

Restorative Justice in Cases of Domestic Violence

Best practice examples between increasing mutual understanding and awareness of specific protection needs.

(JUST/2013/JPEN/AG/4587)

**Victim Offender Mediation: Needs of victims and offenders of Intimate Partner Violence
2nd Comparative report, Interviews & Focus Groups**

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Written and compiled by:

Katinka Lünemann

Annemieke Wolthuis

Verwey-Jonker Institute, Utrecht

Country reports have been prepared by:

Austria	Birgitt Haller: Institute of Conflict Research (IKF) Veronika Hofinger: Institute for the Sociology of Law and Criminology (IRKS)
Denmark	Karin Sten Madsen: National Organisation of Women's Shelters in Denmark (LOKK)
Finland	Saija Sambou & Pia Slögs: Department of Criminal Policy of the Ministry of Justice (MJF)
Greece	Vassiliki Artinopoulou, Anna Mamai & Vana Papakitsou: European Public Law Organization (EPLO)
The Netherlands	Annemieke Wolthuis, Lisanne Drost, Tinka van der Kooij & Katinka Lünemann: Verwey-Jonker Institute (VJI)
UK (England & Wales)	Theo Gavrielides & Grace Loseby: IARS International Institute (IARS)
Editing	Malini Laxminarayan & Grace Loseby

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Part 2 of the report (addendum) includes the country reports:

Annex 1 Austria

Annex 2 Denmark

Annex 3 Finland

Annex 4 Greece

Annex 5 The Netherlands

Annex 6 UK (England & Wales)

Annex 7 A German example, Waage Hannover

1. Introduction

1.1 Conceptual reasoning and structure of research

Can Restorative Justice (RJ) be used in cases of Intimate Partner Violence (IPV), and if so, under what circumstances? This question guides the European project on restorative justice in cases of domestic violence.¹ This project, funded by the European Commission (EC), aims to investigate the research gaps and gather existing knowledge on the use of RJ in cases of IPV. Another objective is to gain a better understanding of the risks and potential of using restorative justice (in particular Victim Offender Mediation) in cases of IPV. Partners in this project are from Austria, Denmark, Greece, Finland, the Netherlands and England & Wales (here referred to shortly as the UK) and the European Forum for Restorative Justice (EFRJ). In 2014, under Workstream 1 of the project, a comparative report provided the legal and policy context and practice of restorative justice in cases of domestic violence.² In this report, we defined domestic violence as violence used by (former) adult intimate partners. We looked at intimate partner violence and RJ as focused on reparation of harm in the aftermath of a crime or conflict. Different forms of violence were described: situational couple violence and intimate terrorism or coercive control (Johnson, 2006). It was also highlighted that across the European countries, the most frequently used restorative justice practice in the context of IPV is victim-offender mediation (VOM). Therefore our main focus is on IPV cases that have been reported to the police and/or have led to criminal procedures and have been referred to VOM. It should be noted that civil cases are not part of this research project. International standards such as laid down in the EU Victim Directive of 2012³, the Istanbul Convention (2014) and recommendations and Principles on RJ are guiding the research.

In this second comparative report we focus on the methodology of the research, the expectations, the experiences and needs of victims and offenders who have been involved in VOM. In addition to speaking to practitioners, we also held a focus group in each country for practitioners who are working in this field. The country reports that formed the basis for the comparative report are integrated as annexes in part 2 (addendum) of this report (Annex 1-6). Information on experiences with RJ in IPV cases as used by the German institute Waage in Hannover, that hosted the first expert meeting, can be found in Annex 7.

Structure of the report

Chapter 1 gives background information on the situation of RJ and IPV in the different partner countries. Chapter 2 is focused on the research and the methodology employed for recruiting research participants. Chapter 3 and 4 present the results of the interviews with the participants. In chapter 3, we describe the background of the respondents and the level and type of violence in their relationship. In chapter 4, we describe why the respondents

¹ This project is called: Restorative Justice in Cases of Domestic Violence, Best practice examples between increasing mutual understanding and awareness of specific protection needs (JUST/2013/JPEN/AG/5487). The project is financed by the European Commission and coordinated by the Verwey-Jonker Institute.

² Drost, L. Haller, B., Hofinger, V., Van der Kooij, T., Lünemann, K.D., Wolthuis, A. (2015), Restorative Justice in cases of domestic violence, Best practice examples between increasing mutual understanding and awareness of specific protection needs. WS1 Comparative report 2014, Utrecht: Verwey-Jonker Instituut.

³ In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.

chose to join VOM, how they experienced VOM, what the results of the mediation procedure were and what happened after VOM. Chapter 4 ends with a conclusion on the needs of victims and offenders and analyses the potential variation in needs for each participant group. Chapter 5 examines the outcomes of the focus groups with professionals in the different countries. Chapter 6 presents the conclusions.

1.2 VOM in the partner countries

Practice and regulations in the countries (and partially even within the countries) differ, as has been concluded in the first comparative report of this project: *Restorative Justice in cases of domestic violence, Best practice examples between increasing mutual understanding and awareness of specific protection needs* (Drost et al. 2015).

Relation to Criminal Justice System

As specified in the first comparative project report (Drost et al. 2015), RJ measures and practices can be observed in all stages of criminal proceedings (pre-trial, trial, and post-trial) throughout formal and semi-formal practices in the countries involved. The most common model uses VOM in an early stage of the criminal proceedings, usually by a referral from the prosecutor or the police. Below we list some general information for each country based on the first comparative report which illustrates how RJ is embedded in the national (justice) system. The information includes, for example, which cases are eligible for VOM, whether or not there are laws in place, and the main referrers and organizations involved. The overview also states whether or not there is a special organization providing mediation and if special training provided.

VOM in **Denmark** is complementary to court proceedings. In 2010 a law on victim offender mediation came into force. VOM can be used at any stage pre- and post-trial. Cases are referred by the police. A coordinator is appointed in each police district to handle the VOM service. The mediation is facilitated by lay mediators and, in principle, one mediator per case is appointed. Preparatory meetings are not a requirement but are increasingly being used. Until now, there is no special training for mediators conducting VOM in IPV cases. All criminal cases are eligible for mediation, under the condition that there is a full or partial admission, that both parties' consent to VOM and that the case is found suitable for mediation by the coordinator. Participation in VOM *can* be taken into account by a judge when measuring out the sentence.

In **Finland**, the police plays an important role in referring or initiating the majority of cases. The Act on Mediation in Criminal and Certain Civil Cases (1015/2005) came into force in 2006. In principle, any type of crime can be dealt with through victim-offender-mediation: crimes are dealt with if they are assessed suitable for mediation. Only the police and prosecutor have the right to refer a case of IPV to mediation and mediation offices carefully assess cases. The Act states that the assessment should take into account the nature and method of the offence, the relationship between the suspect and the victim and other issues related to the crime. The Legal Affairs Committee has stated that cases of IPV should not be referred to VOM if the violence in the relationship is recurring, if the parties have already been through mediation dealing with domestic violence, or if the offender's attitude to the offence or the relationship between the offender and the victim indicates that the offender regards use of violence as an acceptable way of dealing with conflict in the relationship. Finland works with lay mediators supervised by professionals of mediation offices. Of the more than 11.000 cases of VOM they handled in 2013 and 2014, 16% were cases of IPV.

In the **Netherlands**, restorative justice referrals are possible at different stages in the criminal process. In 2012, a new article (51h) in the law of criminal procedures was introduced that provides for mediation. Police, public prosecutors, lawyers and judges are obliged to inform parties about the possibility to participate in mediation. The prosecutor can take the fact that the offender participated in the VOM and the agreement made there into consideration when deciding to waive charges. The result can lead to a dismissal of the case or can be taken into account by a judge in his sentence. Also at court level, referral to VOM by judges is possible since 2011, when pilots started in the Netherlands. In principle, all cases are eligible.

In the **UK (England & Wales)**, RJ is external to the criminal justice system. Community-based organizations provide RJ in DV cases independently or in cooperation with the police, probation, etc. As a result of the Crime and Court Act of 2013, RJ is not mainly organized from the bottom-up by communities, but can also be required top-down by the public prosecutor and the courts. Officially, the outcome of an RJ process will not influence the criminal trial. The British police have been using RJ practices as part of community resolutions for several years. The implementation in cases of IPV, however, was never that successful because it was highly contested by politicians due to punitive thinking and a desire to protect victims.

In **Greece**, RJ is part of the criminal justice system. RJ is a pre-trial measure, where the prosecutor supervises both the process and the actions of other authorities (police, prisons and the officers in the justice system). The successful completion of VOM regularly leads to the waiving of the criminal prosecution/ a sentence. Mediation for cases of domestic violence was introduced by law in 2006 (and actualized in 2010). Many organizational, operational and financial obstacles prevented RJ from flourishing throughout the country. Those obstacles resulted in limited referral numbers, and only in Athens and Thessaloniki did RJ function well. National RJ legislations explicitly mention strict eligibility criteria in cases of IPV. Only misdemeanors are to be referred to VOM (crimes of simple bodily harm, threat, insult or coercion).

In **Austria**, RJ was implemented in the Criminal Procedure Code in 2000. The code of criminal procedure regulates referral and dismissal after VOM. 85% of the cases are referred to the mediation services by public prosecutors. The general legal provisions for VOM also apply to IPV cases, namely when the offence is punishable with a prison sentence of less than five years and the crime had no lethal consequences. A successful completion of VOM regularly leads to the waiving of a sentence. Thousands of VOM cases are handled each year and one fifth are cases of IPV.

For more details on access, eligibility criteria and complaint procedures in the involved countries, we refer to the first comparative report (Drost et al. 2015: 16, 17).

2. The Research

2.1 Methodology

The most common situation of IPV is between a female victim and a male offender. However we want to stress that there are incidental cases where it is the other way around, that there is same sex relational violence, that there are also cases where both parties have been violent to each other and that the position of the offender and the victim can be very complex.

Recruitment and selection of cases

We aimed to interview 6 victims and 6 offenders per country. The participating countries used different methods to recruit respondents. The researchers in **Austria** and **Finland** made use of a database of the mediation. In Austria, the researchers chose the cases themselves. In **Finland**, letters were sent to all participants in the IPV cases that were referred to the mediation office between 1 January 2014 and 30 July 2014 (52 persons/26 cases). This resulted in 12 respondents. In **Greece**, the **Netherlands**, **Denmark** and the **UK**, practitioners and / or VOM organizations were asked to check if they could find respondents; in **Denmark** shelters were also contacted, while the **UK** also contacted women's organizations and published a call on their website.

In the **UK**, the researchers did not succeed in finding respondents who went through VOM in cases of intimate partner violence.⁴ This has to do with the fact that the use of RJ in IPV cases is publicly not accepted and in practice not much known. The researchers, however, found professionals who do sometimes use RJ interventions in domestic violence cases and talked to other professionals who would be willing to do it if the option were to be available.

Three countries managed to find up to 11 or 12 respondents (**Austria**, **Finland** and **Denmark**). In **Finland**, out of the 12 respondents, five were female victims, two male offenders, two female in both roles, two male in both roles and one female offender. Two of those were couples. Eight respondents were found in **Greece** of which three were couples. In the **Netherlands** the researchers faced some difficulties finding enough respondents, because participants often already were involved in another evaluation. In the end they found eight persons (four victims, four offenders), which were couples. In the **UK**, the researchers interviewed practitioners by phone instead (see Annex 6). In total, 51 persons were interviewed. More female victims (32) than male offenders or a few male victims (19) were among them. In total 16 (ex)couples were interviewed.

Selected group

We are aware that the selection of respondents is biased. The sample is not representative of all available cases, but consists of those that accepted the invitation to be interviewed. We are also aware that resourceful persons with strength and energy to share their overall (positive) experiences of participating in a VOM can be expected to be overrepresented within the sample.

⁴ The researchers spoke with mediators who conducted mediation in cases of domestic violence and intimate partner violence. These cases, however, were not always VOM as they did not all take place within the criminal justice system. See Annex 6, the country report of UK (England & Wales).

2.2 The interview guidance

While preparing the interviews, the researchers developed a topic list for the interviews. The topics of the guide are listed below. The full text of this interview guide can be found in annex A.

The guide consisted of questions about personal background, questions on the relational issues leading to the reported incident of violence and questions on different topics concerning participation in VOM.

Questions on personal background and marriage/relationship:

- Age, gender, cultural background, education, job.
- Years/months of being married/living together.
- Family structure, present relationship status, moment the relationship ended.

Topics concerning participating in VOM:

- What is the level and type of conflicts and control in the relationship and what is the context and history of the incident(s) (situational and coercive control)?
- What is the motivation and what are expectations of victims and offenders who decided to participate in VOM? Are there differences between (female)victims and (male)offenders?
- What are the needs of victims and offenders? What do victims need in relation to safety within VOM? Did victims and offenders feel respected and heard?
- Was an agreement reached and did VOM meetings help to redress harm caused?
- Was the victim's safety after VOM discussed or part of the outcome-agreement?
- What issues are important to write about in the guide according to the professionals?

3. Background respondents & cases

3.1 Gender, age & cultural background

The findings on the backgrounds of the respondents indicate that there are differences among the studied countries. In **Austria**, more victims and offenders were immigrants when compared to other countries, although in the **Dutch** sample, half the respondents were immigrants (Surinam/Antillean). In **Finland** and **Denmark**, none of the respondents were immigrants. In **Greece**, the group contained both Greek and Albanian nationalities. In **Finland**, the age of the respondents was between 22-60 years. In **Austria** and **Denmark**, the respondents were from 20 – 50 years old, while the respondents in **Greece** and the **Netherlands**, were aged 30 and older. The men were generally a little older than the women (often between 40-49 years).

3.2 Education and job

In **Finland**, the respondents had a wide range of educational backgrounds and occupations: unemployed, entrepreneurs, students, persons with academic and vocational education. In **Greece**, the victims were often financially dependent on their partners, while in **Austria** they mostly had a qualified job.

In the **Netherlands**, the respondents included highly educated people, as well as people with little or no education. Two victims had a paid job, while two others were unemployed. One of the four offenders was unemployed.

In **Austria**, one couple consisted of academics. At the time of the violent incident, five out of the six victims were employed, most of them in qualified jobs, and one was a student. Most offenders were employed as well, half of them in qualified jobs, and one was unemployed.

In **Denmark**, three respondents had a higher professional education. Six had a vocational education (among these were two offenders) and two had finished secondary school. Six were employed at the time of the interview, four were unemployed and one was incarcerated.

3.3 Family situation

- *Length of relationship*

In **Denmark**, two (ex)couples interviewed had been married/lived together for respectively 15 and 19 years. Six victims had been married/lived together between one and ten years. One victim had never cohabitated with the offender. In **Greece**, the victims had been married for 10-15 years, except for one victim who was married for 30 years. In the **Netherlands**, the relationships (marriage or living together) ranged from two to 20 years. In **Austria**, the relationships of the interviewed couples were somewhat shorter, they varied between a few months, one, two, four and five years. In **Finland**, many of the couples had been married, but it was not indicated how many years. The length of the relationship varied between few months to years.

Children

Several couples were living with children at the time of the incident. In the **Netherlands**, one couple had young children, two couples had children they brought with them from another relationship and one couple did not have any children. In **Greece**, four of the victims had children. In **Denmark**, there were children in five of the nine cases. In **Finland**, four out of ten couples had children out of that relationship. In some other situations there were children from ex-partners. In **Austria**, in three cases children were living with their parents. It was noted that they were not directly victimised by their fathers. Only in one case the teenage daughter witnessed the dispute between her parents.

- Were they together when the VOM took place?

In **Finland**, half of the couples (of which one or both of the partners were interviewed) were separated and the other half were still together. Two of them were dating, but did not want to live in the same house. In the **Netherlands**, three out of the four couples were still living together at the time of the interview, while in the other countries all couples were separated when VOM took place. We should keep in mind that in the Netherlands, people were interviewed quite soon after the meeting. In **Austria**, at the time of VOM, victims and offenders were in the process of separation or already separated in three cases. The four other couples were cohabitating; except in one case. These men became violent when their partners told them that they wanted to end the relationship. Two couples reconciled during VOM but ended the relationship several months afterwards. At the time of the reported incident and VOM in **Denmark**, only two victims out of the nine cases cohabitated with the offender.

- Were they together when the interview took place?

For most of the participants, their status when they interview was conducted was the same as when VOM was taking place. In **Austria**, at the time the interviews were conducted, all relationships had ended. In **Denmark**, this situation was the same. In the **Netherlands**, the three couples mentioned above were still together, although the status of the relationship of one couple at the moment of the interview was unclear since the victim said they were still a couple and the offender said they were getting a divorce. In **Finland**, one of the victims reported that she had separated after VOM when the offender had victimized her again. In **Greece**, most of the couples were separated. Two of the women were living in a shelter at the moment of the interview.

- Other aspects

In **Finland**, most of the IPV cases dealt with in VOM and interviewed for the study were alcohol-related, while this is often not an issue in the other countries. In **Austria**, it was mentioned that, surprisingly, only in two cases did alcohol play a role in escalating the violence and, in one case both perpetrator and victim had been drinking. In two of the cases in **Greece**, offenders were alcoholics and one of them suffered from psychological problems. Except for one couple, the rest of the cases had financial problems that were cited as important factors in the violence.

3.4 Violence within the relationship

Introduction

Partner violence can occur in various forms, including physical and mental abuse (including fear and/or threat of violence). The violence may have consequences for the victim's physical, sexual and mental health, but may also have psychosocial implications on their wellbeing. Furthermore, there may be implications for the children and families. Intimate

partner violence may comprise a number of different behaviors, causes or sources of violence. It can take place on a continuum, with severely traumatized and isolated vulnerable victims living in fear, to strong victims who have support from family, friends and advocates (Edwards & Sharpe, 2004). Scholars have drawn a distinction between situational couple violence and intimate terrorism. Intimate terrorism, also named coercive control, refers to recurrent, escalating violent acts in combination with the exercise of power and control. The victim is isolated and lives in permanent fear. Situational couple violence is more often incidental, but can also be recurring. The violence here is generally related to situational problems like (ab)use of alcohol and drugs, unemployment, or a serious life event (Johnson, 2006). That is why the violence can be divided into three situations: 1) situational (took place once) 2) situational, but recurring (=structural) connected to drinking habits for example and 3) intimate terrorism with elements of control, escalating and recurring.

Concerning the respondents in the research, most of the cases could be defined as situational violence (however, due to the nature of domestic violence we recognize that this research is subject to questions of reliability in relation to the extent of violence and self-disclosure). Often when a police emergency call is made because of a situation of IPV, there is a long history of conflicts and violence (Johnson, 2006).

Although in **Greece** VOM is not allowed in cases of serious violence, the stories of the Greek victims indicate previous serious and structural violence (broken arm, using knives, threatening with a gun, violence during 6 month pregnancy with miscarriage as a result). Most of these cases can be labeled as coercive control: structural, physical, verbal and psychological violence, financial dependency and fear.

In **Finland**, two of the ten cases may be labeled as recurring violence (situations where violence happened more often, but without control by the other), and one case included elements of coercive control. All the cases were reported to the police for the first time. During the interviews, victims told the researchers more details and two reported this was not the first time they were victimized. Victims also mentioned that before the violent acts, there had been verbal insults. Also, three out of the 10 cases in **Finland** were of mutual violence in connection with the use of alcohol.

In **Austria**, in all except one case, the physical violent incident had occurred for the first time; but in three (of the seven) cases female victims complained explicitly about the offender's controlling behaviour and all except one victim complained about jealousy of their former partner. All victims were injured (often bruises), and two victims needed medical treatment.

In the **Netherlands**, all cases can be labeled as situational violence and two of the four cases concerned one incident only. One couple (interviewed together) spoke explicitly about mutual violence (yelling and pushing). In one case, the violence was very serious.

Half of the cases (five) in **Denmark** were about first time reported cases of physical violence and in four of these cases the incident took place in connection with the break or an argument about child custody. Three victims told about structural violence, thus recurring situational violence (threats, battering and control) during the marriage and two victims had additionally experienced their husbands' controlling behaviour towards the children.

One woman had been stalked for many years by a violent ex-partner.

4. Experiences of VOM

4.1 Introduction

Meta studies and other evaluations show that restorative justice interventions in general work. Research into different forms of RJ (mainly VOM and conferencing) measure high satisfaction rates of both victims and offenders. Most evaluations indicate a decrease in recidivism, especially in more severe cases, and in no types of cases have higher numbers of recidivism been found (Nugent et al 2003; Shapland 2004; Bradshaw et al. 2006). Offenders are reported to be willing to participate and take responsibility, and they fulfill and respect their appointments. They also report feeling a sense of justice by taking part in a restorative process. The same is true for victims.

When compared to offenders, it is more difficult to get victims involved in the RJ process. Offenders are generally easier to locate and willing to take part. In Belgium and the Netherlands, only 50% of the victims approached agreed to take part (Vanfraechem et al 2010; HCA figures 2009). However, once they become involved in a RJ process, they experience less fear, less stress and feelings of revenge and satisfaction rates are high. The latter has to do with being taken seriously (see Wolthuis 2012). Finnish statistics (2014) from the year 2013 show a higher participation rate. In 71 % of all cases referred to VOM, mediation took place. In cases of domestic violence, the number was even higher, where 74% of the referred cases resulted in starting the mediation process.

Research more specifically on VOM in IPV cases shows that the RJ process offers victims the chance to participate and gives them a voice to share what they have experienced. Victims are heard by the offender and can get empowered in this confrontation by compensating existing power imbalances, giving support to the weaker party (Pelikan, 2010; Daly & Stubbs, 2007). During the RJ meeting an open dialogue and a healing process for the victim (and offender) can occur in a non-judgmental environment (Kingi et al., 2008; Liebmann & Wootton, 2010). Also hearing from a third neutral party that they are not to blame, may help victims; moreover, external validation is a public record of abuse (Daly & Stubbs, 2007). At the same time offenders can take responsibility for their behaviour without blaming the victim, for a communicative and flexible environment, as well as for a respectful relationship. This is also what victims and offenders give back in research findings (Pelikan, 2010; Kingi et al, 2008).

In this chapter we describe what victims and offenders of IPV cases experienced in connection with VOM. Several questions were posed: Why did you take part in VOM? Were you well informed and adequately prepared for the meeting? Did you feel safe, were safety measures taken? Did both victims and offenders feel heard and respected? Was the harm redressed and safety guaranteed? And did victims and offenders differ in their motives to participate and experiences of the VOMs?

4.2 Motivation and expectations

Motivation to take part

Participants in a VOM can have different reasons and motivations to accept the offer to take part in RJ. Often it is about wanting to express feelings of what the incident did to the person, but also about getting answers and to get an opportunity to move forward. This is the same for intimate partners. But when if these two people live together, know each other

well and if they have shared responsibility for children, there is much more a need to find ways to communicate, even if they decide to separate (see Kingi et al, 2008).

The interviews indicated that victims and offenders, some of them still living as couples, decided to attend VOM for a number of reasons.

Victims of first time violence primarily wanted to talk about the violent incident as they did not understand why they were attacked. They were not preoccupied with their own safety in the same way as the victims of recurring violence. In some cases where couples decided to separate, victims wanted to attend VOM in order to discuss how to organize the future and agree on rules of behavior when meeting the children (as in **Finland**). In some cases, the victim did not want to put the children in a difficult spot by taking their father to court. Child custody issues are not dealt with in the VOM session, but the consequences and implications of the custody agreements can be discussed in VOM. Some victims wanted to make an agreement on how to handle the offender's contact with the children or wanted to make arrangements to support the relationship between the children and their father.

Safety in the sense how to avoid re-offending and violence to take place again was one of the reasons why people wanted to attend VOM. Victims of recurring violence wanted to make an agreement with the offender so they could feel safe. They also wanted to talk about the violence and they wanted the offender to listen and talk about their feelings regarding the violence. Some explicitly wanted to hear an apology, while others wanted financial compensation.

Offenders mentioned reasons to participate in VOM associated with mitigating the criminal response. They wanted to avoid prosecution, to stop the legal procedure or avoid a criminal record. Victims also mentioned that they preferred VOM to a criminal justice procedure, because they felt more listened to and supported during VOM than during a criminal procedure (see country report from **Austria**, Annex 1).

Where couples were still together, they both preferred VOM (when it was a diversionary option) to a criminal procedure. In the VOM, they had the opportunity to discuss the incident and find their own solution.

Expectations & pressure

Most of the respondents had never heard of VOM before they were introduced to the option and said that they did not have any particular expectations.

Most victims said they did not feel they were pressed into attending VOM. In the **Netherlands**, some respondents said that receiving the request from authorities such as the office of the public prosecutor did suggest that they thought it would be important. Subsequently, this had an effect on their decision to take part, but they did not feel obliged. Most offenders did not feel obligated, but a few offenders mentioned that they felt a some pressure to attend VOM since it was suggested by a lawyer. At the same time, they knew it was voluntarily and that they could quit at any time. Here we also have to take into account the way the respondents were recruited and that they may not be representative for all cases.

4.3 Experiencing VOM

As mentioned above, many studies on RJ show high satisfaction rates by participants. Also studies examining professionals have been positive. There is less information available on how participants experience attending a VOM in cases of IPV, but we know from research in

Austria and New Zealand that victims and offenders are positive about VOM in cases of IPV (Pelikan, 2000 and 2010; Kingi, 2008).

In this chapter we will address how victims and offenders experienced the VOM process and ask the following questions: Did they feel well-informed and well-prepared? How did they experience the actual mediation meeting?

Information on VOM

Research on accessibility and initiation of restorative justice in general shows that it is important how and when information is given on the possibility of taking part in VOM (Laxminarayan, 2014). Repetition of the information at different stages may increase likelihood of participation. Furthermore, the language used during the offer is also an important factor. Clear explanations that are not too juridical are necessary to reach a large group of victims and offenders. Providing pamphlets is not enough; personal contact is needed to deepen the understanding of what an RJ process entails (Laxminarayan, 2014). The procedure of introducing VOM to victims and offenders differs between and within the partner countries. The procedure depends on how VOM is structured in relation to the criminal justice system, if it is used before or after trial, seriousness of the violence etc.

Most often the invitation is in the form of a letter from the mediation organization, like *Neustart* in **Austria**, or a letter and a phone call, like the mediation office in **Finland**, or a letter and/or phone call from the mediator (the **Netherlands**) or prosecutor. In **Denmark**, the police case manager asks the parties directly, first the offender, then the victim. In **Greece**, only the prosecutor has the official authority to introduce VOM - first to the victim and then to the offender. The police, however, inform the victim and offender unofficially, before sending the file to the prosecutor. In this case, the prosecutor explains the process to the couples. Depending on the situation, a lawyer or a professional from a support organization advise on VOM, e.g. an employee of a shelter. In **Greece**, victims discuss the possibility of participation with a social worker or lawyer and are supported by the National Center of Social Solidarity (aka EKKA), a public welfare Organization. Not all respondents felt well informed. In the **Netherlands**, several victims said they would have liked some more information before VOM; one couple for example did not know they were involved in VOM at all; they thought they were meeting as a result of the restraining order.

Preparation of the meeting

Preparation meetings for VOM are often conducted by mediators or the mediation bureau involved.

The aim of a preparatory meeting is to provide both parties with all the necessary information about what they can expect of the meeting and inform them that they are free to end the process at any time. It is important that the power imbalance is addressed at this stage, that risks are assessed, safeguards taken and that the expectations and needs of both the victim and the offender are discussed. Also information on rules of conduct during VOM makes up part of the preparatory meeting (see Pelikan, 2000 and 2010; Drost et al. 2015). Without such a meeting, it is more likely that victims and offenders will not know what they are involved in (the **Netherlands**). The preparatory meeting is perceived as a large support to the victims, because the aim of this meeting is not only to inform about VOM, but also to discuss victim's resources to attend the VOM, talk about the violence, the relationship, divorce and opportunities to create one's own life. The essential explicit aim of the preparatory meeting in **Finland** is also to discover any power imbalances or feelings of pressure of the victim. Here it can be seen as a part of the risk assessment and as a good practice.

In **Austria**, a preparatory meeting where the mediator(s) meets the victim and offender separately always takes place. In **Finland** a preparatory meeting is considered good practice, however, it is not obligatory according to the Mediation Act. In **Finland** both mediators hold separate meetings with the victim and offender, while in **Austria** mediators split up and meet either the victim or the offender. Interestingly, several victims in **Austria** reported that the most important part of VOM had been the one-on-one talks with the female mediator(s) during the preparation meetings (there can be more than one meeting). Also in **Finland** the participants reported high satisfaction with the preparatory meetings. They felt supported and encouraged, for example, to leave their partners if they became violent again. Also some offenders felt supported by the preparatory meeting because they could talk frankly about their aggressive behaviour, they felt they were treated without prejudices and received useful information on aggressive behaviour and where to go to learn to control this kind of behaviour.

In one case a preparatory meeting was missing in **Finland**. Here the victim had not felt free to express herself because she felt she was being controlled by her partner during the meeting and felt pressured to please him. It was an example of victim's difficulties of disengaging her/himself from the violent relationship which is typical for victims of IPV. In the **Netherlands**, basic facts of mediation are first explained by phone. After that separate preparatory face to face meetings with victim and offender are held by the mediator. This was also done in the four studied cases. The meetings were mainly focused on preparing VOM and explaining what they could expect. On the basis of this conversation both parties and/or the mediator took the decision to continue and meet together. In **Denmark**, preparatory meetings with the mediator are not mandatory and only one victim mentioned having a preparation meeting with the mediator. The other respondents were told through the telephone about the procedure of the upcoming meeting and information about the venue and time. In **Greece**, the victims were supported by the Public Organization EKKA. Officially, victims and offenders are prepared for mediation by the public prosecutor who explains the process and the law preconditions. There are no further preparatory meetings.

The mediation and the role of the mediator

The interviewed victims and offenders were generally satisfied with the mediation. They felt listened to, understood and as though they were taken seriously. Some respondents talked about the violence and other related problems, and discussed issues they had never talked about in their relationship. In general, victims and offenders reported that they felt safe during VOM.

Offenders also experienced VOM as a respectful procedure. For some offenders, it was the first time that they felt they were treated with respect and without prejudice. They appreciated the opportunity to learn about strategies to avoid aggressive behavior, such as playing sports against aggressive feelings, taking a time out or following an anti-violence training.

Safety during the meeting

When partners were still together, safety did not seem to be an issue during VOM for the victims (**Austria**, the **Netherlands**). When partners were separated and when there was a history of serious violence, special attention for safety was needed for the victims not to feel afraid or intimidated by their ex-partner.

Victims in **Greece** felt scared before the meeting, but the mediators made them feel safe throughout the process. Also in **Denmark**, some victims were afraid to meet the offender during VOM, while others felt nervous but did not feel afraid. Some victims said they were afraid to arrive at the venue at the same time as the offender with a risk of running to each other before the meeting.

Professionalism of mediators

The respondents felt respected and understood and they appreciated the neutral role of the mediators. Mediators were perceived to be kind, helpful and professional, regardless of the style of mediation they used and whether they were professionals or laypersons was irrelevant. There were victims and offenders who mentioned explicitly that this was a first and unique opportunity to discuss and listen to each other (**Finland**, the **Netherlands**). Even when VOM did not result in an agreement, victims were satisfied with VOM and the role of the mediator (**Greece**). Some victims stressed the authority of the mediator as very assuring and safe or were impressed with the way the mediator(s) balanced the dialogue. In **Austria**, the victims found that the *Neustart* staff were highly professional and had acted neutrally. All the respondents felt supported and some even reported they felt strengthened. In **Finland**, the respondents found that the lay mediators were impartial, informal, non-bureaucratic, warm-hearted and friendly.

Critical issues

Why were some victims and offenders less or not at all satisfied with the mediation procedure? There are several reasons for victims, most of them has to do with the dialogue during VOM, some with safety and the other with the outcome.

Not all issues were discussed during VOM. There were the victims who missed a clear statement from the mediator regarding the violence (**Austria**, the **Netherlands**). Or they wanted to talk about the incident because they wanted to understand why the violence happened. Other victims said the conversation concentrated too much on a safe future and child custody issues and the history of violence and the impact of the aggressive behavior on the victim, issues of the past, were hardly discussed. In **Greece** this was in the majority of cases the issue. Such a case in **Denmark** got lost in the offenders need to talk about child custody (future) while the victims need to talk about the violence (past) was not discussed. In the **Netherlands** victims would have liked to talk about the deeper rooted problems and (a possible) divorce during the preparation and VOM meeting. There are **Finnish** examples where the victims wished that mediators would have been able to recognize and see behind the manipulative behaviour of offenders. It is not easy, but it is an issue which should be taken into account when developing training for mediators. All above reasons of dissatisfaction has to do with the role of the mediator during VOM.

In most countries respondents said they could have received some more information in the preparation phase on what VOM exactly is and what they could expect, except for **Austria** and **Finland** where a solid preparation phase is in place. It seems that repetition of information can be useful at an early stage. Also because in the crisis situation they are often in, it is difficult to understand things in a proper way. To give and clarify information during the whole process is relevant. Sometimes people also want to change their minds.

The safety of victims after VOM did not really get attention in most cases. When partners were still together, safety seemed not to be an issue during VOM for the victims (**Austria**, the **Netherlands**). But when partners were separated and when there was a history of serious violence special attention of safety matters was needed for the victims not to feel afraid or intimidated by their ex-partner.

Anyhow, victims themselves sometimes just wanted to 'close the case', continue their life and not to challenge the offender nor the mediators. Offenders experienced VOM as a respectful procedure, and there is little critique. One offender explicitly recommended to make use of a male and female mediator (instead of two female mediators).

4.4 Outcome

Introduction

VOM is a meeting where the parties can decide if there is to be an agreement between them. In some countries, it is mandatory to end with a written agreement.

In our research we looked at the following questions: What were the results of VOM? Did they end with an agreement, was harm redressed and did offenders apologize? Did the victim feel empowered? Was there any kind of aftercare?

Remorse, redress and strengthening the victim

In **Greece**, none of the cases resulted in an agreement. This does not mean that victims were unhappy with the process. For them, talking about the violence and related problems, like alcohol addiction, was an important result of VOM. In the other countries, mostly an (oral or written) agreement was made between the offender and the victim dealing with several aspects. Sometimes financial compensation was agreed upon, or guidelines on future behaviour, or rules about the behaviour while meeting the children. Mediation could also have resulted in the offender taking part in an anti-violence training, either going to relationship therapy or psychotherapy. In **Finland**, where alcohol is often a factor in IPV, attending an alcohol rehab clinic or program was sometimes agreed upon. There were also agreements made where the victim was to be left alone by the offender.

Most offenders showed remorse and apologized, which in some cases was very explicit and regretful. One offender, who had not admitted sexual assault at court, repeatedly apologized for the harm he had caused (**Denmark**).

Some other offenders made a general excuse and mentioned justifications for their violent behavior. Victims found the apology sometimes not genuine and not convincing, others found the open and honest conversation that took place more important than an apology and still others were very happy with the apologies given.

Some of the victims expressed they felt strengthened, or sometimes empowered by the VOM process (including the preparation meeting). They referred to aspects such as the open dialogue and the respect they felt for their feelings. They also said that VOM allows for reflection and therefore victims knew what to do and how to react to violent behavior. Also when the offender 'does not give a damn about the agreement', for example when being drunk, victims were stronger and more confident as a result of VOM (see **Finland** and **Austria**).

Disappointed

Sometimes victims were disappointed with the outcome. Not always an agreement was made, or it could be that apologies made were not genuine. Also it was rather often said that parties felt a follow up is missing, as well as a period that can stimulate the offender to comply with the agreement. Sometimes victims (and offenders) were disappointed, because they had different expectations. For example, one victim expected a legal binding agreement and this did not happen which made her feel disappointed.

Follow up actions

Following up on VOM, in the form of a phone call or a second meeting is not always part of the VOM procedure. In the **Netherlands**, **Denmark** and the **UK**, the mediators have no formal responsibility with regard to supervision of compliance with the agreement. Victims and offenders in the **Netherlands** would have preferred a follow up. One offender also would have been happy to show that he kept to the agreements (also an offender in **Finland** mentioned this).

In **Denmark**, some victims had a follow-up call from the mediator or the coordinator, but not everyone and at least one victim said he would have appreciated a follow-up call from the mediator to reflect on the meeting.

In **Finland**, the parties decide during the VOM whether or not they want a follow-up. The follow-up may take place after a couple of weeks or after 2-3 months. Most often, the follow-up is done by phone calls to the victim or to both the victim and the offender, but can also take place as a meeting. It can happen that after the follow up the conflicts and misbehavior start again, as a victim in Finland said. This shows that the follow up contributes to protection: perpetrators can easier refrain from violence as they know there is monitoring. The follow up was appreciated by an offender who was able to tell the mediator that he had done as he promised. Another offender stated that he would have liked a follow up meeting.

In **Austria**, mediators check if the offender has paid compensation, and they may check if he has attended several sessions of an antiviolenze training, if this is part of the agreement. None of the interviewed victims said they needed aftercare from professionals. In cases of repeated violence, Neustart routinely holds a second follow up meeting with both victim and offender.

5. Lessons learned from focus groups

5.1 Introduction

In all countries, a focus group among professionals working with VOM in IPV cases was held to discuss the issues that came forward in the interviews.

Between five to eight professionals participated in the focus groups. In the **UK**, a larger seminar with 22 participants was held with mostly practitioners, policy makers and some academics. The experts in the other focus groups were mainly mediators, public prosecutors and policemen. In **Austria**, a judge (criminal proceedings, specialised in victim protection) was also present, as was the director of a Violence Protection Centre. In **Denmark**, the director of a women's shelter and a researcher also participated. In the **Netherlands**, the coordinator of the Mediation Bureau of the Court in Amsterdam and a civil servant from the Ministry of Security and Justice were among the experts. In **Finland**, two focus groups were arranged in different towns; and also prosecutors and police officers were interviewed.

In the following we summarize the results of the focus groups. The summary is by no means exhaustive. For a full summary from each country, we refer to the country reports in the annexes of this report.

The focus groups were reported to have had lively discussions that lasted two to three hours. After a presentation of the project and the preliminary results of the empirical research, the dialogue had evolved around issues like usefulness of restorative justice in cases of IPV, safety, guilt, preparation meeting and after care.

5.2 VOM as a useful tool in IPV cases?

Most participants had an overall positive attitude towards using VOM in IPV cases, but everybody agreed that RJ is not always useful and some expressed arguments against it.

In **Denmark**, the director of the Women Crisis Centre did not find that VOM was at all useful in cases of IPV. The couples' thorough knowledge of each other makes it possible not only to hurt each other during the VOM, but what has been said in the VOM can subsequently be used against the victim after the meeting. Other Danish experts argued that it is possible to use VOM in cases of domestic violence if the time and resources are in place, such as properly trained mediators and a good preparation phase.

In **Greece** and the **Netherlands** all agreed that VOM has many advantages, such as the handling of cases of domestic violence with confidentiality and privacy without sending the case to court; and the possibility of making perpetrators realize the real dimensions of their violent behaviour and the consequences and effects of that behaviour on the victim (and children).

Despite the fact that in the UK the feminist movement is strongly against restorative justice and the government shows a rather punitive look at crime, the participants in the **UK** agreed that compared to conventional criminal justice, RJ (aiming at empowering victims through dialogue and risk assessment) has much more potential to counter the societal vulnerability which characterizes a lot of victims of IPV.

In **Austria**, the participants in the focus group agreed that the VOM models used by Neustart in IPV bring about the strength or empowerment of women, good cooperation between network partners and public debate.

In **Finland**, the focus group discussion revealed that police officers and prosecutors recognise the potential of VOM for certain cases of IPV. They were of the opinion that it could be helpful for cases that were not characterized as 'too deep' problems, in order to continue their lives, together or alone. Good practice has been developed here using a dialogic, facilitative and problem-solving approach. For "the people who have not gone yet too far and too deep with their problems" and cases like (structural) situational violence connected to drinking, unemployment etc VOM can at its best act as an "initiative for change" and "an act for an ordinary future with new views and new means to solve problems". With the help of the mediators parties of IPV cases can make an agreement (or not) but it can help them to decide how they will continue their lives. A prosecutor mentioned also other advantages for the community: "it can enforce experiences of justice and fairness and create and increase peace in communities because after VOM and an agreement there is no need to go back to the dispute again even if you happen to meet on the road".

5.3 Selection criteria and guilt

Selection criteria

Criteria to select DV cases that are suitable for VOM differ from country to country. In **Austria**, the selection to take up a case for mediation is based on the police file, with a special focus on the criminal history of the accused. If there has been a previous history of violence, a case is not suitable for VOM, especially if the accused seems to abuse the power imbalance, use threats and exploit violence as a means to control the victim.

In **Finland** the offending history is also an aspect, but attention is paid to other preconditions too. The mediation office also plays an important role in selecting cases.

Cases where power imbalance between the victim and the offender is existing and violence in combination with coercive control are not regarded suitable for VOM by the Finnish authorities referring cases to VOM. Cases of stalking are also mostly excluded. When there is already a restriction order imposed, restorative justice is not obvious. VOM is not seen as an option for persons who cannot admit or realize they did something wrong.

In **Austria**, the focus group discussion found that the selection of IPV cases for VOM had improved during the last years. Previously, couples with a long history of coercive violence were referred to VOM as well, now mainly cases of situational violence are referred. It was, however, also stressed that many situational violence cases have a history of problematic behaviour and conflicts, and that these circumstances should not exclude a case from VOM. In **Greece**, misdemeanors of domestic violence are in principle the only cases that are referred to the counseling program, but the cases discussed in the interviews and focus group show that apart from the incident, also more severe forms of violence took place before reporting to the police.

In the **Netherlands**, the participants in general say that all cases of IPV can be referred to mediation if the expectations discussed during the preparatory meeting are realistic. Contra-indications are when stalking (also a serious matter of control) is part of the violence or there are serious psychiatric problems.

Cases are referred by the police in **Denmark** and the (office of the) police coordinator on mediation decide if a case is suitable for mediation or not. In principle all criminal cases are eligible for mediation, under the condition that there is a full or partial admission and that both parties' consent to VOM.

Guilt

Also the use of the criteria around admitting guilt differs in relation to VOM. Article 12 and c of the Victim Directive states for example that the offender has acknowledged the basic fact of the case – if not then the case should not be sent to VOM. How this ‘having acknowledged’ should be interpreted differs.

In **Denmark**, the mediators argued that a premise for VOM should be that there is no doubt about guilt. When there is no admission of guilt the process becomes very complicated for the mediator. It was their impression that the police sometimes refers couples to VOM instead of pressing charges,- because they do not know what else to do in cases of domestic violence. In the **Netherlands** it is enough if the perpetrator wants to take responsibility. In focus group meetings the **Finnish** authorities pointed out that it is necessary for an offender to take responsibility of her/his actions because “if they think they had done nothing wrong there is nothing to discuss in the mediation meeting – then VOM is not an option”.

5.4 Safety

In most countries, safety measures are not that well developed or not explicitly written down. Much depends then on individual mediators on how they access this issue, as can be seen in the **Netherlands**. In **Greece**, there are measures to protect the victim during or after mediation. The mediation process stops if any violent situation is repeated. Protection measures can be claimed by the victim, for example accommodation in a shelter. Furthermore, the Protection Orders legislation can enhance the rights of the victim. In the focus group in **Denmark**, they questioned how to organize a process that meet the needs of the victim and provide protection. In **Austria** and **Finland**, this safety checks are further developed. The mediation services in **Austria** ensures the victim’s safety during and after VOM by working with professional mediators only and using a risk assessment tool. Mediators may use this checklist including the most important criteria for endangerment such as: history of violence, information on weapons, financial situation and dependency, substance abuse, information on warning signs (like trivialization of violence) and threats, but also on resources. On the basis of this information, the practitioners assess how dangerous the offender is, whether the risk of escalation and of reoffending is low, medium or high, and if the danger of the victim’s re-traumatisation during mediation can be precluded. In addition to professional standards for mediation in general, Neustart defined special standards for IPV cases, ensuring the victim’s safety as a core element. All cases of IPV must be dealt with in teams of two mediators (one male, one female) and the mediators need special knowledge of the dynamics of partner violence. Representatives highlighted that an important function of the mediation is to support women in their efforts to separate or divorce and to make men understand that the relationship is over. During the preparations, the issue of tempering aggression is discussed with the men and possible ending of relationships with the women. In **Finland**, mediators, mediation offices as well as referring authorities pay special attention to safety issues too. The history of the offenders was always checked and the focus group interviews revealed that if the offender had a long history of violence (not only with the current partner, but also with various women) the cases were not referred to VOM. During the preparatory meetings, mediators and mainly police officers aim at assessing the attitude of the offender, such as whether he is minimizing the violence or justifying his violence and other indicators of risk. On the other hand, victims safety can be addressed in the sense of how reoffending could be avoided and what the offender is supposed to do, such as attend a non-violent program not to use violence again (see Uotila & Sambou, 2010).

5.5 Preparation meeting: information and support

In most focus groups the need for good information sharing to victim and offender and well prepared preparatory meetings were seen as crucial in IPV cases. Preparation meetings are not always that good organized in practice. This was at least so the **Netherlands** and **Denmark**, as also shown by the interview results. **Denmark** seems to be the only country where a preparatory meeting is not mandatory or yet commonly practiced. In many of the other countries the system and the preparatory meetings could be improved as also mentioned by both victims and offenders. In **Austria** and in **Finland** preparatory meetings are an important element of the VOM process and seem to be a better part of the system. These meetings are well organized in **Austria**. Support for both the victim and the offender is included in the whole intervention, that is why VOM is successful and reaches many. During the whole preparation process in **Finland** also lay mediators should pay attention on the needs, resources and expectations of victims, on possible power imbalances and pressure.

5.6 Follow up needed?

Some countries have follow-up activities, like checking the whereabouts of the participants after the session and referrals to get support, included after VOM, while in other countries this is lacking. The Greek system implies a three year period of treatment, i.e. psychological counseling. In **Austria**, an observation period is agreed upon if the mediation session includes a reparation plan or if there are indicators of recurring violence. After this period, another personal meeting takes place. In **Finland**, the follow-up depends on the individual case and parties themselves. Like the focus group discussions in Finland also reflected, it is not possible for the mediators and authorities to wait for and follow the case for long periods of time. In **Denmark**, the **Netherlands** and the **UK**, aftercare is not organised within VOM. In those countries the participants found that more efforts should be done to get a full system in place, from a solid preparation to a good after care. They would like to see more happening around aftercare and follow-up of cases, even though it was mentioned that it is important to be aware of what the role of the mediator should be and what should be left for other professionals like therapists, probation or support organizations.

5.7 Cooperation between network partners

Cooperation between the relevant professionals in the justice chain is crucial, but also here improvements are needed. In **Greece**, the lack of contact and information between different professionals was mentioned, which is a result of the workload and the lack of personnel who actually struggle to handle a large number of cases. The fact that there is not a consistent follow-up of the cases strengthens this gap between professionals. In the **UK**, bridging gaps between organizations was also seen as a main task. The RJ sector, it was argued, needs to take a more conciliatory approach to the women's movement and the organizations involved in domestic violence.

Austria is again the exception where a longer experience of cooperation and building trust between organisations pays off. The mediation offices perceive 'increased mutual confidence' with the prosecution offices. They also cooperate with victims' organisations such as the Violence Protection Centres. In the framework of a special victims' support scheme, representatives of these Centres may accompany victims to the police or to court as well as support them during VOM. In **Finland** cooperation between police, prosecutor and mediation office was considered effective. They also have regular meetings. It was discussed that unfortunately situations and cooperation between authorities might vary in different areas and between individuals.

5.8 Training

Finland and **Denmark** always worked with lay mediators, while in the other countries professionals were involved. **Finland** is more experienced and even though there are aspects that can be improved, the fact that they work with lay persons is not a point of discussion. They see a lot of strength in such a way of working, which they have done since the 1980s. The mediation offices and National Institute for health and welfare are organising theoretical and practical trainings for mediators of IPV cases. The training includes understanding the dynamics of IPV, preparation, safeguarding the victim, accessing the offender's attitude and building a comfortable environment for a constructive dialogue. Important is also to learn when to interrupt the discussion between victim and offender. In relation to victim's difficulties of disengaging her/himself from the violent relationship which is typical for victims of IPV should be emphasized for mediators in training sessions. In **Denmark**, the police coordinator would have liked to make training and supervision mandatory for mediators, but the fact that they are lay mediators and they already attend supervision and other training that is not compensated makes this difficult. There was consensus in the focus group that training for preparatory meetings should be part of the basic training. Until now, it was the responsibility of the individual police district, but in 2015 further training and supervision will be placed under the National Police and made available to coordinators and mediators. In the **UK**, a lack of training was seen as a serious challenge to RJ being practiced in the UK. Without people openly practicing, without recorded data and with public opinion against RJ in cases of IPV, practitioners cannot gain the experience needed to handle the complexity of these cases. There exists consensus around the need for both trained and experienced practitioners in all countries, as well as the principle of working in pairs in these complex cases. This is good for safety and to evaluate the mediation.

In the **Netherlands**, mediators have to be certified and thus do the general national training for mediators, including the condition that they should carry out at least a few mediations per year. Additional courses for mediation in penal cases are still in development and offered by different providers. For the victim offender conversations that Victim in Focus organizes, they have developed their own training programme and facilitators. There is not yet a general training programme for judges and prosecutors. During the pilots, several meetings and information days were organized. The participants asked for more structural trainings, and also felt the need for specific training on the use of RJ in IPV cases. In **Austria** specific training is an important aspect of the mediators working with IPV cases, as mentioned earlier in this report.

5.9 Summary

Almost all experts see the potential of using restorative justice in cases of intimate partner violence, but also that it is not useful in any IPV case. Practice differs though and especially in the **Netherlands**, **Denmark** and the **UK** there are still many aspects that need improvement, varying from the information flow before VOM even is active until a proper follow up after VOM. For **Greece**, this is applicable to a lesser degree, since they do seem to have a solid method build around VOM. Rather, there are weaknesses, such as its limit to two areas and issues with continuity. Continuity depends a lot on funding, which is currently a problem resulting in from long waiting lists and not enough personnel. Countries like **Austria** and **Finland** that have a longer history of working with these cases have developed a system over the years that has been improved as a result of critique and feedback and can be seen as good practice in many ways. It turned out that in most countries, IPV cases are dealt with by two mediators, which is also seen as good practice.

6. Conclusion

This second part of the European research project on the use of restorative justice in cases of intimate partner violence looked at the following questions: What do victims and offenders of IPV need in respect to VOM? What are their own stories? And what do experts working in the field have to say about it? The experiences should bring us closer to answering the main questions guiding the research: Does restorative justice provide a solution in cases of IPV and if so, can we say something about the conditions under which it can best take place?

There has been critique on the use of RJ in IPV cases as addressed in depth in paragraph 1.3 *Restorative justice and intimate partner violence: opportunities and risks* of the first comparative report (Drost et al, 2015). The Committee on the Elimination of Discrimination against Women (CEDAW) has raised questions on the applicability of VOM, for example in **Finland** (CEDAW/C/FIN/Q/7/Add.1, 11 November 2013), and paid special attention to whether VOM enables perpetrators to avoid prosecution, whether mediation procedure in the cases of IPV may lead to the re-victimization of women who have suffered violence and whether mediation is carried out in a manner that respects and promotes the human rights of women. For some time mediation of IPV cases has been surrounded by turbulent discussion and critique. Those having critical views have been worried whether victims become re-victimized and whether VOM is carried out in a manner that respects and promotes human rights of women. NGOs like Amnesty Finland and NYTKIS among others have also raised the question of whether VOM enables offenders to avoid prosecution. The authorities attending focus group discussions were aware of the critiques and reflected upon their own views. They came to the conclusion that their current practice turns out to be useful for certain types of victims and offenders who have resources and potential to try to solve their problems, who have not gone 'too deep' with their problems and who are able to admit they have done something wrong.

Elsewhere in Europe RJ practice is also increasing, as has been shown by the first comparative report of this project as well as the research findings in this second report. We will conclude with a summary and with some issues for discussion and/or further research.

6.1 Background of the respondents

We interviewed 32 victims and 19 offenders in five countries (**Austria, Denmark, Finland, Greece** and the **Netherlands**). There is quite a lot of variety among the respondents in the countries and between the couples that take part in VOM, in age, ethnic background, and education. Many couples were separated during the interview, but were still living together during VOM.

When we look at the frequency, almost all cases were referred to VOM because it was the first incident reported to the police. But this does not mean that it was always the first incident of physical violence. Sometimes there was a long history of conflicts, threats, insults, controlling behavior, and violence. A few cases can be classified as coercive control. Most cases are situational violence, and in **Finland**, they were mostly related to alcohol (ab)use. Contrary to other countries, in **Finland** there were many cases which included mutual violence.

6.2 Expectations and experiences

Most victims and offenders did not have a clear picture of the meaning of VOM. Preparation meetings are important to get information about the aim and possibilities of VOM. Offenders expect especially mitigating criminal responses but also the opportunity to discuss the incident, while victims expect to be able to talk about the violence and to make agreements about the future and/or safety.

Not only offenders, but also victims sometimes explicitly prefer VOM over the criminal court because they feel understood and supported by VOM in contrast to the criminal court. During VOM, dialogue and communication are stimulated, not only about the incident, but also about other related problems and child custody issues. Preparatory meetings can be very important in this procedure as they might be an opportunity to talk honestly about the incident, related problems, and the relationship. Victims may be empowered by, for example, obtaining skills to stand up for themselves, while offenders may learn about strategies to prevent aggressive behaviour.

Almost all victims and offenders were satisfied with VOM and the role of the mediators. It made no difference if the mediators were professionals or laypersons. Victims and offenders felt respected and heard during VOM. Some of them had an open dialogue about the violence and related problems for the first time in their lives. Most of the victims felt safe, also because they were well-prepared. Safety was not a big issue when people were still (or again) living together. In many countries, risk assessment takes place during the preparatory meeting. Only **Austria**, however, has a formalized risk assessment tool.⁵

During the preparatory meeting attention for fears and safety can be at stake. Without this assessment and safety planning during the preparation, there is a danger of re-victimization, for example when a victim is not able to express herself or himself and consequently feels disempowered.

Almost all cases, except **Greece**, ended with an agreement (oral or written). These agreements range from guidelines on future behavior, anti-violence, alcohol training or psychotherapy, child custody appointments and financial compensation. Most offenders showed remorse and some of them very explicitly. Such an outcome may be very helpful for the victim. Other offenders were not genuine in their apologies or gave justifications for their aggressive behavior, including blaming the victim.

Only in **Austria** and **Finland** there is a follow up procedure, what is appreciated, although some victims would like to have a longer period. Other countries do have follow-ups, for example **Greece**. However in most places, the interviewed victims, and also offenders, missed a decent follow-up. They would like to have an additional meeting or contact, not only for reasons of safety, but also to show that the agreement is complied with or complain that it is not. The follow up contributes to protection of the victim because perpetrators easier refrain from violence as they know there is monitoring.

There were both similarities and differences between victims and offenders. Offenders main motivation to participate in VOM had to do with the expectation of mitigating the criminal response. Victims prefer VOM because they get less attention in the criminal procedure. Victims want to talk about the (impact of the) violence or they want an agreement with the offender so they could feel safe. Another important difference is that several victims felt empowered because they felt supported and were proud that they talked about the violence and learned to stand up for themselves, felt like a survivor and did not stay in a passive role. Offenders also felt

supported and learned strategies to prevent aggressive behavior. Another difference is that victims expressed more often aspects of dissatisfaction than offenders.

6.3 Issues for discussion

Looking at the questions put forward by the Committee on the Discrimination against Women (CEDAW) as mentioned in the introduction of this chapter, we can conclude that some offenders avoid prosecution because they participate in VOM. But this does not mean that they do not take responsibility for the violence or that they do not care about the outcome or that the victims will be re-victimized. Victims can be re-victimized when they are not free to choose to participate and when safety is not guaranteed. This study aims to formulate the appropriate conditions for the use of VOM in IPV cases. The interviews and focus groups provided valuable input for such guidance.

We talked with almost only victims of situational violence. Often the violence was a single incident, but also recurring violence took place (although it was mainly the first reported crime). We have seen that most of the respondents were satisfied with VOM. The victims that endured recurring violence and the very few victims of what can be qualified as coercive control also expressed satisfaction as they had the opportunity to participate in VOM and felt respected, heard and supported. To speak about the violence and condemning violence in a safe surrounding seems to be one of the conditions under which VOM is possible in IPV cases. This also holds true in recurring situations. Being heard proved to be important for all respondents. Whether or not safety was an issue for the respondents seemed to have a link with the way the VOM was prepared. It should be discussed more clearly what is meant by safety and if VOM can be useful in cases of coercive control (and what do we mean with coercive control). We still need more discussion and research on criteria to select cases.

Another issue raised referred to the type follow-up needed after agreements have been made in VOM when dealing with IPV cases. VOM models in **Greece**, and to a certain extent in **Finland** and **Austria**, are capable of stopping the violence by supporting the victim and providing an opportunity to inform offenders on services and programmes, in addition to encouraging them to attend and to learn to regulate their aggressive behavior. A follow-up period or possibilities to have more preparatory and VOM meetings are important in stopping the violence. We need to discuss the role of the mediators, the possibilities of follow-up and guidance to further services and how VOM is being part of an interdisciplinary effort, to ensure victim and offender get both the support they need. These are issues to take up in the practitioners that is being produced within this project and in further research.

References

- Bradshaw, W., Roseborough, D., Umbreit, M.S. (2006). The Effect of Victim Offender Mediation on Juvenile Offender Recidivism: A Meta Analysis. *Conflict Resolution Quarterly*, vol 24, no. 1.
- Daly, K., Stubbs, J. (2007), *Feminist engagement with restorative justice*. *Theoretical Criminology* Vol. 10(1): 9-28. SAGE Publications.
- Drost, L., Haller, B., Hofinger, V., Van der Kooij, T., Lünemann, K.D., Wolthuis, A. (2015). Restorative Justice in cases of domestic violence, Best practice examples between increasing mutual understanding and awareness of specific protection needs. WS1 Comparative report 2015 (JUST/2013/JPEN/AG/4587).
- Johnson, M.P. (2006). Apples and Oranges in Child Custody Disputes: Intimate Terrorism vs. Situational Couple Violence. *Journal of Child Custody*, Vol.2 (4): 65-67.
- Kingi, V., Paulin, J., Porima, L. (2008). Review of the Delivery of Restorative Justice in Family Violence Cases by Providers, Funded by the Ministry of Justice, May 2008. Wellington: Ministry of Justice.
- Laxminarayan, M. (2014). *Accessibility and Initiation of Restorative Justice*. Leuven: European Forum for Restorative Justice.
- Liebmann, M., Wootton, L. (2010). Restorative justice and domestic violence/abuse. A report commissioned by HMP Cardiff Funded by The Home Office Crime Reduction Unit for Wales. Available online at: <http://69.195.124.82/~crimemat/wp-content/uploads/2011/11/restorative-justice-and-domestic-violence-abuse.pdf>
- Nugent, W., Williams, M., Umbreit, M. (2003). Participation in victim-offender-mediation and the prevalence of subsequent delinquent behavior: a meta-analysis. *Research on Social Work Practice*, 14(6): 137-166.
- Pelikan, C. (2000). *Victim-Offender Mediation in Domestic Violence Cases – A Research Report*. United Nations Crime Congress: Ancillary Meeting Vienna. <http://www.restorativejustice.org/10fulltext/pelikan-christa.-victim-offender-mediation-in-domestic-violence-cases-a-research-report> (Aug.25, 2014)
- Pelikan, C. (2010). On the efficacy of Victim-Offender-Mediation in cases of partnership violence in Austria, or: Men don't get better, but women get stronger: Is it still true? *European Journal on Crime and Policy Research* (16): 49-67.
- Shapland, J., Atkinson, A., Colledge E., Dignan, J., Howes, M., Johnstone, J., Pennant, R., Robinson, G., Sorsby, A. (2004). *Implementing restorative justice schemes (Crime Reduction Programme): A report on the first year*. Home Office: University of Sheffield.
- Strang, H. and Braithwaite, J. (eds) (2002). *Restorative Justice and Family Violence*. Cambridge, Cambridge University Press.

Uotila, E., Sambou, S. (2010). Victim-Offender-Mediation in Cases of Intimate Relationship Violence. Ideals, Attitudes and Practises in Finland. *Journal of Scandinavian Studies in Criminology and Crime Prevention* Volume: 11 Issue 2: 189-207.

Vanfraechem, I., Aertsen, I. & Willemsen, J. (eds) (2010). *Restorative Justice Realities, Empirical Research in a European context*. The Hague: Eleven International Publishing.

Wolthuis, A. (2012). *Herstelrecht, een kinderrecht, Voorstellen voor integratie van herstel in het hart van het jeugdstrafrecht*. Den Haag: Boom Lemma uitgevers. Summary in English, p. 427-439.

Annex A

Interviewing victims and offenders

Facts. In part A of this document (facts) we try to get background information of the interviewees. All countries need to ask these questions in the same way so that we can compare them in a quantitative analyses. The format that we have made (below) is set up in such a way that answers can be circled in quick succession. The answers are sorted into categories that make questions easier to answer. This format can be used to interview both victims or offenders*. For every interviewee (whether this is a victim or offender or both) we need to gather information about themselves and their (ex)partner**.

*We talk about victims and offenders as they have been identified by the criminal case at stake and the VOM involved, while we do note/should be aware that there can be situations where roles have turned and/or situations where the offender should be addressed as the accused.

**When you interview both partners in one conflict (the victim AND the offender) you will have filled out their background information twice. However, it is easier to make this unnecessary effort as then both forms will tell the complete story for the particular interviewee.

Topics. In part B of this document (topic list) we have made a topic list, divided into five categories, that will be the guide for the second part of the interview. For every category (e.g. 2. *information about why joining VOM*) there is a list of questions that can be asked during the interview. This part of the interview is much more open to interpretation and will differ from interview to interview and maybe from country to country as well. The questions we have listed here form a guide but do not *need* to be asked in the exact way they are written here. Every category comes with two or three sentences that describe the goal of that category of questions. Moreover every question has one or two words in **bold**, that represent the topics that have to be discussed in that category.

What we have presented below is a guide, to make sure that all the topics (see words in **bold**) are discussed in all the interviews.

Always important to keep in mind are our main questions:

Can RJ be a solution in case of intimate partner violence (IPV), and if so, under what circumstances? What do victims (and offenders) of IPV need in respect to RJ.

A. Facts

Circle the right answer among the options below.

1. Background information about the interviewee

1. **Age** Younger than 20 20-29 30-39 40-49 Older than 50
2. **Gender** Man Woman
3. **Education (highest qualification)** Elementary school Secondary school
Vocational education Higher professional education University
4. **Job** Yes:, hours a week
No: Unemployed ... Housewife ... other.....
5. **Role in conflict (as written in police report)** Victim Offender Both
6. **Relationship status** Now Married Living together Other
Not married anymore Not living together anymore
At the time of VOM Married Living together Other
Not married anymore Not living together anymore
At the time of incident Married Living together Other
Not married anymore Not living together anymore
7. **Years/months of being married or living together** (in months/years) m /
.....y
8. **Split up since:** 1 month 2-6 m 7-12 m > 1 year >2 years
9. **Family structure**
Children (minors / living in same house as parent(s) at time of incident)? No Yes

2. Information about (ex)partner involved in VOM

1. **Age** Younger than 20 20-29 30-39 40-49 Older than 50
2. **Gender** Man Woman
3. **Education (highest qualification)** Elementary school Secondary school
Vocational education Higher professional education University
4. **Job** Yes:, hours a week
No: Unemployed Housewife other.....
5. **Role in conflict (as written in police report)** Victim Offender Both

3. Information about the case

1. **What crime(s)** is/are the case about?
Assault Stalking Threatening Malicious damage Domestic violence
Aggravated assault Sexual harassment Others.....
2. **The timeline** – how long (in months) between the between contact police and VOM meeting?
1 – report incident to the police
2 – first VOM meeting
Amount of months:
3. **Who referred** your case to VOM?
Police Prosecutor Judge/court Probation-services Victim
organization
Other:
4. At **what stage** in the process was your case referred?
Pre-trial Trial Detention After detention
5. **Form of mediation (if possible)?** Direct Indirect → if so,
how?.....
.....
6. **Who participated** in the mediation?
Family members:..... Support persons:.....

Community representatives:.....

Only victim and offender.....

Others:.....

7. How many **mediators** were involved in the mediation?

Men:.....

Women:.....

8. How did your case **end** in VOM?

Agreement Non-agreement

9. **How many times** did you meet with the mediator(s), alone:

Together with your spouse/(ex)partner?

B. Topic list

Per topic (or question) you want to get stories.

1. Information about IPV

In this part the goal is to gain insight into the level and type of control, into the relationship, and into the conflicts and problems in the relationship. It is not (only) about the incident, but about the context and history of the incident(s). The questions are formulated as to ask the victim. But the topic (the relationship and the incident) should also be talked about with the offender.

1. Can you tell something about your **relationship**, the **conflicts** you have and how you **solve conflicts**?
Case of: Problems in raising your children?
 Addiction Problems?
 Financial problems?
 Other?
2. For how long has the situation of IPV occurred? Is this the first incident of violence? If not, when was the **first incident** of IPV? What was the **most serious** incident? Did you ever go to the **hospital/doctor** for your injuries or did you have to miss work? In what way are the **children involved**?
Level of control. For example: Did you feel free in the relationship to do what you wanted? And could you contact or see who you wanted? Are you financially independent?
3. **Reporting to the Police.** When did you go to the police and why? Who called the police (you, a neighbor or someone else)? What was the reaction of your (ex)partner when you called the police? Was this the first time you (offender) were reported or you (victim) reported it?

2. Information about why joining VOM

In this part the goal is to gain insight into the motivation and expectations of those who decided to participate in VOM and in what way they were perhaps influenced by people and/or organisations around them to take part.

1. How were you **informed** about VOM? Pamphlet, on the phone, face to face or other?
2. What made you **decide** to use the opportunity to participate VOM? With whom did you talk about this before you decided (influence of social context)?
3. Were you **supported/encouraged or pressured** by any organization, lawyer, friend or family member (influence or motivation)? Did your (ex) partner persuade you to participate in VOM, did he make promises so that you would participate?
4. Do you have an idea about why your **(ex)partner** wanted to participate in VOM?
5. What were your **expectations**? What did you not want to happen?
6. How did you **prepare** for the VOM meeting? By whom? Direct or indirect? Did any separate meetings take place to prepare? What was helpful about the preparation and what was not?

3. Experiencing VOM and role mediator

In this part we aim to get an insight into how the participants (both victims and offenders) have experienced the VOM meetings. The focus should mostly be on the needs and safety of the victims (and offenders) within VOM.

1. How did you feel when **entering** the VOM? How did you feel to sit down and to **sit opposite** of your (ex)partner?

2. Did you feel **safe**? (IMPORTANT QUESTION!) Before and during VOM? Did difficult moments arise? Were you afraid at any point? Of what? Would it have been possible/safe to stop the process at any time?
3. What were your **needs** during and before VOM? Was there something that helped you or would have helped you?
4. Did you feel **respected** and heard by the mediator? Did they understand you? Did you ever feel that your injuries/consequences of violent act were minimized?
5. What did you think of the **discussions**, were you able to address the topics you wanted?
6. Did your **(ex)partner** take over responsibility or **play down** what has happened? Did your (ex)partner blame you for what happened?
7. Did the **mediator(s) help** you and your (ex)partner in the discussions or did they tell you what to talk about? Were they **neutral** or did you feel that the mediators took sides?
8. Did you discuss something that you and your (ex)partner **never discussed before**?
9. Was the dialogue **constructive**? And if not, in what way did the mediator(s) **intervene**?
10. Did you gain more **insight** into the violence (and the escalation of it) between you and your (ex)partner?
11. If you reached an **agreement**, was it **your own** or did the mediator(s) suggest it?

4. Remorse and redress harm

In this part we focus on how the VOM meetings have (or have not) helped to redress harm caused. The focus should once again be on the victim's needs during VOM and what victims of IPV think about the remorse shown by their (ex)partner.

1. Did the offender show **remorse** or did he/she understand the harm caused?
2. Did the offender **apologize** (if relevant) and in what way?
3. Was the offender willing to **redress the harm caused**?
4. What did you agree on (if an **agreement** was made)? Were any kind of safety agreements made?

5. After VOM

In this part we aim to get an insight into life after VOM for both offenders and victims. Was the victim's safety after VOM discussed or part of the outcome-agreement?

1. If you reached an agreement, was it **fulfilled** (or were all parties honoring the agreements made)?
2. Was there some kind of **follow-up** (like a meeting or a phone call after some time)? **How long** after VOM?
3. Do you receive **support or care** at the moment from professionals (therapy, social services, help with alcohol abuse...) or friends or family?
4. Was there also a **court procedure** next to VOM? If so, what was the outcome? Was **VOM referred to** or taken into account **in the court proceedings**, especially the sentencing?

Safety and expectations

5. Did the **IPV stop** after VOM? Is the violence decreased because of VOM?
6. Did you feel **safe** after VOM? Were you afraid of anything?
7. Were your **expectations met**?
8. Did you feel **empowered**?
9. Would you **recommend VOM** to a friend in a similar situation?
10. Looking back; How would you shortly summarize your feelings after the VOM?
Would you **do it again** or do you prefer another intervention?
11. Do you have some **advice** for future participants in mediation? For mediators or others involved?

