A Review of European Standards on Restorative Justice and Domestic Violence

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The use of restorative justice practices in cases of domestic violence has gained increasing attention in Europe over recent years. In some European countries, like Austria and Finland, domestic violence has been dealt with by victim-offender mediation (VOM) for more than two decades, while in other countries it has only begun in recent years.[1] In the European Union, cases of domestic violence can, in principle, be dealt with by RJ, and legislation allows for its use. Spain is the only exception, as legislation expressively excludes the use of mediation in cases of gendered violence.[2]

Countries like Austria and Finland have an experience of more than two decades in dealing with VOM in cases of IPV.

This review outlines instruments at the European level as well national standards and practices which relate to restorative justice in situations of domestic violence.

Standards at the European Level

Several documents relating to the implementation and promotion of restorative justice as well as to victim's rights have been developed at European level.

- In 1999, the Council of Europe adopted the Recommendation R (99) 19 of the Committee of Ministers to member States concerning mediation in penal matters,[3] setting out guiding principles for (further) development of restorative justice in the EU member States.[4]

- Council of Europe Recommendation Rec (2006) 8 on assistance to crime victims acknowledges the potential benefits of mediation for victims and

[1] In Finland, first cases of intimate partner violence (IPV) have been dealt through mediation in the 1980s. In Austria, pilot projects on victim-offender mediation have been carried out since the 1980s, *Drost et al.* 2015, p. 18; *Uotila/Sambou* 2010, p. 190. Cases of domestic violence in the context of RJ have been experimented in Austria since the 1990s, see *Pelikan* 2002, p. 2.

[2] Ley Orgánica 1/2004, de Medidas de Protección Integral contra la Violencia de Género (Law of Protective Measures of Gender Violence), see *Giménez-Salinas et al.* 2015, p. 875.

[3] https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168062e02b (27.06.2016).

[4] Previously, the Council of Europe adopted Recommendation R (98) 1 on family mediation, promoting the development of mediation as a way of resolving family disputes. http://www.coe.int/t/dghl/standardsetting/family/7th%20conference_en_files/Rec(98)1%20E.pdf (16.09.2016).

asks member States to develop clear standards to protect victims' rights (Art. 13). [5]

- In 2012, the EU Victim's Directive replaced the Framework Commission on the standing of victims in criminal proceedings, which was adopted by the European Commission in 2001.[6] The Victim's Directive does not explicitly mention the use of RJ in cases of domestic violence (nor do the Council of Europe recommendations), but it does not exclude it.

- In terms of victim's rights, Art. 12 of the Directive points out the right to be safeguarded from secondary and repeat victimization, intimidation, and retaliation. Member States have to take measures to ensure that victims have access to safe and competent restorative justice services. Regarding training of practitioners (Art. 25), restorative justice services should be supported to receive adequate training to ensure that services are provided of an impartial, respectful and professional manner.

- In 2014, the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) came into force.[7] It specifies that the states who ratified the convention shall take measures to prohibit the mandatory use of alternative dispute resolution processes, including mediation and conciliation (Art. 48). Thus, the Convention allows the use of restorative justice practices as long as it is based on the free consent of the parties.[8]

Research Relating to RJ and Domestic Violence

Empirical studies, particularly conducted in Austria, show encouraging results in terms of participants' satisfaction with RJ practices in cases of domestic violence and reducing re-offending.[9] A

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[5] https://www.coe.int/t/dlapil/codexter/Source/CM_Recommendation_2006_8_EN.pdf (29.06.2016).
[6] European Directive on minimum standards on the rights, support and protection of victims of crime, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=en (accessed on 29.06.2016).
[7] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008482e (29.06.2016).
[8] As laid down in the explanatory report to the convention, however, the participation of the victim in an alternative conflict resolution process is considered as one of involving power imbalance, where the victim is not at an equal level as the perpetrator, as cited in *Drost et al.* 2015, p. 9.
[9] See *Liebmann/Wootton* 2010 w. f. r.

study conducted in Austria in 1999 points out the potential of victim-offender mediation sessions for contributing to a process of empowerment of women.[10]

Research on recidivism following participation in victim-offender mediation, community work or measures provided by probation service showed that the re-offending rate following VOM in cases of domestic violence after three years was 11%. This is even lower than in other VOM cases, which was 15%.[11]

Another in-depth Austrian empirical study on RJ in cases of domestic violence revealed high levels of victim satisfaction and empowerment of women, as well as the chance for offenders to change their behaviour. 83% of the women participating in the study stated that in the course of 1.5 to 2 years following VOM they experienced no further violence. The vast majority of these women (80%) attributed this to the experience of VOM.[12]

A large study conducted in Germany revealed that victim-offender mediation in cases of domestic violence can be considered as effective as victim-offender mediation in other cases. The comparison of 509 domestic violence cases out of a total of 3.906 cases dealt with by victim-offender mediation in the Federal State of North-Rhine Westphalia showed similar results in terms of willingness of the parties to participate in mediation, mutual agreements reached, and the fulfilment of agreements.[13] In 88.2% of domestic violence cases an agreement could be reached, compared to 87% in non-domestic violence cases. Agreements were fulfilled completely in 79.9% of domestic violence cases, and similarly, in 82.7% of non-domestic violence cases.[14]

Within the EU-funded project "Restorative Justice in cases of domestic violence: Best practice examples between increasing mutual understanding and awareness of specific protection needs", a practitioner's guide on the use of RJ in cases of intimate partner violence has been developed.

EU Project on Practice Standards

The EU-funded project "Restorative Justice in cases of domestic violence: Best practice examples between increasing mutual understanding and awareness of specific protection needs" elaborates a practitioner's guide, including (minimum) standards on the use of RJ in

[10] *Pelikan* 2000.
[11] *Hofinger/Neumann* 2008, p. 39, 76.
[12] *Pelikan* 2010, p. 55 ff. Within this study, 33 victim-offender mediation sessions were observed and 21 qualitative follow-up interviews with participants were conducted.
[13] *Bals* 2010, p. 252.
[14] *Bals* 2010, p. 176 f., 183 f.

cases of domestic violence, or rather intimate partner violence (IPV).[15] The guide aims at ensuring that victims of IPV are dealt with in a safe and competent way and that re-traumatization is avoided.[16]

The handbook points out three key principles that guide the restorative process. First, with respect to the competencies of mediators,[17] knowledge about the complexity of IPV is crucial when dealing with IPV cases in a restorative manner. Second, the mediator should make clear that violence is a criminal offence and that the offender should take accountability for his behaviour. Third, preliminary separate face-to-face meetings with the victim and the offender are essential.

The guide highlights the importance of monitoring and observation during the follow-up phase, as well as aftercare, further support and assistance.

The elaborated standards are subdivided in the following six sections: offer, preparation, risk assessment, the exchange, follow-up, and training and supervision.

- When an *offer* is made to participate in a restorative justice process, the standards emphasize that the process should be carried out by two mediators who are specially trained and highly experienced in the field or restorative justice or mediation.

- Special emphasis is placed on the *preparation* phase, which is regarded the most important phase. Besides face-to-face-meetings with the parties, the minimum standards highlight the importance of the development of continuous risk-assessment, seeking the informed consent from the participants and providing opportunities for self-reflection (on aspects such as the violent act, the future of the relationship, the needs of participants). Co-mediation should be a standard method, involving one mediator of each gender.

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[15] The project (JUST/2013/JPEN/AG/4587) was carried out by the Verwey-Jonker Institute (the Netherlands) in partnership with IARS International Institute (UK), Institute of Conflict Research (IKF) and Institute for the Sociology of Law and Criminology (IRKS) (Austria), the National Organization of Women's Shelters (LOKK) (Denmark), European Public Law Organization (EPLO) (Greece), Department of Criminal Policy of the Ministry of Justice (Finland), and the European Forum for Restorative Justice (EFRJ), see http://www.euforumrj.org/events/restorative-justice-in-intimate-partner-violence-european-research-and-guidance-for-practitioners/. The guide for practitioners is part of the project and available at http://www.euforumrj.org/wp-content/uploads/2015/11/GUIDE_-Restorative-Justice-and-Domestic-Violence.pdf.

[16] Restorative Justice and Domestic Violence. A Guide for Practitioners 2016, p. 5.

[17] As victim-offender mediation is the main form of restorative justice and practitioners are mainly mediators, the guide refers to mediators. It includes also facilitators, case workers, practitioners and coordinators, as the naming is different in the countries.

- *Risk-assessment* is considered to be a continuous process, ending with closure of the case after the follow-up phase. The guide furthermore provides a (non-exhaustive) catalogue of risk assessment tools, including criteria such as the severity of violence, or the previous history of violence and control. Risk-assessment in cases of IPV should also include evaluation of risks to children, regardless of their participation in the RJ process.

- The standards set out that the *exchange* between the victim and the offender can be carried out directly or indirectly. Direct meetings would be given preference as they are considered to be more effective. However, the needs of victim and offender should be assessed on a case-by-case what basis the process adapted to their needs.

- Norm validation is regarded as being essential, and mediators should bring to awareness that violence is a criminal act and offenders have to take responsibility for their behaviour. Further emphasis is placed on the recognition by mediators of re-emerging signals of harmful behaviour, in order to prevent re-traumatization of the victim.

- Mediators' respectful model behaviour and their impartiality throughout the process is underlined, and the creation of an environment which provides safety, fairness and respect. Information exchange should be sufficient, open and honest. Consent from a participant or agency is required, particularly when confidential information is given to another agency or participant, for example on alcohol or drug-related issues.

- In terms of *follow-up*, the guide highlights the importance of monitoring and observation periods, as well as aftercare, further support and assistance. Mediators shall make recommendations to assistance programmes such as anti-violence programmes, drug- and alcohol-treatment or victim/women support programmes. Cooperation with agencies partners is considered important to provide for sustainability in care and harm prevention, and should include multi-agency risk-assessment panels.

- Finally, the *training and supervision* standards are addressed. In addition to national training standards, standards in IPV-cases should cover the topics of domestic violence and IPV. Mediators working with IPV-cases should be supervised by the management or at peer-level. Supervision should relate to aspects such as validation of risk assessment, quality control, provision of advice and guidance, etc. Support for mediators, particularly on de-briefing, is of further importance.

National Standards and Practice

Literature on the experience of using RJ in situations of domestic violence in Europe is rather limited, but several countries warrant special mention.[18]

Austria

Austria can be considered as a best practice example, due to its long-standing experience with RJ in cases of domestic violence, accompanying research and the high level of professionalism of RJ providers.[19] Restorative justice has been applied in cases of domestic violence in Austria since 1992. In 2014, out of 5,896 victim-offender mediation (called *Tatausgleich*) cases, 1,258 (21%) dealt with IPV.[20] The nationwide provider for judicial and RJ services, including victim-offender mediation and socialnet-conferences, is NEUSTART, funded by the Ministry of Justice.

In cases of domestic violence, the internal NEUSTART-standards for VOM are complemented by standards in cases of DV/IPV.[21]

Guidelines on RJ when working with cases of IPV take into account aspects such as using co-mediation (usually "mixed double") – "talk of the four" – involving a female and a male facilitator.

The "mixed double" (*Gemischtes Doppel*) method involves two facilitators of mixed-gender meet separately with the parties in the preliminary sessions. The female facilitator meets with the female party, usually the victim, and the male facilitator with the male party, usually the offender. During the mediation session, the co-facilitators and the participants meet altogether. At this point, the method of the "reflecting

[18] The order in which the countries are presented is based on practical considerations, as well as countries' experiences with RJ and domestic violence. Most information was available on Germany, as well as on Austria. Austria is considered as a best practice model in Europe, and furthermore approaches in Finland and Germany can be seen as good practices. The other countries briefly portrayed provide for (localised) initiatives in the field of RJ and domestic violence. Main sources of information for most of the countries presented were the reports provided within the EU project on restorative justice in cases of domestic violence, see above. Overall, the literature on experiences with RJ in domestic violence situations in Europe is rather limited.
[19] See *Haller/Hofinger* 2015, p. 15.
[20] Ibid., p. 4, footnote 5.
[21] See about the standards on VOM in IPV cases in Austria *Haller/Hofinger* 2016, p. 13 ff., *Haller/Hofinger* 2015, p. 14 f.

team" comes into play. The facilitators sit opposite to each other, and the participants sit next to their mediator. The facilitators start with "mirroring the stories" of each participant. After that, the participants can make amendments or correct their story, and engage in a conversation.[22] In particular, the "mixed double" is a method applied in highly escalated conflicts with power imbalances, such as IPV.

Mediators are full-time professionals, and have special knowledge about domestic violence and traumatisation. Usually mediators have a professional background as social workers, lawyers, or psychologists/psychotherapists.

In Austria, NEUSTART-mediators facilitating cases of IPV have special knowledge of domestic violence and traumatisation.

The standards focus on the dynamics of violence in IPV cases, ensuring sustainability, periods for follow-up, safety precautions, systematic risk analysis, referrals to counselling, therapy or support services (e.g. anti-anger-management), and enhanced communication with victim support services.

Preliminary separate meetings must be conducted prior to the exchange between victim and offender. The separate meetings aim at clarifying whether a direct meeting between victim and offender is appropriate. Victims should be informed that indirect mediation ("shuttle-mediation") may be an alternative in cases where the victim does not want to meet the offender. During a preliminary meeting with the offender, the possibility to participate in support programmes such as anti-anger-trainings, addiction therapy, or legal and psychological counselling should be considered.

The standards underline that a direct meeting between the parties can only take place if the safety of the victim is ensured throughout the whole process, the victim has clearly consented to the mutual meeting and pre-mediation separate meetings have been conducted. VOM in cases of IPV has to be excluded when the offender denies or downplays his violent behaviour, blames the victim and/or there is a serious power imbalance, a history of violence exists, or the victim lacks of emotional stability.[23]

During the follow-up phase, further face-to-face meetings should be held in case violent incidents occur again. Victims are asked to call the police in case of a new incident.

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[22] See *Pelikan* 2002, p. 9; *Pelikan* 2010, p. 51 f.; *Bals* 2010, p. 105 f. w. f. r.
[23] See *Haller/Hofinger* 2016, p. 17.

Victims are entitled to be accompanied by up to three persons, namely a lawyer, a violence prevention agency worker, and a supporter.

Regarding cooperation, NEUSTART works together with victims' organisations, e.g. the Violence Protection Centres, which may provide support for victims during VOM. There is also a long-standing cooperation with prosecution offices, which fosters trust between the stakeholders.

Training courses on VOM in Austria are very comprehensive, and extend altogether over a period of four years.

NEUSTART delivers very comprehensive training in VOM that extends over a period of four years. It combines theoretical and practical aspects. During a one year initial phase, basic qualifications in VOM are acquired. The following three years aims at deepening the mediator's theoretical and practical experiences, followed by a certification.[24] The obligatory training for mediators comprises 212 theoretical units and practical experience from 36 supervised VOM cases.[25]

A risk assessment tool is used by mediators to assess the risk of escalation, the estimated level re-offending and whether the danger of the victims' re-traumatization can be precluded. The checklist includes aspects such as the history of violence, information on weapons, financial dependency, substance abuse, information on warning signs, and threats.[26]

The Austrian model on VOM in cases of IPV is based on a strong interaction between research and practice.

The Austrian model of VOM in cases of IPV is based on a strong link/interaction between research and practice. Accompanying research has been conducted since the implementation of the first VOM projects, aimed at improving practice and professionalism of RJ providers. The critique of women's organisations has been taken into account and reflected upon when working on enhanced professionalism in the field of domestic abuse/IPV.[27]

[24] See *Gombots/Pelikan* 2015, p. 27-28.
[25] See *Haller/Hofinger* 2015, p. 13.
[26] Ibid., p. 13 f.
[27] Ibid., p. 15.

Germany

The first projects of VOM (called *Täter-Opfer-Ausgleich*) in cases of domestic violence were carried out throughout the 1990s.[28] According to the Federal Victim-Offender-Mediation-Statistics, domestic violence cases represent currently about 20% of RJ cases.[29]

The German organisation "Die Waage Hannover e.V." works in close cooperation with partners of a multi-agency network in the field of domestic violence.

VOM in cases of domestic violence is delivered by non-governmental organisations. The most prominent organisation in this area is "Die Waage Hannover e.V.",[30] delivering annually about 250 domestic violence related VOM cases (about half of all VOM cases). In almost 20% of cases the couples continue to live together. The NGO deals with IPV both in situational couple conflicts as well as violence with longer history.[31]

The organisation works within a multi-agency network with agencies that provide counselling for men, women and victims, and child protection agencies.[32] IPV cases are dealt with in cooperation with other partners of the network (*HAIP-Hannoversches Interventionsprogramm gegen Männergewalt in der Familie*).[33]

A specific department on domestic violence within the public prosecutor's office refers suitable cases to the VOM provider "Waage" in order to decide whether VOM would be useful or possible. Facilitators contact the victim first and invite her to a preliminary meeting to inform her about the VOM procedure and victim support agencies.[34] Often, particularly victims are already counselled and supported by agency partners before the case is referred to VOM.

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[28] Since the mid-1980s, VOM projects including juveniles have been experimented, followed by projects with adult offenders since the early 1990s.

[29] *Hartmann et al.* 2016, p. 34 f. In 2012, the share of VOM in domestic violence cases represented about 26%. The statistics are not strictly representative, as they process data that VOM facilities voluntarily provide. However, the nationwide statistics include very detailed information on cases, which have been continuously collected since 1993. Facilities offering data are such dealing with rather high case numbers. In 2013, 51 facilities provided data on VOM, in 2015, the number of facilities was 67, see *Hartmann et al.* 2016, p. 7. According to a nationwide survey, it is estimated that about 450 VOM facilities are operating throughout Germany, *Kerner/Weitekamp* 2013.

[30] Die Waage was founded in 1990 and is based in the city of Hannover. The NGO provides restorative justice and mediation services in various fields of conflict.

[31] See *Netzig* 2015, p. 51; *Netzig/Petzold* 2015, p. 111 f.

[32] For example counselling for women in situations of domestic violence, women's and child shelter services, victim support, couple counselling, alcohol therapy, social training services for violent men, and youth welfare agencies.

[33] See information on the HAIP-network (in German) http://waage-hannover.de/gewalt-in-beziehungen/netzwerk-haip/ (21.07.2016).

[34] See *Netzig/Petzold* 2015, p. 112; *Bals* 2010, p. 109 w. f. r.

Prior to the exchange between the victim and offender, experts such as victim support workers may be involved in separate meetings. In IPV cases representing a high risk, it is underlined that special procedures should be developed, including the involvement of experts, disclosure of confidentiality, extension of deadlines for process and follow-up, mandatory participation of offenders in social training courses.[35]

Given the "punctual nature" of VOM, cooperation with other agencies providing support and counselling in the field of domestic violence is seen as essential in order to foster sustainability of the practice.[36] In the follow-up procedure, the "Waage" monitors the implementation of the agreement between the parties, often relating to measures aimed at changing the offender's behaviour in combination with compensation or reparation to the victim. Monitoring is ensured for up to six months, and usually there is a review meeting with the primary parties after three to six months. About 60% of women invited by the "Waage" are willing to partake in VOM. Meetings between victim and offender show high success rates – in about 90% of cases an agreement is reached and complied with.[37]

Monitoring by the "Waage" is ensured for up to six months during the follow-up phase.

From 2001 to 2003, a pilot project on VOM in cases of domestic violence was conducted in the city of Hamburg (*Hamburger Modellprojekt zur Konfliktregelung bei Gewaltstraftaten in Paarbeziehungen*). The model was based on two expert's opinions on the use of VOM in domestic violence cases. [38] VOM procedure was adapted to the specific situation of family violence. Accordingly, two facilitators of mixed gender dealt with cases, the time frame for VOM was expanded, the victim received specific support and the principle of impartiality was modified in order to allow for norm clarification. In cases where the victim did not want to meet the offender, indirect mediation was possible as a means of conflict resolution.[39]

In about 90% of cases an agreement is reached and complied with.

The evaluation of the model revealed encouraging results overall, even for those cases that did not result in a meeting between the parties. Preliminary meetings were found to be very important, as they fostered the empowerment of women. The model offered the possibility to involve women which otherwise have not been reached by counselling agencies, or would not have contacted agencies offering them support.[40]

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[35] See *Netzig* 2015, p. 51.
[36] See *Bals* 2010, p. 107 w. f. r.
[37] *Netzig/Petzold* 2015, p. 112 f.
[38] Bannenberg et al. 1999; Pelikan 1999, as cited in *Bals* 2010, p. 110.
[39] Bannenberg et al. 1999, as cited in *Bals* 2010, p. 111.
[40] Bannenberg 2002, as cited in *Bals* 2010, p. 112 f.

In Germany, the standards on victim-offender mediation (VOM), which is the main form of restorative justice in the country, are in the process of being revised. The planned 7th edition of the standards is expected to be published by the end of 2016. Currently, the standards in its 6th revised edition (2009) are applicable throughout Germany. They have been edited by the Servicebureau for Victim-Offender Mediation and Conflict Resolution (*Servicebüro für Täter-Opfer-Ausgleich und Konfliktschlichtung*)[41] and the National Association for Victim-Offender Mediation (*Bundesarbeitsgemeinschaft Täter-Opfer-Ausgleich e.V.*).[42]

The 6th edition combines existing standards for VOM in cases of domestic violence, with an emphasis on Intimate Partner Violence (IPV) with the general standards for VOM in all cases. In order to promote quality assurance of VOM services, the National Association for Victim-Offender Mediation awards the "Victim-offender mediation seal for quality" to those organisations complying with the standards. The standards include provisions on conceptual and organisational requirements, requirements regarding public relations and cooperation, exchange of experiences, requirements for the facilitator, and requirements regarding the performance of VOM.

Facilitators working with cases of domestic violence should have additional methodological competences, such as in the use of co-mediation, and include a female and a male facilitator, which has shown to be effective in domestic violence cases. The standards mention further skills that are essential for all facilitators, such as the "reflecting team", "duplicating" (*Doppeln*), and the "mixed double".[43]

The standards highlight that during the separate preliminary meetings, if necessary, the parties should be advised on offers by cooperating partners, for example in the field of counselling for women, men, or couples. The standards also point out that additional separate preliminary meetings can be arranged, if desired, before the joint mediation meeting with all participants takes place. During preliminary meetings facilitators will clarify whether the victim has been traumatized.

VOM services are encouraged to work together with specialist family violence agencies, such as victim support agencies, counselling services for women and men, women's refuges, treatment facilities (for

[41] The Servicebureau is a facility under the auspices of the German Probation Services-Professional Association for Social Work, Criminal Law and Criminal Policy and funded by the Ministry of Justice and Consumer Protection.
[42] http://www.toa-servicebuero.de/sites/toa-servicebuero.de/files/bibliothek/toa-standards-6.pdf (20.06.2016).
[43] See above on these methods.

example in cases of alcohol addiction, trauma etc.), marriage counselling services, and facilities offering social training courses for violent men. Regarding the exchange of experiences, the utilization of competences and experiences in fields such as divorce mediation and family therapy is recommended.[44]

In the course of the personal meeting between the parties, the facilitator must be aware of and compensate any imbalances relating to power, the number of participants, or abilities of the conflicting parties. The use of co-mediation can serve to compensate for such power imbalances.

The revised 7th edition will take further account of domestic violence related aspects of practice, as the use of RJ in cases of domestic violence has grown in recent years (e.g. advise of caretaking duties in relationships of dependence, vicious circles of violence and when the well-being of children is at risk).

The standards encourage VOM services to work together with specialist agencies in the field of family violence.

Furthermore, standards and recommendations for work with male perpetrators within a multi-agency cooperative network point out that facilities working with male perpetrators should establish a network of agencies providing support and assistance in cases of domestic violence. The standards explicitly refer also to cooperation with victim-offender mediation services dealing with cases of domestic violence.[45]

The Action plan of the Federal Government to combat violence against women, which first came into effect in 1999, underlined that measures such as victim-offender mediation could be considered when resolving conflict in the social network, including the field of domestic violence.[46]

In terms of training standards, since 1991 special training on VOM is offered by the Victim-Offender Mediation Service bureau. The

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[44] In practice, if necessary, specialist agencies might be involved in the VOM meetings.
[45] National Association for Work with Male Perpetrators – Domestic Violence (*Bundesarbeitsgemeinschaft Täterarbeit Häusliche Gewalt e.V.), Standards und Empfehlungen für die Arbeit mit männlichen Tätern im Rahmen von interinstitutionellen Kooperationsbündnissen gegen Häusliche Gewalt*, available at http://www.taeterarbeit.com/images/pdf/Standards_f%C3%BCr_T%C3%A4terarbeit_H%C3%A4usliche_Gewalt_ab_Nov._2014.pdf (30.06.2016).
[46] Action plan of the Federal Government to combat violence against women (*Aktionsplan der Bundesregierung zur Bekämpfung von Gewalt gegen Frauen*), 1999, p. 11. Available in English at http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/actionplan-violence-against-women,property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf.

training course consists of five modules, with 2-3 days each.[47] Those mediators facilitating IPV cases undergo a special training, usually two to three workshops with two to three days each.[48]

Finland

In Finland, VOM including cases of domestic violence has been delivered since the 1980s, mainly by laypersons supervised by professionals.

Finland has a long-standing experience with RJ and domestic violence. Since the 1980s, victim-offender mediation has been carried out, including in cases of domestic violence/intimate relationship violence. Case numbers have been increasing steadily over the years.[49] More than 11,000 cases of VOM were carried out in 2013 and 2014, of which 16% were made up by IPV cases.[50]

The Mediation Act (2006) sets out general guidelines to determine which cases are "more suitable" and which cases are "less suitable". The law states that cases of violence in close relationships should only be mediated if referred by the police and the prosecutor. It also states that mediation in these cases should be excluded if violence was repeated or there has been an earlier, unsuccessful mediation process.[51]

The Legal Affairs Committee states that cases should not be referred to mediation services when there is recurring violence, or when the parties have previously participated in a mediation dealing with domestic violence, or if the offender's attitude to the offence or relationship leads to the conclusion that violence may be used as an acceptable way of resolving conflicts in the future.[52]

The use of VOM in cases of IPV in Finland is known in the country as a model of good practice.[53] Following an initial assessment of cases by the police or prosecutor's office, and referral to (government funded) mediation services, mediators undertake a more in-depth assessment of the cases. Preliminary separate face-to-face meetings are held with the parties prior to mediation session(s), and after follow-up

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[47] Mediators who already completed another mediation training course (120 hours), can be certified as mediators in VOM cases after additional completion of three special modules on VOM.
[48] See Factsheet: Germany, available at http://www.euforumrj.org/events/restorative-justice-in-intimate-partner-violence-european-research-and-guidance-for-practitioners/.
[49] See *Uotila/Sambou* 2010, p. 190.
[50] See *Lünnemann/Wolthuis* 2015, p. 4.
[51] See *Lappi-Seppälä* 2015, p. 249 f.; Sambou/Slögs 2015, p. 36.
[52] See *Sambou/Slögs* 2015, p. 36.
[53] Ibid., p. 37, 51 w. f. r.

the authorities are informed about the outcomes. Support persons may be brought to the VOM sessions, if consent of the other party is given. Cooperation between mediation providers, police and public prosecutors is regarded as effective.[54]

Mediators are lay persons who receive special training in mediation (offered by volunteer mediation organisations) and attend supervision (by professional mediators). Specific training on the role of mediation in cases of domestic violence with a focus on IPV is provided (in total 135 hours).[55] Due to their "easy-accessibility, dedicated behaviour as well as friendly approach", the work of lay mediators is much appreciated. The quality of training is regarded more important than the professional status of mediators (lay mediators versus professionals).[56] There are about 90 professional and more than 1,000 lay mediators in Finland.[57]

Belgium

Two nationwide mediation providers in Belgium deal with domestic violence cases. Furthermore, local initiatives provide for responses based on RJ principles.

In Belgium, the two nationwide mediation providers (NGOs) in Wallonia and Flanders[58] deal with cases of varying severity, including domestic violence cases. The Flemish provider Moderator (previously called Suggnomè) and the Walloon organisation Médiante handle cases through the so-called "mediation for redress" programme, a restorative justice approach also used for more serious offending. "Mediation for redress" is provided by professional mediators who have been trained within their organisation.[59] The NGOs work in close partnership with

[54] See *Lünnemann/Wolthuis* 2015, p. 21.
[55] See Factsheet Finland, available at http://www.euforumrj.org/events/restorative-justice-in-intimate-partner-violence-european-research-and-guidance-for-practitioners/.
[56] *Sambou/Slögs* 2015, p. 55.
[57] See *Drost et al.* 2015, p. 22. The country has a population of about 5.4 mill. inhabitants.
[58] The two largest regions in Belgium are Flanders with a Dutch-speaking community and Wallonia with a French-speaking population. There is also a small German-speaking community in Belgium.
[59] Mediators at Moderator have internal "intervision" of cases planned at the level of Provincial teams (a team of mediators from two or three regional services), and in addition external supervision is offered to mediators on a voluntary basis. Internal training courses include issues arising from practice, and occasionally encompasses domestic violence related issues. The training is organised by BemiddeLINK, a working group of Flemish mediation services for adults and juveniles. Depending on the topic, internal or external trainers are asked to provide these trainings, *K. Vanspauwen* (personal communication, 22.09.2016).

various stakeholders, including judicial authorities, victim support services, and representatives from the municipality.[60]

Further local initiatives provide restorative justice based responses in the field of domestic violence. One example is the programme "Prorela" ("project relational problems"), developed in 2002 and available in some Flemish judicial districts. Among the underlying reasons for creating this project was the frequency of police call-outs for disputes linked to family or neighbourhood relationships, and the parties' wish for restoration rather than a lengthy court procedure. The programme provides mediation as a response to conflicts arising from relationships, e.g. family violence. The programme is carried out in close cooperation with the police, public prosecutor and the justice of the peace (a civil judge), who mediates the case.[61]

Another example is the programme "Victim in Focus", which can look back on an experience of almost 20 years, available throughout Flanders. Based on a restorative justice approach, it offers group counselling for offenders to reflect on the impact of the offence on the victim and aims at restoration of the harm done. The programme also contains a specific approach to domestic violence, offering group sessions for couples, as well as for offenders. The programme focuses on specific aspects relating to patterns in a relationship, important values, the impact of domestic violence on the children, prevention of re-offending, etc.[62]

Greece

In Greece, RJ in cases of domestic violence has been implemented as a top-down initiative, in order to align with standards at the European level. In 2007, a special law for dealing with cases of domestic violence came into force, for the first time introducing victim-offender mediation.[63] The law states that only misdemeanours can be dealt through mediation, such as simple bodily harm, threat, insult or coercion. As a prerequisite for mediation, the offender has to give his or her 'word of honour' not to commit any further domestic violence, agree

In Greece, RJ in cases of domestic violence has been implemented as a top-down initiative, through a special law on dealing with domestic violence.

[60] See *Aertsen* 2015, p. 50, 64 f.
[61] See *Aertsen* 2015, p. 52; *Vynckier* 2009, p. 27 f.
[62] *K. Smeets* (personal communication, 30.08.2016).
[63] Law 3500/2006 "On Confronting Domestic Violence and other Provisions", actualized in 2010.

to participate in a special counselling/therapy programme and to make reparation to the victim if possible.[64]

With additional training in mediation, professionals working as psychologists or social workers in the field of family therapy carry out mediation in IPV cases. Mediators are supposed to have multi-disciplinary knowledge in the fields of law, psychology and have a background in the field of family therapy. Regarding screening of IPV cases, it is recommended that best results are achieved when family court judges, psychologists and mediators collaborate in order to decide whether a case is suitable.[65]

Separate meetings with the parties are first conducted by the public prosecutor to inform them about mediation and to assess case eligibility. The public prosecutor then refers the case to the National Centre for Social Solidarity (E.K.K.A., a public welfare organisation), where three to five mediation sessions are conducted in a 15 days cycle. The mediation sessions are often facilitated by a single mediator. Support persons are not allowed to participate according to the law.

The prosecution or trial is suspended for an observation period of three years, following the completion of the therapeutic programme by psychologists. If the offender does not fulfil the mediation agreement, criminal proceedings will be resumed.[66] The three-year observation period is rather exceptional in comparison to other European countries.

Due to a lack of trained mediators, lack of guidelines for the implementation and development of RJ practices, a lack of organisational structures and financial obstacles, the number of case referrals to VOM in cases of domestic violence is limited.[67]

In the Netherlands, there has been a growing interest in recent years in using RJ in domestic violence cases. VOM, as well as community conferencing, are applied in this area.

The Netherlands

In the Netherlands, the first projects using VOM were implemented during the 1990s, mainly driven by a grassroots movement and focusing on victim's interests.[68] There has been a growing interest

[64] *Artinopoulou et al.* 2015, p. 60; *Giovanoglou* 2015, p. 339 f.; *Gavrielides/Artinopoulou* 2013, p. 27, 29. It is pointed out that very few counselling and therapeutic programmes exist in Greece, mainly limited to the big cities Athens and Thessaloniki.
[65] *Artinopoulou et al.* 2015, p. 66.
[66] *Artinopoulou et al.* 2015, p. 60 ff.; *Drost et al.* 2015, p. 23 f.; *Giovanoglou* 2015, p. 346.
[67] *Artinopoulou et al.* 2015, p. 67.
[68] See *Wolthuis et al.* 2015, p. 74; *van Drie et al.* 2015, p. 536.

in using RJ in cases of domestic violence in recent years. Besides VOM, community conferencing is used as a method in dealing with cases of domestic violence.

Currently, there are no nationwide systematic programmes, no nationwide policy, or standards on RJ in cases of domestic violence. RJ providers implement VOM and conferencing according to their own guidelines. Principally, in IPV cases separate face-to-face meetings are held with each of the participants prior to the participants' meeting. In many cases, only one mediator is responsible for handling the case, but usually he or she is more experienced.[69]

The follow-up phase is not seen as a necessary part of the RJ process. Mediators are not required to supervise the fulfilment of the agreement taken in the process.[70]

RJ services are offered by a variety of organisations, including NGOs like *Victim in Focus, Eigen Kracht Centrale*, police, probation services, courts, or public prosecutor's office Maastricht.[71]

In terms of training, mediators complete a general mediation training course in order to become certified. In addition, they are required to facilitate a few mediation sessions per year. Specific trainings on mediation in penal matters are offered by some mediation providers. Mediators are professionals, listed in the National Mediation Organisation.[72]

UK (England & Wales)

The development of RJ initiatives in the UK over recent decades has stemmed from a grassroots-movement, based on community support. Restorative justice has received greatest attention in the field of juvenile justice, where RJ measures have been implemented since the end of the 1990. For adults, however, the use of RJ has not been promoted to such a wide extent.[73]

Views on using RJ in domestic violence situations in the UK remain strongly polarised.

There has been resistance to the use of RJ in the field of domestic violence. Public opinion has expressed concern about RJ in IPV cases, and a rather punitive oriented government has not provided support. In

[69] See *Drost et al.* 2015, p. 23.
[70] *Lünnemann/Wolthuis* 2016, p. 16.
[71] See *Drost et al.* 2015, p. 22.
[72] See *Drost et al.* 2015, p. 22.
[73] See *Doak* 2015, p. 204.

consequence, the use of RJ in cases of domestic violence/IPV is sporadic and at a low level of offending.[74] A few projects have employed restorative justice in cases of domestic violence, such as Plymouth Mediation, Warwickshire Domestic Violence Support Service (Rugby), The Daybreak Dove Project, and Victim Liaison Units.[75] VOM is the main model used.[76]

UK government strategy papers in the past have discouraged the use of RJ in cases of IPV, in particular the police. The government's view remains strongly polarised.[77] The 2004 published "Best Practice Guidance for Restorative Practitioners" stated that "The use of restorative processes in domestic violence cases is not agreed…".[78]

Similarly, the Association of Chief Police Officers' "Restorative Justice Guidelines and Minimum Standards" (2012) does not support in principle the use of RJ in situations of domestic abuse or domestic violence. However, if a victim demands a restorative practice, then police officers should assess the appropriateness of using RJ in such situations (Point 6.0).[79]

Cases of domestic violence and IPV are handled as "sensitive and complex" cases, requiring experience and special skills.

The House of Commons' Justice Committee's report on restorative justice underlines that RJ shall principally be available for all kinds of offences, in conformity with the aims of the Restorative Justice Action Plan. The report points out that even if RJ might not suit every case, it should not be excluded per se for certain kinds of offences. It further recommends the creation and funding of training opportunities by the Restorative Justice Council and the promotion of best practice guidelines for the use of RJ in domestic violence situations.[80]

IPV and domestic violence cases are handled as "sensitive and complex" cases.[81] The updated "Best Practice Guidance for Restorative Justice" (2011) differentiates between "Core Restorative Practice" and cases defined as "Sensitive and Complex". Sensitive and complex cases (Section B)[82] include acts of a serious violent or sexual nature, leading to risk of ongoing harm (e.g. sexual abuse, spousal abuse) and/or complex cases involving a range of issues (e.g. cases of emotional or physical

[74] See on the development in UK (England & Wales) *Gavrielides/Loseby* 2015; *Gavrielides/Ntziadima* 2014; *Gavrielides/Artinopoulou* 2013.
[75] See *Liebmann/Wootton* 2010, p. 17 ff.
[76] See *Gavrielides/Ntziadima* 2014, p. 10.
[77] See *Gavrielides/Ntziadima* 2014, p. 12 f.; *Liebmann/Wootton* 2010, p. 16 f.; *Drost et al.* 2015, p. 20.
[78] Home Office 2004.
[79] Association of Chief Police Officers 2012.
[80] Justice Committee, House of Commons 2016, paragraph 36.
[81] See *Gavrielides/Ntziadima* 2014, p. 16; *Drost et al.* 2015, p. 22.
[82] Restorative Justice Council 2011, p. 22 f.

abuse over a long period of time) and/or cases where an offender exercises manipulative, controlling or threatening behaviour in order to increase the vulnerability of the other person.

Practitioners handling "sensitive and complex" cases, such as cases of IPV, should be experienced and have higher levels of skill and knowledge as set out in the standards. This knowledge includes, for example, the impact that an ongoing or pre-existing relationship can have on the restorative process, the length and timing of a restorative process, relevant legal aspects (e.g. child protection measures, multi-agency public protection arrangements), and the range of specialist agencies available.

Facilitators need to demonstrate special skills in handling sensitive and complex cases, e.g., those relating to assessing harm reduction opportunities, in-depth initial specialist risk-assessment, co-working with another RJ practitioner, close multi-agency working or specialist case supervision. The standards further point out the need for more detailed evaluation and long-term continuity of case facilitation, and emphasize the need to ensure that the restorative processes should be based on the informed consent of victims. The victim should decide which gender she prefers to facilitate the mediation. In addition to face-to-face encounters, indirect mediation is also a possible option, usually at the request of the victim.[83]

Thus, practitioners in the field of domestic violence should possess specific knowledge and skills when facilitating cases of domestic violence. In practice, however, there is a lack of widely accepted training standards for RJ practitioners in general and a lack of training for practitioners dealing with IPV cases in particular.[84] Another weak point is that follow up and aftercare is not part of the victim-offender mediation process.[85]

[83] *Drost et al.* 2015, p. 23; *Gavrielides/Loseby* 2015, p. 101.
[84] *Gavrielides/Loseby* 2015, p. 96; Factsheet England & Wales, available at http://www.euforumrj.org/events/restorative-justice-in-intimate-partner-violence-european-research-and-guidance-for-practitioners/.
[85] See *Gavrielides/Loseby* 2015, p. 85; *Lünnemann/Wolthuis* 2015, p. 16, 21.

Concluding Remarks and Recommendations

Instruments adopted at the European level relating to victim's rights, restorative justice or domestic violence allow in principle for the use of RJ in cases of domestic violence.[86] Aspects relating to safeguarding victim safety, voluntariness and informed consent are among the key conditions to be fulfilled.

The EU Victim's Directive (2012) points out that Member States have to adopt measures to protect victims from repeat victimization when using restorative justice and to ensure that victims wanting to participate in restorative justice have access to safe and competent services (Art. 12). As long as safety is ensured, standards permit the application of restorative justice to the context of domestic violence.

Among the key factors to success in dealing with cases of domestic violence are training and competency of mediators.

The recently created practitioners' guide on the use of restorative justice in domestic violence situations (in particular IPV), within an EU-project, includes minimum standards in this field. Key considerations are that practitioners have specific knowledge on IPV, the importance of norm affirmation and careful preparation of the parties through preliminary separate meetings. Facilitators also need to be appropriately trained in order to provide the specific skills in handling these cases.

Another important aspect is effective inter-disciplinary cooperation and the offer of support services to the parties.

The standards recommend that a mixed gender team of co-facilitators be responsible for delivering restorative processes. Special emphasis is also placed on the period of follow-up and aftercare. Additionally, cooperation with agency partners is seen as important, particularly to ensure continuity of care.

Successful approaches to handling cases of domestic violence in restorative justice settings in Europe are based on several factors, in particular the training and competency of mediators. One of the best practice models is in Austria, where there is long standing experience in the field. Mediators undergo in-depth training, including theoretical and practical units, that provides them with the necessary tools for dealing with these complex cases.

Specific methods for addressing DV/IPV have also been developed over the years, such as the "mixed double" and "reflecting team". Encouraging research findings have enhanced trust in these practices. The interchange between practice and research has been a crucial factor in further developing practical expertise.

[86] There does not exist a specific instrument at European level providing standards on restorative justice in family/domestic violence.

Inter-disciplinary cooperation and the availability of support services are further factors contributing to the quality of restorative justice services. In Austria, cooperation between the nationwide restorative justice provider NEUSTART, public prosecutors and victim support organisations is regarded as effective and essential.

Effective cooperation between police, public prosecutors and victim-offender mediation providers is also to be found in Finland.[87] In Germany, the success of the good practice model "Die Waage" is also linked to the fact that the organisation is part of an effective multi-agency network, including victim support services, domestic violence providers, public prosecutor's offices and other stakeholders active in the sector of family violence. This collaborative model has proven to provide better tailored services to the primary parties, by bringing the specific expertise of each key stakeholder.

There is still room to enhance follow-up procedures in many European countries.

In most European countries, there is still a need to enhance follow-up procedures. Only in some countries, such as Greece, Austria, Finland and Germany, are after care procedures considered to be an important part of restorative practices. As the EU-project on "Restorative Justice in Cases of Domestic Violence" indicates, further discussion is needed on follow-up possibilities and on the guidance of parties to further services, and on the integration of victim-offender mediation in interdisciplinary network.[88] The enhancement of risk assessment tools is another important issue to ensure victims' safety and promoting the quality of restorative justice services in the family violence domain.

[87] See *Lünnemann/Wolthuis* 2015, p. 21.
[88] Ibid., p. 25.

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