenty women (of 38) said they made a formal statement to the gardai and eight of these were interviewed within the first twentyfour hours.

Although timely victim interrogations are important for the victims’ willingness to support criminal proceedings, evidence collection (incl. victim interviews) must not suffer from celerity. Austrian practitioners from victim protection services also reported that police sometimes come to the hospital for interrogation at the very day of a severe incident what is exhausting for the victim.

Because of the danger of re-victimisation due to repeat questioning, the EU Directive advises to keep the number of victim interviews as low as possible. The Austrian, Dutch and German file analyses indicated that victims were predominantly questioned two times at maximum when the criminal proceedings ended at the PP or three times when a court trial was held.¹⁶ Due to the long duration of

¹⁵ Questioning by the police has to be done within 48h by legal terms. 53 victims were interrogated by the police only after two days.

¹⁶ The number of interviews increases for ex. when the perpetrator accuses the victim of being aggressive or when several court trials are held.

criminal proceedings in Portugal, the researchers concluded: *“Thus, this practices result in victims’ telling their story over and over again to as many justice professionals as the (long) phases of the cases. At the end, the need of the police, the public prosecutor and the court to crosscheck the veracity of the facts presented mostly by the victims’ testimonies leads to frequent re-victimisation.”* (Baptista et al. 2016: 67) But often it is not the number of interviews that it is onerous. The above quote also suggests that victims are especially stressed by the authorities’ expectations of identical statements¹⁷; an experience made by many victims in most countries. This is considered difficult when several months have passed. Another challenge for victims is the manner in which they are questioned (by police, PPs or judges). There are many victim narrations about officers and judges who sympathised with the abuser, who doubted the victim’s credibility, who were asking in an oppressive and/ or insensitive manner etc.

One can conclude from the national findings that Art. 20 of EU Directive 2012/29 has been implemented as the majority of interviews are done *‘without unjustified delay’* and *‘kept to a minimum’*, but that there is still room for improvements especially with regard to the way of interview and the treatment of the victim by authorities.

3.1.4 Outcomes of proceedings

Because of different legal frameworks and provisions and of different approaches in selecting case files it is not possible to compare the outcomes of criminal proceedings transnationally. The aim of the following summary is not to assess the decisions met by PPs and judges, but to outline common denominators as well as differences with regard to the treatment of IPV/DV cases across the five countries and to show which effects the outcomes of proceedings had on the victims.

One outstanding common feature is that the majority of IPV-cases were already dismissed by the PP and only a very small number ended at court, when they entered criminal proceedings at all. *“All interviewees reported that in Ireland there are comparatively few cases of domestic violence entering the criminal justice system.”*¹⁸ (Safe Ireland 2016: 51) The reasons for that are according to judges the

¹⁷ Interviewed Austrian judges said that they are suspicious when the statement at court is identical – in the sense of phrasing – with previous testimonies. Then it seems that the victim-witness has learnt the police protocol by heart and the victim is not acting in a natural, authentic way.

¹⁸ Due to a different empirical approach we do not have quantitative case file analysis for Ireland.

gardai's reluctance to pursue investigations and referring instead the victim to the family courts whereas victim support organisations "*suggested that domestic violence is not treated seriously across the system.*" (Safe Ireland 2016: 56) Just to give an indication of the proportion of dismissals and trials: In the case of Austria where all DV-files forwarded to the Viennese PP-office in January 2014 were selected for analysis, 80 percent were dismissed by the PP and in 20 percent a court trial was held.

In Austria, Germany and Portugal the overwhelming majority of dismissed cases were dismissed without any conditions. In the majority of cases the dismissal was justified with the lack of evidence, partly due to victim's refusal to testify, with the 'minor nature' of the deed and in doubt for the accused. On the other hand, the Dutch case file analysis suggested that about 60 percent were conditionally dismissed. The conditions ranged from probation time to community services, treatment and fines.

The court trials did not always lead to a conviction of the suspect. The highest conviction rate according to the case file analyses seemed to have Portugal, where almost all accused were sentenced because DV is a crime in Portugal. In the remaining countries – Austria, Germany and the Netherlands – the percentage of convictions ranged from 40 to 60 percent. The offenders were sentenced predominantly because of bodily harm, only a few because of dangerous threat and harassment (incl. stalking) and they primarily received either suspended prison sentences (Austria, Portugal), (suspended) community service (the Netherlands) and/ or suspended or unconditional fines (Germany).

According to Austrian PPs and judges a combination of factors leads to dismissal and acquittals: the victim refuses to give a statement, the perpetrator denies the deed and/or injuries are not documented. In the following we would like to focus on victims' support of criminal proceedings as in all countries this is seen one of the most important reasons. The file analyses in all countries do not support this justification. Although one has to be aware that due to different national regulations the following data are not comparable¹⁹, they will give an impression about victims' willingness to support criminal proceedings. According to the Portuguese files 71.4 per cent of the victims pressed charges against the perpetrator, in the Netherlands about 77 per cent. Following the Austrian case files, only 15 percent refrained from testifying during the investigation phase, in the Netherlands, at

¹⁹ For instance, in Austria it is not up to the victim whether a charge is filed or not. When the police get notice of a crime they have to do so. In other countries victims can withdraw a complaint what is also not possible in Austria.

least 56 percent provided evidence against the suspect at the police interview. At court again the majority of women (it ranged from about 50 – 80 percent) accused the offender.²⁰ These figures indicate that justifying the outcomes with the lack of victims' support is only part of the story and it seems that victims are blamed too often for dismissals and acquittals.

Of course, the PPs and judges do have to weigh up evidence available and they have to observe the suspects' rights too, but the interviewed ones equally made clear that the decisions depend also on the wished effects of proceedings (e.g. norm clarification) and personal attitudes towards gender-specific power relations. All in all, all country reports suggested that there is large room for manoeuvre for all actors involved with regard to criminal proceedings in IPV-cases. The German researchers additionally related the outcomes with local orientation of activities and ways of proceedings: *"On the whole, one gains the impression that the manner of dealing with cases of violence against partners is marked by considerable latitude on the part of actors involved and that the manner of dealing with such cases appears to depend greatly not just on the individual case, but also on local attitudes and procedures. Members of the judiciary themselves in addition mention personal attitudes and different interests in criminal prosecution as factors explaining why slaps in the face, for example, are alternatively treated as trivialities or the tip of an iceberg"* (Nowak et al. 2016: 66)

One is safe to say that practitioners from the legal system in all countries tend to downplay the importance of outcomes for victims whereas victims deem convictions, the kind of conviction and the sentence as very important for emotional and mental processing of violence (gaining control or confirmation of impotence) as well as coping with the consequences of violence. The interviews were full of narration about victims' frustration about dismissals and acquittals. They often talked about their feelings of being not believed, of being just another story, that judges and PPs are not interested in their story and that their credibility was doubted. Irish VSOs and other professional "spoke of how intimidating the criminal justice court process was for victims of DV" (Safe Ireland 2016: 56), what often would result in withdrawals of statements.

Some Austrian judges who are aware of this problem try to explain their decisions to victims and they acquit suspects 'in dubio'. Victim interviews made clear how important the phrasing and reasoning of the decision by the judge was.

²⁰ For the Netherlands and Ireland this information is not available.

3.2 General treatment of victims, the right to be heard and information rights

3.2.1 General treatment of victims by police, PP and courts

At the level of investigative specialised police Austrian and German experts as well as victims stated that the officers show understanding for victims, they show respect and have knowledge about dynamics of DV. The interviews are perceived as ‘interrogation’ (*Verhör*) but they are manageable when police explain proceedings and character of the interview. *“Nearly all victims were satisfied with the way how police conducted the interviews. Contrary to many victims’ experiences at court they felt taken seriously and treated respectfully.”* (Amesberger/ Haller 2016b: 109)

More often problems were reported when victim showed up at the police station for filing a complaint – officers were perceived in their behaviour and treatment of the report inappropriate and insensitive (see reports of Austria, Germany and the Netherlands). Narrations about violence or stalking were not taken seriously. *“The study reveals that there is a world to win in this respect. Victims feel misunderstood, and when they come to report a crime, they are being told to think again. There is very little understanding of the consequences of repeated violence on women’s mental resilience.”* (Lünnemann et al. 2016: 71)

The perception of police is closely interlinked with the respectful treatment, having received clear explanations, having been asked the right questions and the obtained support. (see Lünnemann et al. 2016; Amesberger/ Haller 2016)

The Irish victims interviewed perceived police/ gardaí much more negatively than victims in other countries. *“Our findings suggest that the Garda reaction can be a bit of a lottery. Many participants offered high levels of praise for individual officers, at least as far as attitude was concerned. Many others, however, reported that some officers seemed to trivialize the issue of domestic violence. The domestic violence agencies interviewed (...) made similar observations.”* (Safe Ireland 2016: 73) It was also criticised that they would not take a statement when the victim refuses to launch a formal complaint, they would ask irrelevant questions, address witnesses in Irish although they are not native Irish speakers and so on.

In Portugal, too, the experience of the victims interviewed was that the police did not file a complaint or set any other measure. A practitioner of a victim support organisation (SAV) added: *“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.” (quoted after Baptista et al. 2016: 47)

There are different views and perceptions regarding victims’ treatment at court: Austrian victims and VSOs criticised judges for insensitive hearings, shouting at victims, no understanding for the dynamics of DV/ IPV, whereas German victims and some experts perceived judges as respectful towards victims. But German experts with a lot of case knowledge complained about the lack of sensitivity of some judges, too, due to a lack of knowledge about DV, victims’ burden and consequences of traumatisation, but also due to lack of interest. *“Although it seems that police, PP and court are aware of the challenges of testifying victims pointed at their experiences: Not a few of them problematized the lack of empathy by judges, their sometimes rude behaviour and, most of all, that their own credibility was questioned in a way that they felt like being the perpetrators.” (Amesberger/ Haller 2016b: 109)* VSOs also stated that the traumatisation of victims was not recognised or was underestimated by PPs and judges, whereas there was more awareness of traumatisation and victims’ challenges when the victim had experienced sexual violence. Empathy and showing understanding for experiences are seen as essential criterions for a good conduct of a trial. A precondition is (improved) knowledge about the dynamics of violence and consequences of traumatisation among judges.

Another criticism raised by professionals and victims in all partner countries alike is that although PPs should prove the suspects’ guilt they are perceived as putting pressure on the victim instead, or are passive (at best) and often not interested in the cases. The Portuguese report concludes in relation to this topic: *“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.” (Baptista et al. 2016: 65)*

The Austrian and German report also addressed the treatment of victims by criminal defence which often aims at blaming the victim and her demoralisation by putting questions with regard to personal characteristics. One Austrian victim therefore welcomed contradictory hearing because the judge filtered the defence’s questions and stopped him/her asking the same question again and again.

Several reports (Austria, Germany, the Netherlands and Portugal) concluded that courts and PPs partly do not fulfil their protection tasks. The reasons for this are seen in the general orientation of the judicial system which is oriented on the suspect/ perpetrator and not on victims’ needs.

The Portuguese report pointed at the impact of stereotypes with regard to victims on support. In the perception of the legal system the victims would either be *“poor helpless things”* or *“calculating women”* who pursue a strategy when striving for criminal proceedings (e.g. an advantage for divorce, children custody; or only to stop violence). For the latter ones *“support and justice is therefore perceived as less needed for them”* (Baptista et al. 2016: 83). *“This is somehow interpreted by victims as a depreciation of their personal experiences.”* (Baptista et al. 2016: 83) This was also reported for Germany and the Netherlands (see chapter 4).

3.2.2 Right to be heard

We have seen in the previous chapters that a majority of victims were interviewed at different stages of the proceedings. That is, criminal proceedings respect the victims’ right to be heard to a large extent (Art. 10 of EU-Directive 2012/29), but this does not necessarily mean that they were heard indeed and understood, too.

According to all groups interviewed in all countries, interviews – especially at court – are considered an extreme burden for the victim-witness (confrontation with perpetrator; reactivation of what happened). At the same time, being heard is important for victims (e.g. to name the wrong; to terminate the violent relationship). Following the interviews with judges and PPs, they seem to be aware of the challenges, but victims often stated that they would not understand the burdens which goes along with testifying. From Portugal extremely long interviews of victims at court are reported (up to four hours consecutive hearings).

When cases are dismissed the victim is mostly not heard, what led to frustration and the feeling the case was not dealt with properly or that there is no interest in victim’s story. In cases of perpetrator’s confession the court often waives victim’s hearing. This is assessed ambiguously by experts and victims.

The Dutch victim interviews illustrate the need to be heard. Dutch victims need not to be present at court but they are allowed to do so. Only one of the victims interviewed did so and she was upset about it: *“Her story shows that from the moment she entered the courthouse until the actual session with the magistrate no one took notice of her in any way. She had to wait in the same waiting room as the perpetrator and had to go in to the courtroom together with him. During the session the victim had the feeling that the magistrate did not consider it to be a serious case.”* (Lünnemann et al. 2016: 55) Representatives of victims, like Victim Support, stress the importance of the talk between victim

and PPs because the victim can explain the impact of the aggression on her life. When the PPs is only explaining the criminal procedure towards the victim this talk is seen as less fruitful.

Being heard also means being understood. There are many accounts of victims in all countries who were questioned but not heard; we will deal with this topic in the following chapter.

3.2.3 Right to understand and be understood (Art. 3 + 7)

From the perspective of victims showing understanding for one's situation is essential and influences how police and legal system are perceived and it has an impact on victims' stance towards criminal persecution. They want to be taken seriously and perceived as the injured party. Part of being not heard is that the context of violence is not considered properly (e.g. duration of violent relationship; former protection orders); many victims stated that the PPs and judges were only focused on the one incident tried.

The EU-Directive also lays emphasis on the right to understand and be understood (Art. 3). This affects communication with special needs persons like persons with disabilities or no/ low command of the national language (Art. 7). The interviewed practitioners and victims as well as the case file analysis pointed at problems especially with regards to communication/ interpretation especially in the case of Austria and Germany²¹: With the exception of German experts who only saw moderate problems with regard to the provision of interpretation/ translation, all others raised concerns about the provision and quality of interpretation. It was also a problem that there is a lack of interpreters for some languages and especially a lack of female interpreters and interpreters who have knowledge about DV. In Austria judges criticized *"that police do not take communication problems seriously; they would often only realise during the trial that victim and/ or suspect cannot follow the proceedings. Non-native German speaking victims pointed at the problem that the command of German might deteriorate in situations of stress like court hearings or police interviews and therefore it might be difficult to provide a concise statement."* (Amesberger/ Haller 2016b: 110)

The file analyses depicted also problems: The German file analysis contradicts the expert opinions mentioned above. In none of the cases a professional interpreter was provided for the interview by the investigative police. In the summons they request victims to bring an interpreter if needed. Police

²¹ Interpretation and translation was not raised as an issue in the Dutch, Portuguese and Irish interviews.

and VSOs sometimes use the multilingual services of the national helpline (“Hilfetelefon”); this was considered very helpful. At court professional interpreters are used but they interpret for both victim and suspect; victim therefore considered them often biased.

In Austria, *“altogether 19 Austrian PP files (out of 70) indicated the need of interpretation, but in only 12 of them a professional interpreter was provided, in three a relative acted as an interpreter and in the remaining four no one assisted.”* (Amesberger/ Haller 2016b: 110) According to the Dutch case files six victims did not speak the country’s language at all; for three of them a professional interpretation service was provided and one police interview was conducted in English. In the case of Portugal, in only one file the need and provision of an interpreter was mentioned.

Summons and verdicts were not translated; at least no documents in a foreign language were found in the Austrian and German files.

3.2.4 The right to information

The right to information about the case includes information about any decision to terminate the investigation, *‘the time and place of the trial, and the nature of the charges against the offender’*, *‘any final judgment in a trial’*, *‘the state of criminal proceedings’* as well as about the perpetrator’s release from imprisonment (see Art. 6 of EU-Directive). Art. 4 obliges member states to provide information about available medical, psycho-social and legal support, but also about procedural aspects in connection with complaints, possible protection measures, the claim for compensation, the entitlement to interpretation and translation, contact details for communications about the case, the reimbursement of expenses incurred as a result of participation in criminal proceedings and options of appealing when authorities disrespect these rights. As the files did not provide such detailed data about which kind of information was provided, this section deals primarily with observations by professionals and victims’ experiences regarding the provision of information about criminal proceedings and the quality of provided information.²²

²² Information concerning support and protection are addressed in the chapters “Right to information on the case as regards safety” and “Information about support”.

■ *The right to information about the case (Art. 6)*

Across the countries victims felt not well informed about the case. In all countries some information rights are granted to the victim. In cases of accessory persecution information about the case has to be given without reasoning. Other victims have to justify their request to obtain certain information. However, according to both representatives of VSOs and victims even accessory persecution parties are often not informed about the outcome of the case, the release from custody or that the perpetrator filed an appeal (see Austrian and German report). Especially when cases had been dismissed victims were not informed or only on request. Discrepancies between written law and implementation are also witnessed in the Netherlands and in Portugal. *“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.”* (Baptista et al. 2016: 82) In the perception of VSOs they would mainly take over the task of informing the victim whereas representatives from PP asserted that they would fulfil this obligation as long as the victim has the status of being victim. Anyway, the interviewed victims did not consider themselves informed in full extent. And also the Dutch reports concluded: *“There is room for improvement in the field of communication; communication between victim and police needs to get more attention, as does the communication between Public Prosecution and victims, and judiciary and victims.”* (Lünnemann et al. 2016: 72)

■ *Problems with regards to provision of information*

In all countries it is the police’s obligation to deliver information about support, victim rights and most important aspects of criminal proceedings during the first and following contacts. In general and understandably, the police seem to be more comfortable with providing information about criminal procedures and protection/ safety than about possibilities of social support. All national reports stated that the majority of victims received information on support, proceedings, protection and safety measures by police. Nevertheless, the practitioners pointed at several deficiencies:

„The domestic violence agencies indicated that the absence of information or the provision of inaccurate information, regarding crucial aspects of the criminal justice system is not uncommon in domestic violence cases.” (Safe Ireland 2016: 54)

German practitioners regarded the provision of information at the police as well established, but sometimes selective information is provided (officer decides whether the victim is in need of special support like psycho-social support) and it seems that instruments like psycho-social assistance re-

lated to criminal proceedings are not yet well known by police officers. Bigger deficiencies were observed in the country side.

The selectivity and inaccuracy of information given might result from a lack of knowledge by the police officers about certain measures. Austrian victim support organisations, for example, noticed also knowledge gaps concerning legal assistance offered by intervention centres/ domestic violence centres and others. Additionally, it might result from circumstances when information was given. In cases of emergency it is not always possible and reasonable to give detailed information. The victim is in a state of crisis and might not be able to absorb the information as Austrian victim interview analysis suggested: *“Especially during the first contact with police the information given was too comprehensive and/ or not well understood due to the state of shock or superficial explanation by the officer.”* (Amesberger/ Haller 2016b: 111) The Dutch report also stated: *“Very often victims are not able to absorb the load of information they receive. It is also important for victims that the police paint a realistic picture of the steps following a crime report. The victims are addressed at the moment of crisis or the filing/reporting at the police office, and it is important to make sure, if necessary at a later stage, that the victims have really understood the relevant information.”* (Lünnemann et al. 2016: 71f) Similar the Portuguese report: *“However, this procedure does not necessarily ensure that the victims fully apprehend that information.”* And the researchers continued by quoting a VSO, *“the victims are submerged in information and haven’t got a clue what it is for.”* (Baptista et al. 2016: 87)

Therefore, it is necessary that information is explained repeatedly and throughout the criminal proceedings. That is, it is not only the police’s responsibility to observe information rights. The analyses of both victim and practitioner interviews indicated a lack of knowledge about support (despite the provision of lots of information) and in particular about criminal proceedings and the status of proceedings among the victims. The Austrian report for instance stated: *“What concerns the right to information about the case (Art. 6) the victims were often ignorant about the status of the proceedings, although many had received written and/ or oral information by the PP and court.”* (Amesberger/ Haller 2016b: 111) But, as the Portuguese findings suggested, it is not only the police which provide incorrect or insufficient information: Giving correct and precise information is seen to be underestimated. A victim interviewee had difficulties *“to testify in a coherent and complete manner in the presence of the perpetrator”*, but was not informed about the possibility of separate questioning although she had a legal counsellor.” (Baptista et al. 2016: 86) And the Irish seconded: *“Virtually all participants in Workstream 3 [professionals] agreed that victims of domestic violence need to be pro-*

vided with more and more detailed information about the investigative process, the judicial process and the decisions made in these processes.” (Safe Ireland 2016: 76) Representatives of the German judicial authorities also problematized that they do not know whether the summoned victim understands the letter and the attached information.

The Dutch research team related information deficiencies also to unclear responsibilities: *“Victims have insufficient knowledge of the possibilities, especially regarding legal assistance, and which organisation to turn to for which kind of assistance, according to professionals working in victim support services. It is also unclear who is supposed to provide the victims with this information.”* (Lünnemann et al. 2016: 72) This is partly due to the above mentioned factors and a lack of coordination within court services as the Portuguese report suggested (e.g. sending information to former address of victim). The victims themselves – confirmed by practitioners – related lacking knowledge also to the language used. Most written information (especially when it is legal information) is not provided in *‘simple and accessible language’* as demanded in the EU-Directive. In all countries information in plain language is missing. Experts in Germany and Austria considered leaflets too difficult to understand even for native speakers. The Dutch research team concludes with regard to police: *“It is important that the police enter into an open conversation and provide information without lapsing into police jargon.”* (Lünnemann et al. 2016: 71)

Therefore, it is demanded by VSOs that information rights are fully implemented and that victims are informed regularly and pro-actively. Professionals in Portugal and Germany expressed the hope that with the implementation of the Directive information rights will be strengthened. The Irish conclusions pointed at the necessity of cooperation and networking: *“All interviewees highlighted as imperative, keeping victims informed of the criminal process and showed concern that victims would have their support and protection needs met, either inside or outside of the criminal justice system. However, the interviewees’ comments indicate a degree of disconnect between the different agencies, as well as difficulties in assigning and dividing up these responsibilities.”* (Safe Ireland 2016: 56) The findings illustrated the decisive role of victim support organisations in explaining the unknown and confusing legal system, its jargon and practices. Victim support organisations often step in for shortcomings/ deficiencies in the provision of information by PP, court and police. The pro-active support by intervention centres/ domestic violence centres and instruments like psycho-social and legal assistance in Austria or Germany as well as support by VSOs in general were considered important by

professionals and very helpful by victims. Or as many victims put it: *“Without the help of victim support organisations I would never have managed to stand criminal proceedings.”*

Deficiencies with regard to providing information have a major impact on (feelings about) safety and protection. Therefore, we will address information rights once more from the perspective of safety later on (see chapter 3.4.7).

3.3 Victims' procedural rights

3.3.1 Separate questioning & Contradictory hearings /avoid contact

In chapter 4 of the EU-Directive protection measures like the right to avoid contact between victim and perpetrator (Art. 19) are set, what includes being heard in court without being present or measures avoiding visual contact with the suspect while testifying (Art. 23(3)). A means to avoid contact with the perpetrator are separate waiting rooms for victims and suspect during court proceedings. In all five countries courts provide separate waiting rooms, but as the interviews with victims and professionals suggested, there is room for improvement regarding the nationwide implementation, the organisational application and the information about this protection measure. The German researchers summarised their findings as the following: *“One result of the survey was that it showed that witness rooms are available in many places, but not everywhere. Courts attempt to take security precautions such as separate waiting areas and entryways, but cannot always guarantee this; on top of this, it is offered to personally escort witnesses, with this being viewed as helpful. Analysis of the files indicates that in particular the satellite offices of courts, where hearings also take place, do not have witness rooms. The survey of victims also indicates that witness rooms tend to be standard more in urban areas.”* (Nowak et al. 2016: 69)

Additionally they touched on the issue of information and organisation: *“We do not know if any of the victims were informed about applicable protection measures during the trial, although in the district's main court house, like in many other courts, there is a separate waiting room for victims staffed with social workers, and this institution is covered in a brochure for “witnesses in court”. It is, however, unclear if victims are automatically being directed to this waiting room and/or if they receive the brochure or other information about it.”* (Nowak et al. 2016: 54)

In Austria and in the Netherlands, the lack of comprehensive provision of separate waiting rooms was primarily addressed whereas Portuguese victims and professionals spoke about the gaps of protection despite separate waiting rooms: *“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).”* (Baptista et al. 2016: 85)

Questioning at court when the suspect is present is often a huge challenge for victims. As stated above some professionals think that disregarding this stress leads to refusals to testify. In all countries the victim-witnesses and their underage children have a right to be heard without the presence of the suspect in certain circumstances (e.g. sexual violence; traumatisation). This is done either during the court proceedings or before the trial. When during the trial, the victim’s testimony is either relayed to the court room by videolink or the suspect has to leave the court room but can overhear what is said by the victim. When victim and children-witnesses are interrogated before the trial, that is when a contradictory hearing takes place, the hearing is video-taped and parts of it can be shown during the trial.

The right to separate questioning is not observed in all cases applicable. Judges do not always approve a request for separate questioning as the victim interviews in Austria substantiated. *“Here again it is the judge’s discretion to allow separate interrogation or not. That only one out of three victims was granted this right shows the judges are hesitant to do so.”²³ Justifications like ‘the parties have seen each other shortly during divorce proceedings’, or ‘they are divorced now’, or victims are not believed being afraid of the perpetrator illustrate on the one hand a lack of understanding of violence and the judges’ arrogance on the other hand as the decision is made without having talked to the victim.”* (Amesberger/ Haller 2016b: 117f.) German experts indicated that separate questioning of children at court is more usual, but victim reports suggested that it is still not standard. Addition-

²³ Members of the advisory board and one practitioner (VSO.1) also reported that judges often refuse separate questioning.

ally victims were often not informed about the possibility to testify in absence of the suspect. (Nowak et al. 2016: 72) In Ireland, the legislation provides for evidence given by video link where child victims and intellectually disabled victims are involved, but in practice this measure is used only in cases of sexual violence.

The Austrian research report examined victims' experiences with contradictory hearings and the attitudes of professionals, too, as it also allows (besides preventing contact with the suspect) avoiding multiple questioning.²⁴ *"In Austria it is mandatory when the victim is younger than 14 years and in cases of sexual violence, but it can also be applied in other cases. According to some interviewed PPs, they mainly employ contradictory interrogations when a very severe crime is at stake. Two interviewed victims had a contradictory hearing (the suspects were alleged of rape and child pornography). The narrations by these two women illustrated that, depending on the judge, this kind of interrogation does not always ease testifying. Representatives of victim support organisations mentioned several reservations with regard to contradictory hearings: the video-taped interview can be requested by the perpetrator and in the following misused by him (e.g. put at the internet); the immediateness of testifying is not given what might have negative impacts; the video-taped interview can be shown at court even when the victim refrains from testifying. Additionally, not all courts are equipped accordingly; long waiting times are the consequence. Furthermore, it is up to the judge to decide over the application for a contradictory hearing, and the victim has no right to appeal. That is, albeit contradictory hearings are implemented for victim's protection, they do not necessarily contribute to it."* (Amesberger/ Haller 2016b: 117) Therefore, victim support organisations, and partly PPs and judges too, instead prefer separate questioning in the sense that the accused is not in the court room while the victim testifies but can overhear what is said. Like with the infrastructural equipment/ possibilities regarding separate questioning, especially district courts do not have the technical features for video interviews what results in long waiting times until the hearing can be conducted and in traveling to regional courts for the victim.

Besides the fact that contradictory hearings are not usual in Germany, the German experts addressed mainly technical problems with regard to contradictory hearings which might cause a repetition of the hearing due to bad quality of the video. The technical layout might be stressful for the victim too.

²⁴ The Dutch and Portuguese reports just mentioned that there are little to no experiences with contradictory hearings and that separate questioning is less common than desired.

3.3.2 Protection of privacy

The protection of privacy is addressed in Art. 21 of the EU-Directive. In all countries court hearings are public in general. Exceptions are when sexual violence is concerned or the probability is given that intimate details might be discussed during the trial. The conclusion of the Irish research team, *“the public side of hearings is a real deterrent as their privacy becomes public”* (Safe Ireland 2016: 64), applies for other countries, too. Judges would, according to the German research report, be very reluctant excluding the public and would approve it only in rare occasions or in cases of sexual crimes. One Austrian victim – she was raped by her partner – requested the exclusion and it was guaranteed. The right of privacy might be not respected in cases where the victims were heard by court officers who had been empowered for the effect by the respective Public Prosecutor. These interrogations often take place in shared office rooms where other people are present during questioning. The Dutch interviewees did not address this topic.

An Irish state solicitor addressed especially the role of the media: *“One state solicitor said he speaks to journalists not to include identifying details where cases are not in camera and generally makes attempts to protect the privacy of victims.”* (Safe Ireland 2016: 60)

3.3.3 Interrogation by a person of the same sex

According to victim interviews and the file analysis the right to be interviewed by a person of the same sex is applied in the majority of cases in Austria, Germany and the Netherlands. In Austria, problems are mentioned with respect to the sex of interpreters, what contradicts the intention of protection and support. For some languages female interpreters are hardly available. In the Netherlands, the advisory board did not deem important the sex of an interpreter and that interpreters have knowledge of DV.

In Portugal and in Ireland (so far as known) in the majority of cases victims were predominantly interviewed by male officers – this applies to all stages of proceedings.

If it made a difference to be interviewed by a female or male officer is considered differently. Some victims were full of praise especially for female officers and they felt easier to report what happened, others declined the offer to be asked by a woman, made good experiences with male officers and some reported have not been understood and have not received any empathy by female officers.

3.3.4 The right to review a decision

Another right set in the EU-Directive is the right to review a decision by the PP not to persecute. In the Austrian criminal law this right is given, but it is 'dead law' according to professionals. The PP file analysis and victim interviews confirmed this assessment: *"In only one of the 56 dismissed cases a – finally unsuccessful – application for continuation was filed by the victim's lawyer. Also none of the interviewees' dismissed cases was reviewed."* (Amesberger/ Haller 2016b: 110)

The German victims interviewed did not know about this right and the topic was not addressed by professionals either. In none of the German cases analysed a continuation was requested. Asking for reopening the proceedings in Portugal is only possible when the victim becomes a private accessory party. In Ireland, this right is under transition and no experiences are available, so far. None of the Dutch files indicated that a PP's decision was reviewed but it is known that victims only strive for a review when supported by a lawyer.

3.3.5 Accompaniment of the victim by a person of trust

Art. 3 and 20 of the EU-Directive 2012/29 state the victims' right to be accompanied by a person of trust to police, PP and court. Although information provided in files is not comprehensive regarding accompaniment to criminal investigation authorities and to court, all file analyses revealed that at least a few victims were interviewed in the presence of a person of trust. The regulations vary over the countries, but all five countries allow accompaniment by a person of choice. In Germany, for example, one needs to apply to come with someone to the interrogation whereas in the other countries an application is not necessary. In general little information about accompaniment was found in the files and due to public hearings at court no information at all is available how many victims were escorted to court. But the public nature of trials also means that persons of trust can accompany victims. The persons of choice may be friends, family members, neighbours or psycho-social assistants of victim support organisations.

According to German experts accompaniment to police interrogation is often not welcomed by the authorities as manipulation is feared. But the files also suggested that victims were prompted to bring a person of trust in cases of language problems. At court – and this is confirmed by the file analysis – accompaniment by a person of trust seems to be unproblematic. The court usually admits that the trusted person sits next to or nearby the victim during hearings. The Irish report also men-

tioned *“the unwillingness of some judges to allow court accompaniment”* (Safe Ireland 2016: 56). All other reports did not bring up any problems with regard to the right of accompaniment by a person of choice to police-/PP-interrogation and to court.

3.4 Safety and protection needs and procedures

3.4.1 Risk assessment

In all countries it is the task of the police to assess risks and to “manage” them in order to avoid further and repeated violence. The procedures designated to fulfil this task differ a lot between the countries as well as the practical implementation. In some countries risk assessment procedures are highly developed in terms of standardised instruments used for decisions on protection measures as well as for further risk management activities. In two countries there is a direct link between risk assessment outcomes and the provision of protection measures like barring orders – this is the fact in Austria and the Netherlands where police forces are responsible to impose those orders (as police or administrative measures) based on a standardized risk assessment form. In Portugal a recently introduced risk assessment form is used for further risk management screening, but not for issuing protection or barring orders. In Germany and Ireland risk assessment is not at all standardized in terms of using a standardized instrument.

Finally, it has to be pointed out that there is evidence across all countries, *“that risk assessment practices are common among victims’ support organisations. There are, nevertheless, much variety in the types and forms of procedures used, the ways in which the outcomes are (or not) being used by criminal justice system professionals.”* (Baptista et al 2015, comparative report)

■ *Standardized risk assessment for constituting barring / restraining orders*

Although in the Netherlands as well as in Austria well established risk assessment procedures and tools constitute the implementation of a temporary restraining order (in the Netherlands) and barring order in Austria the research indicated differences as regards the quantitative degree of their application.

“For issuing a barring order police officers have to assess the risk of imminent danger. They have to fill in a form which documents the intervention and substantiates the barring order along some questions like behaviour of victim and perpetrator, drunkenness of perpetrator, prior police interventions.”

(Amesberger/ Haller 2016b: 115) The analyses of the PP files indicate a high percentage of cases where the outcomes resulted in a barring order (86%).

In the Netherlands in only 30 % of the analysed cases a temporary restraining order was mentioned. But the *“risk screening RIHG that has to be applied before a temporary restraining order is imposed, usually is not included in the file.”* (Lünnemann et al. 2015: 36)

In both countries, Austria as well as in the Netherlands, the research team displayed a critical debate on the applied tool which is used as bases for issuing restraining/ barring orders. It was mentioned that the standardized forms may substantiate an order but are not sufficient for risk assessment in a broader sense.

In Austria the standardized form is not considered sufficient by victim support organisations and also representatives of the police would rather prefer a more detailed and precise tool. On the other hand it was mentioned, that a better (and more detailed) tool would bear the risk of having not enough time for doing it properly and would require a lot of expertise. Even now *“sometimes police officers did not even take enough time to fill in barring order forms properly.”* (Amesberger/ Haller 2016b: 84) Further it is emphasized that this risk assessment form is the precondition for issuing a barring order but does not result in scores indicating the risk of ongoing/ escalating violence or lethal violence.

In the Netherlands two main risk assessment tools are available in principle, the Risk Assessment Domestic Violence (RIHG) to assess risks to decide if a temporary restraining order will be imposed, and the specialized B-Safer tool (Brief Spousal Assault for Evaluation of Risk) to assess the risk of repeated (ex-)partner violence, to be used by probation. The outcome of this B-Safer indicates what kind of protection measure or sanction is needed within criminal procedure. But as the research team points out, *“when the intention is to impose a restraining order after the emergency call the administrative law risk screening tool domestic violence, the RIHG, is applied.”* (Lünnemann et al. 2016: 73) The B-Safer tool designed specifically for partner violence and designed for risk assessment in criminal cases who are brought to the Public Prosecutor Office is mostly not used although probation offices should use it. *“Probation does not carry out their policy to use B-Safer in cases of IPV.”* (Lünnemann et al. 2016: 33)

As another problem it was raised by the Dutch team that *“at a later stage of the criminal procedure this screening usually is not included in the file”*. (Lünnemann et al. 2016: 73) This is due to the fact that temporary restraining orders are administrative measures (issued mostly by the police but with

the mayor as the accountable authority) (Lünnemann et al. 2015: 33) Given these two problems - the appropriate tool “B-safer” for screening risk of repeated partner violence is not used at all during criminal procedures and the information gained through the short RIHG is not part of the file - the risk of repeated violence is not taken into account in the criminal proceedings as it should be. That may also explain why protective measures which would be available in the criminal justice system and can be issued by PPs and/or court - criminal restraining and protection orders or contact bans - are used in only few cases. (Lünnemann et al. 2016: 73)

- *standardized risk assessment forms for risk management*

In Portugal since end of 2014 a systematic compulsory risk assessment procedure to carry out by the police has been established. The aim is not like in Austria and the Netherlands to have a screening instrument for issuing protection measures. The outcomes constitutes the bases for the further risk management by the police in terms of monitoring.

“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.” (Baptista/ Silva/ Carrilho 2016: 28)

The outcomes also have a clear impact on the criminal proceedings.

“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. In fact, 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.” (Baptista/ Silva/ Carrilho 2016: 55) But the ways public prosecutors and judges use the outcomes of these risk assessment tools vary widely.

Similar to Austria and the Netherlands (see above) some problems have been mentioned as regards the information provided. Errors made in filling in the form are due not to the lack of information (the police officers had been trained to use this tool), but to the conditions and the time in which the form has to be filled in, on the spot and with a victim “in a state of pure nerves”. (Baptista/ Silva/ Carrilho 2016: 87)

- *No standardized risk assessment form*

In Germany as well as in Ireland no standardized form for risk assessment is obligatory but the relevance of lacking an instrument for assessing risks in practice is estimated differently for the two countries. But in both countries there are considerations to establish risk assessment procedures.

In Germany standardized risk assessment tools developed and tested internationally are known but none of them are in common use by the German police (due to the fact that the 16 federal states are entitled to decide on police work). Some police forces have developed their own instruments in order to distinguish between cases of different levels of risk. The police in one of the Länder has started a pilot based on a standardised risk assessment tool to recognise and to “manage” high risk cases. In Germany it is the legal task of the police to assess the risk situation and to take measures for prevention. Although there is no standardised procedure experts confirm that the police have a high alertness as regards risk. Also the file analysis indicated that high risk cases seem to be recognised in the frame of criminal proceedings. According to the risk assessment tool ODARA hypothetically applied to the file cases by the research team there is a moderate but significant correlation to case trajectory, which means that the higher the risk, the less cases got dismissed by the prosecutor. While the majority of all cases in the low risk categories of 1 and 2 were dismissed by the prosecutor without ever going to court, all cases that were grouped in the second-highest risk category 6 were referred to court, and all but one were heard in a full trial. But some interviews with victims and practitioner pointed out that high risk situations are not always recognised and responded properly due to the fact that in some cases police investigations only focus on incidents without asking about the broader context and history of violent relationship.

In Ireland there is growing awareness of the importance of risk assessment procedures for promoting the protection of women from continued violence and for predicting serious or fatal assaults. However, only the Probation Service is using a compulsory risk assessment for domestic violence to date. Neither the Courts Service nor the Office of the Director of Public Prosecutions use formal risk assessment tools in the case of domestic violence. Also at police level there is yet no recognisable risk assessment, but this will be formalized in near future as recently An Garda Síochána work to implement Article 22 of the Directive (individual assessment to identify specific protection needs).

The policy of An Garda Síochána is based on the fact, *“that domestic violence crimes are repeated, systematic and dangerous crimes, often against the same victim ... and that the abuse tends to continue.”* (Safe Ireland 2016: 10) This policy would require a kind of risk assessment and from the perspective of the Irish team is *“unworkable in the absence of such an assessment.”* (Safe Ireland 2016:

38) The Irish team points out, that there is no information at all available on risk assessment and its outcomes. The Gardai do say that they can and do carry out informal and sometimes very swift risk assessment at the scene, but this seem to be conducted only informally, if at all.

A risk assessment had obviously not taken place in most cases of the analysed sample (N=40), although severe forms of violence were detailed by victims with almost two-thirds of participants physically assaulted while pregnant and a quarter of participants attacked while their attacker was armed with a purposeful weapon.

“Participants reported that some form of a risk assessment was carried out in only three cases. In one case, this assessment involved a review of Garda data on the victim’s relationship with the offender. In the other two cases, the victim was involved in the assessment, and the assessment was carried out early in the domestic violence history. Of the remaining thirty-five cases, twenty-nine participants reported that no form of risk assessment had ever been carried out by the gardai”. (Safe Ireland 2016: 46)

■ *Risk assessment as a task for the judicial system – the example of Austria*

Risk assessment in most countries is seen as a task mainly of the police, while PPs normally rely on police decisions. Only in Austria risk assessment seem to be defined explicitly as a task also for the PPs: *“Most PPs make a risk assessment (e.g. by checking the perpetrator’s background), but none of them applied a standardised risk assessment tool, one uses a self-made check-list.”* (Amesberger/ Haller 2016b: 116)

MARACS had been launched as pilots by the State in 2011 and 2014 and are implemented only in some districts. They are mostly organised by the DV protection centres; the Youth and Family Office, the legal supporters and also the police take part. In 2014 MARAC pilots were launched in several districts of the provinces Tyrol and Lower Austria. Here, different from other districts, the regional police departments are leading. *“Members of the police, the violence protection centre, the court, and the public prosecution office meet once a month or bi-monthly. Depending on the case, the list of invited institutions is extended to other organisations (e.g. Youth and Family Office, women’s shelter). In each MARAC session about three cases, which can be brought in by each participant, are re-viewed.”* (Amesberger/ Haller 2016a: 23)

Experts in the field of domestic violence/ victim protection are *“convinced that MARACs will help to professionalise risk assessment in all institutions involved.”* (Amesberger/ Haller 2016a: 23)

Nevertheless they report problems in implementation as regards the absence/unwillingness of the police to attend in some districts and to implement the structures. Beside these formalised cooperation some violence protection centres organise MACCs (Multi Agency Case Conferences), which are initiated when there is a demand due to a certain case.

3.4.2 Protection measures

In all countries most criminal proceedings on IPV follow a police intervention in a case of emergency. According to Art. 18 of the Directive the victim has to be protected from secondary victimisation and retaliation. The first intervention and the experience victims make with the police are influencing criminal proceedings as regards building up a case and as well the specific danger of being revictimised after a first intervention and filing a charge. The research displays huge differences as well as commonalities between the countries as regards the first respond by the police, the availability and use of procedures and the outcomes in terms of protection.

In all countries so called barring or restraining orders of different kinds are provided. Some of them are subjected to the discretionary power of police forces, some are issued (often following a police barring order) based on a court decision with different courts being responsible in different countries. The main difference concerns the provision and implementation of barring/ restraining orders which can be imposed immediately based on the decision of police forces and independent from a court decision (GE, AT, NL). In Portugal the police can also impose an immediate detaining order, which has to be confirmed afterwards by a judge. In all countries it was mentioned that barring/ restraining orders have in general or in many cases positive effects for the protection of victims, because they had “something in the hand” in case the perpetrator would harass them and because these orders seem to be an effective sign for the perpetrator to change behaviour. Therefore in some countries (PT, NL) the small number of such orders was criticised.

However, in all countries police have in general the power to arrest perpetrators under certain conditions. In Ireland the police only have the power of arrest; restraining and protection orders have to be applied for at court by the victim.

Additional to the implementation of restraining, barring or protection orders or arrest, the police has different options to prevent further harm and to protect the victim - among them showing up at the incident place and separating victim and offender, cautioning the offender and/ or information on and referrals to other organisations (women’s shelter, intervention centres) which will be displayed

below. The first contact to the police and the criminal justice system is not only important to create safety in the immediate situation but also to offer protection in a midterm perspective and to inform victims about different options they have.

▪ *Lack of protection during first intervention (IE, PT)*

A lack of protection instruments which can be imposed by the police during a first intervention clearly characterises the Irish situation, while for Portugal it had been already pointed out that the implementation of coercive measures by the police in an imminent danger is in general possible but suffers from the *“resistance from police forces to resort to the immediate detaining order when the offender is not caught in the act.”*.

The policy of the Irish Garda requires that reports on DV *“must be dealt with promptly because of the risk to life and property entailed in such cases. Once the victim’s evidence has disclosed the commission of an offence or breach of a DV Order, the offender should be arrested and this should be done without asking the victim for his or her views.”* (Safe Ireland 2015: 9) The quantitative analysis – based on interviews with 40 victims – indicated in general quite a low level of intervention. Only in half of the cases the interviewees reported that the police showed up at the place of incident. But interestingly in one fifth they took the perpetrator into custody. This proportion is compared to Austria and Germany high and may be the effect of lacking other instruments but also traced back to the different kind of information from files (with partly missing information) and from victims reports. As there is no emergency barring order to be issued by the police they can only refer victims to apply for a protection or safety order at court. This was reported by one quarter of the 40 interviewed women as a reaction of police forces to immediate danger during the first intervention.

In Ireland there are several domestic violence orders that aim to protect victims of domestic violence and which have to be applied for at court. Barring Orders may bar the perpetrator from an indicated place, e.g. the property. Interim Barring Orders can be issued in case of immediate risk of significant harm to the applicant. Protection orders and Safety orders should prohibit (forbids) the use of violence or threats of violence against the applicant. The last mentioned do not implicit the removal of the perpetrator from the property. The Irish report indicates that the reference to these kinds of protection orders is often given but it seems to be used to legitimize non-intervention by the police. *“The gardaí tended to give this advice on the basis that they could offer little assistance without such an order.”* (Safe Ireland 2015: 42)

Also in Portugal the team mainly criticises lack of protection – despite general availability of instruments - during first intervention. *“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.”* (Baptista/ Silva/ Carrilho 2016: 27) The so-called precautionary measures (detaining order) were only reported in one out of 70 case files as an immediate action by the police at first intervention. In the 20 cases that were tried afterwards, five (one quarter of the) perpetrators who had committed some sort of violence against the victims, their joint children and against witnesses during the investigation phase received at least one banning order imposed by the court later.

One of the preventive measures that is according to the Portuguese experts applied in some cases is a restraining order or contact ban going along with electronic surveillance. That means perpetrators get a bracelet for being tracked by GPS and also victims might get such a bracelet to be warned in case a certain distance has been overstepped by the perpetrator. Different technical tools for protection – tele-assistance and electronic surveillance – are also used cumulatively. Not all victims who used such a device make a positive assessment of their experience.

■ *Protection measures during first intervention*

In the Netherlands, Germany and Austria the police has the discretionary power to impose a barring order without having it confirmed by court. Nevertheless the outcomes as regards the extent of application differ between the Netherlands on one side and Germany and Austria on the other side.

In the Netherlands the file analysis showed that in nearly all cases the police went to the incident site. To protect the victim from further violence the police may impose a temporary restraining order after a crisis report or at the incident site. This can be issued based on application of a risk assessment tool (RIHG). After criminal proceedings had been started, regular (not temporary) restraining orders can be issued. *“In approximately 30 per cent of the files studied a temporary restraining order was executed for a period of at least ten days and maximum 28 days.”* (Lünnemann et al. 2016: 40) This restraining order is imposed directly within 24 hours and during the investigation phase. But *“hardly any use is made of the various possibilities to impose banning orders or contact bans during the criminal proceedings”* (Lünnemann et al. 2016: 73) or as a conditional sentence.

Similar to Ireland and maybe due to the low number of emergency barring orders during first intervention in nearly half of cases the perpetrator was taken under custody which also means at least a short time protection for the victim.

In Austria and in Germany the situation regarding the use of emergency (police) barring orders and civil protection orders is quite similar and differs from the Netherlands. This might be an effect of designing the German system of protection procedures according to the Austrian model. Police barring orders are widely used as a first response to a reported incident. In both countries two kinds of protection orders are available: 1) An emergency barring order can be issued by police in cases of imminent danger; the perpetrator is barred from home for 10 or 14 days. 2) Restraining orders has to be applied for by the victim at the civil/ family court and can be imposed for a maximum of 12 months. Both barring and restraining orders are appreciated by many experts as well as many victims as an efficient contribution to 'protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation' (Art. 18).

The Austrian files and the interviews with the victims showed that emergency barring orders were issued by the police in the majority of cases. This was also confirmed by victim interviews, where in most cases a barring order was issued : *"Contacting the police and the eviction of the perpetrator was considered by victims as a warning and the women often hoped this stop-signal would lead to behavioural change of the perpetrator. This did not happen in the interviewees' cases.... In general, most victims were highly satisfied with the protection and support provided by police."* (Amesberger/ Haller 2016b: 114) Barring orders have to be controlled at least once within three days; this rule seems to be followed in most cases and also contributes to victims' safety.

Civil protection orders which have to be applied for by the victim are in general imposed in much less cases than the police barring orders. The Austrian research indicates a maximum percentage of 33 %: *"According to victim support and police focus groups every third victim applies for a civil restraining order. This figure seems to be very high as we found only five cases in the PP files (out of 70; that is seven percent) in which the victim had applied for a restraining order."* (Amesberger/ Haller 2016b: 116) In general victims stated *"they felt safer after a barring order or restraining order was issued; nevertheless the fear did not vanish. Although most perpetrators respected the protection orders, they succeeded to scare the victims."* (Amesberger/ Haller 2016b: 52)

Also in Germany the use of a police barring order is quite common. When responding to an emergency call relating to intimate partner violence, the German police has different measures to prevent

further danger/harm to the victim and to inform her about options for protection and support. The file analysis shows that in half of the cases the police - after arriving at the scene or after seeing the victim at the station - temporarily banned the suspect from the victim's / joint home and/ or take measures to keep him from contacting her. *"In 13.2% of the cases the suspects were taken into custody and brought to the station for further questioning / identification."* (Nowak et al. 2016: 42) That barring orders are widely used to protect victims after first intervention has also been confirmed by the interviews with victims and practitioners.

Different from the Austrian case in Germany no pro-active system has yet been established to check if the barring order has been followed (by asking the victim). File analysis as well as interviews show that it is up to the victim to report a breach of order. Victim interviews displayed in some cases a lack of information as regards possibilities of applying civil restraining orders at court. *"Nor victims always alerted to the possibility of protection against violence under civil law by the police."* (Nowak et al. 2016: 71)

3.4.3 Lack of enforcement of protection orders in case of violation

The protection measures described above are considered to be effective tools to protect victims from further harm and to constitute a strong sign and limit to the perpetrator. This positive assessment was limited by the common experience that protection orders are only effective if followed by the perpetrator, but often not working in high risk cases where protection is particularly needed.

In nearly all countries it was mentioned that protection and restraining orders issued by the police or according to a court decision partly lack effective enforcement to ensure protection and prevent repeated victimisation. In general it was criticised that there are no serious consequences following the breach of an order, although in all countries but Portugal the breach of an order is a crime. The lack of sanctions were traced back to a lack of authority and instruments for the police to enforce compliance with orders while at the same time court procedures to prove and sanction the breach of an order take long time (GE/ AT/PT/NL). In Ireland a general reluctance to use existing powers by the police was criticized (IE). In Portugal such breach is not a crime in itself. The victim or the police should inform the PP as soon as possible who will then proceed with the hearing of the defendant and consequent measures.

In Germany short time police barring and court protection orders are not surveyed systematically. Violation of these orders is a criminal act which might be prosecuted in criminal proceedings. Another “theoretical” option is to apply at the issuing court (family court) for a fine or an arrest for contempt of court. Both options are not successful in the most cases. The court procedures (criminal court/ family court) take a very long time and it is up to the victim to prove the violation, which is nearly not possible due to the mostly non physical kind of offences (stalking). There is broad criticism among German experts that breaching orders are not followed by effective intervention to enforce them. This widely known criticism has been confirmed by the research especially in interviews with victims who suffered from ongoing phone calls, threats and stalking despite police as well as civil protection orders. These breaches were partly convicted in later criminal proceedings but not stopped by coercive measures. This led to a life threatening escalation of violence in single cases.

In Austria the police are obliged to check at least once the compliance with an issued barring order within three days; in case of violation a fine is imposed. Moreover, the police have the power to detain the perpetrator if he violates a police barring order repeatedly. Regarding restraining orders which have to be issued by court problems of enforcement are reported in particular in the case of stalking by phone calls: *“Especially with regard to perpetrators who harass their former partners with repeat phone calls the police seem to have little room for manoeuvre.”* (Amesberger, Haller 2016b: 68)

Both the German and the Austrian report indicate that problems of implementing barring or even more restraining (court) orders seem to be strongly connected with a general lack of legal powers of the police to intervene in cases of non physical violence like stalking and harassment.

In the Netherlands similar problems were described: Lack of consequences if orders are violated were confirmed by victims as well as experts, who partly contested *“the use of such a measure”* in general (Lünnemann et al. 2016: 56). These deficiencies in enforcement were (partly) traced back to communication problems between police and criminal justice system, so that violation of orders were neither responded by police nor by the criminal justice system: *“After a violation the police does not always act or report the crime, which makes it difficult to prosecute the violation.”* (Lünnemann et al. 2016: 73)

In Ireland breaches of barring and safety orders (issued by court) can be investigated by the Gardaí, who can arrest anyone suspected of such breaches. In no other of the participating countries such a broad competence is given to the police to enforce orders.

But this authority seems not to be used. Even in the 9 cases of the sample where victims already had a domestic violence order in place which had been clearly breached *“the perpetrator was arrested immediately in only two cases”* (Safe Ireland 2016: 43) despite the official policy. It even has been reported that some police officers did not seem to know about this kind of protection measure and what kind of professional reaction it requires from the police.

3.4.4 Risk management and safeguarding

Beside the imposition of barring/ restraining orders the research teams reported other options to ensure the protection of victims. These measures are used as an alternative or complementary option to protection orders or are imposed to check the compliance with these orders. The core element is a pro-active approach; it is up to the police to ensure the safety of a victim and to contact her.

In Austria and Portugal safety checks have to be done according to the outcome of risk assessment procedures (PT) or the implementation of a barring order (AT). In these two countries clear standards are defined and as the research shows in practice.

Also in Ireland standards of contacting victims after a report of an incident have been developed: *“The current policy states that the investigating gardaí will call back to see a victim of DV within one month to provide an update on the investigation or to offer support in cases where there is no investigation. during focus groups, the Inspectorate identified that follow-up visits do not always happen.”* (Safe Ireland, 2015: 32)

For Portugal and the Netherlands additionally an approach of community policing had been reported with different results as regards implementation: *“In addition to restraining orders the police can offer additional protection by more frequent surveillance or immediate response after a call. Other possibilities are the use of the AWARE programme or additional guarding in the framework of the Guarding and Safeguarding system. The police could also keep an eye out, for instance through the neighbourhood police officer, or stay in touch through contact persons in the victims’ environment.”* (Lünnemann et al. 2016: 73) But this approach is applied to a different extent in the different Dutch districts. The Portuguese research team reported that community policing is practiced and had been confirmed by victim interviews.

“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.” (Baptista/ Silva/ Carrilho 2016: 50)

3.4.5 Conflicts between protection rights and fathers’ rights

In all participating countries major conflicts occur between the victims protection schemes on the one side and the regulations of parental custody and of contact between fathers and children on the other side. The research teams mentioned both, a lack of communication between the two systems as well as interdependencies, as hindering factors for effective protection of mothers in favour of fathers’ rights.

In Portugal it was reported that the family court decisions mostly would not take into account the outcomes of criminal proceedings against perpetrators and the protection needs of mothers. This problem was raised by many interviewees (both, victims and practitioners) and traced back to deficient communication between the two court systems: *“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: 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.”* (Baptista/ Silva/ Carrilho 2016: 73)

In Austria as well as in Germany and the Netherlands the explanation for this conflict focuses on aspects of ideology, whereby fathers rights are higher rated than protection of women against violence and that assuring contact rights often not takes into account that also the wellbeing of a child is harmed when witnessing violence against the mother. In Austria it was pointed out that needs or demands of both parties should at least require certain regulations how to organise the contact between father and children. *“Well considered regulations which meet individual victim’s requirements and which guarantee victim’s protection while enabling the father’s contact with his children are central, but often difficult to obtain.”* (Amesberger/ Haller 2016b: 116)

Also in Germany and the Netherlands many practitioners in the field of victim protection as well as lawyers have been criticising for many years that civil restraining orders and the protection of victims are often undermined by family court decisions on contact regulations. At the same time the nega-

tive influence of domestic violence on children affected directly or as witnesses would in many court districts not be accepted as a reason to restrict the contact at least for a while. Like in Austria, support to assist the contact and to protect the mother in those situations is in many cases not given or only for a short time.

Conflicts arising from interconnections between court decisions on fathers' rights and protection measures were reported for Germany and Ireland. The Irish team raised the problem that sometimes judges are dealing with family issues and the prosecution of DV in the same case and then even delay the criminal prosecution in favour of access issues. In Germany single victim interviews showed that a restraining order even can be refused by court with reference to the obligation to have contact with the father due to joint custody rights. However, in Germany there are legal regulations and obligations for family courts that and how they have to take into account the fact of DV. In many cases these obligations and also powers seem to be disregarded. But the expert interviews revealed huge differences between different courts.

3.4.6 Cautioning of and talking to the offender – naming injustice

Protection measures like orders are aimed at protection through separation. In different reports also discursive elements of addressing the perpetrator were seen as effective as regards prevention of further violence. Cautioning the offender were mentioned as well as other forms of communication. Cautioning the offender means an official statement that violent behaviour is not acceptable and also constitutes a criminal act. In the eyes of many victims among different countries this kind of statement by authorities is appreciated as very helpful because it would strengthen their own position.

In the Netherlands the analysed files displayed the highest rate of perpetrators cautioned during or after first intervention (two thirds of cases). Additionally other forms of communication offers are mentioned as useful in the eyes of victims: *“Finally the police sometimes have a regulating conversation with the perpetrator, in which it is made clear that violence is not only an offence in public but also in private settings. The Public Prosecution could hold more of these conversations. These regulating conversations may contribute to a change and are being experienced as supportive by victims.”*

(Lünnemann et al. 2016: 73)

Also in Austria - besides cautioning the offender, which often means only a short conversation after or during a police intervention and had happened in the analysed file cases in half of the cases - so called talks after an incident are offered to victims and perpetrators, separately, by specialised offi-

cers. These talks are appreciated as an effective prevention measure and widely used: *“Talks with victims and perpetrators by police, so-called complex work with/ for victims. Done by specialised or ordinary officers (it depends on the department), these talks aim at the safety of the victim and illustrating the wrongness of his deed and possible consequences of repeat violence to the perpetrator. According to police the talks with perpetrators are highly effective as there are only a few cases of recidivism. Nearly all perpetrators would follow the invitation for a talk about the incident (it is not obligatory) what is considered a sign of perpetrators’ needs to talk and to be listened to.”* (Amesberger/ Haller 2016b: 117)

In Germany, Ireland and Portugal systematic information on how many perpetrators are cautioned by the police was not available. In the German PP files *“only seven (10.3%) suspects were reportedly cautioned, even though the guidelines implicitly prescribe this intervention procedure. It is likely however the officers at the scene did actually caution the offender without mentioning this in the report.”* (Nowak et al. 2016: 42) This interpretation is confirmed in most of the interviews with victims and practitioners, according to which perpetrators are cautioned in the huge majority of cases.

In Ireland only 13 out of 40 victims reported that the perpetrators were cautioned at the first intervention. But it may be that they did not know what if any, actions had been taken by police. Also in Portugal systematic information on cautioning rates was not available, in the analysed files there was only one out of 70 perpetrators cautioned during first intervention.

3.4.7 Need to improve protection against stalking

Partly linked to requesting necessary improvements regarding the enforcement of protection orders experts and victims in different countries pointed out that there is a lack of protection against stalking and harassment. In many cases this kind of violence is used after separation from a violent partner.

The German, the Dutch and the Portuguese team mentioned that the severity of this kind of violence is generally underestimated by professionals of the justice systems. While *“the victims interviewed talk a lot about coercive controlling behaviour and stalking as frequent actions implemented by their perpetrators”*, the Portuguese researcher realized the absence of this topic in the reflections of the professional experts interviewed. The case file analyses gave hints that also during criminal proceedings this kind of violence was not followed by appropriate protection measures. *“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.” (Baptista/ Silva/ Carrilho 2016: 31)

Also in Germany, police forces did not respond properly in cases of reported incidents without physical violence. Some victims felt their reports to the police about stalking and threats trivialised and not taken seriously. Even in one high risk case with a long history of severe bodily harm police seem to have refused to intervene when called by the victim (according to her report). According to victims’ reports police forces stated not to have any legal power (and obligation) to intervene effectively (by arresting the perpetrator) as long as the perpetrator would not do anything “real”.

In Austria it was criticised that in cases of stalking via phone calls no telephone surveillance was ordered to generate evidences for prosecution these offences.

The German and Austrian team traced this back to a lack of intervention powers for the police forces as well as to the approved rigid criterias to define stalking as criminal act: Victims have to prove to have been forced to profoundly change their conduct of life as a consequence of suffering from stalking, which in many cases is impossible. *“Protection in cases of stalking seems difficult to be obtained. On the one hand, it took months and recurrent incidents to be considered as stalking, on the other hand, victims criticised suggested protection measures which were not useful/ appropriate and demanded profound changes in victims’ lives.”* (Amesberger/ Haller 2016b: 115) The interviews in Austria and Germany therefore show that a clarification by law is necessary to improve protection against stalking (Nowak et al. 2016: 81) In Germany the necessity of law reforms is recently being debated and there are proposals from the Ministry of Justice to improve the situation of victims of stalking.

3.4.8 Contact persons at the police

It was mentioned in some country reports that victims very much appreciate to have a contact person at the police. In no country this was reported to be generally provided.

But the Irish team mentioned that Garda Siochana have very recently introduced Garda Victim Services Offices in every Division to provide liaison between victims and investigating officers ; contact

arrangements of this kind are appreciated as a crucial key to the victim remaining in the criminal justice process.

In Austria and Germany the specialized investigating DV police officers are very often contact persons. While in Austria this seems to be quite common (at least in urban areas) in Germany there is no rule if and how a contact person should be available. Nevertheless, also in Germany the majority of victims reported to have had a specific person to contact at the investigation team, but not all.

In the Netherlands only in some districts it seems to be a general rule to offer victims the possibility to contact a specific person. In these cases it was reported as a relevant factor for the sense of safety victims have: *"Victims feel safer when there is a contact person in the police office that they can always contact by mail or phone. The way this is dealt with varies within the police organisation. There are districts where victims are always able to contact a specific person, whereas in other districts the neighbourhood officer plays a role. There are also districts without any policies with regard to this."* (Lünnemann et al. 2016: 73)

In Portugal there are no special contact persons for victims.

3.4.9 Right to information on the case (art. 6) as regards safety

The article 6 of the EU- Directive obliges the states to give information rights to victims about the proceedings of the case. This is relevant not only in terms of procedural rights as regards taking part in proceedings but also as regards safety and protection of victims. The research showed that in all countries victims have the right to know about releases of the perpetrator from arrest, custody or prison as well as about restraining and barring orders, that in most countries possibilities to be informed proactively are installed and that nevertheless communication does not work always properly. In chapter 3.2.4 it is outlined that problems arise from a lack of knowledge, from unclear responsibilities and partly from legal norms. In interviews with German victims and experts it was reported that even if victims (many do that) take part as assessor party (and therefore have full information rights) and in high risk cases victims are not always informed about the release of the perpetrator. It was not to trace back whether this happens due to communication problems (after long years of sentence) or because the victim forgot to announce. Anyway, experts claim for an obligation of the justice system to inform victims about releases in all cases. Another problem was raised in Germany by some experts. According to a recent verdict the information rights have been restricted in a recent court case. *"Attorneys view the restriction on rights to examine files that can be observed at present*

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at some court locations following a ruling handed down by Hamburg Superior Regional Court in a case as problematic. This has restricted information rights on the part of the victim complainant in criminal proceedings.” (Nowak et al. 2016: 79)

While the German example indicated restrictions to information rights partly based on legal norms the Austrian and Dutch example revealed more organisational problems which sometimes lead to a lack of case information: *“But the victim interviews revealed problems: One victim who was transported to a hospital during the police intervention was not informed whether the perpetrator was barred from home or not; information with regard to the perpetrator’s imprisonment was given only one day later; a letter about a temporary release named a false date; neither the victim’s lawyer nor the victim were informed about the perpetrator’s appeal.” (Amesberger/ Haller 2016b: 111)*

In the Netherlands *“the victim has the right to information concerning the release of the suspect/convicted in case of a serious offence (article 51a lid3 Sv).” (Lünnemann et al. 2016: 11)* But according to the Dutch researchers it seems that victims are not always proactively informed about releases of the perpetrators although there is an obligation in cases of severe violence: *“Also victims often are not informed before perpetrators are back on the streets, either because their preventive custody is released or when they have served their time. As a result victims may suddenly be confronted with perpetrators.” (Lünnemann et al. 2016: 65)* Problems were not only described regarding prison releases but also regarding short time custody: *“The victims told that they usually did not know how long the perpetrators would be held. This uncertainty caused the victims to feel unsafe again.” (Lünnemann et al. 2016: 53)*

In Portugal and Ireland lack of information was reported related to protection measures for the victim. In Portugal these problems were described due to communication and organisational problems although the court has to follow certain regulations. Even if according to the Portuguese Code of Criminal Procedure the victim has the right to receive information about the criminal proceedings *“the practices referred to by the practitioners reveal some discrepancies in the way they are implemented” (Baptista/ Silva/ Carrilho 2016: 81).* In case of a restraining order – sometime going along with an electronic surveillance – the court of investigation is obliged to inform the victim. Nevertheless there are hints that this does not always happen and then hopefully the Public Prosecutor takes responsibility for communication. Some of the women interviewed confirmed these problems. There is also no guarantee to be informed about suspended prison sentences, which is beside the above mentioned lack of responsibility for communication also due to organisational problems: *“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"

(Baptista/ Silva/ Carrilho 2016: 82)

4 Support

4.1 Information about support Art. 4 and referrals Art. 8

The right to information (see Art. 4 and 6 of EU-Directive) is fundamental for access to support and protection. In all countries it is a general task of the police to inform victims about protection and support.

In all countries the police is legally obliged to inform victims about support options and there are provisions and regulations how to do this. In all countries it is predominately a task at the first police contact which means an obligation of the uniformed police. In Ireland an obligation was only reported for the investigation officers entailing *“a duty to provide victims with information on redress that might be available through the civil courts, on DV Orders and the procedure for applying for them, and the services – statutory and voluntary – that are available in the victim’s area.”* (Safe Ireland 2016: 10) It has to be mentioned that the officer who firstly responded to the call out in many cases is also responsible for investigating the case; but nevertheless, to date there is no regulation at stage about the provision of information during first intervention; this is crucial as this first contact in many cases might remain the only one. A statutory obligation to inform during first intervention will be brought into force with the new Criminal Justice (Victims of Crime) Bill.

In the sample of victims being asked about their experiences with the Garda at first intervention only 10 % confirmed that the uniformed police gave information about support options. Different from other countries, where the quantitative analysis is based on files, that means only documented activities, this information seems to be a bit more “reliable” as it is based on interviews and not on documentation. It was mentioned that to date the police generally do not feel responsible for victims needs beyond criminal proceedings issues although there are expected to play a role in this from the perspective of legal professionals. In fact there are only few referrals from the police to VSOs: *“The domestic violence support services said that they received few referrals from gardaí. Some of the legal professionals looked very much to the gardaí to support victims. The gardaí themselves made a distinction between their role in informing victims about the criminal justice process, gathering evidence and compiling the case, while the social and emotional support was provided by the support services to victims.”* (Safe Ireland 2016: 55)

■ *Standardized information and referral procedures (GE/ AT)*

In Austria and Germany there are information and referral procedures regulated and compulsory for the uniformed police. The establishment of a legal obligations and respective guidelines for police forces went along with Law reforms (At 1997, GE 2002) aiming at a better protection for DV victims and constituting a variety of new competences for the police (emergency barring orders) as well as civil protection orders. These legal measures were implemented along with the establishment of a new type of support organisation – so called intervention centres - mostly constituted by yet existing women's counselling/ DV-protection organisations but provided with new tasks and competences and a formalised cooperation between police and VSOs. According to the new regulations police have to forward information on police interventions in DV cases to intervention centres, which are obliged/ allowed to contact the victim pro-actively and to offer information and help. In both countries this system has constituted a new quality of support and cooperation also in the view of victims: *“Victims appreciated in the interviews their pro-active approach. They would not have had the strength to contact counselling and support organisations, so the victims. Therefore, victim support organisations have been demanding information on all interventions for a long time.”* (Amesberger/ Haller 2016b: 112)

Beside intervention centres and other DV-related support organisations (shelters, counselling, help-lines) in both countries so called psychosocial proceedings-related assistance has been established (Austria) or is planned to be established for supporting victims particularly in DV cases during the whole proceedings. In Germany this kind of support is a crucial part for the legal implementation of the EU-Directive.

The Austrian research indicates that the systematic approach of informing and referring is working generally well and is implemented successfully at least in the majority of cases, in Germany with some restrictions. According to the Austrian PP files and to the interviewed victims the majority received information about support and protection during first police intervention. *“It clearly shows that the police observe the guidelines for DV interventions. In the majority of cases the victims were questioned and given information about their rights and support possibilities, a banning order was issued, the domestic violence emergency service (intervention centre) was involved and the suspects were questioned as well as cautioned.”* (Amesberger/ Haller 2016b: 27)

The victims reported not only having been informed but also successfully referred to the intervention centers. *“The victims interviewed confirmed that they were contacted by intervention centres/ vio-*

lence protection centres shortly after the barring order was issued and also in most PP files the referral of information was documented. The interviewed representatives of victim support organisations confirmed that this standard procedure is observed to a large extent.” (Amesberger/ Haller 2016b: 111)

Similar to Austria in Germany it is according to police guidelines their task to deliver information at the first contact. Practitioners and experts regarded the provision of information in general as well established, particularly as regards the referral to intervention centers. Nevertheless victims assessed needs for improvement regarding police information about support. Some reported explicitly not to have received information at the first contact (when filing a complaint at the station, during police intervention) but only later from the investigation (and specialized) police.

Beside information the police is legally obliged to refer the victim to a counselling or intervention center (if possible), which are obliged to pro actively offer further support and advice (on civil protection measures, on shelters and other specialized services). But different to Austria only in some German Länder police are allowed to forward contact data without explicit permission, which is appreciated as a very successful approach and leads to a higher proportion of successful contacts with victims. In the majority of federal states the police can only do so, if the victim agrees to have her personal information forwarded. In the German sample only five (7.4%) victims were in fact referred to intervention/counselling organizations. Although it was documented in some cases that victims had explicitly refused to be contacted by a counselling service, in most cases it was not evident from the files if the police asked the victim or not.

Although the information and referral procedures and the role of the police in Austria and Germany is generally highly appreciated by experts and in Austria also by victims some implementation problems were mentioned in both countries regarding the selectivity or lack of detailed information as regards information on and referral to specialised support services like the psychosocial proceedings-related assistance. This instrument seems to be not well known among the police officers and they are not always able to explain what kind of support is offered. In Germany needs of improvement also exist with regard to information about civil legal means of protection.

Also in the Netherlands the police is sending information about cases of domestic violence to a nationwider victim support organization, Veilig Thuis (a service for consultation and registration of domestic violence and childabuse) since 2015. Before 2015 this was usual in some police districts. Veilig Thuis has to contact the victim and offer information and help. Victims always get information

from the police about Veilig Thuis and Victim Support. But Veilig Thuis does not give legal support, and Victim Support is not specialized in IPV, especially not in more complex cases. In that cases a lawyer is necessary. The research team stated: *Although the support is good organized on paper, in practice it's not functioning as it should.* (Lünnemann et al. 2016: 72). Police gives information and also refers to support organisations. But in general *"victims have insufficient knowledge of the possibilities, especially regarding legal assistance, and which organisation to turn to for which kind of assistance, according to professionals working in victim support services."* (Lünnemann et al. 2016: 72)

■ *Standardized information but no active referral procedures (PT, NL)*

In Portugal, too, the police are legally obliged to inform about support at least as regards passive referrals. This obligation is widely implemented and also well documented in files according to the research: *"Most of the victims are given information about victims' rights and duties in legal proceedings and about the various victim-support services (86% of the victims were given such information according to data collected from the case files)."* (Baptista/ Silva/ Carrilho 2016: 82)

Even if -different from Germany and Austria - there are no formalised active referral procedures to support organisations valid for the whole country the research team revealed that this happens in some areas according to local infrastructure and cooperation developed. This may be even formalised in some areas but also works "bottom up" and informally. *"In Portugal there are no formal referral procedures involving the criminal justice system and victim's support services systematically established across the country. However, there are local examples of both formal and informal partnerships involving the criminal justice system and victims' support services. The main objective of those partnerships is to facilitate referral procedures and provide a timely and adequate support to victims."* (Baptista/ Silva/ Carrilho 2015B (conclusion): 11) However, the file analysis indicates only few referrals documented.

■ *General problems of information*

In all countries it was mentioned receiving information does not necessarily mean to be informed. In general, written information was seen as challenging for many women, additionally the situation may not allow to understand all information given. As the Portuguese team stated, *"this procedure does not necessarily ensure that the victims fully apprehend that information."* (Baptista/ Silva/ Carrilho 2015B (conclusion): 4) Beside the activities by police at the first contact this has an influence on the knowledge victims have on support and protection options. Therefore referral procedures or activi-

ties and pro-active approaches of offering help turned out to be a good solution to reduce barriers in the access to help and support.

Another factor influencing the access to support was raised by several teams. The research illustrated that police officers and other professionals sometimes are influenced by certain ideas on how a victim has to be and how to identify her. These images of a “real victim” may influence if she is assessed as a victim, which information is given and which organisation a victim is referred to. The Portuguese researchers criticized that *“professionals tend to form a view and a stereotype of the victims as being a poor helpless thing; those victims who are not viewed in that sense are less victims and support and justice is therefore perceived as less needed for them.”* (Baptista/ Silva/ Carrilho 2015: 52)

Also in Germany there were hints that information on psychosocial proceedings related assistance or trauma-related support services may be forwarded particularly to victims who are obviously burdened.

■ *Referral procedures regarding children in common households*

Referral procedures also exist regarding children in the same household. In all participating countries police are obliged to inform the youth / child services in case of documented DV. In Germany the presence of children at the incident site usually entails the adoption of specific measures and cautions: In most cases of the file analysis it was mentioned that the respective services had been informed. In Austria it is not well documented in the files but nevertheless was confirmed as usual practice by the interviewees. Problems as regards obligatory referrals were indicated for the Netherlands where the police would not act according to agreed procedures. *“In most files there was no information about the immediate response of involving child protective services. In the 12 remaining files, only in 6 of the cases child protective services were involved. In the Netherlands the police are obliged to do a care notification, so this result is not conforming to agreed procedures.”* (Lünnemann et al. 2016: 30)

Also in Portugal the file analysis indicated that a referral to other institutions as regards child protection had not been made: *“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.”* (Baptista/ Silva/ Carrilho 2016: 30)

4.2 Availability and relevance of different services Art. 9

4.2.1 Relevance of different kinds of support

In all countries the importance of being supported in various aspects was emphasized and confirmed among all groups of interviewees as crucial for victims to meet the basic needs, to establish a life in safety and to follow criminal proceedings. *“The availability of adequate support represents a crucial component throughout the decision making process within intimate-partner violence situations. Indeed, some of the victims interviewed enhanced the role of the victim support services in providing crucial support, including their security”.* (Baptista/ Silva/ Carrilho 2015B (Conclusion): 11)

Experts as well as victims pointed out, that victims have a variety of needs not all related to criminal proceedings. Specialised DV Victim support organisations are skilled to offer appropriate support, but legal advice is also important.

As regards criminal proceedings there is the common assessment among the different countries that most women were “lost” without support. As German experts and victims pointed out receiving support beyond counselling and including (practical) assistance would influence the criminal proceedings positively, not only in terms of victim protection but also as regards the “operation” of proceedings. Therefore in all countries there are hints that support was also appreciated by the criminal justice system. But in Germany and Austria there was also some evidence that support as psychological help, trauma therapy or psychosocial assistance for proceedings may be *“at times considered to contradict the interest of discovering the truth in the criminal proceedings and at times is used (by judges and defence attorneys) to cast doubt on the credibility of victim witnesses”* (Nowak et al. 2016: 77)

In some reports the question of availability of different kind of support was raised.

The Dutch example illustrated problems arising from specialisation combined with a lack of cooperation which may lead to inappropriate or lack of support. There are different organisations available for different needs regarding legal assistance on the one hand, regarding help to overcome the experience and the effects of violence on the other hand. As the respective organisations operate in different “spheres”, either on violence or on legal aspects, and the police refers to either one or either the other organisation in many cases there is a lack of specialised legal assistance or a lack of help regarding violence. Lack of knowledge about each other impedes referrals: *“The most important organisation that the police refer victims of partner violence to is Veilig Thuis (a service for consultation*

and registration of domestic violence and child abuse). Veilig Thuis is responsible for organising proper care, and does not have any duties in legal support. The police and the public prosecution do point out to victims the existence of Victim Support, the Dutch organisation that supports victims of crimes during the criminal proceedings, for instance by claiming damages or writing a victim impact statement. Victims do not always have a clear idea of what to expect from Victim Support; they expect support and assistance in stopping the violence and recovering after partner violence, but this kind of help is not being offered. Additionally organisations are also insufficiently aware of each other's tasks and duties.” (Lünnemann et al. 2016: 72)

Linking different kinds of support seems to be successfully reached with the Austrian model of psycho-social assistance for proceedings. This has developed to the most important instrument for victim support. Besides psychological counsel it includes legal advice and the provision of an attorney. Victims have by law an individual right to this kind of support: A legal entitlement to psycho-social and legal support has been guaranteed to victims of physical and sexual violence as well as dangerous threats, in 2006. Victims can be supported before, during and after criminal proceedings. (see Amesberger/ Haller 2016a) But in reality the implementation of this right is depending on the availability resources, the organisations offering this kind of help, suffer from financial restrictions. As a consequence not all victims who would be entitled and would probably be in need of that kind of support this kind of support is offered.

In Germany the implementation of the EU-Directive is mainly based on the broad introduction of psychosocial assistance related to criminal proceedings. In some Länder this has already been introduced as a pilot, staff has been trained and certified. Different from Austria one criterion for the staff is not to intermesh psychological counselling but only to stick to aspects of proceedings and other basic needs that may occur. This criterion has been introduced in order to avoid negative consequences on the trial (regarding credibility of victims, avoidance of forced witnessing by the assistant).

4.2.2 Interagency Cooperation (general networking and case related)

Beside safety needs victims of partner violence face different challenges due to separation, financial issues, criminal proceedings but also regarding health issues; this constitute different needs of support and information. The support related to different needs in most cases requires specialised competences which are offered by different agencies. For meeting the needs of a victim interagency co-

operation is required to make the different resources accessible and available (via referrals) but also to allow comprehensive approaches in certain cases.

This may point to what may be a tendency: beside the establishment of cooperation with other organisations with specialised competences in order to react to a variety of needs or to gain case knowledge, another model is building up the skills needed and to develop a comprehensive approach. For the Portuguese situation it was described, that VSOs tend to build up legal skills: *“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 (VSO).”* (Baptista/ Silva/ Carrilho 2015B (Conclusion): 13)

That building up specialised competences may have a negative influence on cooperation was pointed out by the Austrian situation where a specialisation among police and PP on DV cases led to a decrease in cooperation with VSOs and also disturbed the established system of task and responsibilities.

Interagency cooperation firstly means general networking to share competences, experiences and knowledge on DV-cases in general, but also to purely gain information about other professions and agencies available in the area. Beyond networking interagency cooperation may include case related cooperation to integrate different competences for acting together in one case. In the five included countries different intensities and grades of formalisation of interagency cooperation were described as well as different issues on which cooperation takes place.

■ *Formalised networks*

Cooperation in the pure sense of networking (referrals / information) are reported for Austria and Germany.

In Germany and Austria cooperation particularly between victim support organisations and police is legally required due to formalised referral procedures between police and intervention centres (see above). Along with the introduction of new procedures and measures (barring orders, civil protection orders) and new competences for police as well as for VSOs in 1997 (AT) or 2002 (GE) a strong cooperation had been established. In both countries the VSOs played a vital role in training police on aspects of DV and victims needs.

As a standardized format in Austria and Germany so called round tables were established in the locality, in Austria this is even obligatory by law: *“Additionally, to further enhance the co-operation between victim support services and the judicial system and to improve the implementation of victims’*

rights, interdisciplinary ‘round tables’ have been established. Since 2009 the presidents of criminal courts of first instance are obliged to convene such round tables at least once a year. The ministerial decree requires the invitation of judges, public prosecutors, victim support services, attorneys, the local police and the children and youth advocacy among others.” (Amesberger/Haller, 2016a: 18)

Also in Germany round tables on domestic violence had been established including at least police, child protection services and VSOs but also other institutions as well (partly PPs, but not always). These round tables meet more or less regularly, but it is up to the local networks how they want to work together. There is no general formalization and legal obligation like in Austria. Experts pointed out, that the quality of networks often depends on the engagement of single persons, from continuance of participants and also from the size of the municipality (with smaller units meaning more continuance).

▪ *Informal case related cooperation*

In Portugal networking is recommended in the National Action Plan, but existing cooperation mostly emerge bottom up and informally at the local level according to individual cases which cause the necessity to cooperate. *“In recent years there has been an increasing need for establishing specialised local networks involving different types of organisations (e.g. the police, courts, public prosecutors, social services, victim’s support services, local municipalities). The establishment of those networks was driven by difficulties arising from the need to respond to the multiple support needs of DV victims rather than by legal regulations.” (Baptista/ Silva/ Carrilho 2015B (Conclusion): 11)*

Although cooperation is established only informally, the exchange of information seem to be important for the criminal proceedings as reports from VSOs are a vital source for PPs to gain knowledge on the case context even this can’t be used as “evidence”. This has been described as being practiced in many districts: *“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: There may be gains arising from the use of reports coming from the victim-support services within the criminal procedure. 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 the intimate-partner violence context.” (Baptista/ Silva/ Carrilho 2015: 92)*

Even if this kind of informal exchange of case related information has been established the research team emphasizes a need for formalisation in order to generalise the positive impact and to clarify the

role of different players. *“Despite this, it is important 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.”* (Baptista/ Silva/ Carrilho 2015: 93)

In Germany, case related cooperation has not been reported as a standard beyond the referral procedure from police to intervention centres. It sometimes happens that VSOs contact police or the other way round. Victim support organisations which offer court assistance reported they would contact the court or the judge to inform about safety needs at court.

The Irish study revealed that only in few cases informal co-operation takes place depending on personal relationships/connections with individuals. According to the research team more formalised and visible interagency contact would increase victim’s confidence in the system and help reduce the impacts of the isolating tactics used by abusers. Agreed standards or protocols for cooperation would be necessary to build trust, accountability and consistency.

■ *Formalised case related cooperation*

In the Netherlands as well as in Austria formalized cooperation formats has been described for certain cases.

In the Netherlands formalised cooperation exist in cases of domestic violence between different organizations and the PPs who decides about cases of domestic violence within the criminal justice system. Since 2015 police, PPs and Veilig Thuis has to work together in cases of domestic violence and child abuse with a high risk of recurrence and when immediate safety has to be organized in a so called consultation domestic violence and childabuse (afstemmingsoverleg) (Lünnemann et al. 2016: 74). Also probation and child protection can take part in this consultation. There are also case related consultations between police, victim support organisations, probation and welfare agencies in the so called Safety Houses. The comprehensive approach of different professions, especially, the “short contact lines” are appreciated as very helpful. Nevertheless *“practice shows that it is very difficult to work together in a good way, owing to differences in tasks and competences, but also differences in perspectives and terminology (Tierolf, Lünnemann & Steketee, 2014). Very often chain partners are not well informed of each other’s duties and positions.”* (Lünnemann et al. 2016: 74)

On the level of PPs there is the so called ZSM procedure for less severe cases. PPs has the power to impose sanctions or discharge the case and in ZSM this decision is taken within a day. Before taking a decision, criminal justice partners (police, probation, child protection) deliver information and there is consultation about the appropriate intervention. ZSM gives the possibility for intervention like

restraining orders and combined support in those cases which are settled out of court. But when prosecutors do not have specialized knowledge on domestic violence the decision is quick but less meaningful. Additionally it is criticised that not all cases undergo coordination between relevant organizations and lack support of the victim.” (Lünnemann et al. 2015: 54)

In Austria – on contrast - formalized Multi Agency Risk Assessment Conferences (MARACs) were initiated by the Ministry of Interior and are in cases of high risk aiming at the safety of victims and the prevention of repeated violence. These Maracs are still pilot projects in Austria, implemented only in some districts; they deal with concrete cases of domestic violence. *“The intervention centre, the Youth and Family Office, the legal supporters (‘juristische ProzessbegleiterIn’) and the police meet in the monthly conferences. Each participant can bring in cases of repeat and severe violence. Between May 2011 and March 2013, in total 39 conferences took place and 118 cases were reviewed”* (Amesberger/ Haller 2016a:22)

■ *Role of public prosecutors and judges in interagency cooperation*

In nearly all countries it was an evident problem that representatives of the legal system are often missing in networking and cooperation. At the same time the interviewees from other professions emphasised that PPs and judges would need information due to the lack of victim contact.

In Portugal as well as the Netherlands PPs and judges partly seem to use information from VSOs informally but obviously do not take part in established partnerships with victim protection organisations: *“On the other hand, the public prosecution office and courts are the partners most “missed” by shelters’ teams.”* (Baptista/ Silva/ Carrilho 2015B (Conclusion): 11)

The Dutch team also described gaps between PPs and police: police are not always well informed about decisions which are relevant for safety issues. This means they do not always receive the information they need to be able to properly protect the victim: *“Mutual exchange of information between police and Public Prosecution is also important with regard to protective measures. Feedback from the PP in case of changes or decisions taken in the court case, or if the police has to play a role again in the case, need to be communicated back to the police. At the moment this happens insufficiently and is a point for improvement, according to the police.”* (Lünnemann et al. 2016: 56)

Also in Austria *“it is criticised that representatives of the PP and court usually do not attend MARACs.”* (Amesberger/ Haller 2016b: 117) The reluctance of the legal system to cooperate in general was traced back to different cultures and their own attitude as “neutral” and “independent”. Nevertheless cooperation has improved: *“Members of the national advisory board see a need for*

improvement with regard to communication between police, PPs and judges as there were many misunderstandings due to different background information on each side. Whereas police representatives agreed PPs and judges did not recognize communication deficits.” (Amesberger/ Haller 2016b: 114)

In Germany the involvement of PPs and judges in networks and cooperation is sometimes limited due to high fluctuation of staff in the district courts. Also case related contact regarding protection needs and background information between VSOs (NGO) and PPs has not been reported as relevant, which may be caused by the “independence” of PPs as well as the general reluctance to exchange information due to data protection.

Also in other countries problems with case related cooperation were reported due to data security issues and reluctance to share information: *“In addition protection of privacy plays a part in the exchange of information. Some organisations do not know which information they are allowed to share.”* (Lünnemann et al. 2016: 56)

4.2.3 Legal support

In general being represented by a Lawyer was seen as important for the victim but the proportion of cases where victims are represented differ among the countries. In Ireland, with one limited exception in relation to sexual crimes only, a victim of any crime has no independent standing in a criminal court. Therefore, they are not entitled to have their own lawyer in a criminal court. In Germany, Austria and Portugal references were made to the fact that victims as witnesses have the right to take part in the criminal proceedings as a private assessor party. Not only but particularly in these cases being assisted by a lawyer is crucial for victims. Reports about victims being assisted by a lawyer were accordingly given in these three countries.

■ *Extent of use of legal counsel*

In Germany experts and victims point to the high relevance of being assisted at court but many lawyers also prepare victims for the court hearing in advance, inform them about the whole proceedings and help them applying for civil protection or legal aid. All victims interviewed had a lawyer, which is due to the selection of interviewees not at all the standard according to the experts as well as the file analyses where only 15 % were represented by a lawyer. Legal counselling was often presented as a condition to make effectively use of procedural rights victims have.

In Austria the combined *“psycho-social and legal support for victims of crimes can be regarded as a good practice model. Art. 13 of EU-Directive, the right to legal aid, is implemented und applied.”* The case files and experts interviews hinted at a proportion of cases of victims being represented by a lawyer between 10 and 25 %.

In Portugal *“it should be pointed out that in this kind of cases, the victim is usually represented by the Public Prosecutor who has the duty of ensuring her representation. 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.”* (Baptista/ Silva/ Carrilho 2016: 33)

It could not be derived from the case files in how many cases victims had legal assistance, because data was in most cases not available. But as regards the 20 tried cases at court it was documented that half of the victims had such a legal assistance which means that at least 14 % of all victims.

The file analysis in the Netherlands also gives no information on legal counselling for victims, but combined with statements from the interviews this seem to derive from the fact, that this is not often the case according to the mere status of the victim as a witness (and not as a party). A judge confirms this limited legal support for victims: *“Victims are hardly ever assisted by a lawyer. The legal support by Victim Support is not always adequate. Legal support by a lawyer would be a huge improvement’.”* (Lünnemann et al. 2016: 57)

■ *Aspects of implementation and quality*

Beside the question of having a lawyer who assists victims during the criminal proceedings and the general positive relevance of it in all countries factors were named which promote or impede the effectiveness of this kind of support. In Germany, sometimes it happens that the dates for court trials are not well communicated or very late with or to the lawyer of the victim. Indeed, there is no right of the victim and her lawyer to be included in the setting of data but only to be informed two weeks in advance. Nevertheless it has established as a practice to check in advance, which in some cases does not happen.

Also in Austria communication problems were mentioned deriving from administration patterns leading to a lack of information about court hearings: *“Furthermore, authorisations for legal representation and/or file inspection are not electronically recorded. Due to this, legal supporters are informed too late about trial dates, inquiries, inspections of the crime scene etc.”* (Amesberger/ Haller 2016a: 26)

In some countries also aspects of quality of legal assistance were raised.

In Portugal as well as in Germany some cases illustrated that victims not always are well informed about their procedural rights by their lawyers. Reference was made to cases where a victims were not informed about the possibility to ask for exclusion of the perpetrator during her statement.

“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.” (Baptista/ Silva/ Carrilho 2015: 83)

In Germany single examples showed, that lawyers acted ignoring the wishes of the victim. Additionally problems were reported on how to find a competent lawyer. Sometimes it turned out to be a problem when women were assisted by lawyers not often dealing with DV cases; this may happen if women choose the lawyer they had regarding divorce matters. But in some areas specialised lawyers are connected with DV-protection support services and sometimes even part of the so called round tables.

In Austria women often gain access to a lawyer in the frame of psycho-social and legal support procedure. In these cases *“legal assistance, organised via the violence protection centres and other victim support agencies, is provided by lawyers who have specific training.”* (Amesberger/ Haller 2016a: 31)

4.2.4 Financial needs

- *Free legal aid Art. 14*

Access to Law and Justice in cases of IPV does not only require the (passive) right to take legal means, to have procedural rights and to be eligible for certain protection measures but also to be effectively enabled to make use of these rights. It is crucial whether there are provisions to avoid that having access to these rights is depending on individual financial resources and whether certain crimes constitutes a general eligibility for free legal aid. In most countries there are provisions to offer free legal aid but the range of conditions and their implementation differ from country to country. The general impression from the research was that there is still a lot to do to effectively ensure access to Law und Justice independent from financial restrictions.

In Germany and the Netherlands free legal aid is restricted only to victims who suffer from severe forms of violence or suffer from economic hardship, the criterion for being eligible in the Netherlands is the same as for receiving victim state compensation transfers. (Lünnemann et al. 2016: 11)

In Germany free legal aid is available under two conditions: Victims of sexual offences and severe crimes are eligible for free legal aid which has been assessed by experts as a substantial progress. Additionally, each citizen can apply for free legal aid if she can prove economic hardship and the court estimates the proceedings to be likely successful. This kind of support is often provided in cases of IPV but for few districts it was reported to be more and more restricted by the courts (although the courts are refunded by the Länder). In one district it turned out that victims without support by a lawyer or a VSOs would indeed not have any chance for a successful application at court. The criterion of probability of success was also criticised by some experts for impeding victims' access to civil protection means in cases where a court hearing is necessary for decision; in these cases fees for court and the legal assistance (of the victim, of the perpetrator) may occur as a burden for the victim in case the application for an order is rejected. There are some hints in the research that this may lead to withdrawals from applications.

In Portugal victims can apply for free legal aid only under the condition of economic hardship, which was mentioned for half of the tried cases in the file analysis. (Baptista/ Silva/ Carrilho 2016: 35)

In Austria there are several alternative options to be eligible for free legal aid and the practice of provision is the least restrictive among all surveyed countries. The decision is mostly up to the intervention centers/ VSOs who in most cases admit eligibility in principle but as mentioned above are partly restricted as regards financial resources and have then to choose cases (this was reported for Vienna due to the amount of cases). *“Especially what concerns legal assistance support institutions do not try to convince victims to make use of it, criteria for providing are the severity of the case, whether the perpetrator has engaged a lawyer, whether the victim claims compensation for personal suffering, and whether a conviction is considered essential for victim's safety and protection.”*

(Amesberger/ Haller 2016b: 113)

Another possibility to receive free legal aid for a lawyer of one's own choice is to apply for it directly at court that check the eligibility much more restrictively and only comply with the application under condition of economic hardship.

■ *Right to compensation Art. 16*

According to article 16 states have to provide the right to claim / apply for compensation from the perpetrator. Although most countries provide possibilities to claim for compensation of damages it turned out to be not effective as regards implementation and not sufficient at all even in terms of direct financial burdens emerging from suffering violence, not to speak about indirect longterm “costs”.

In Austria it was mentioned that three victims requested compensation for sufferings from the perpetrator and that the court granted compensation ranging from 50 to 5.000 Euro. But *“when compensation was awarded, this did not mean that the victims received it. The victims have to be prepared that it might be a lengthy procedure.”* (Amesberger/ Haller 2016b: 77)

In the Netherlands the research indicated that claiming for compensation of costs is not very common, but when it is made, successful. There are hints that women apply for it because they are short of financial means, therefore interviewed victims who claimed were disappointed because the amount of money was quite small (under 1000 Euro): *“As a rule women do not want compensation, unless there are financial problems. The file study makes clear that in approximately ten percent of cases damages have been claimed, and usually awarded (often quite early in the criminal procedure). On the other hand women who are in financial straits also get false expectations by police about the height of the damages.”* (Lünnemann et al. 2016: 72)

In Ireland, if the accused person is convicted, the court may award compensation from the pocket of that person to the victim as part of the sentence. However, the convicted person’s means must be taken into account. There is a non-statutory compensation scheme for victims of crime which does not depend on convictions, but persons who were living with the offender at the time of the crime cannot claim this compensation.

Civil compensation may be tried in a civil proceedings but also adherend in criminal proceedings. This was reported for the Netherlands as well as Germany. In Germany both ways implicate specific problems which limit the effectiveness and also the use of compensation claims for victims. Experts criticise adherent proceedings due to the fact that judges of criminal courts do not have the specific competences of civil law and that criminal proceedings are hold up by clarification of civil claims. On the other side victims who have claimed for compensation in a civil lawsuit pointed at the high burden emerging from undergoing full proceedings again (with hearings and experts surveys). Additionally it may come out that the claim is not succesful even if the perpetrator had been convicted. Ex-

perts from the judiciary therefore demand that in case of convictions civil courts should follow the decision and not fully review the case. The research revealed that some victims did not claim for compensation for avoidance of financial risks but also due to the fact that “it would lead to nowhere” because there is nothing to be gained from the perpetrator due to his financial situation. In case of successful claims for civil compensation the amount of money ranged from 450 – 1200 Euro.

But beside civil claims on perpetrators, in Germany and Austria other forms of compensation are relevant and - if successful - may offer a broader range of financial compensation. Victims may claim for refunding or payment of all kind of costs emerging as a consequence of the crime, this regards e.g. related to medical treatments, psychotherapy or pensions due to incapacity for work but also material costs. In general, the threshold to apply successfully is assessed as high and it turned out that most victims do not know about this possibility. But two of the German interviewed victims applied successfully and received this kind of compensation by the state and appreciated it as highly relevant and indispensable. Another possibility of applying for compensation of costs which emerge as a consequence of a crime exists in Germany and Austria where voluntary organisations support victims of crime; in general applications are quite successful.

In the Netherlands it is also possible to claim compensation from the Compensation Fund for Violent Offences when it is not possible to claim compensation during the criminal procedure in the case.

The research in several countries revealed that being awarded for compensation does not necessarily mean to receive it due to compliance and financial situation of the perpetrator. Therefore some countries (PT/ NL) have introduced prepayment patterns, where the victim may apply for a payment by the state in advance in those cases.

The position of the victims claiming for compensation has been strengthened since 2011 to the introduction of a prepayment pattern, where the state has to pay for the compensation in advance in case the perpetrator is not able to pay: *“In cases whereby the perpetrator fails to fully compensate the victim within 8 months after the verdict has been made, an appeal may be made on a prepayment fund. Furthermore, the criteria of getting compensation were altered to provide more room for the judge to impose compensation.”* (Lünnemann et al. 2016: 12)

In Portugal this kind of pre-payment pattern is also available but the criterion for eligibility seems to be restrictive. Where IPV crimes are concerned, the victim has the right to receive a payment in advance from the State when she is able to prove that the economic hardship she is experiencing is the

outcome of the domestic violence she had suffered. There were no hints in the research on cases where this kind of advance payment was requested. (cf. Baptista/ Silva/ Carrilho 2016: 36)

■ *Financial strains without compensation*

Victim interviews in some countries pointed at financial strains related to longterm effects of violence as well as separation. These are highly relevant as regards the further conduct of life but also as regards the proceedings. The research revealed that in none of the states financial support regarding these issues is provided.

In Austria but also other countries *“it seems that the perpetrators can shirk from their responsibility. Emotional and financial problems as well as structural shortcomings (e.g. lack of adequate and affordable support for children; long bureaucratic procedures) are loaded on the victims’ shoulders.”* (Amesberger/ Haller 2016b: 58)

The Portuguese team indicated that a lack of possibilities to meet basic needs influence proceedings as women can not afford separation: *“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 within the ‘circle of violence’ theory. Rather, their return was due to the fact they did not have the resources to satisfy their basic needs.”* (Baptista/ Silva/ Carrilho 2016: 46)

The German team pointed out that many women suffer from severe long-term health problems which restrict or even undermine the capacity to earn money. These women are depending on welfare services which guarantee at least but only a minimum level of existence where some victims will be stuck to for their whole life.

These few examples show the necessity that effective victim protection not only requires procedural rights and rights as regards civil compensation but a much broader approach of social rights and social support is needed which enable victims to change their situation as well as to cope with their situation and the effects of violence.

Summary & Conclusions

The aim of INASC was to generate knowledge of the implementation and application of the EU Victims Directive 2012/29, especially with regard to victim needs, provision of support and victim protection. Therefore, we looked at (i) how police, prosecutors and judges interact with victims, (ii) how special needs of vulnerable groups among IPV victims are identified and (iii) what provisions are in place to support and protect victims during the whole criminal justice process (investigation, prosecution and court proceedings). That is, the daily practice of police, PPs and judges as it was reflected in the national law enforcement files and in the interviews with victims and professionals alike was the focus of our interest.

We want to stress that many victim rights formulated in the Victims Directive have already been implemented at national level in all five countries in terms of law. Nevertheless, there are still many deficiencies and much room for improvement.

Although a comparison especially of quantitative data is limited because of different legal provisions in the partner countries and different approaches in the selection of case files, common denominators and differences can be outlined based on the multi-methodology-approach including file analysis as well as interviews with practitioners and victims.

■ *Outcome of proceedings*

One outstanding common feature is that the majority of IPV cases were dismissed by the PP and only a very small number reached court. In Austria, Germany and Portugal the overwhelming majority of dismissals were not combined with any conditions, whereas in the Netherlands about 60 percent were conditionally dismissed. The court trials did not always lead to the conviction of the suspect, either. The highest conviction rate according to the case file analyses was in Portugal, where almost all accused were sentenced because of DV; it is only in Portugal that DV is a crime *per se*. In the remaining countries – Austria, Germany and the Netherlands – the percentage of convictions ranged from 40 to 60 percent. The offenders were sentenced predominantly because of (not severe) bodily harm, only a few because of dangerous threats and harassment (incl. stalking).

These findings are critical with regard to the fact that most victims have experienced repeat violence by their partners over a longer period of time, but rarely reported all of them. Furthermore, the victims mentioned on average two high risk factors of severe and lethal violence they were confronted

with (e.g. threats to kill the victim plus attempted strangulation or plus physical abuse during pregnancy).

▪ *Victims' support of criminal proceedings*

In all countries, judges and PPs considered a lack of victims' support as one of the most important reasons for aborting the case, for dismissals and acquittals, but the file analyses in all countries do not support this justification as many victims pressed charges (e.g. about three quarters in Portugal and the Netherlands), made statements during the investigation phase (e.g. 85 percent in Austria, 56 per cent in the Netherlands) and also gave evidence against the offenders at court (ranging from about 50 to 80 percent). We can conclude from this that justifying the outcomes with the lack of witness' compliance is only part of the story and it seems that victims are blamed too often for being the reason for dismissals and acquittals.

Whereas practitioners from police, public prosecution and judges in all countries tended to downplay the importance of legal outcomes for victims, victims deemed convictions and sentences to be very important for their emotional processing of violence as well as for coping with the consequences of violence. The interviews were full of narrations about victims' frustration about dismissals and acquittals.

▪ *Collection and assessment of evidence*

There is no need to stress that the collection of evidence and its quality are essential for criminal proceedings and their outcomes. Gathering evidence and its proper documentation lies with the investigating police in all five countries. The interviews with victims and practitioners alike as well as the quantitative file analyses showed that there are big differences between the countries with regard to quality, intensity of investigation and documentation. In all countries insufficient police documentation of the history of violence and of the intention to separate was criticized.

Furthermore, essential standards like separate questioning of victim and perpetrator, which have considerable impact on the quality of interviews, are often not observed by the investigating police in some countries (PT and NL). Judges also are very hesitant to allow separate questioning, which might have an impact on victims' willingness and courage to testify and on how the victim talks about the incident and its context.

Another criticism concerns flawed interview protocols as an outcome of superficial questioning on the one hand and as a result of imperfect documentation on the other. This problem is worse in cas-

es when an interpreter is needed. In all countries PPs rarely interview victims by themselves. That is, they rely on the police documentation as a basis for their decision about the case. Therefore, the quality of evidence collected is decisive for the case to reach court.

Evidence gathering relies above all on the statement of the victim as there are usually no witnesses to the crime. Nevertheless, not all victims were questioned as the results of the national case file analyses showed. In Ireland remarkably fewer victims were interviewed than in the other countries. Additionally, across the countries, the victims interviewed found that police are sometimes unwilling to record their reports. With regard to other evidence besides victim statements, victims and practitioners alike were critical of the fact that medical, forensic and photographic evidence of injuries and damages often were not collected or later on, not considered by the PP or the court. Nevertheless, it has to be stressed that the collection of documentary evidence might not be overestimated.

■ *The right to be heard*

The right to be heard is respected to a large extent in most countries. Although there are differences between the countries, a majority of victims were interviewed several times at different stages of the proceedings and the police interviews are done within a short period after the incident.

Being questioned is a difficult situation for victims for various reasons; especially testifying at court is considered to be extremely stressful. Reports about unfriendly or rude behaviour of judges, when the victim is nervous or is not concise in answering the questions seem to be widespread. Another challenge for victims are questioning techniques (by police, PPs, judges or defence lawyers) which often made victims feel like they were being accused. There are many victims' narrations about officers and judges who sympathised with the abuser, who doubted the victim's credibility, who put their questions in an inquisitorial and/ or insensitive manner etc. The reasons for such insensitive behaviour are seen by experts as a lack of knowledge about traumatisation and the dynamics of intimate partner violence. This conclusion is supported in as far as specialised police officers are highly acclaimed by victims due to their empathy and understanding; this kind of specialisation is rarely found among the judiciary. Above all, such behaviour might lead to secondary victimisation and therefore more training and awareness is essential.

■ *The right to understand and be understood*

The practitioners and victims interviewed as well as the case file analyses pointed to problems with regard to communication/ interpretation. In Austria and Germany concerns were raised about the provision and quality of interpretation. Another problem was a lack of interpreters for some lan-

guages and especially a lack of female interpreters. Similar to judges and public prosecutors, interpreters have little knowledge about DV, which might distort what was actually said by the victim. There are also complaints by an Austrian judge that language problems are not taken seriously enough by the police. But also judges seem not to respect the right to understand to the full extent necessary. Summons and verdicts were hardly ever translated; in the 70 German files no translated document was found, among the Austrian files only one.

■ *The right to information*

Although in all countries victims receive information about support, protection and the course of criminal proceedings, the observations by practitioners and victims' experiences allow only one conclusion: Across the countries victims do not feel well informed about their cases (including the status of proceedings). The practitioners' most common criticism was that often inaccurate information about support and protection measures is provided by police. Additionally, the lack of information often results from circumstances when information was given. In cases of emergency it is not always possible and reasonable to give detailed information and the victim might not be able to take that information on board fully at the time. Therefore, it is necessary that information is explained repeatedly and throughout the criminal proceedings. That is, it is not only the police's responsibility to observe information rights, but also the task of PPs and judges to provide information. Unclear responsibilities within and among institutions also cause information deficiencies. Again, the low degree of information might be a matter of the kind of language used. Most written information (especially when it is legal information) is not provided in simple and accessible language as demanded in the EU Directive. In all countries information in plain language is missing.

The findings illustrate the decisive role of victim support organisations in explaining the unfamiliar and confusing criminal justice system, the jargon of police, PPs and judges, the letters received by them (e.g. about dismissing the case) and so on. Victim support organisations often step in for shortcomings in the provision of information by the judiciary and police. The pro-active support by intervention centres/ violence protection centres and instruments like psycho-social and legal assistance in Austria or Germany as well as support by victim support organisations in general were considered important by professionals and very helpful by victims.

▪ *Victims' procedural rights*

Procedural rights are the right to avoid contact between victim and perpetrator while testifying, being questioned by a police officer of the same sex or being accompanied by a person of one's choice to police interview.

For avoiding contact between victim and perpetrator several measures are available (e.g. separate questioning, separate waiting rooms). In all countries the right to be heard without the presence of the suspect is available, and in most, obligatory for victims of sexual violence and underage children. For the rest it is at the judges' discretion. As already addressed above judges are hesitant to grant this right, sometimes also insufficient infrastructural/ technical equipment do not allow such a procedure.

The interrogation by a person of the same sex is applied in the majority of cases in Austria, Germany and the Netherlands during the investigation phase; sometimes victims would have preferred having contact with a female interpreter or judge.

With regard to accompaniment by a person of one's choice, the regulations vary over the countries, but all five countries allow it. In general little information about accompaniment was found in the files.

▪ *Risk assessment*

In all countries it is the task of the police to assess risks and avoid further and repeated violence. The procedures aiming at fulfilling this task differ a lot between the countries as much as the practical implementation does. In some countries (AT, PT, NL) risk assessment procedures are based on standardised instruments which are applied for issuing barring orders as well as for further risk monitoring activities. In other countries (GE, IE) risk assessment is not (yet) standardized.

The research did not suggest a clear correlation between standardisation of risk assessment and its effects for victim protection. Standardized instruments are - and have to be - limited as they have to balance the applicability on the one hand and completeness and quality of information on the other hand. They are not sufficient for a detailed risk assessment but might be helpful for leading to certain actions; further, their introduction – if accompanied by training - have positive effects for the risk awareness of police. Risk assessment should not be reduced to standardized tools in a first police intervention but regarded and designed as an ongoing process. Interactive methods of risk assessment like case conferences implemented e.g. by the Austrian Maracs (Multi Agency Risk Assessment

Conferences) - or the Dutch ZSM-model of multi-professional chain management of cases to be settled out of court are potentially helpful ways of risk assessment and support.

Irrespective of risk assessment methods in all countries the criticism was made that public prosecutors and judges often are not well informed about the outcomes of police risk assessment and that risk assessment is not defined as their task.

■ *Protection*

During the last two decades all countries have developed different provisions to protect DV victims from further violence. During the last two decades so called emergency barring (or restraining or detention) orders have been introduced in nearly all countries; they can or have to be issued by the police immediately in a situation of imminent danger. But the number of police barring orders varies very much between the countries. Whether victims are protected by this kind of forced separation obviously depends not only on legislation - except Ireland where no emergency barring orders exist -, but on implementation.

In all countries barring and also civil protection orders are considered to be effective tools for protecting victims from further harm and for sending a strong signal of the acceptable limits of their behaviour to the perpetrator. That the behavior of the perpetrator is sanctioned in this way translates into a sense of empowerment for the victim. This overall positive evaluation was at the same time qualified by the cross-national experience that protection orders are often not working in high risk cases where protection is particularly needed. Many experts as well as victims mentioned that barring and protection orders often lack effective enforcement as the breach of an order does not result in serious consequences for the perpetrator, despite the fact that this constitutes a crime or an administrative offence in most countries.

This lack of enforcement was partly traced back to a limited power of police to intervene in cases of non-physical violence like stalking and harassment. A violation of court orders further has to be proved again by the victim and often requires a new court procedure which means a high barrier for victims. In all countries particularly mothers face huge problems as barring and protection orders are often undermined or even prohibited by visitation and contact rights of the perpetrator.

■ *Support*

In nearly all countries the police are legally obliged to inform victims about support options and there are guidelines on how to do this. A highly effective referral pattern has been standardized in GE/ AT.

Here the police inform DV- protection centres (NGOs) about their interventions whereupon specialised professionals from these centres contact the victim pro-actively, offer support and detailed information. This pro-active approach is considered to be a milestone for protection of DV victims. In all countries, the existing police standards of information and referrals are in general well implemented in the majority of cases which does not always mean that victims are effectively informed. Despite the positive evaluation of police work as regards information, in some cases information seems to be given selectively, as regards the information but also as regards the victims. This was mentioned for cases where victims did not match the image the police may have of a victim and sometimes did not receive full information and support because they did not seem to the police officer to need help.

Our general impression is that most victims were “lost” without support related to criminal proceedings but also to other aspects. Experts and victims pointed out that support would influence the criminal proceedings positively not only in terms of victim protection but also as regards the “operation” of proceedings.

As different needs require different kinds of support, interagency cooperation has been established in all countries to varying extents. Also, despite general networking in some countries, case related cooperation has been established mainly between victim support organisations and police. Public prosecutors and judges often seem to be reluctant to formally cooperate due to the self-concept of independency and neutrality. However, in some countries informal ways of networking seem to exist - depending on local circumstances and personal relationships between the involved individual professionals.

▪ *Legal assistance and free legal aid*

To be represented by a lawyer is especially important in countries where victims have the right to take part in the criminal proceedings as a joint plaintiff. Full access to Law and Justice not only requires the right to take legal means, to have procedural rights but also to be effectively enabled to use these rights independently from individual financial resources. In most countries free legal aid can be provided if victims are affected by economic hardship, in some countries additionally all victims of severe crimes should be eligible, independently of economic hardship. But despite these general provisions in some cases victims face problems in receiving this kind of support, due to financial restrictions on courts or organisations offering this kind of help but also due to application require-

ments which are always a barrier. It is only in Austria that psycho-social support is usually complemented by legal support, where necessary.

■ *Financial compensation*

In all countries victims can claim for compensation by way of damages from the perpetrator but in no country did the existing mechanisms turn out to be effective. One major problem is that victims have to claim for it, in some countries in additional civil proceedings. This was a high barrier for many. Another major problem is that being entitled for compensation does not mean that it will be received - due to non compliance of the perpetrator or his lack of means to pay it. This was reported for all countries. Some states therefore have introduced prepayment patterns. Further, the amount of civil compensation is quite low everywhere. In most cases reported it was less than 1500 Euro. In some countries (IE, GE, AT) victims can apply for a higher state compensation, independent from civil claims and independent from the outcome of criminal proceedings, but this kind of state compensation is restricted to quite a small number of victims and in addition most victims are not informed about this possibility.

Despite the existing compensation procedures, many victim interviews revealed the lack of compensation schemes for economic long-term damage: loss of earnings and earning opportunities, caused by the violence. Many victims have to face physical and psychological health problems which block or end their working career. This leads to severe restrictions on their future lives, for example when they find themselves dependent on low pensions due to incapacity. Others can not afford the financial effects of a separation and therefore decide against taking an active role in criminal proceedings.

Against this background, victim protection requires social support mechanisms, which effectively enable victims of violence to change their situation and to cope with economic damages caused by violence.

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List of abbreviations

DV	domestic violence
IPV	intimate partner violence
VSO	victim support organization
PP	public prosecutor