

# Challenging restorative justice in intimate partner violence: A comparative research perspective in Europe

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*Συμβολή σε ένδειξη φιλίας, εκτίμησης και αγάπης για τον Αντώνη Μαγγανά*

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## **Summary**

*The appropriateness of restorative justice in domestic and interpersonal partner violence has been a subject of increased debate during the last decade. One of the most influential developments in the area of victims' rights is the European Directive 29/2012/EU on minimum standards on the rights, support and protection of victims of crime. The Directive declares among others that victims are entitled to have access to safe and competent restorative justice services. Thus, the paper aim is three-fold: a) to explore the regulation and implementation of restorative justice in IPV cases in Greece and other six european countries, b) to identify the possible risks for*

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*the victim's safety during the restorative process, and c) to provide thorough recommendations for further research and implementation guidelines for the professionals. To achieve those aims, original research data from Greece and the other European countries are presented. Conclusions and policy recommendations for the better implementation of restorative justice in IPV cases are also included.*

## **1. Literature overview**

### *1.1 Domestic / Intimate Partner Violence/ Violence against women in Greece*

The international recognition of violence against women as a human rights violation has been the result of years of dedicated campaigning by women's rights activists, feminist movements and survivors of violence, and has played a very crucial role in the inclusion of this issue to the national and international political agenda. While in the 80ties and 90ties violence against women was mostly addressed (only) as a human rights violation, during the last years progress has been made in considering Violence Against Women (aka VAW) also as a type of gender-related violence, which has its roots in a long-prevailing discrimination of women, socio-economic gender inequalities and cultural prejudices on gender roles. Actually, the issue is now addressed both as a human-rights violation, as well as a form of specific gender-related violence, which has to be separated from other forms of violence that might affect both men and women.

The European Council has issued recommendations on the prevention of injury and the promotion of safety which include those related to domestic violence against women and children (Council Recommendation 2007/C 164/01).

A framework decision on the standing of victims of criminal proceedings was also adopted, which is rather important for women victims of violence seeking criminal justice, since it provides for measures ensuring that victims are treated with respect; receive information on all aspects of criminal proceedings and on their rights; and are supported by specialized services (Council Framework Decision 2001/220/JHA). The EU Directive on 'establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA' (2012/29/EU) reinsures the victims' rights.

Since 1997 the European Parliament adopted different resolutions asking the European Commission and Member States to consider violence against women as a human right violation; to introduce specific legislation to protect victims in criminal proceedings and in the family (PD A4-259/1991); to address the issue of crimes committed in the name of honor (2004/2220 (INI)); and to put in place

clear legal basis to combat all forms of violence against women, including trafficking. The elimination of gender-based violence is a priority area of the European Commission's Roadmap for equality between women and men. While the primary responsibility to combat violence against women is the responsibility of the member states, the European Commission has a strong role to play via funding support, awareness raising activities and the promotion of exchange of good practices, to name but a few of its undertakings. Gender equality constitutes a fundamental human right and basic aim of every modern democracy.

Crises always affect more severely weaker population groups, in which women constitute the majority. When gender-based discrimination is interwoven with and aggravated by other types of social discrimination (class, ethnic origin, disability, age, sexual orientation, remote residency, etc), large categories of women face multifaceted discrimination. Women that are unemployed, immigrants, young, single parents, disabled, of ethnic and religious minorities, Roma, living on islands or in mountainous areas - these are all groups of women more vulnerable not only to the effects of economic crisis, but also to male violence in all its forms.

In Greece the phenomenon of Domestic Violence (DV) has been studied over the last 30 years. Therefore, there is a large number of studies, research data and courses on academic level on DV. At the same time there are several books and epidemiology research of the phenomenon, with quantitative and qualitative research methods. Simultaneously, there are cultural surveys to study the phenomenon of DV. We use the terms domestic violence and intimate partner Violence alternatively.

Naturally, national data on DV can be obtained from different sources. The first are the administrative and criminal data sources which are collected by the police, public prosecutors, courts of first instance (criminal and civil courts), healthcare services, social service agencies, etc. Administrative data and criminal statistics are usually gathered on regular basis and are mostly comparable over time, even though the data presented might not fully reflect the real incidence of women affected, as only registered/official numbers are presented (Tsiganou, 2010).

The second relevant source is provided by population-based surveys: population based or household surveys are considered the most reliable method for obtaining information on DV and to measure the extent of violence in the general population. Two types of surveys can be distinguished: a) large-scale surveys related to broader issues (such as poverty, crime or reproductive health), which include special modules, i.e. on DV and b) dedicated surveys, which gather detailed information on specific aspects of DV, such as on causes of violence, circumstances and consequences of violence and information on perpetrators; informa-

tion which cannot be obtained from administrative or criminal data sources. Surveys are conducted by governmental bodies, like ministries or national statistical institutes, as well as by independent agencies and NGOs.

In addition, NGOs such as shelters, support services (such as lawyers' associations, legal aid services and advocacy organizations) and NGO umbrella organizations, provide qualitative information and also data on the incidence of DV, e.g. the number and nationality of women living in shelters or requiring support.

In Greece the public debate on the issue of DV seems to be energized by the action taken at international and European fora and is mainly generated within Parliament and/or government branches. The issue of DV has been introduced in the national political agenda on the occasion of passing new laws dealing with various aspects of violence, such as with rape (1984), trafficking (2002), sexual harassment in work place, as well as DV (2006).

There is no substantial difference between the data of Greece and other European countries. Essentially this means that victims of DV are mainly women and then children. Furthermore, even if women in heterosexual relationships and children are usually the victims, acts of DV could also be either against other family members, such as the husband or the male partner (Magganas, 1999: 70), the elderly (Fattah, 1996: 165) or between siblings, or developed in the terms of homosexual relationships (Johnson & Ferraro, 2000: 949). However, today the debate is about Intimate Partner Violence (IPV). Nevertheless, the research on IPV in homosexual relationships is even more difficult and therefore, the available data is very limited.

In Greece the problem of DV has been addressed rather late in comparison to the actions taken by international organizations (Artinopoulou, 2006:67) and other countries such as the USA (Chatzifotiou, 2005: 73; Magganas, 2002: 48). Until 2006, and the enactment of the Law 3500/2006, DV had not been systematically confronted through penal law. To the contrary, the empirical research of the phenomenon was initiated in the middle 1990s, while during the previous time the relevant references are attributed to non-governmental feminist organizations (Artinopoulou, 2006: 68, Panousis, 1995: 164).

The first systematical attempt to describe the characteristics and the dimensions of DV in the Greek society has been the epidemiological research on the violence against women (VAM) in the family, conducted in 2003 by the Center of Research on Equality Issues, under the scientific supervision of Professor Vasso Artinopoulou (Artinopoulou, 2006: 89). The representative sample of the survey consisted of 1200 women from all over Greece, 18 to 60 years old, who were in a relationship and lived with a male spouse/partner. According to some of the most important findings, even though some improper -rude or insulting- behav-

iors are not recognized as violence, the majority of women do not face violent behavior by their partners or husbands. Both the sense of DV and the fact that it could be expressed through different forms are well perceived. However, only 76% of the respondents held VAM as a crime, while the victims tend to characterize the phenomenon milder than the non-victims. As far as the violent incidents are concerned, in their vast majority are not connected to alcohol or drug use and they are part of a long-term abusive behavior causing feelings of self-incrimination to the victims. Before the first epidemiological research the profile and characteristics of the victims derived from statistical data collected by the General Secretariat for Gender Equality: (<http://www.isotita.gr/index.php>)

Another research on the public opinion and views on the severity of criminal penalties regarding several crimes, published in 2002, showed that most people -and mostly men- demanded more severe punishment in cases of bodily injury between spouses (Papamichael, 2002: 948). The said research regarded several crimes, namely crimes against life, such as murder and manslaughter, sexual crimes, such as rape, crimes against women and children in the terms of DV, corruption and economic crimes and crimes related to drugs.

Even though initiatives on the level of research and information campaigns had been taken in Greece, the necessity of establishing penal provisions had been stressed out by academics, while the General Secretariat for Gender Equality had taken action on the level of information of the public (Artinopoulou, 2006: 72), the legislator and the official state mechanism were relevantly inactive.

## *1.2 Restorative Justice in Greece*

Restorative Justice (RJ) has developed in Greece during the last decade, with particular progress in the last five years. The development of RJ in Greece is based on both law and informal initiatives, but meets organizational, operational and financial obstacles that hinder the development and implementation of the RJ practices.

The introduction of provisions for the implementation of RJ measures and practices in the Greek Justice System concern the application of RJ measures through complementary or alternative procedures within the limits of the traditional Greek Justice System, - the Criminal law and the Civil and Commercial Law. These provisions were introduced as result of European directives or in an effort to improve and speed up the administration of justice, but without the further developed of the RJ philosophy. The introduction of mediation has been a very important legislative step for the Greek Justice System.

Under the Criminal Law, the introduction of penal mediation (VOM) in domestic violence cases (Law 3500/2006) came into full force in 2007 and was the result of the harmonization of Greek legislation with EU directives on the standing of victims in criminal proceedings (Council Framework Decision 2001/220/JHA), the application of mediation in criminal matters (Council of Europe, Committee of Ministers, 1999, R (99) 19), and the wider European legislation.

More recently, penal conciliation was introduced for certain felonies against property (Law 3904/2010). Furthermore, several articles of the Greek Penal Code propose the discharge of the accused from any penalty for crimes against property (Arts. 374, 375-377, 381, 382, 386-406 Penal Code), arson, explosions, etc., as long as the offender with his/her own fully restores the harms or damages caused to the victim and/or reduces the risk caused by his/her acts, within the deadlines specified by the law (e.g. up to the beginning or the end of the evidence procedure) and depending on the severity of the crime - misdemeanor or felony (e.g. before the examination in any way by the authorities in felony cases). In Civil and Commercial Law, mediation in civil and commercial matters was introduced in 2010 (Law 3898/2010). Moreover, judicial mediation was introduced in cases of private disputes (Law 4055/2012).

Especially for juvenile offenders, a range of educational measures are included in the legislation on juveniles, including conciliation between the juvenile offender and the victim in order for the offender to express apology, manage the consequences of his/her act and settle the case out of court; the community service; the attendance social and psychological programs in relevant public or private agencies or services; and other measures that have to do with the lifestyle or upbringing of a juvenile.

In all the above legal provisions, each law specifies certain preconditions in order for the parties to resort to the RJ measures or practices and other provisions regarding the procedural steps of carrying out the RJ practices, all of which concern mainly the integration of the RJ processes in the current procedural and substantive law rather than the development of the RJ principles and the essential development of guidelines for providing RJ in the interest of the victim and the offender and for improving victims' safeguards in RJ services. Only Law 3898/2010 includes provisions concerning the definition of mediator, the institutions for the training, certification and accreditation of mediators, the remuneration of the mediator, the mediation procedure in detail, and the promotion of mediation. Briefly, according to this law, the mediator must be a lawyer accredited as mediator (Art. 4c, Law 3898/2010), by a licensed institution (Art. 5a, Law 3898/2010) of training in mediation that operates as a nonprofit corporation

and under the supervision of the Ministry of Justice, Transparency and Human Rights for the certification and accreditation of mediators.

### *1.3 Restorative Justice (RJ) and Domestic Violence (DV)*

Despite the long history of the study of DV in Greece, the study of RJ is much younger (2007) and short for the Greek data, and thus not many relevant publications exist so far. State surveys carried out in 1999 and 2006 revealed the severity of VAW cases and the level of concern of Greek society and the Greek government (Giovanoglou, 2008). Like most continental jurisdictions in Europe, Greece enacted legislation providing for restorative practices, namely victim-offender mediation (VOM). Separate juvenile delinquency laws were enacted, focusing on social support and services rather than punitive treatment of VAW offenders (Artinopoulou, 2009).

Based on the European Directive on mediation in criminal proceedings, Law 3500/2006 on “The Confrontation of Intra-Family Violence” provides mediation for DV cases. This is provided only for misdemeanors, either before or after prosecution under three conditions, i.e. that the offender has agreed: (1) not to commit any further DV, (2) to participate in a special counseling /therapy program, and (3) to undertake reparation to the victim, where possible. The Prosecutor of DV (where he/she exists) or the General Prosecutor is responsible for carrying out the mediation process.

Artinopoulou (2010b) argues that the regulation of penal mediation in the Hellenic legal tradition is seen as an innovation and a step towards the refutation of the traditional punitive system. The implementation of RJ is faced with a series of problems and contradictions. These refer mainly to a lack of a wider public dialogue on mediation and RJ, as well as the potential diffusion of roles between the public prosecutor and the mediator. In an evaluation carried out in 2008 by Giovanoglou indicated that the way in which RJ was introduced for DV cases was flawed from the start. This was attributed largely to the role of prosecutors, who are expected to act as mediators despite lack of training. Particularly in the case of DV, Giovanoglou (2008) argues that prosecutors lack independence and flexibility in carrying out their mediating role. According to Artinopoulou (2010a), there is also a lack of consistent legislative guidance. Examples of shortcomings in the implementation of RJ relate to the reporting system, the lack of coordination on the part of social services and the evaluation and follow-up strategies for assessing progress. The enforcement of penal mediation is also often hampered by offenders’ own unwillingness to co-operate.

The Law on «The Confrontation of intra-family violence» (3500/2006) regulates several issues. It covers several shortcomings such as marital rape, dating violence, and the prohibition of children's corporal punishment. It also recognizes the vulnerable situation of pregnant women, children and persons with special needs, either as victims or as witnesses of violence (Art. 6[3]). Civil consequences derive from the penal law provisions. Violence constitutes evidence of marriage breakdown, and bad exercise of children and juveniles custody.

The Law also foresees support measures for the victims. Social and psychological support services are provided to the victims by relevant agencies and organizations (Art. 21). The victim's right to be informed by the police authorities about the progress of the case in the criminal justice system is clearly mentioned. According to the Article 22, if the victim of domestic violence is in financial difficulties, the state funds for his/her legal representation.

However, the Law excludes certain forms of violence (i.e. verbal, psychological) and intervenes partially to punish only the "more serious and repulsive forms of violence" (as referred in paragraph 2 of the Explanatory Report of the Law). Furthermore, more structures of helping victims of family violence need to be created, as described in the law. Existing structures are not sufficient for meeting the needs of all the family violence victims. Although family violence law does mention supporting structures for the victims and therapy programs for the offender, no such structures have been operated so far.

VOM is a new institution and practice in the Greek criminal justice system. An interesting debate started amongst the judicial and legal circles. Symposia and conferences have been held in Athens addressing the issue of penal mediation. A circular was published from the General Prosecutor of the Supreme Court (Areios Pagos), clarifying the implementation issues arising from the application of the penal mediation to family violence cases. Furthermore, in each region of the country a prosecutor is specifically appointed for penal mediation.

Ten years after the introduction of the penal mediation in the Greek legal system, we realize that it was rather 'risky' to introduce Victim Offender Mediation (VOM) for the first time in the family violence law of the Greek criminal justice system. The appropriateness of mediation and restorative justice in gender issues, such as family violence, has been questioned even in countries with a long tradition in restorative justice and alternative dispute resolutions programs.

The compliance with European law is a *sine qua non* condition for harmonization of legislation in the context of the European integration. However, preparation is needed for major changes to take place and the introduction of new institutions such as penal mediation in the criminal justice system. Adopting restorative justice programs at a national level presupposes research, preparation

and information with regard to the possible changes in the criminal justice system and the society as well.

In general, there is lack of protocols and guidelines for the development and implementation of the current RJ practices in DV cases in Greece, in terms of developing genuine RJ processes and safeguarding victims in RJ services. Pilot programs were not conducted before the implementation of the current legal provisions, while no official training was offered to the practitioners appointed by the above laws.

Overall, the main reasons for the limited use of RJ practices in DV cases, is the lack of training of competent services (where a degree of mistrust in the implementation and effectiveness of RJ processes is also observed) to the purposes and practices of RJ in such cases; the lack of guidelines and training materials, the lack of appropriate structures (e.g. mediation centers) with qualified staff to carry out the procedures; the lack of (financial) resources; and the increased workload of services. Reasons which in turn are consequences of the lack of a wider dialogue on RJ in DV and its practices, which is further reflected on the absence of pilot programs before the implementation of legislative provisions.

To this point, this project regarding RJ practices in DV cases is expected to contribute in this area by, firstly, answering the question of the appropriate RJ measures in DV cases. Secondly, developing, piloting and implementing protocols and guidelines for providing RJ in DV cases. As well as the development of training materials and programmes for professionals and best practice guidance. All of which aim in providing safeguards for the victims of DV, respect the interest of the victims and the offenders, improve the skills and knowledge of professionals, and enhance multi-agency, cross-sector cooperation among RJ/ victim services and national agencies, with the ultimate aim of minimizing the risks of secondary and repeat victimization when interacting with victims. In relation to these, several research questions are still raised.

In the case of Greece, what are the needs of the victims which the victims themselves expect and identify as important if and when they engage in RJ processes? What needs do the key professionals identify as important in order to deliver victim support and RJ services to victims of DV? What obstacles do the key professionals identify as important when providing RJ services? To what extent will practitioners of DV cases in different institutions be interested in participating in workshops and training programs on RJ? To what extent will the training materials, protocols, guidelines and best practice guidance be considered by the key professionals as practicable in the different contexts, services and agencies?

A few years ago, Gavrielides and Artinopoulou (2013) conducted original comparative research on restorative justice and domestic violence between Greece

and UK and they suggested a comprehensive theoretical and practical model. A couple of years later, the author continuing the research on the issue, conducted another original qualitative research on the issue interviewing with victims and offenders of domestic violence and professionals too, who were engaged in restorative justice and domestic violence for the needs of a European Project on the topic (JUST/2013/JPEN/AG/4587).

## **2. Research in Greece**

### *2.1 Interviewing victims and offenders*

#### *2.1.1 Description of the respondents*

The sample of the research in Greece consists of eight (8) interviewees, five (5) women, victims of DV and three (3) men, offenders of the same crime. Two women were individual victims of DV, but the rest of our sample consisted actually of three (3) couples. The sample came out of contacts with the National Center for Social Solidarity (EKKA) and they accepted to participate in this research unofficially, since EKKA could not give us official data or access due to issues of bureaucracy and confidentiality.

Regarding the characteristics of the women participants: four (4) out of five (5) belong to the age range 30-39, and only one (1) to the range 40-49. Their nationalities are Greek and Albanian. Two (2) of the victims have graduated from primary school and three (3) from secondary school and they are mostly housewives and financially dependent from their husbands. Only one (1) victim had a full time job. All of them have been married for 10-15 years, only one (1) has been married for 30 years, and four (4) of them have children. All of them are victims of DV.

Concerning their ex partners (5), three (3) of them belong to the age range 40-49, one (1) of them is between 30-39 years old, and one (1) is older than 50 years old. They have graduated from elementary and secondary school and all of them have a job. From these ex partners, three (3) consisted the sample of our offenders' interviewees.

The crime is always Domestic Violence, which in all cases has been happening from the beginning of the relationship and continued throughout the marriage. Concerning the process, the prosecutor referred to VOM all cases, pre-trial. In the cases of offenders, the police have also informed them about the process of VOM. The form of mediation is always direct and the only participants in the mediation process are the victim and the offender. The prosecutor actually in-

investigates and proposes the VOM process to the offender or the couple and the mediators/therapists are always two (a man and a woman/ a psychologist and a social worker). All cases ended with non- agreement. Victims met with the mediators one or two times in our cases.

Case 1: V1 and O1 have been married for 10 years. V1 has a full time job and O1 has situational job as a worker in the construction bussiness. They have always had problems of violence (physical and verbal mainly) but the main problem, which triggered the violence, was the alcohol abuse of the offender. The problem of physical violence was always worse when he was drunk. The couple has no children. The worse incident was when O1 chased V1 with a gun. She asked for help from the police and she also went to a hospital where the abuse was confirmed. O1 realized and accepted the problem of alcohol and wanted to apologize. V1 accepted to proceed to mediation because when her husband was not drunk he was «a very good man». She was certain that he wouldn't come to the mediation process drunk and this would be her chance to get a peaceful divorce and in a way «to close this chapter of her life». She also wanted to make him promise - and keep this promise - that he will give her the divorce and never bother her again.

Case 2: The couple comes from Albania and they have two children (girls). From the V2's narration, domestic violence seems to be a «usual problem» in Albania and V2 has been abused during all her marriage and considered it almost «natural». O2 had a situational job and was a violent man from the beginning of their relationship. He was very jealous of her and jealousy was the main cause of her abuse. V2's main problem was the fact that O2 stopped giving her money to feed herself and the children «as punishment» and her parental family stopped supporting her also, because as she said «they were afraid of him». She also asked for a divorce and he seemed willing to give it to her. The mediation took place because one of the children was asking to see the father, so that is why V2 accepted to attend mediation. She felt safe because she knew the specialists that would handle her case and her target was to persuade him to give her money for the children. He wanted to have contact with the children but also saw mediation as a means to persuade her come back and avoid punishment for the violence.

Case 3: This couple - V3 and O3 - was one of the most difficult cases of mediation, because they have been married for almost 30 years and had 5 children, one of which was autistic and the firstborn son (28 years old) had taken the part of the father. O3 had threatened the youngest autistic son with a gun and the prosecutor ordered the father's transfer to a psychiatric hospital. After many sessions with the mother and father separately, following the offender's discharge from the hospital with no «active disorder», O3 asked for mediation because he had

«realized» his mistakes and as he said he wanted his wife «to understand hers also» and most of all, «he loved her desperately» and wanted her and his children back. V3 accepted to proceed to mediation because O3 was very persistent and she was sure that mediation would possibly be the only way «to make him understand and leave her alone». She also wanted him to explain to their firstborn son the situation and «win her son back»:

Case 4: V4 is 30 years old and she is from Albania. She is a housewife and she was a graduate of elementary school. She had been married for 12 years. She is not married anymore. From the beginning of the relationship, the offender had total control. The most serious incident was when he threaded her with a gun. During their marriage, they have always had problems of violence and the main problem of their relationship was the alcohol abuse of the offender. The kind of abuse that V4 had suffered was physical, psychological and verbal. V4 accepted to proceed to mediation because she wanted to make him understand that he must give money for the children. At this time she is staying with her children in a shelter and she feels safe enough.

Case 5: V5 is 32 years old. She has a full time job. She has been married for 10 years. V5 and the offender have no children. The form of abuse was mostly physical and psychological. The most serious incident was when V5 was pregnant and the offender had hit her so much that she had lost the baby. During their marriage, they had always been having problems, she went often to the hospital and she missed work many times. V5 accepted to proceed to mediation because she wanted «to make him understand his wrong behavior» and she believed that maybe this process could «change his violent behavior». They are not married anymore and this time V5 is staying in a shelter and the reassurance of the support of the staff made her feel safe and accept the mediation.

### *2.1.2 Addressing the issues*

Most victims suffered from psychological, verbal and physical violence. Regarding the offenders they did not seem to exactly realize and accept the violent situation and they often seemed repentant of the general situation of their relationship with the victims. However, the process had many difficulties and adversities for us. It was very difficult to obtain permission to meet victims, so we came in contact with victims unofficially. It was necessary to convince them for once again to speak about their experience. We tried to approach them gently, so we would not re-victimize them. In the case of the offenders, there was also a careful approach, in order to get clear answers for their perceptions of the phenomenon of violence and their expectations from VOM.

### 2.1.2.1 Coercive Control

In our cases there was total coercive control from the side of offenders to the victims. Generally, victims suffered from physical, verbal and psychological violence. In two of the cases, offenders had an addiction problem with alcohol and one of them suffered from psychological problems. Except from one couple, the rest of the cases had also financial problems that are referred as an important factor to the DV problem. Only one of our victims had a full time job; the rest of the victims were totally financially dependent from the offenders. The most serious problems that led the victims to the decision to report the problem of domestic violence to the police are mentioned by them as follows:

- ▶ A victim had the experience of threatening with a gun «...that day I went to the police, because he had threatened to kill me in front of my children and then to kill himself. He did not care for anything. « (A. 30 years old).
- ▶ Another victim mentioned that: «I was in the sixth month of pregnancy. It was awful, it cost me too much, because when I miscarried I was on my own at home and then I began bleeding...» (M. 36 years old).
- ▶ Another one said: «From the beginning of our relationship he was violent and the first year of our relationship he broke my arm, which led me to the hospital...I thought that because we were not together for a long time,, he did not know me and my character, so I did not leave, I stayed with him...» (V.36 years old).
- ▶ One of the victims also mentioned that: «the worst incident was when he chased me carrying a gun against me, after he had hit me with the belt on my head» (A. 32 years old).
- ▶ One of the victims said that «...the most serious incident was when he threatened our child with a gun. He was actually threatening me, saying that if I left him, he would kill our son and then kill himself. It was horrible... Our son is autistic and this was a great shock for him». (B. 34 years old).

All children of our sample were witnesses of the violence. Concerning the reporting to the police, all victims went alone to the police after the mentioned above serious incidents.

### 2.1.2.2 Why joining VOM

As far as the VOM process is concerned, three (3) victims were informed by the Police and two (2) of them by their lawyer and the reasons for accepting to participate in the mediation process were various: two of the victims aimed at getting

financial support from the perpetrators, one of them wanted to be sure whether the offender could change, one wanted to be sure that she could be safe from the offender, and one of the victims wanted to make the offender come to him senses.

All victims discussed the possibility for their participation to VOM with a social worker and two of them with their lawyer. All of them were supported at this time by a Public Organization (EKKA) and by their lawyer and all ex partners had already accepted to participate to the process of VOM. However, the offenders' reasons of participation seem to differ from the victims'. So, offenders wanted to persuade the victims to return to their home and the relationship and stop the legal procedures. Victims were prepared before the VOM meeting directly by their social worker and psychologist and in some cases by their lawyer. Victims admitted that the whole process was very helpful for them, even if they did not reach an agreement.

#### *2.1.2.3 Experiencing VOM and the role of the mediator*

About the experience of VOM, victims said that they were scared at first and some of them even had psychosomatic symptoms. However, they all felt safe throughout the process. Additionally, they mentioned that they felt respected and understood by the mediators and that no one tried to minimize their injuries caused by the violent act. The role of mediators was very specific, tried to be neutral and they helped a lot in all cases.

There didn't seem to be a dialogue between victims and offenders during the process of mediation, because offenders were verbally aggressive and tensed and in some cases mediators tried to calm them down. Generally, mediators only intervened when offenders' behavior was inappropriate.

In the whole process, the victims discussed the matters they wanted and in some cases, even matters that were not fully discussed before with the offenders, such as the alcohol addiction of the partner.

#### *2.1.2.4 Results of VOM*

From the side of the offenders it is obvious that there are some differences in their perceptions and motivations than the victims'. So, two (2) of the offenders didn't take over responsibility for the DV and blamed the victims and three (3) realized their responsibility of their actions and behaviors. In all cases, victims and offenders did not reach an agreement, neither during the VOM procedure, nor

after VOM. Generally, offenders showed a kind of remorse and they promised to change their behavior (again).

Regarding the follow up procedure there was a phone call after approximately 2-3 months. Victims said that VOM didn't play an important role in the situation of violence, but this was mainly because when VOM started they weren't living with their husbands anymore. IPV has already stopped before VOM, because the victims had not been living together with the offenders anymore.

### *2.1.3 Discussion on the interviews*

Our findings have shown the perspective of interviewees about VOM, its usefulness and the process. In general, the role of VOM in the cases of DV is not absolutely clear, either to the victims or the offenders, but what is clear from our results is that victims and offenders have different motives for using VOM.

From the side of the victims, they are involved in the mediation, depending on the information they get and in order to "earn" something from this process and not because they believe that mediation will stop the violence. Many times victims are scared because they don't trust the offender. So, there seems to be an initial distrust to the process, and they use it as another means of trying to feel safer and get a kind of "commitment" from the offender that he will stop his abusive behavior and will be consistent to his word this time.

In DV cases where the victim's safety is at stake and the victim is alternatively willing to use the court, some believe the court can be the only authority to guarantee that the abuser is held accountable for his misdeeds.

Unfortunately, the victims' safety is at stake, during the mediation process. It takes months before the couple or the offender start the mediation meetings with the psychologists, due to a long waiting list. Of course, the offender in DV cases against women "has given his word" that he will not commit any act of violence in the future. But, in such cases, considering the cycle of violence, the offender has given his word many times to the victim that he will not beat her up again. How strong is the fear of the law's threat? Who can guarantee that he will be able to keep his "word" and not commit the same crime again? Abused victims are at the greatest risk of physical violence when they leave their spouses. If the abuser and the victim meet for a mediation session, then the "conference may allow a batterer access to a spouse who has successfully evaded contact since the separation."

Victims seem to use the mediators as "witnesses", hoping that their partner will be consistent to any commitment that the mediators will be able to draw from him. Even if they feel scared about the reactions of their ex partners, the victims participate in this process in order to convince the offenders to cooperate.

When children are involved, victims want to secure themselves and their children financially. Therefore, in our cases of interviewees, the reconnection with their partners and the end of violence was never an expectation.

The offenders' motives, though, on the other hand, seem to differ since they participated to the process because they wanted their spouses and their children back and they also wanted to stop the legal procedures. In front of the mediators, the offenders seem to be less violent and aggressive and they tend to "acknowledge" their mistake, but in no case they feel that they are the only one to blame for the abusive behavior. However, both sides, in our cases, respect the mediation procedure and the mediators and their experience of the process is positive.

#### *A. Allow victims to decide whether to mediate*

Due to the issues of unfairness that can arise when a victim of domestic violence undergoes mediation and the disadvantages that she may suffer as a result of her inability to advocate for herself, many contend that such victims must request mediation; otherwise, the mediation should not be allowed to go forward. Victims are obviously most familiar with their own situations; thus, they should be the ones to decide the form of the decision making process.

Victims should be asked first by the prosecutor and mediation should never take place in case a victim denies going through it. This is something that is implemented by the Greek authorities. It should also be clarified that mediation needs both parties (the victim and the perpetrator) and it cannot be implemented only in the case of one person.

There are various factors that should be considered, such as the severity of the abuse, possibility of immediate danger, likely behavior of the abuser, and the feasibility of the victim being represented by an attorney. While critics (Stubbs 2002, Acorn 2004) may argue that mediation is never appropriate for cases involving domestic violence, the more common approach is to assess power issues on a case-by-case basis paying particular attention to: duration, severity, frequency, onset of violent incidents, abuse of alcohol or drugs, psychiatric disorder, and other family dysfunction. The effectiveness of mediation depends also upon the extent of the violence. The Prosecutor of Domestic Violence always assesses the cases and the proposal of mediation to the couple is in his/her discretion.

Furthermore, the motives of the perpetrator should be carefully examined. Since the law gives the possibility to the prosecutor to drop the case, does not press any charges and withdraw the case from the records, the criminal procedure is stopped for three years. The perpetrators' interviews have shown that this arrangement of the law is very convenient for them and it works positively regarding their choice to participate in this program. So, mediation could be used from

the perpetrators in order to save themselves from criminal charges. That is why it would be suitable to arrange for a program for the perpetrator first, such as programs of learning how to control the anger or psychotherapy, and then arrange for mediation. Also, since domestic violence is undoubtedly a crime, any rehabilitation program should be dissociated by some kinds of “punishment” from the law.

### *B. Training mediators and screening couples for abuse*

Many advocates of alternative dispute resolution propose that proper screening would create an effective ground to mediate cases involving domestic abuse. Before a prosecutor sends a couple to mediation, for misdemeanors' cases of domestic violence, he or she should be sure that the mediator understands the components of domestic violence and is capable and fully trained of handling the exact cases of violence. Mediators must recognize that victims are typically fearful of retribution by their battering spouses; thus, victims may not fully inform mediators of their exact situation or dodge certain questions asked of them. The fact that there are psychologists and social workers handling mediation, who are very experienced in cases of couples, is actually a very positive element to the mediation process.

Although many people recognize the need for proper screening for domestic violence, there is no consensus as to the qualifications of mediators who make such vital determinations in these cases. It seems evident that mediators cannot gain the skills they need to carefully assess each potentially abusive relationship by relying on their own experience. Due to the complexity of the cases at hand, mediators must receive «cross-disciplinary training» in order to gain insight into the legal aspect of such cases and the psychological underpinnings of the parties.

### *C. Judges, psychologists, and mediators should collaborate and recommend a proper course of conduct to the victim*

It must be pointed out that mediators are not psychotherapists, judges or prosecutors, but they should have multi-disciplinary knowledge and training: they should have a very good knowledge of the law, of psychology and mediation tools. Mediation is a multi-disciplinary process, but at the same time is also “something else”, “something more”. Mediators should be trained specifically as such, as an addition to their discipline, specially skilled and educated.

Screening problems and lack of mediator and judicial training in domestic violence cases are some of the major flaws with the current state of mediation of abusive relationships. There should be an amalgamation of many of the recommended solutions to this divisive debate. Family court judges understand the law;

psychologists understand the mental underpinnings of domestic violence; and mediators understand how to facilitate a compromise amongst two willing parties during a mediation session. If a judge, psychologist, and mediator cooperate whether mediation should be pursued, then all aspects of the multifaceted abuse can be taken into account.

Moreover, mediation provides former spouses with an opportunity to resolve their disputes amicably and tailor compromises to their specific needs. Particularly in cases where parents share custody of the children, their continuing relationship will forever benefit from its non-adversarial dissolution.

*D. Victims should be provided a greater bargaining power, especially when the offender has the means to hire a lawyer, while the victim does not have the possibility due to financial difficulties. In cases of victims of domestic violence, regardless of the persons' assets, and especially when the person does not have a steady income, there should be free judicial representation for them.*

*E. Redefining of the legal framework to fix the inequalities between victims and offenders*

The law needs improvement which should be followed by new services of mediation offered by more organizations of the country, all over the territory, and adequately staffed. There should be also a new cooperation framework between the Prosecutors and the mediation agencies. In any case, an integrated theory needs to be developed, a detailed examination and designing of interventions, based on multidisciplinary and multi-agency approach with common, integrated intervention protocols and the special training of criminal justice professionals in psychosocial matters and the psychosocial professionals in criminal justice cases.

*F. The creation of family courts in Greece*

Unfortunately, the lack of family courts in our country has become a serious problem for victims of domestic violence. The family courts are superior courts, whose goal is to provide the best possible services for children, families and family members, through effective remedies and non-court proceedings, high quality and timely judgments while respecting the needs of families who are separated. Therefore, family courts are competent to hear cases of domestic violence.

The family courts and their specially trained judges in violent relationships have an increased awareness in domestic violence or Intimate Partner Violence cases.

It was rather 'risky' to introduce Victim Offender Mediation (VOM) for the first time in the family violence law of the Greek criminal justice system. The ap-

propriateness of mediation and restorative justice in gender issues, such as family violence, has been questioned even in countries with a long tradition in restorative justice and alternative dispute resolutions programs.

## *2.2 Professionals' focus group*

### *2.2.1 Attendance*

Our focus group was consisted of five persons; an ex prosecutor of domestic violence in Athens, a police officer, a psychologist and a social worker, who both participate as professionals in the couples' mediation in cases of domestic violence, and a lawyer-mediator. They are all experienced in domestic violence situations as mediators and counselors, while the police officer has an important experience in domestic violence situations during his service, as he had to intervene in such cases many times. Three of our participants were females from 30-45 years old and two were men from 30-55 years old.

The prosecutor of domestic violence has been a prosecutor since 1999 and a prosecutor of domestic violence for one and a half year. The police officer has been working on the field, in a police car, for 18 years. Due to a very serious injury, he has been an operator to the central police offices, for the last two years, where he is responsible for sending the police cars to the incidents after the calls.

The psychologist and the social worker work in the National Center for Social Solidarity (aka EKKA) who is the national Agency which implements the Penal Mediation Programme (as Law 3500/2006 determines). They both participate in the Programme in Athens. The psychologist has an experience of 18 years, and the social worker of 10 years and they have been participating to the Penal Mediation Programme from its beginning that is in 2008. Finally the lawyer-mediator, has been a lawyer since 2009 and a mediator since 2013.

All of them have been working in Athens, except of the mediator who is working in the island of Samos.

The participants of the focus group were informed about the project in general. They were also informed about the results of the interviews with the victims and the offenders, who have participated in the mediation procedure.

### *2.2.2 Summary of the discussion*

Following a discussion on the results, it was not a surprise to them that victims

and offenders had completely different reasons of participating in this process. As they all agreed, it is something that they have also realized during their careers. It is important to mention that some important issues about mediation were clarified between the professionals and it was interesting to realize that they all shared the certainty that mediation works, even if the law needs improvement.

What was also pointed out is that there is a very serious problem in the provinces of Greece and that everything that was discussed was focused in Athens. For example, the mediator from Samos was very interested in the results of our interviews because there is a serious problem in the islands. So, in Samos the therapeutic programme is proposed only to the perpetrator (exactly as the law defines) and the victim is only asked from a psychologist usually to give some information about the incident. So, mediation is not actually a choice for the couples.

The police officer's opinion about domestic violence as a crime and a social phenomenon is really worth mentioned. He claims that domestic violence in Greece has been increased over the last eight years and that the perpetrators are mainly immigrants (Romanians, Albanians and Russians). His experience over the years has shown that Greek women do not call themselves to the police stations during a domestic violence situation, but mainly the neighbors are the ones who call the police to report the incident. On the contrary, immigrant women most of the times call themselves. In his opinion, the reason is probably the fact that "Greek women are ashamed for what is happening to them and they want to protect their home and family and not to destroy it".

He has not arrested most of the perpetrators, because they are actually "sick people, who need help and not detention" and that they are trying to "talk to them to bring them to their senses." Sometimes, they take the perpetrators to the police station to help them calm down. In serious incidents and obvious injuries of the women, they arrest the perpetrators, for example: "if the woman is lying down on the floor in blood". He stresses out the importance of social services and psychologists in such cases, suggesting that there should be this kind of professionals to all the police stations, because sometimes he and his colleagues feel that they have to "be psychologists also" in order to effectively assist.

The police officer's contribution to our focus group was really important in order to get an idea of the representations, opinions and beliefs of a very important professional cast, who intervene directly and in the front line as far as the domestic violence phenomenon is concerned.

What is also interesting is the fact that police officers seem to act as "mediators" in cases of domestic violence. They talk to the perpetrators, they try to calm them down, and they even remove them from the scene sometimes, in order to help the whole family, as they see it.

Our participants in the focus group were experienced in cases of domestic violence and they all agreed that it is a social phenomenon and a serious crime that has flourished especially the last 5-6 years. They said that there is indeed an increase especially between immigrant populations, but also between Greeks. It seems to them that the cases of domestic violence have also become more severe and the difficulties to assist these women have become more due to the economic crisis. Yet, they all agreed that this law, even with its flaws, is a great acquisition for Greece and for the Greek criminal justice system and the efforts of all the professionals involved are focused on its more effective implementation.

Many important issues came out from the discussion: the role of the prosecutor, the Mediation Programme of EKKA and the professionals who deal with it, the cooperation between EKKA and the Prosecutor's office and the actual interpretation of the law and the term of "mediation", as it is mentioned in the law's article.

It appears that there is a dysfunction as far as the implementation of the law is concerned regarding mediation. Once more the lack of personnel in the various Organizations was stressed out as a main factor for the correct implementation of the law. More specifically and even if the law is clear as far as the prosecutor's role is concerned, mentioning that the prosecutor "investigates the possibility for mediation", the prosecutor of the focus group pointed out that it is impossible to do it herself for so many cases of domestic violence, so she actually forwards the order with the whole file to the local police stations, they investigate the possibility for mediation and when the file is completed, it returns to the prosecutor's office to proceed with it. Our prosecutor, that she mentioned has a very good cooperation with the police stations and she is convinced that they do the best they can.

What is also worth mentioning is that the two psychosocial professionals agreed that the cases that reach their Organization for mediation are not very severe cases. The prosecutor stressed out the Prosecutors' discretion as to whether they will propose mediation to a couple, always assessing the severity and the duration of violence. In extremely violent situations, the Prosecutor does not refer the cases for mediation. So, it makes sense for the two psychosocial professionals who work with the couples in the mediation programme, why the cases that reach to them are not so severe cases of domestic violence. Yet, the prosecutor clarified that even with some rather serious cases, such as cases of victims who are accommodated in shelters, they propose mediation as a final effort for the couples' reconciliation and agreement regarding their children, because the professionals themselves feel that these women are protected in the shelter. Of course, the most important condition is the woman's agreement.

Another concern is the waiting list of couples who are interested in and referred from the Prosecutor's office for mediation. Both psychosocial professionals

stressed out the fact that the personnel is not adequate to perform mediation to all these couples, so the waiting list reached to one and a half year! The prosecutor realized that she has never asked herself for how long the couples have to wait, but on the other hand, this is not her responsibility, as she said. So, when couples reach the organization for mediation, most of the times, they have either taken a divorce or they have generally found ways to cope with the problem, as the professionals mentioned. What is still a major concern that was not made clear in the whole process of the focus group is what happens to the files of these couples, who finally do not participate to a mediation programme, but at the same time domestic violence has stopped. The prosecutor said that sometimes the victims change their first testimony, trying to minimize the facts, in order to stop the criminal procedures. What seems to be clear to everyone is that since a person is accused of domestic violence and the time limit of the three years has not ended and even if the couple has taken a divorce, since domestic violence is a crime ex-officio, the person has to be referred to trial.

Another important issue is the protection of the victims in the whole process. Besides restriction orders and the possibility to accommodate a victim to a shelter, there are no other measures to protect the victims. All the participants agreed that there are no specific measures to protect the victims, either during the process of the mediation or after it. "The only protection we can give them, besides the shelters, is that we do not send couples for mediation when the violence is too serious", said the prosecutor. The mediator suggested that "there should be separate meetings with the victims and perpetrators and not with both of them at first. The perpetrator should attend a therapeutic - counseling programme as the law says, but at the same time, the victims should receive separate treatment and therapy"

They also all agreed that victims and offenders in mediation participate for different reasons each and that this is a problem during the process, but even then the psychosocial professionals (social worker and psychologist) agreed that mediation/ therapy helps in the end, most of the times, both victims and offenders. So, a large percentage of the offenders come to mediation in order to avoid Court and punishment. The victims' purpose is to punish the offender and some others aim at changing the offender, believing that "if I did not make it to change him or persuade him to change, a professional will surely do", as the social worker characteristically repeated the words of one of the victims. Psychosocial professionals in EKKKA were also clear that what they do is not actually "mediation", but therapy and counseling. That is why they do not see themselves as the continuity of the public prosecutor's office, because they see themselves as therapists. "We're not the continuity of the public prosecutor's Office. We tell them that, from the first

time they come here. They wait for us to be the continuity of the prosecutor". "We tell them that violence is not allowed during this process and that the process will stop in case the victim informs us that there has been an incident of violence between them and then inform the Prosecutor about it...about the ending of the cooperation, not the violence incident. This has to be investigated by the Prosecutor"

All of the members of the focus group agreed that the law and the mediation are beneficial. Mediation "is also trying to prevent, in some cases at least, that is, the prevent from arriving to court cases that can be restored with a right program; that the family's relations can be restored"

The professionals pointed out the lack of a national registry to cases of domestic violence. Neither of them can track down the case after the mediation process has stopped, not even the prosecutor. The Prosecutor is aware only of the cases that went to court. There is not even follow up for the cases.

Neither of the professionals who participated in the focus group, besides the lawyer-mediator, has received any training about mediation. The Prosecutor of Domestic Violence has not even received any training in domestic violence either. "I have only studied the law and I am reading anything that is being published either on the Internet or in law journals, I have attended some conferences, I have studied the findings of researches that some of my colleagues have done..."

As a major problem, as it was pointed out from the mediator - and they all agreed - is the incomplete and sometimes incorrect information that both parties have of the benefits of mediation, so "both victim and perpetrator do not have the chance to work out what is really happening in their relationship". They use mediation instead either as a means of punishment or to avoid criminal charges.

What is also important is that they all agree that mediation has many advantages, such as the handling of domestic violence with confidentiality and privateness without sending couples to court. "Victims need the Organizations' empathy to feel secure and the sense that their problem is being heard". Mediation works out for the perpetrators also in order to realize the real dimensions of their acts and the effect that these acts have on the victim.

Our group focused also on the importance of the guide. They all agreed that this guide should include all the necessary information about domestic violence and mediation process, pointing out the elements of trust and free will, so that they are able to choose based on all the facts, if they really want to proceed with mediation. The social worker suggested that it should also include all the important rights of the women based on the laws. "Battered women should have all the necessary information in order to be able to leave the abusive relationship safely. For example, they should know that they have to denounce the incident to the po-

lice station the soonest possible, especially when they take their kids with them, because the kids' father could easily press charges against them for child's abduction and she could be in serious trouble. When women do not know their rights, they get re-victimized again and again very easily”.

Our criminal justice professionals also pointed out the fact that mediation works for the decongestion of the courts and cases could be more easily and quickly solved.

### *2.3 Summing up research in Greece*

There seems to be a general consensus as far as the perceptions of the professionals who work in the field is concerned, regarding the implementation of VOM in Greece. What is important to point out is that they all agree concerning the impact and the usefulness of the law for the confrontation of domestic violence, as it works as their original «tool» and it gives them the framework and the general instructions concerning their work with victims of domestic violence.

As already mentioned, misdemeanors of domestic violence are the only cases that are referred for the counseling programme of EKKA from the Prosecutor, who is actually the first who meets with victims and offenders and evaluates the cases. But misdemeanors vary as far as the kind and the seriousness of violence is concerned and it is obvious that another main evaluative criterion for referring the cases is the Prosecutor's discretion. So, there maybe cases that seem to be rather serious (as the ones mentioned in our research), but the Prosecutor, following his/her evaluation and screening of each case, is the one who takes the final decision whether a case should be referred for further mediation/counseling or not.

Furthermore, what seems to be insufficient between Organizations and professionals who actually handle the same cases and situations is the communication between them. From the discussion of the focus group it came to the surface the lack of contact and information between the professionals, which is a result of the workload and the lack of personnel who actually struggles to handle numerous of cases, as the professionals argued. The fact that there is not a consistent follow up of the cases comes to strengthen this gap.

What should be pointed out, though, is that all the professionals who participated in our focus group found it extremely important that they met each other. For all of them, it was the first time that they sat on the same table with their colleagues from other fields, disciplines and Organizations, but who all have the same actual target, which is the competent assistance of the victims of domestic violence.

### 3. The European scene: Restorative justice and intimate partner violence in six European countries

Europe has no one-dimensional perspective either in restorative justice or the domestic violence issue. There are differences in the legislation, and in the policies adopted for the confrontation of domestic violence. Restorative Justice is focused in the victim offender mediation and, except in the case of UK, it is legally provided. Comparativeness in European legislation and in implementing restorative justice in domestic violence cases is not an easy task. That is the reason why we address seven questions to describe the situation in seven member states (Greece included). The following tables elaborated by the author are based on the facts sheets of each country as presented in the European Conference on Restorative Justice and Domestic Violence (Brussels, January 25, 2016).

#### 3.1 RJ inside/outside the Criminal Justice System

<i>Country</i>	<i>Fact sheet</i>
<i>Greece</i>	The victim-offender mediation and conferencing (counseling) within the criminal justice system and its outcome might have an impact on the offenders' sentencing.
<i>England-Wales</i>	RJ is external to the criminal justice system. Outcomes of RJ processes do not officially influence criminal matters.
<i>The Netherlands</i>	Victim-offender mediation and conferencing are used within and outside the criminal justice system. Its outcome can have an impact on sentencing and consideration of charges.
<i>Denmark</i>	Victim-offender mediation is additional to criminal procedures but can have an impact on sentencing.
<i>Finland</i>	Victim-offender mediation is additional to and outside the criminal justice system. Its outcome can have an impact on sentencing and consideration of charges.
<i>Germany</i>	Victim offender mediation including IPV cases is mostly used inside the criminal justice system
<i>Austria</i>	Victim-offender mediation is inside the criminal justice system (as a diversionary measure). Since 1992 also used in IPV cases.

The first key question explores where restorative justice is cited in relation to

the criminal justice system and more concretely if restorative justice is linked and how to the criminal proceedings. The European picture reflects the differences between the continental and the common law legal systems. In the continental systems, restorative justice is placed in and in the borders of the criminal justice systems, though UK following the Anglo-Saxon tradition places restorative justice out of the legal system.

### 3.2 Laws and regulations

<b>Country</b>	<b>Factsheet</b>
<i>Greece</i>	Law on victim-offender mediation since 2006 (Law 3500/2006 on <i>Confronting domestic violence and other provisions</i> , Article 11 on <i>Penal Mediation</i> )
<i>England-Wales</i>	Crime and Court Act 2013 – RJ can be initiated by courts post-conviction/pre-sentence. Ministry of Justice 2014 guidance in relation to section 1ZA (6) of Powers of the Criminal Courts (Sentencing) Act 2000- enabled a series of pilot schemes to deliver pre-sentence RJ.
<i>The Netherlands</i>	Law on victim-offender mediation since 2011 (art. 51h Criminal Procedural Code), stating that the office of the public prosecutor arranges that the police will inform both victim and offender in an as early stage as possible about mediation
<i>Denmark</i>	Law on victim-offender mediation since 2010 (LOV nr 467 of 12/06/2009).
<i>Finland</i>	The Act on Mediation in Criminal and Certain Civil Cases since 2006 (1015/2005).
<i>Germany</i>	Criminal Codes Art. 46a; Code of Criminal Procedures, Art. 153a.
<i>Austria</i>	Code of Criminal Proceedings, Art. 198.

The second issue explores if there is a legal framework on restorative justice and mediation. All European countries of the sample have some kind of regulation of mediation, provided either by law or by guidelines and regulation.

### 3.3 Special organization in place

<b>Country</b>	<b>Factsheet</b>
<i>Greece</i>	Victim-offender mediation is being carried out by the National Center of Social Solidarity (aka EKKA), a national organization that accepts referrals from the Prosecutor of Domestic Violence.
<i>England-Wales</i>	There is no state-run organization of practitioners. RJ is provided by a range of community based service providers, and in some instances, internally by criminal justice agencies.
<i>The Netherlands</i>	Different organisations, such as Victim in Focus (organizing victim offender conversations outside the criminal justice system), Eigen Kracht Centrale (conferencing), mediation bureaus in the court (victim-offender mediation within the criminal justice system).
<i>Denmark</i>	Victim-offender mediation comes under the National Police.
<i>Finland</i>	Victim -offender mediation is carried out by government funded local mediation offices.
<i>Germany</i>	Non governmental organisations (e.g. Waage Hannover e.V.)
<i>Austria</i>	<i>Neustart</i> is the only nation-wide provider of judicial services, financed by the Ministry of Justice.

The third key question is “how and by whom restorative justice and mediation is provided” and explores the ways of organizing restorative justice (public authorities, volunteers, NGOs, etc.). We found that, even if restorative justice is regulated in the countries of our sample, there are different organizations that deliver restorative justice services in each country. To explain this kind of diversity we may hypothesize that restorative justice is still a new - exploratory - field of criminal justice policy and the organizations try to find their identity on how the philosophy of restorative justice is to be implemented in order to involve all the interested parts of the violation, the offender, the victim and the community. Another possible explanation is that restorative justice due its vibrant, dynamic and transformative character has to be adjusted properly in different settings, which is why there is no uniformity of the organizations in different states. Restorative justice meets the victims’ and offenders’ needs; and the organizations have to be flexible and adjusted in certain contexts. In other words, this lack of cohesion on

how restorative justice is delivered maybe has an added value for doing justice and bringing together the victim, the offender and the community.

### 3.4 Main referrers

<b>Country</b>	<b>Factsheet</b>
<i>Greece</i>	Referrals (to EKKA) by the Prosecutor's office only.
<i>England-Wales</i>	Victim community support services, police, prisons, probation services, courts, youth offending agencies.
<i>The Netherlands</i>	Police, victim support, lawyers, office of the public prosecutor, youth care.
<i>Denmark</i>	Referrals by the police.
<i>Finland</i>	Prosecutors and police officers are the only authorities able to refer IPV cases to VOM.
<i>Germany</i>	Referrals by Public Prosecutor's Department and Court.
<i>Austria</i>	Referrals by public prosecutors and court.

Police and public prosecutors are the main agencies of referrals to restorative justice. They have the powers and the authority, provided by law, to decide if a case is appropriate to restorative solution. However, UK has a wider spectrum of the main referrers extending to the victims support agencies, prisons and youth offending agencies. UK has a long tradition in restorative justice practices comparing to other European countries, which is why the referrers come from communities and the criminal justice system.

### 3.5 Professionals/lay persons

<b>Country</b>	<b>Factsheet</b>
<i>Greece</i>	Mediators are professionals, social workers and psychologists, trained as family therapists and counselors.
<i>England-Wales</i>	There are no widely accepted professional standards for RJ practitioners in England and Wales.
<i>The Netherlands</i>	Professionals.
<i>Denmark</i>	Mediators are lay persons employed by the National Police.
<i>Finland</i>	Mediators are trained lay person with various professional backgrounds.
<i>Germany</i>	Mediators are professionals
<i>Austria</i>	Mediators are professionals, employed by <i>Neustart</i> .

Who implements the mediation and the restorative justice is the fifth key question in our comparative research. Professional mediators or trained volunteers do the mediation in the European countries that have continental law systems and different practitioners in the UK, who are experienced in restorative justice. So, standards and criteria of implementing restorative justice have to be further addressed in order to meet the victims' needs and adjusted to special types of victimization.

### 3.6 Training, specific for IPV

<i>Country</i>	<i>Factsheet</i>
<i>Greece</i>	Trained counselors and family therapists, especially in cases of domestic violence.
<i>England-Wales</i>	There is a lack of widely accepted training standards and procedures in general and training in regards to RJ and IPV in particular is rare.
<i>The Netherlands</i>	Not much outside of the general mediation education. Co-mediation and experience required.
<i>Denmark</i>	One week's basic training. No further training for cases of intimate partner violence.
<i>Finland</i>	Lay persons get a special training for mediation of domestic violence focusing on phenomena of IPV and Restorative Justice process (including lectures, study groups, practice and assignments altogether 135 hours).
<i>Germany</i>	Special training for mediators working with IPV cases are 2 to 3 workshops with 2-3 days each; theoretical instructions and practical issues.
<i>Austria</i>	Obligatory internal curriculum; 212 units of theoretical instructions and practical experience from 36 VOM sessions.

In cases of domestic violence there is a special training of the mediators and restorative justice practitioners in Germany, Austria, Finland and Greece. UK and the Netherlands have no special training programs for IPV, but other safeguards are implemented, as the co-mediation and the guidelines for handling such cases. The European Guide on Restorative Justice and Domestic Violence, produced by the European project (JUST/2013/JPEN/AG/4587) bridged that

gap, providing the standards of how restorative justice practitioners guarantee the victims' rights within the restorative procedures.

### 3.7 Number of cases per year

<i>Country</i>	<i>Factsheet</i>
<i>Greece</i>	In 2014, EKKA handled 31 cases in Athens and 82 in Thessaloniki.
<i>England-Wales</i>	It is unknown how many IPV cases are engaged by RJ practitioners, but it is likely to be very few.
<i>The Netherlands</i>	Estimations lay around 1000 mediations in penal cases in the whole country, but there are no specific figures for IPV mediations.
<i>Denmark</i>	About 50 cases.
<i>Finland</i>	According to the 2014 statistics, 1829 criminal IPV offenses were referred to VOM.
<i>Germany</i>	About 1000 cases per year in Lower Saxony (Lower Saxony has approx. 10% of the population of Germany).
<i>Austria</i>	About 1,250 (about 20% of all VOM cases).

The last question explores the number of IPV cases that handled through restorative justice in the seven European countries of the sample. We found that even if we are aware of the number of cases referred to restorative justice and mediation, we have no clear picture of the finalized cases and their outcome. Further research and follow up evaluation needed in national and European context to explore the results and the assessment of mediation and restorative justice in IPV cases.

## 4. Challenges and recommendations for future research in domestic violence and restorative justice

Implementing restorative justice in domestic violence cases is a complex issue. There are many internal theoretical and methodological complications in understanding either restorative justice or domestic violence that make difficult any links and interrelations between the two of them. The different ideologies and perspectives in explaining domestic violence phenomenon, and the 'resist-

ances' of the traditional criminal justice systems at the same time may leave the victims of violence in silence and suffering. The reassurance and the protection of victims' rights realised through the implementation of the European Directive 2012/29/EU and its adoption by the member states. And this is per se the real challenge for the European criminal justice systems. Concerning the implementation of restorative justice in domestic violence cases, certain recommendations for further research and guidelines suggested, align with the findings of a European research on victims rights and the EU Directive (Artinopoulou & Michael 2014):

- ▶ A balanced approach regarding the rights of victims and offenders is an essential element for the proper functioning of the criminal justice system. A victim-led criminal justice system is a very promising development, but it does not exclude the respect of the rights of the offenders.
- ▶ The prevention of secondary victimization in the victims of IPV must be a key issue for restorative justice practitioners.
- ▶ Educational materials, guides, protocols, and brochures for professionals and victims, which will describe the principles and benefits of RJ, ways of good and safe application, good practices and ways of implementing the Victims' Directive and RJ focused on the victim, presenting evidence of the efficiency of RJ processes (surveys, real stories, experiences documentation), need to be produced.
- ▶ More training seminars and awareness raising of police, prosecutors, judges and other professionals who staff the existing bodies currently responsible for implementing RJ measures, need to be carried out, aiming to better familiarize them with the principles, techniques, good practices and methodology of RJ. The practitioners should be trained and sensitized on the rights of victims and RJ processes.
- ▶ Supervision programmes for professionals who come into contact with victims, but also apply RJ practices, should be established.
- ▶ The organization of national programmes in collaboration with relevant NGOs, state institutions, academia and other scientific agencies could be beneficial in order to implement RJ practices in all areas of society (community, schools, workplaces, justice system, academic and scientific community) and raise awareness of citizens and stakeholders.
- ▶ Mediation should be promoted as an immediate alternative for reconciliation and conflict resolution, while RJ services should be expanded beyond the court system, to other social services, in order to decongest the CJS and the implementation of additional RJ practices.
- ▶ Efficient assessment and preparation for offenders and victims should be

provided by experts trained in restorative practices as well as psychologists and social workers. Complete and impartial information should be given to victims and offenders about the processes before taking part in RJ.

## 5. Conclusions

In this chapter we explored the issue of implementing restorative justice in domestic violence cases. After a thorough review of restorative justice and domestic violence in Greece, the findings of an original qualitative research and key issues for the victims and offenders of DV who participated in restorative justice process were addressed. Beyond this, the professionals shared their views and worries about restorative justice appropriateness in DV cases, during a focus group discussion. On a European level, seven key questions were explored in seven European countries trying to identify how restorative justice is provided, delivered and implemented in DV cases. The diversity of practices in mediation and restorative justice reflects the different provisions and frameworks of handling such cases and regulating restorative justice through Europe. Overall, the main goals are the protection of victims' rights balanced with the offenders' rights in a fair and effective procedure, that lead to stop the victimization and the reintegration of the offender. Both aims are difficult, but not unachievable.

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