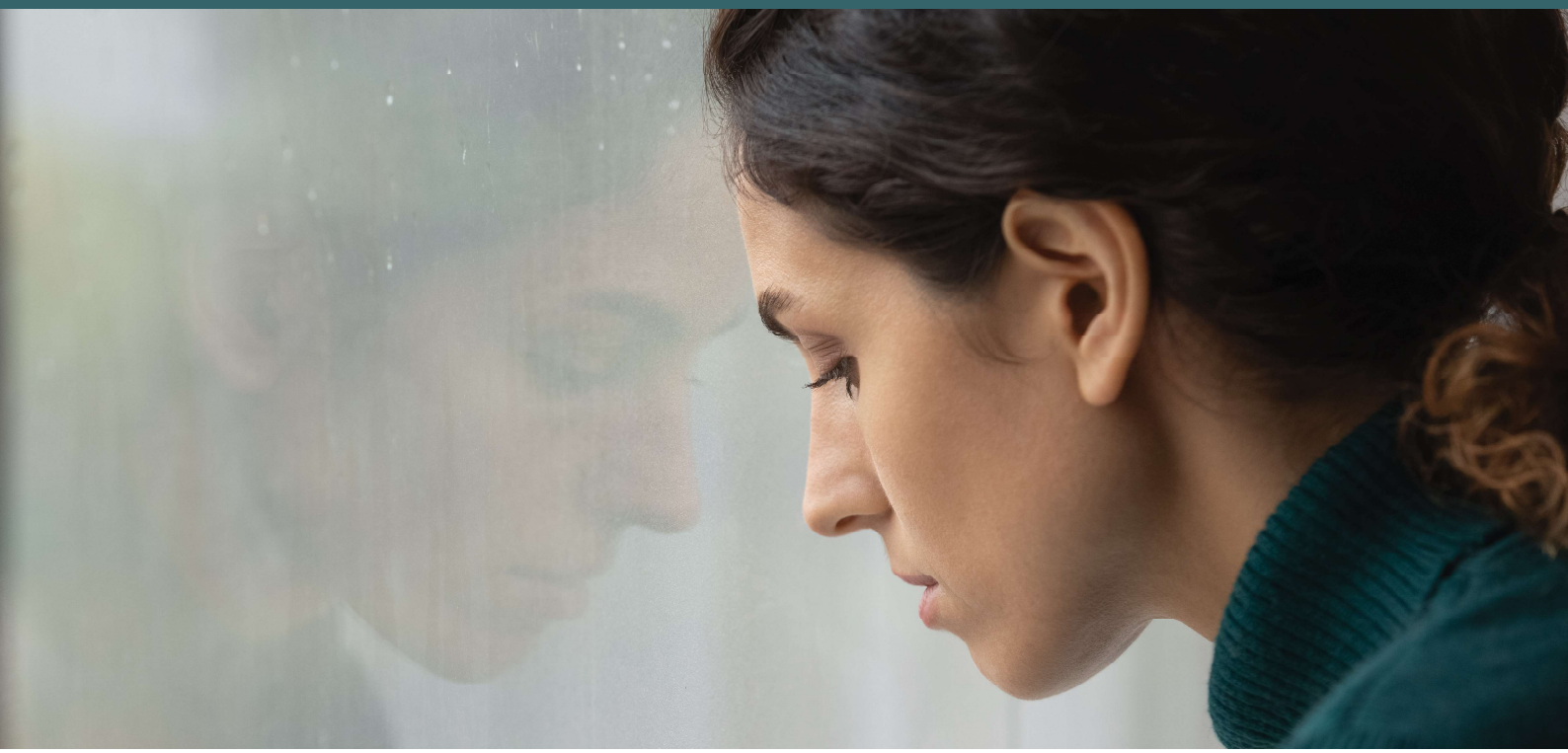
Baseline study on domestic violence in Armenia



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Baseline study on domestic violence in Armenia

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Contents

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1. Introduction

This baseline survey was conducted in the framework of the Council of Europe project "The Path towards Armenia's Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence" (2019-2022). The overall aim of the project was to transfer critical knowledge and build the capacity of Armenian professionals, authorities and NGOs to implement European standards, in particular the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The project also raised awareness of the Istanbul Convention's implications for national policy and legal frameworks; offered timely support for the implementation of the recently adopted law on domestic violence and the relevant criminal legislation in Armenia and strengthened the capacity of key stakeholders involved in preventing and combating violence against women (VAW) and domestic violence (DV) in protecting victims and prosecuting perpetrators.

In 2017, Armenia adopted the Republic of Armenia Law on Prevention of Violence within the Family, Protection of Victims of Violence within the Family and Restoration of Peace in the Family (the DV law), which represented an important step forward in preventing and combating domestic violence, in particular, due to the introduction of protective measures.

Following this development, the authorities were supported (as part of the Council of Europe project) in drafting the National Action Plan for Combating Domestic Violence (the NAP). To assist the authorities in their future efforts to prevent and combat DV, it was decided to carry out a baseline study on cases of DV reported to/recorded by the police, the Investigative Committee, prosecutors' offices, other responsible institutions (if applicable), and the Women's Support Centres, with the aim of providing an overview of: a) access of victims to protective measures introduced by the recent law on domestic violence; as well as b) their access to justice.

Most importantly, this study might be used by the authorities as a baseline against which progress in implementing laws and policies (including the NAP) can be measured.

Considering that the available official data is rather limited, this study is complemented by an in-depth analysis of a sufficiently large sample of cases of DV reported to the Women's Support Centre (WSC) in Yerevan, with the aim of providing a deeper insight into women's experiences with DV on the one hand, and the institutional/judicial response to DV, on the other.

- Theoretical framework and references to international standards

Bearing in mind that this Council of Europe project was aimed at strengthening and spreading knowledge on international standards, including, but not limited, to the Istanbul convention, each chapter of this study includes (at the beginning) an overview of relevant international standards/provisions of the Istanbul convention, but also - experiences from other countries, based on research and baseline evaluation reports of GREVIO[1]. The idea behind this is to offer suggestions and ideas on how Armenian policies/laws might be improved. Believing that promising practices cannot be "copy-pasted" from one country to another without a careful adaptation to the national context, "bad practices" and lessons learnt are also provided. The latter can be as useful as the "good ones" (if not more).

1.1. Methodology, sample and data sources

The baseline study used the following methodology:

- **A desk review of available data** provided by institutions/women's NGOs (as mentioned above) on reported cases, and measures undertaken by state agencies in a process of the implementation of warnings, emergency intervention orders and protection orders (as envisaged in the civil/procedural law, i.e. the DV

1 GREVIO is an independent expert body responsible for monitoring the implementation of the Istanbul Convention in State Parties.

law), as well as on access of women to justice, with the aim of assessing whether and how cases proceed along the criminal justice chain and possibly, determining whether and how cases drop out of the justice chain entirely. Additionally, interviews with professionals involved in data analysis were used. This segment of the analysis could be useful to the authorities in their efforts to monitor and evaluate the effectiveness of civil-law and criminal-law measures.

- **Analysis of databases that were specifically developed for the purpose of this project** – police officers and inspectors are obliged to complete prescribed forms about each case. Previously this data existed only in a paper-and-pencil form, but electronic databases have now been created and include cases reported to the police in the period 2019-2021. Follow-up interviews with professionals involved in this process were also carried out, with the aim of understanding the meaning of data categories.

- **In-depth research of a sample of DV cases** – in total, 86 randomly-selected cases were analysed, relying on detailed questionnaires, specifically designed for professionals from the Women's Support Centre in Yerevan, with the aim of providing a comprehensive analysis of the DV cases reported to them. Questionnaires were translated into Armenian and were completed by staff members from the Centre who were well informed about the cases (including lawyers who represented women in criminal and civil-law proceedings initiated to support victims, and thus used detailed documentation about the case in responding to the questions). In addition, some aspects of qualitative methodology were used: individual or group in-depth semi-structured interviews with these professionals, as well as a brief description of cases which can provide illustration of common problems faced by victims (these brief "stories" were provided by the team of the Centre). Cases were related to women supported by the WSC in the period from March 2018 to December 2021 – the decision was made to focus on the period when the DV law was in force and fully operational. More information on the content of the questionnaires is provided in Chapter Four. This segment of the study does not imply that results are generalisable to the entire population of victims in Armenia; still, results are indicative and revealing.

- Note: the baseline study, including the application of questionnaires, was conducted in the period prior to adoption of the new Criminal Code and the Criminal Procedure Code, which came into force on 1 July 2022. Therefore, analyses refer to provisions that were valid before the new regulations.

2. ACCESS OF VICTIMS TO PROTECTIVE MEASURES ENVISAGED IN THE DOMESTIC VIOLENCE LAW

The CEDAW Committee (2017) in its General Recommendation 35 on gender-based violence against women specifies the positive obligations of the state in the areas of Prevention, Protection, Prosecution and punishment, Reparations, Coordination, Monitoring and Data collection, and international cooperation. The Committee also provides specific recommendations to states. Only those recommendations that are relevant to this segment of the study on access of victims to protective measures (paragraph 31) are briefly summarised below.

POSITIVE OBLIGATIONS OF THE STATE IN THE AREA OF PROTECTION (specifically related to protective measures)

Adopting and implementing measures to protect and assist women complainants and witnesses of gender-based violence before, during and after legal proceedings, including through a) protecting their privacy and safety and b) providing appropriate and accessible protection mechanisms to prevent further or potential violence, including **immediate risk assessment and protection**, a wide range of effective measures and, where appropriate, **the issuance and monitoring of eviction, protection, restraining or emergency barring orders against alleged perpetrators**, **including adequate sanctions for non-compliance**.

Protection measures should avoid imposing an undue financial, bureaucratic or personal burden on women victims/survivors.

Perpetrators or alleged perpetrators' rights or claims during and after judicial proceedings, including with respect to property, privacy, child custody, access, contact and visitation, should be determined in the light of women's and children's human rights to life and physical, sexual and psychological integrity, and guided by the principle of the best interests of the child.

As mentioned, Armenia has recently adopted the law on DV. Very importantly, this law introduced the possibility of issuing protective measures, including warnings, emergency intervention orders and protection orders.

This segment of the study examines the available data on how these novel measures have been implemented in practice.

2.1. Experience from other countries and lessons learned

Findings provided in relevant Council of Europe publications, based on lessons learned in other countries, as well as from baseline evaluation reports of GREVIO may be inspiring to the Armenian authorities in their future efforts to monitor the implementation of these measures, and/or create improvements in the implementation, as appropriate.

2.2. The objectives of emergency barring orders (EBOs) and protection orders

The objective of emergency barring orders (EBOs) and restraining and/or protection orders (protection orders) is similar: to ensure the protection of a victim of violence or person at risk.

As explained in the Mid-term horizontal review of GREVIO baseline evaluation reports (2022), under Article 52 of the Istanbul Convention, in situations of immediate danger, authorities are granted the power to order the perpetrator to leave the residence of the victim or person at risk for a specific period of time and to prohibit the perpetrator from entering the residence or contacting the victim or person at risk. The drafters of the Istanbul Convention left it to the discretion of State Parties to determine the duration of an EBO - usually of short-term nature - and to determine which competent authority should issue such orders (Explanatory report to the Istanbul Convention: paragraph 264). These two types of order are complementary – EBOs should provide protection for the victim in situations of immediate danger (where harm is imminent), while protection orders are intended to ensure longer-term protection. Immediate issuance of EBOs can help to prevent further harm and sends an important message to the perpetrator that violence in the home will not be tolerated (Logar and Niemi 2017).

In its Mid-term horizontal review of baseline evaluation reports GREVIO (2022: paragraph 460) clarified that EBOs are a tool for law-enforcement agencies and criminal justice actors to react quickly to a situation of immediate danger without lengthy proceedings. They are tools intended to prevent a crime and are thus intended to prioritise the safety of victims. EBOs should therefore be time-bound and incident-based, with the possibility of renewal in the case of continued danger and with longer-term protection being granted by a court through a protection order, upon application of the victim. EBOs should moreover ensure the safety of victims without forcing them to hurriedly seek safety in a shelter or elsewhere. The burden of leaving the home is in fact shifted to the perpetrator who should be ordered to vacate the residence of the victim immediately and be barred from returning for a "sufficient period of time" as well as from contacting the victim and her children, where applicable. Moreover, an EBO should in principle

extend to children in need of protection and should have immediate effect, even if the order must be confirmed by a court or other legal authority afterwards. The EBO should also be accompanied by the availability of support to the victim, such as specialist support services, legal advice and help, shelters, medical help, and psychological counselling.

Logar and Niemi (2017) highlight that, since EBOs are short-term measures which are far less restrictive than other types of measures separating the victim and the perpetrator (such as arrest or detention), **EBOs do not provide effective protection in situations of severe violence**, and thus should not be used as a substitute of arrest and detention when there is a risk of repeated and severe violence, including a lethal threat; further, EBOs should not be seen as a replacement for shelters and other specialist support services (ibid.).

Protection orders, on the other hand, are of a longer-term nature: under Article 53 of the Istanbul Convention, victims of all forms of violence against women should be able to obtain a protection order **irrespective of, or in addition, to other legal proceedings** (see GREVIO 2022: paragraph 470). Protection orders should thus be available to the victim under civil law, whether or not they choose to set in motion any other legal proceedings such as criminal or divorce proceedings, for instance.

The complementarity nature of EBOs and protection orders is recognised under the Istanbul Convention (Explanatory report to the Convention: paragraph 268). Logar and Niemi (2017) further clarify that these two measures, EBOs and protection orders, should be used complementarily in order to avoid gaps in protection; that is why civil-law protection orders (for which the victim needs to apply to the court) should be used to ensure a continuous protection once an EBO expires. For example, in Austria the duration of the EBO (which is issued by the police) is automatically prolonged from two to four weeks if the victim applies for a civil-law protection order. Civil courts are able to deliver a decision within four weeks so that no gap in protection occurs. Further, an EBO needs to protect persons at risk before harm is done. Thus, it is important to avoid setting a high threshold of violence as a condition for issuing an EBO. It is equally important to avoid high standards of proof for any violent incident or threat. As a preventive tool, the purpose of an EBO is to ensure safety and it should not be linked to the proof of criminal responsibility. Since domestic violence is characterised by repeat victimisation, an EBO of ten days or even a month cannot be expected to avert the danger in the long run, so well-tuned successive protection orders are needed. It is also important to note that violation of EBOs should be regarded as a risk factor for severe violence.

2.3. Implementation of EBOs and protection orders: the Austrian experience

As explained by Logar and Niemi (ibid.), Austria was the first country in Europe to introduce EBOs, under the law which came into force in 1997, and which provides for three core measures: 1) EBOs are to be issued by the police; 2) Domestic Violence Intervention Centres are to provide immediate support to all victims; and 3) civil-law protection orders can be requested by victims to protect them after expiry of the police EBO, or independently from an EBO. In line with the law, Intervention Centres were established, which offer immediate, pro-active and empowering support to victims. These centres are run by women's NGOs and are fully funded by the state. The law protects the victim *ex officio* in the acute phase of violence and afterwards it gives agency to the victim to decide whether she/he wants further protection or not. In this subsequent phase only the victim is authorised to apply for a judicial protection order, with two exceptions: if the victim is a child (i.e. a person below 18 years of age), the (non-violent) parent can apply for a protection order on her or his behalf. The second exception is that the Youth Welfare Office can make an application for a protection order if children are in danger (ibid.).

Austria has amended its law several times since 1997 in order to close gaps and improve regulations which were not proving to be effective in protecting victims. Since 2009, an EBO will last two weeks with the possibility of prolonging to four weeks if the victim applies for a civil-court protection order. The law requires **the police to actively monitor compliance with the EBO** and to check at least once in the first three days that the perpetrator has not returned to the home of the victim. Victims receive, from the police, a document explaining their right to apply for a judicial protection order within two weeks of an EBO being issued. They are also informed about where to get help and told that they will be contacted by the regional Intervention Centre which offers support to victims. The police notify the regional Intervention Centre of all cases of violence against women, domestic violence and stalking within 24 hours (per fax or by email). The perpetrator has the right to appeal to an administrative court against the decision of the police to

issue an EBO, but the appeal has no suspensory effect. If the appellant wins the case, he/she can claim compensation. The victim is not a party in this procedure and does not have the right to appeal. If the perpetrator violates the order, he/she is charged with an administrative fine of up to 500 euros for every offence. In cases of repeated breaches of the EBO, he or she can also be arrested. **EBOs are part of the multi-agency co-ordination approach**; co-operation between the police, the civil/family court, the Intervention Centres, and the Youth Welfare Office is well developed, whereas co-operation with the criminal justice system appears to be less so. Similar observations can be made for the health sector.

In Austria, there is also a specific legally prescribed procedure for notifying perpetrators that an EBO has been issued against them, as explained by Austrian NGOs (2016) in their shadow report to GREVIO. If the perpetrators are present at the house when the police issue the order, the police must notify them that an EBO has been issued against them and order them to leave the house, as well as indicating that they are not allowed to return for two weeks. If the perpetrator is not present, the police must search for him/her immediately. The police must define the area that the perpetrator is not allowed to enter and inform him/her about it. They then ask the perpetrator to hand over the keys to the house and tell him/her that he/she is allowed to pack personal belongings that are needed for two weeks. The police then hand over the information leaflets to victims and perpetrators and ask the perpetrator to leave the house with them. The ministerial decree for the implementation of the law that includes EBOs further specifies the following rights of the perpetrators who are barred from the common home (ibid). These rights are described in the leaflet the police provides to the perpetrators: a) information about the EBO and the area where they are not allowed to enter; b) information about sanctions in cases of a breach of the order and the amount of the fine; c) information about the emergency accommodation in case that they do not have a place to stay; d) information where to get help; and e) information that they have to name an address where the court can serve a judicial order (in case that the victim applies for a civil-court protection order, see paragraph above), and the consequences if they do not provide the authorities with an address, namely that a judicial order will come into force even without them being notified. The latter procedure has proven to be a very important technical detail to avoid unintended gaps in protection because formal requirements are not fulfilled, as assessed by Austrian NGOs (ibid).

Promising practices: how to monitor violations of EBOs and protection orders?

- GREVIO has noted positively of the approach taken by the Swedish authorities concerning violations of protection and barring orders - as they are not only subject to fines and imprisonment but may also be charged as an offence of stalking. The recent changes to the Non-contact Order Act make breaches of non-contact orders with electronic monitoring a separate crime subject to a prison sentence of up to two years (GREVIO 2022: paragraph 462).
- GREVIO has commended the Spanish system for ensuring compliance with protection orders, which entails significant monitoring of perpetrators through GPS tracking, as well as systematic analysis of violations of protective orders that is also factored into on-going risk assessments (GREVIO 2022: paragraph 472). An electronic monitoring tool operating as a GPS tracking device monitors the distance between the perpetrator and the victim. A warning is activated if the perpetrator moves into a restricted area, approaches the victim, or attempts to tamper with the electronic bracelet. This is a useful way of giving real meaning to the protection order and of helping women to feel safer (see GREVIO report on Spain: paragraph 265).

2.4. Problems in the implementation of EBOs identified in different countries

GREVIO has identified numerous problems in the implementation of EBOs.

- **Infrequent use of EBOs** (GREVIO 2022: paragraph 463): the aim of protecting the right of victims of DV and their children to safety and to remain in their own homes is undermined when EBOs are used infrequently in practice. In its report on Montenegro, GREVIO noted a certain reluctance to issue EBOs stemming from procedural issues and attitudes about men as the head of the household. In the case of Finland, GREVIO

has underlined that perpetrators are rarely expelled unless the threat of danger is very high. In this respect, GREVIO has clarified that under Article 52 of the Istanbul Convention, EBOs are to be issued in cases of immediate danger; this does not necessarily require the risk of death or other serious violence, which would represent an unacceptably high threshold. They should, therefore, also be issued for less serious violence.

- **EBOs should be available ex *officio*** (ibid: paragraph 464): in the case of Denmark, GREVIO has noted the low use of EBOs by the Danish National Police force in cases of DV; according to the police, this is due to the fact that most victims prefer shelters. Moreover, GREVIO has observed that the police tend to warn perpetrators or accept their offers to leave voluntarily instead. GREVIO has clarified that as a measure of protection, EBOs should not depend on the will of the victim and must be ordered ex officio as part of the state obligation to prevent any act of violence covered by the Istanbul Convention that are perpetrated by non-state actors. Similarly, in respect of Finland, GREVIO has highlighted that first responder patrol police are not authorised to issue EBOs and in Sweden, the police tend to use other measures, such as taking victims to a protected address. GREVIO has also urged the authorities of Albania and Turkey to ensure that law enforcement authorities make pro-active use of their authority to issue protective orders when a victim is in immediate danger, without relying on a statement from the victim.

- **Response to immediate danger without lengthy proceedings or high evidentiary requirements** (ibid: paragraph 465): in many reports, including those on Malta, Spain and Sweden, GREVIO has noted failures in the procedures to adequately react to immediate danger, due for example, to the excessive length of procedures or to excessively high evidentiary thresholds. As regards lengthy procedures, it was noted that, although Spain has a system of specialised courts that operate around the clock, it could still take up to 72 hours for an order to be issued. In the case of Malta, it was noted that a thorough risk assessment was required, as well as an investigation indicating that the victim was at a high risk of violence. The latter could not be considered in line with the Istanbul Convention, inter alia, due to the lengthiness of the risk assessment. Moreover, making EBOs dependent on the outcome of the risk assessment is questionable as EBOs should ensure safety, and risk assessments may not always be accurate, as demonstrated by the numerous gender-based killings of women who had been assessed as being low risk in Europe. Regarding excessively high evidentiary thresholds, GREVIO has indicated that, in the case of Sweden, prosecutors required evidence of the commission of a crime or of the abuser's intention to commit a serious crime to issue a protection order.

Weaknesses in the protection of victims (ibid: paragraph 466): In its report on Albania, GREVIO observed that the practice of limiting the perpetrator to a part of the shared home or limiting the protection only to victims who live with the perpetrator on a regular basis (as was identified Finland and the Netherlands) made EBOs ineffective in terms of victim protection and the prevention of violence. Regarding the Netherlands, GREVIO has drawn attention to the fact that temporary restraining orders apply only to the victim's home, not the victim herself. Thus, this form of order would not be applicable to cases of stalking when the victim and perpetrator do not live together.

- **Applicability of EBOs to children** (ibid: paragraph 467): in its reports on Albania, Austria, Denmark, Sweden, and Finland, GREVIO identified gaps in the protection offered by EBOs or protective orders when they allowed perpetrators of DV to maintain contact with their children. GREVIO has explained that one of the purposes of an EBO - to create distance between the abusive partner and the victim in the physical sense as much as in the emotional sense - is undermined if the victim must facilitate contact or visitation between the abuser and the children.

- **Support to victims when an EBO is issued** (ibid: paragraph 468): GREVIO has reiterated the critical nature of a multi-agency approach to the implementation of both EBOs and other protective orders. Accordingly, GREVIO has encouraged law enforcement authorities in Finland and in France to ensure inter-institutional co-operation between all relevant actors in implementing protective orders. In its report on Finland GREVIO encouraged the authorities to take an active approach to referring victims to specialist women's support services.

- **Enforcement and sanctions for violations of EBOs** (ibid: paragraph 469): In its report on Andorra, GREVIO noted that there was no data collected on the use of EBOs; in its report on Malta, GREVIO observed that there was no centralised system that would allow the recording and monitoring of the issue and/or breaches of EBOs and thus urged the authorities to step up efforts to monitor and enforce EBOs, including through protocols/regulation and technical means such as electronic tagging. The issue of monitoring compliance with EBOs was also raised in the report on Belgium, where GREVIO referred to the usefulness of electronic tagging, regular meetings with the perpetrator and providing victims with alarms. As regards sanctions for breaches of EBOs, GREVIO highlighted in its reports on Belgium and Monaco that monetary fines may not be sufficiently dissuasive and that criminal sanctions are preferable. It has noted in fact that violations of protective orders, in general, are very likely to signal a situation of high risk for the victim, which the responsible authorities should consider when deciding how to punish a perpetrator who has violated an order.

2.5. Problems in the implementation of protection orders in different countries

Some of the principles underlying EBOs also apply to protection orders such as the requirement that they also protect children, the need to ensure co-ordination with victim support services and the need for sanctions to be effective. Therefore, some problems related to the implementation of protection orders are like those noted above, in relation to EBOs.

- **Availability to victims irrespective of, or in addition to, other legal proceedings** (ibid: paragraph 474): Article 53, paragraph 2, of the Istanbul Convention requires that protection orders be made available to victims irrespective of, or in addition to other legal proceedings and can also be introduced in subsequent legal proceedings. In several GREVIO reports, including those on Malta, Monaco, Montenegro, and Portugal, GREVIO has noted the tendency for legal frameworks to link the issue of protection orders to criminal proceedings or specific types of proceedings. GREVIO has recalled, in this respect, that protective orders should be available to victims under civil law, regardless of whether they choose to set in motion any other legal proceedings, including criminal proceedings. Moreover, it has clarified that many victims who would like to apply for protection orders are not prepared to press criminal charges or to initiate a divorce for various complex reasons, and legal frameworks should nevertheless still offer them protection.

- **Lack of continuity between EBOs and protection orders in the protection afforded to victims:** GREVIO (2022: paragraph 475) has paid particular attention to the potential gaps in protection that may occur after an EBO has expired and before a protection or restraining order can be issued or implemented. For example, although Serbia's legal framework provides for EBOs as well as protection orders under family law, criminal law and misdemeanour law, GREVIO strongly encouraged the authorities to ensure that there was a consistent approach between the system of emergency protection and the various long-term protection orders in order to avoid gaps in the protection of the victim. While noting promising practises in Spain in the adoption of integrated protection measures for victims of intimate partner violence, GREVIO also highlighted the risk of gaps in the current framework. It therefore stated that more needed to be done to achieve continuity of protection and complementarity between protection orders (once they expire) and ways to assist women to achieve long-term empowerment and recovery.

- **Availability of protection orders for all forms of VAW** (ibid: paragraph 473): An important difference with EBOs is that, under the Istanbul Convention, restraining or protection orders should be available to victims of all forms of violence against women, beyond domestic violence. GREVIO has noted, however, that in several parties, including France, Monaco, and Portugal, protection orders are only available for victims of domestic violence. GREVIO has accordingly urged these authorities to ensure that such orders are also available for forms of VAW such as FGM, forced marriage and stalking.

- **Training for relevant professionals on the use and importance of protection orders** (ibid: paragraph 476): In numerous baseline evaluation reports, GREVIO has noted low levels of use of restraining or protection orders. Some of the factors behind such low level of implementation are an inadequate understanding

by law enforcement, prosecution services, judges and lawyers of the role and importance of temporary protection orders and protection orders in breaking the cycle of violence, a lack of familiarity with how to implement them and limited guidance in this respect. In its baseline evaluation reports on Belgium, Denmark, Finland, France, Malta, and Monaco, GREVIO called on the authorities to provide and/or improve the training of the relevant professionals on the use of protection orders, specifically noting that the lack of understanding of the positive impacts of protection orders contributes to their low use.

- **Administrative and financial burdens to accessing protection orders**: In its baseline evaluation report on Serbia, GREVIO (2022: paragraph 477) observed that victims who apply for some types of protection measures must pay a fee and therefore strongly encouraged the authorities to remove any financial barriers to applications for protection orders made by victims. Whereas in its baseline reports on Monaco and Montenegro, GREVIO noted failures to inform victims that they could file for protection orders.

- **Monitoring violation of protection orders** (ibid: paragraph 478): A number of baseline evaluation reports, including those on Italy, Malta, and Turkey, have raised problems around the recording, monitoring and analysis of protection orders to track patterns in the requests, grants and violations of such orders. The baseline evaluation reports on Italy and Turkey urge the authorities to monitor and analyse progress in this area through data collection highlighting, in particular, the forms of violence for which protective measures are issued, whether a measure was requested by a victim or issued *ex officio*, the average duration of protection orders, the number of renewals of protection orders sought by the same victim, the number of breaches of protection orders and whether all breaches were appropriately sanctioned.

2.6. Analysis of the available data on the implementation of warnings, emergency intervention orders and protection orders in Armenia

The DV law in Armenia envisages three types of protective measures: warnings (Article 6 of the DV law2), emergency intervention orders (Article 7 of the DV law3), and protection orders (Article 8 of the DV law). Police officers, in line with this law, are authorised to issue two out of the three protective measures specified by this law: warnings and emergency intervention orders (EIO), whereas protection orders are issued by the court. The police are responsible for monitoring/overseeing the implementation of warnings and EIOs.4 The same applies to monitoring/overseeing the implementation of protection orders, except for those specified under Article 8, paragraph 5(5), of the DV law.

According to the DV law, a decision about warning should be provided to the perpetrator and a signed acknowledgement should be obtained; if the perpetrator is not present at the scene, the warning should be communicated by telephone or sent via official email or registered email to the address of registration (Article 6(2)). Similar procedure of notification applies in issuing an EIO; the latter becomes effective upon delivery to the perpetrator5.

The duration of an EIO should not exceed 20 days (Article 7(2)). Under Article 7(3), the following five types of EIOs are available: immediate and forcible removal of the perpetrator from the residence of the victim; if they live separately, prohibition on the perpetrator to visit the workplace, school, leisure places or residence of the victim and, if necessary, persons under her care; restraining orders (which may include persons under her care, if necessary); ordering the

2 Article 6(1) of the DV law specifies that "a warning shall be applied when the police identifies a case of violence within the family for the first time, it does not have evident elements of an offence and there are no grounds for an emergency intervention. The warning decision shall include a notification on applicable legal sanctions in case of continuing or repeated violence. The warning shall be issued as soon as possible after learning about the case."

3 Article 7(1) of the DV law specifies that "an emergency intervention order is made by a competent police officer to protect the life and health of a member of the family if one member of the family has committed violence against another member of the family and there is a reasonable belief of imminent risk of repeated or continuing violence. An emergency intervention order may also be made if a violent act without elements of offence is committed within one year after receiving a warning."

4 Article 7(11) specifies that, "the police shall supervise the implementation of the emergency intervention order by the perpetrator of violence within the family". Article 15(5) also defines the authority of the police to "issue emergency intervention orders stipulated in Article 7 of this law, oversee the implementation of relevant provisions in the emergency intervention and protection orders following the procedure set forth by the Minister of Internal Affaires".

5 Article 7(7) of the DV law prescribes that "a well-grounded decision of a competent police officer to issue an emergency intervention order shall become effective once it is served to the perpetrator of violence within the family. A copy shall be served on the perpetrator of violence within the family against signed acknowledgment; if the latter is absent at the scene of action, the content of decision shall be communicated to the perpetrator via telephone; if impossible, a copy of the decision shall be sent to the perpetrator via official e-mail or registered mail to the address of registration".

perpetrator to surrender all firearms in his possession until the expiry of the deadline specified in the order; prohibition on the perpetrator to communicate with or contact the victim (and persons under her care, if necessary) by telephone, e-mail or other forms of communication.

Under Article 8(1) of the DV law, a protection order is issued by the court upon the application of the victim, or the support centre, with the consent of the victim. Protection orders are issued to protect the victim and persons under the victim's care and to prevent new acts of violence within the family (Article 8(3)) and are issued for a period of up to six months and can be extended by the court for up to three months twice based on a well-grounded application justifying the need for such extension (Article 8(4)). Protection orders (Article 8(5) of the DV law) may include five measures like those specified with respect to EIOs; in addition, the order may include prohibition of child visitations, if necessary; a requirement on the perpetrator to share with the victim the living expenses for their common minor children or adult children with disabilities and persons under their joint care; and a requirement on the perpetrator to attend a rehabilitation programme. Article 11(1) of the DV law further provides that DV perpetrators, against whom a warning, an EIO, or protection order has been issued, as well as adults convicted for a crime related to DV, shall be recorded in a special prevention register by the police.

As explained by Human Rights Defender (2019), the DV law, Article 5(2) prescribes safeguards for applying the protective measures in accordance with the principles provided by this law and the principle of proportionality of the intervention. An application will not hinder the initiation of criminal proceedings and criminal prosecution under the procedure provided by law. This provision means that **granting protection is not tied to criminal prosecution**, and victim protection is viewed as the primary concern.

Available information on warnings and EIOs is provided below, relying on two sources: 1) Human Rights Defender (HRD) reports for 2019 and 2020, and 2) data collected by the Women's Support Centre in Yerevan, based on sending periodic requests for data to the police. Available sources do not provide information on EIOs by type (whether the issued EIO included removal of the perpetrator, banning communication, restraining order, etc.). Further, **data on protection orders is not available.** Data on warnings and EIOs issued by the police (provided in Human Rights Defender's reports for 2019-2020) is presented in Table 1.

Table 1: Warnings and emergency intervention orders issued by the police (as recorded in HRD reports, 2019-2020)

	2019	2020
Total number of cases reported to the police	n/a	n/a
Warnings issued	796	834
Emergency intervention orders issued	260	339
Violations of protective measures, out of which:		
a) reported to the police by the victim	90	56
b) discovered pro-actively by police officers	34	3

Source: Data from the police, provided in HRD reports for 2019 and 2020

The data in Table 1 indicates that in 2019-2020, warnings were issued far more frequently than EIOs, that is, in both years, **the number of warnings issued was about three times higher than the number of EIOs.** With respect to violations, it is indicative that, mostly, victims reported violations to the police (officers rarely discovered violations proactively). HRD (2020) has further noted that out of 834 warnings issued against a perpetrator, violence was ongoing in 20 cases. In all the mentioned cases, preventive registration of perpetrators continued.

The Women's Support Centre in Yerevan periodically sends requests for data to the police, and data received from the police so far on the issuance of warnings and EIOs is presented in Table 2. The centre has also carried out an analysis of revoked warnings and EIOs (Table 3).

Table 2: Warnings and emergency interventions orders issued by the police, 2019-2020 (information sent to WSC)

	2018	2019	2020	2021	2022 (Jan.-Oct.)
DV cases reported to the police	707	485	540	1072	902
Warnings issued	431	796	831	528	436
Emergency intervention orders issued	131	260	337	544	466

Data collected by the Women's Support Centre, based on information received from the police

Reference to "DV cases reported to the police" remains unclear – based on available information, it cannot be explained why in 2019 and 2020 the total number of warnings/EIOs (combined) is higher than the number of "DV cases reported to the police", while in 2021 and 2022, the total number of warnings/EIOs (combined) is equal to the number of "DV cases reported to the police". It is uncertain if "DV cases reported to the police" represent only those in which the police applied regulations provided by the DV law. Practitioners from the WSC added that the police record the cases, and subsequently decide on the use of warning or EIO. This, however, does not explain the above-mentioned discrepancies, but raises the question of whether the issuance of EIOs was delayed.

Data on warnings and EIOs, which were revoked, are presented in Table 3. According to the DATALEX (database available online on all cases that are processed in courts); 14 warnings and 29 EIOs were revoked. The appeals were made by six women and 39 men. According to the decisions of the judges, the police had been wrong to issue an EIO in those cases, and therefore, the police were ordered to pay each perpetrator 10.000 dram (about 24 euros).

Table 3: Data on warnings and emergency intervention orders revoked in court

	2018	2019	2020	2021	2022
Warnings revoked			8	2	4
Emergency intervention orders revoked	2	4	10	5	8

Data collected by the Women's Support Centre in Yerevan (provided on DATALEX)

It should be added that, as explained by HRD (20196), protection measures available under the Criminal Procedure Code (which was valid until 1 July 2022) were not applied in cases of DV. Similar observation was provided in the HRD report for 2020.

As previously mentioned, data on protection orders (defined by Article 8 of the DV law) is not presented in available sources, so no conclusions can be made about their implementation in practice.

2.7. Conclusions on the implementation of warnings and emergency intervention orders (EIOs) by the police

1. An encouraging trend was identified, which should be closely monitored in the future. Whereas in 2019-2020, warnings were used about three times more often than EIOs, in 2021 and the first nine months of 2022, the number of warnings was about equal to the number of EIOs. Assuming that **only an EIO can provide immediate protection to victims in a situation of imminent danger** (which is the intended aim of emergency barring orders in line with international standards), unlike warnings, which is a far "weaker" measure, the increase in the number of EIOs issued (as opposed to warnings) can be seen as a promising trend and should be closely monitored in the future. While fully recognising that many acute situations of violence do not pose an imminent danger to the victim, frequent use of warnings raises questions on a conceptual level: can warnings, in principle,

6 Under Article 98(1) of the RoA Criminal Procedure Code, which was in force till July 1, 2022, anyone participating in criminal proceedings, who can provide data that is significant for solving a crime and finding the perpetrator, which as a consequence may endanger his or her life, health, property, rights and legal interests and those of his or her family member, close relative of next of kin, shall be entitled to protection. Under Article 98 of the same Code, the protection measures include giving formal warning to the person who poses a threat of violence or other crime to the protected person, protection of the identifying data of the protected person, ensuring the personal security of the protected person, guarding the house or other property of the protected person, and so on. However, these measures and the legal provisions for enforcing them are not sufficient, so they are not applied in domestic violence cases. According to data provided by the RoA Investigative Committee, none of the protection measures stipulated by Chapter 12 of the RoA Criminal Procedure Code were applied in 2018 to protect victims of domestic violence.

prevent further violence? It can be assumed that warnings are, in some situations, used as "the first-step-measure" (if the warning does not work, a more serious measure, namely, an EIO will be applied); therefore, precious time for preventing further violence might be lost. Moreover, no sanction is prescribed for violation of the warning. The impact of warnings on ensuring protection of the victim is uncertain and should be explored. Topics to address in the future research could include how the police decide whether to apply a warning or an EIO; whether the application of a warning contributes or not to protecting the victim and preventing further violence; and whether and how regular risk assessment is applied.

2. HRD (2019; 2020) noted a problem related to procedures for appealing the warnings, which have implications for their effectiveness. Part 6 of Article 7 of the DV law stipulates that the decision on applying warning shall be subject to appeal within one month after being informed thereon. As decisions of the police are administrative acts, appeals are regulated by the Law of the Republic of Armenia "On Fundamentals of Administration and Administrative Proceedings", which provides for a suspensory effect. **The suspensory effect of an appeal against a warning may contain risks**, as, in that period, the perpetrator may violate the warning which will not deemed to be as such, reducing the level of protection provided to the victim.

3. As explained by GREVIO (2022) and noted above, the issuance of emergency barring orders **does not necessarily require the risk of death or other serious violence**, which would represent an unacceptably high threshold. They should, therefore, also be issued for less serious violence, and **without lengthy proceedings or high evidentiary requirements.** More research is needed to assess how the police in Armenia decide to issue EIOs, and whether the threshold is set too high (see sections on EIOs).

4. HRD (2020) has highlighted that during the implementation of the DV law, in particular during the issuance of protective measures (warning, EIO) other people, mostly family members, attempt to interfere and hinder the issuance of the order. How these obstacles are addressed should be monitored in the future.

5. The effectiveness of EIOs is influenced by procedural challenges, identified by HRD in its reports (2019; 2020; see also Mann 2019). The period of entry into force of police decisions related to EIOs is uncertain, not immediate. EIOs enter into force upon notification to the perpetrator via the telephone, upon delivery of email or registered mail and upon receipt of the signature regarding delivery (Article 7(7) of the DV Law); therefore, his signed acknowledgment is required. As noted by legal experts (ibid), Article 7 makes no reference to the implementation of an EIO in the event the perpetrator refuses to sign. Further, the address of registration may be the house where the presence of the perpetrator is prohibited. As a result, the required presence of the perpetrator in that place (for receiving notification) may put the security of the victim at risk. The prescribed procedure for notifying the perpetrator is time-consuming and more importantly, **the procedural rights of the perpetrator are placed above the right of the victim to life and physical integrity** (ibid). The ongoing steps of the perpetrator to establish contact with the victim will not be deemed to be a violation of an emergency intervention, as it will not be in force due to procedural delays in notification. These challenges may be addressed through amending the existing by-laws or other regulations, and experiences of other countries in this regard may be considered (see section: Implementation of EBOs and protection orders: the Austrian experience). It might be also advisable to consider the explanations given by GREVIO that, due to lengthy procedures, some countries fail to meet the requirement that EBOs should have immediate effect (see section: Problems in the implementation of EBOs identified in different countries).

6. Data on violations of restrictions provided by protection orders is particularly important. Article 53, Paragraph 3 of Istanbul Convention requires "effective, proportionate and dissuasive" sanctions for any breach of protection orders. GREVIO (2022) has often highlighted that **the violation of a protection order, in general, is very likely to signal a situation of high risk for the victim**, which the responsible authorities should consider when deciding how to punish a perpetrator who has violated an order. Since in Armenia the police are responsible for monitoring the implementation of protective measures (with the exception of restrictions specified under Article 8, paragraph 5(5) of the DV law), as well as for conducting so-called preventive registration of perpetrators, it is indicative that, both in 2019 and 2020, the majority of violations were reported to the police by the victims, and only a limited number of these were pro-actively discovered by the police (in 2019: 34, while in 2020: only three). As stated by HRD (2019), the problem is that preventive record-keeping and monitoring of DV perpetrators is not

performed appropriately in practice. For violation of EIOs and protection orders, a criminal sanction is envisaged, but there is no information in the available official sources on the number of sanctions imposed (see next section, on access of victims to justice). 3

3. ACCESS OF VICTIMS TO JUSTICE

The next section of the study is focused on access of women victims to justice. International standards are presented first, followed by relevant research findings on this topic, obtained in multi-country studies.

3.1. Due diligence and obligation of the state

The concept of due diligence has a long history in international law. Under international law, the state is obliged to act with due diligence to prevent, investigate, punish and provide remedies for acts of violence regardless of whether these are committed by private individuals or state actors.

The requirement of due diligence (in relation to violence against women) has been integrated into numerous international documents (see, for example: General Recommendation 19 of the CEDAW Committee 1992; the Declaration on the Elimination of Violence against Women (DEVAW) 1993; the Beijing Declaration and Platform for Action 1995; and the Council of Europe Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence). It is also reflected in regional legally binding instruments (such as, the Convention of Belém do Pará7 and the Istanbul Convention), and the case-law of the Inter-American Court of Human Rights8, the European Court of Human Rights9, as well as in the decisions of CEDAW Committee under the Optional Protocol10.

Explanatory report to the Istanbul Convention (para 57) clarifies that "Article 5, paragraph 1 addresses the state obligation to ensure that their authorities, officials, agents, institutions and other actors acting on behalf of the state refrain from acts of violence against women, whereas paragraph 2 sets out Parties' obligation to exercise due diligence in relation to acts covered by the scope of this Istanbul Convention perpetrated by non-state actors. In both cases, failure to do so will incur state responsibility ".

General Recommendation 19 of the CEDAW Committee (1992: paragraph 9) specifies that under general international law and specific human rights covenants, states may also be responsible for the acts of private individuals (non-state actors) if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, as well as for providing compensation. As explained by the former UN Special Rapporteur on VAW, Yakin Ertürk (2006), the concept of due diligence provides a yardstick to determine whether a state has met or failed to meet its obligations in combating violence against women.

In its General Recommendation 35 (2017), which updates General Recommendation 19, the CEDAW Committee provides clarification of the scope of application of the due diligence standard. **GR 35 sets out in considerably more detail what the concept of due diligence entails in practice.** It re-iterates that States Parties will be responsible if they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparation for acts or omissions by non-state actors which result in gender-based violence against women. The committee further specifies that this includes actions by corporations operating extraterritorially. Under the obligation of due diligence, state parties must adopt and implement diverse measures to tackle gender-based violence against women committed by non-state actors. The failure of a state party to take all appropriate measures to prevent acts of gender-based violence against women when its authorities know or should know of the danger of violence, or

7 The Inter-American convention on the Prevention, Punishment and Eradication of Violence against Women ("*Convention of Belem do Para*") was adopted at Belém do Pará, Brasil, on 9 June 1994, at the twenty fourth regular session of the General Assembly to the Organization of American States (OAS). It entered into force in March 1995.

8 See for example: Case *Maria da Penha Maia Fernandes v. Brazil*, 16 April 2001

9 See for example: *Opuz v. Turkey*, no. 33401/02, ECHR 2009-III

10 For example, see cases: *A.T. v. Hungary*; V.*K. v. Bulgaria; S.V.P. v. UK*; *Isatou Jallow v. Bulgaria; Vertido v. Philippines; Cecilia Kell v. Canada; Fatma Yildirim (deceased) v. Austria;* ***Şahide*** *Goekce (deceased) v. Austria; Inga Abramova v. Belarus; V.P.P. v. Bulgaria, etc.*

a failure to investigate, prosecute and punish, and to provide reparation to victims/survivors of such acts, provides tacit permission or encouragement to acts of gender-based violence against women. These failures or omissions constitute human rights violations.

AW Committee in its General Recommendation 35 (2017) specifies the obligations of the state in Prevention, Protection, Prosecution and punishment, Reparations, Coordination, Monitoring and data collection, and international cooperation. Some of their specific recommendations - those relevant to this segment of the study on victims' access to justice – are briefly summarised below.

POSITIVE OBLIGATIONS OF THE STATE IN THE AREA OF PROSECUTION AND PUNISHMENT
States should (paragraph 32):

- Ensure **effective access of victims to courts and tribunals**; ensure authorities adequately respond to all cases of gender-based violence against women, including by **applying criminal law** and, as appropriate, ***ex officio* prosecution** to bring the alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties. Fees or court charges should not be imposed on victims/survivors.
- **Ensure that gender-based violence against women is not mandatorily referred to** alternative dispute resolution procedures, including mediation and conciliation. The use of these procedures should be strictly regulated and allowed only when a previous evaluation by a specialised team ensures the free and informed consent by the affected victim/survivor and that there are no indicators of further risks for the victim/survivor or their family members. These procedures should empower the women victims/survivors and be provided by professionals specially trained to understand and adequately intervene in cases of gender-based violence against women, ensuring an adequate protection of women's and children's rights as well as an intervention with no stereotyping or re-victimisation of women. These **alternative procedures should not constitute an obstacle to women's access to formal justice.**

It is important to recall the relevant norm of the Istanbul Convention, contained in its Article 55, paragraph 111. The Explanatory report to the Istanbul Convention, paragraph 280, clarifies that Article 55, paragraph 1 "places on Parties the obligation to ensure that investigations into a number of categories of offences shall not be 'wholly dependent' upon the report or complaint filed by a victim and that any proceedings underway may continue even after the victim has withdrawn her or his statement or complaint. The drafters decided to use the term 'wholly dependent' upon the report or complaint filed by a victim to address procedural differences in each legal system, bearing in mind that ensuring the investigations or prosecution of the offences listed in this article is the responsibility of the state and its authorities. … The fact that many of the offences covered by this Convention are perpetrated by family members, intimate partners or persons in the immediate social environment of the victim and the resulting feelings of shame, fear and helplessness lead to low reporting and, subsequently, convictions. Therefore, law-enforcement authorities should investigate in a proactive way to gather evidence such as substantial evidence, testimonies of witnesses, medical expertise, etc., to make sure that the proceedings may be carried out even if the victim withdraws her statement or complaint at least with regard to serious offences, such as physical violence resulting in death or bodily harm". Relying on the above requirements of the Istanbul Convention, **GREVIO has reiterated in several of its reports a need to ensure ex officio prosecution** (which means investigations do not require a complaint by the victim) **for offences specified in Article 55, paragraph 1** (physical violence, sexual violence, forced marriage, female genital mutilation, forced abortion and forced sterilisation).

With respect to alternative dispute resolution procedures, including mediation and conciliation, Article 48, paragraph 1, of the Istanbul Convention requires State Parties to **prohibit the mandatory participation in any alternative dispute resolution (ADR) processes, including mediation and conciliation**, in relation to cases of all forms of

11 Paragraph 1 of this article is open to reservations in respect of Article 35 regarding minor offences, pursuant to Article 78, paragraph 2, of this Convention. The drafters wished to make a clear distinction between serious offences of physical violence resulting in severe bodily harm or deprivation of life which would be then excluded by this possibility of reservation and other, minor, offences of physical violence which do not lead to such consequences. However, it is left to Parties to determine what constitutes "minor offences" of physical violence (Explanatory report to the Istanbul Convention, paragraph 281).

violence against women covered by the Istanbul Convention. This provision stems from the principle that violence against women is a manifestation of unequal power relations and that victims of such violence can never enter the ADR processes on a level equal to that of the perpetrator (GREVIO 2022: paragraph 406). Article 48, paragraph 2, aims to prevent another unintended consequence which legal measures may have on the victim, requiring state parties to ensure that any fine that a perpetrator is ordered to pay shall not indirectly lead to financial hardship on the part of the victim. A promising practice in this area was highlighted in Spain (ibid: paragraph 407) where the law expressly prohibits mediation in cases of intimate partner violence. Cases must be referred to the specialist violence against women courts where incidents of violence are disclosed during mediation processes and an assessment must always take place before proposing mediation.

3.2. Identifying causes of shortcomings in the access of victims to justice: what is attrition?

Prosecution rates and conviction rates in cases of DV against women or other forms of VAW are often used as indicators of the effectiveness of the criminal justice sector response to violence. To assess whether the criminal justice response is effective, it is important to collect data on reported cases, prosecuted cases and convictions, on an annual basis. Such analysis is essential in determining **attrition**, which can be defined as the proportion of cases that were reported to the authorities but did not result in any legal sanction for the perpetrator. Or, in other words, the analysis of attrition refers to when, how and why cases have been dropped from or otherwise have been "lost" to the criminal justice process. The analysis of this kind can be properly conducted if data collection systems used by the police and judiciary allow cases of violence to be adequately tracked across the criminal justice system. Only in such a manner is it possible to identify gaps in implementation of the laws/policies and understand underlying factors that contribute to the shortcomings - for example: whether the police dismiss some reports, whether prosecution drop (too many) charges (due to over-reliance on victims' statements, for example), etc.

The Handbook on effective prosecution responses to cases of VAW (UNODC 2014); explains that despite increased attention and widespread reform in criminal laws and procedures to eliminate VAW in recent decades, conviction rates are static or even declining in some countries. In the International Violence against Women Survey on attrition rates (Johnson et al. 2008) over 23,000 women in 11 countries[12] across the world were interviewed about their experiences with physical and sexual violence by partners and non-partners since the age of 16. It was concluded that in general fewer than 20% of women had reported the last incident of violence to the police; and women were more likely to report a case of non-partner violence than partner violence, except for in three countries. In all countries studied, physical violence by non-partners was reported at a higher rate than sexual violence. The likelihood of charges being laid against a perpetrator was between 1 and 7% of all incidents, while in relation to conviction rates, it was concluded that the likelihood that cases of partner or non-partner violence will result in a conviction was just 1 to 5% in all studied countries, except in one.

In a series of studies, women's access to justice (over a period of about 15 years) was analysed, using numerous indicators of the implementation of the due diligence principle, and it was found that shortcomings in criminal justice response to domestic violence were due to, *inter alia*, an increasing tendency of prosecutors to drop charges (about two thirds), although the reporting rates have increased, while courts (mostly) imposed suspended sentences (Brankovic 2013; 2016).

In its Mid-term Horizontal Review of GREVIO baseline evaluation reports, GREVIO (2022: paragraph 450) highlighted that **attrition rates in domestic violence and rape cases are generally high across Europe**, and efforts must be stepped up to identify their root causes. Many studies on this issue have been conducted (Kelly and Regan 2001; Regan and Kelly 2003; Kelly, Lovett and Regan 2005; HMCPSI 2002; Hester 2006; Lovett and Kelly 2009; Jewell and Wormith 2010; Sleath and Smith, 2017; Westermarland, McGlynn, and Humphreys 2018; McPhee, Hester, Lilley-Walker and Bates 2022). In this context, it is important to underline that in her work to create a common set of indicators at the international level for assessing state responses to VAW that would allow across-country comparisons and evaluating progress over time, the former UN Special Rapporteur on Violence against Women (Ertürk 2008) suggested

12 The countries included in the study were: Australia, Costa Rica, the Czech Republic, Denmark, Greece, Hong Kong, Italy, Mozambique, the Philippines, Poland, and Switzerland.

attrition as one of the key process indicators[13] in the area of access to justice, and explained that it required tracking of reporting, prosecution and conviction rates on a year-by-year basis. Attrition is a complex, multi-layered indicator.

- Increasing reporting rates may be seen as indicator of decreased social tolerance and increased willingness of women to exercise the right to access to justice.
- Prosecution rates should not only mirror increases in reporting, but also increase if legal and procedural reforms are having the desired impact.
- Conviction rates should, similarly, stay at minimum constant and increase if procedural reforms are effective. They should not be lower than for other crimes, especially since, in many cases, the identity of the perpetrator is known.

In its reports, GREVIO has often pointed to shortcomings in the criminal justice response and the need to identify and address any factors which contribute to high attrition in cases related to all the forms of violence against women (see next section). GREVIO noted that such measures should be supported by the regular collection of sex disaggregated administrative and judicial data that are reliable and comparable throughout the judicial chain, in line with article 11 of the Istanbul Convention. An example from Portugal shows how improvements in data collection have helped to identify such shortcomings.

In 2009, Portugal introduced a legal obligation to collect data from law-enforcement (the police and National Guard) and the judiciary to reconstruct the entire criminal proceedings chain, from the moment a victim files a complaint/ report to the police to the delivery of the judgment by the court (GREVIO's baseline evaluation report on Portugal 2019). In its reports, GREVIO has frequently recommended other countries do to harmonise the collection of disaggregated data on violence against women cases throughout the judicial chain.

In Portugal, the criminal justice sector (courts of first instance) record convictions for domestic violence, rape, as well as other crimes related to VAW. As a result of the data-collections systems which enable the Portuguese authorities to track cases from reporting to the police until judgment of the court, it is possible to see the following results as provided in the GREVIO report: data reveals **extremely low conviction rates for domestic violence: 7% of reported cases result in a conviction.** In 2016, out of 27 005 reports of domestic violence, only 3 646 led to the opening of a trial, and only 1 984 led to conviction at courts of first instance. Factors that contributed to low conviction rates should be highlighted: out of 4 163 investigations, 2 796 resulted in the provisional suspension of criminal proceedings which can be requested during the investigation phase by the public prosecutor on his/her own initiative or upon the request of either the offender or the victim. In cases where a conviction was achieved - more than 90% of prison sentences were suspended (ibid.). Therefore, as noted in various GREVIO's baseline evaluation reports, ccomprehensive and robust sex disaggregated statistics on violence against women cases are crucial to design evidence-based and gender-sensitive policies to effectively prevent and combat violence against women.

Challenges in the criminal justice response to domestic violence in other countries

Shortcomings in the response to DV, identified by GREVIO in its baseline evaluation reports, and corresponding recommendations may be useful to the Armenian authorities in the context of reviewing victims' access to justice.

- **Proactive role of the police in collection of evidence as means to avoid over-reliance on victims' statements**

The role of law-enforcement agencies in collecting evidence before referring a case to prosecution has been consistently underlined across the baseline evaluation reports of GREVIO due, generally, to the low number of cases that are prosecuted and the low number of convictions (2022: paragraph 444). In its reports on Austria, France, the Netherlands and Spain, GREVIO stressed the importance of proactively and rigorously collecting all relevant evidence in addition to the victim's statement. This is especially important to ensure effective *ex officio* prosecution of crimes of VAW, as required by Article 55 of the Istanbul Convention. In particular, law enforcement authorities' collection of

13 An indicator is "an item of data that summarizes a large amount of information in a single figure, in such a way as to give an indication of change over time" (Beck, 1999). "Process indicators" refer to policy instruments, programmes, and specific interventions; actions taken by States and individuals to protect and fulfil rights (Office of the United Nations Commissioner for Human Rights – OHCHR 2006; Ertürk 2008).

evidence should entail documenting injuries (with the consent of the woman victim), taking photos of the crime scene, collecting DNA samples, taking statements from neighbours and any other potential witnesses, for example. GREVIO has accordingly strongly encouraged/urged the authorities to take measures to improve the collection of multiple forms of evidence in cases of VAW so that reliance on the victim's testimony is lessened.

- **Lack of data on prosecution and convictions**

GREVIO (2022: paragraph 446) has consistently drawn attention to the problem of low rates of prosecution and conviction for all forms of VAW. In its reports on Sweden and Turkey, GREVIO acknowledged that insufficient data presents a challenge to assessing whether cases indeed proceed along the criminal justice chain. GREVIO has recalled that low conviction rates erode victims' confidence in the criminal justice system, sending messages that perpetrators will not be held accountable, and this, in turn, contributes to the problem of low reporting to law enforcement authorities.

- **Factors that contribute to low conviction rates**

GREVIO (ibid: paragraphs 447 and 448) has explored the factors that contribute to low prosecution and conviction rates. These include low levels of awareness and professional capacity concerning VAW and lack of specialised training for prosecutors or judges; lack of guidance on case-building and over-reliance on victim testimony as primary evidence; and as regards sexual violence and rape, the influence of gender bias and stereotyping. The interconnectedness of professionals in the justice chain means that shortcomings in the investigation stage can have a detrimental effect on prosecutions. In reports on Austria and Montenegro, GREVIO has pointed to the insufficient oversight of law enforcement by prosecutors, for example, because they did not order further investigation and based their decisions on the charges to be brought on limited available evidence. In the case of Austria, this resulted in the tendency among prosecutors not to open criminal cases of DV. Whereas, in the case of Montenegro, it led prosecutors to classify such cases as misdemeanours.

- **Ensuring that sentencing is commensurate with the gravity of the offence**

GREVIO (ibid: paragraph 449) has emphasised that criminal justice is not the only appropriate response to VAW, as it must be part of a comprehensive and integrated response encompassing at once Prevention, Protection, Prosecution, and integrated Policies. GREVIO has called attention to the problematic use of alternative sanctions that do not impose criminal liability on perpetrators. For instance, GREVIO has expressed concern about the extensive use of diversionary measures in cases of DV and stalking in Austria and Belgium. It also expressed concern that a large share of perpetrators of DV in Spain do not receive prison sentences and are also not required to attend perpetrator programmes. In its report on Turkey, GREVIO urged the authorities to ensure that the use of civil protection orders does not replace or defer criminal action. GREVIO has therefore stressed that the lack of criminal convictions impedes the spirit and principles of the Istanbul Convention which aim at an effective criminal justice response for all forms of VAW. With a view to putting an end to the impunity of perpetrators and preventing the risk of recidivism, GREVIO has strongly encouraged the authorities, inter alia, to ensure that sentencing in cases of VAW is commensurate with the gravity of the offence and preserves the dissuasive function of penalties.

- **Challenges related to alternative dispute resolution (ADR) processes (including reconciliation) in criminal proceedings**

GREVIO (ibid: paragraph 408) has noted that, while none of the reviewed countries provided for mandatory ADR processes in the context of criminal proceedings in their laws, it had observed problematic practices that are in contravention to the Istanbul Convention. In countries such as Albania and Turkey, for example, where the criminal law allows for reconciliation in certain cases of private prosecution, without making it mandatory, GREVIO has noted that many victims still perceive it as compulsory due to lack of information on the procedure and their rights. In countries such as the Netherlands and Serbia, where the laws authorise the deferral of prosecution in specific cases, GREVIO has noted with concern that the decisions to defer are made exclusively by prosecutors with the perpetrator's consent, without consulting the victims. In Finland, while mediation is not intended to replace an investigation, GREVIO has been informed that it often does. It has therefore urged the Finnish authorities to reconsider the power vested in the police to propose mediation as a criminal justice measure in domestic violence cases. In its report on

Turkey, GREVIO noted with concern the practice where courts proposed mediation despite there being an existing restraining or protection order and explicit exceptions in the law to mediation in cases involving spousal violence. It therefore strongly encouraged the Turkish authorities to reform the law and expand the inapplicability of criminal mediation to categories of victims beyond the current spouse. GREVIO is concerned that all these practices send the worrying message that DV is not a crime fit for criminal conviction, which is contrary to the purposes of the Istanbul Convention. In response to these challenges, in its reports on Albania, Belgium, France, and Turkey, GREVIO strongly encouraged/urged the authorities to take measures that ensure free consent, having regard to power imbalances and with safeguards that fully respect the rights, needs and safety of victims. It has also strongly encouraged the authorities of Belgium, France and Turkey to ensure that victims receive adequate information, particularly on the non-mandatory nature of mediation. Further, a common challenge identified by GREVIO in several reports is the lack of understanding, by legal professionals, of the dynamics of violence and the dangers of ADR processes in cases of VAW. In countries such as Belgium, France, and the Netherlands that allow voluntary criminal mediation, GREVIO fears that criminal justice professionals may not understand the dynamics of such violence and hence may not appreciate that a victim may feel unable to refuse mediation for fear of future violence or reprisals by the perpetrator. Accordingly, GREVIO has called for the provision of training for legal professionals, including judges, prosecutors, police, mediators and legal professionals in Belgium, France, Serbia, and Turkey, and the development of clear protocols and guidance for professionals in Finland, and the Netherlands.

3.3. Access of victims to justice in Armenia: the response of the criminal justice sector

In this section on victims' access to justice, data pertaining to the period before and after the adoption of the DV law is presented, including available data on DV cases reported to the police and available data provided by the Investigative Committee and Prosecutor General (as published in reports of HRD 2019 and 2020).

> The objective of this part of the study is to analyse how cases proceed from one stage of criminal proceedings to another, with the aim of identifying where delays, shortcomings and bottlenecks occur in the justice chain and to determine whether, and where exactly, cases drop out of the justice chain entirely.

Insufficient data presents a challenge when assessing whether and how cases proceed along the criminal justice chain in Armenia. Only limited data is available, and it is not possible to track cases across different stages of criminal proceedings; further, legal proceedings can be lengthy, so cases initiated in one year may be concluded in another, and thus it is not possible to determine the proportion of cases that were reported in one year but did not result in any sanction. The results below should be therefore viewed with caution.

Prior to the adoption of the DV law, there was very limited data on DV cases reported to the police and criminal proceedings related to such cases. In recommendations of the UN treaty bodies to Armenia, including the Concluding Observations of the CEDAW Committee (2016), limitations in data collection on DV cases were emphasised. Based on available data for the period 2014-2017 (see Table 4: Truchero 2017) the following can be noted.

1. Certain encouraging trends were identified: **the number of cases reported to the police, as well as the number of criminal proceedings being opened, had slightly increased in 2016 as compared to 2014.**
2. Despite these positive trends, **criminal cases were opened only in a minority of cases (out of the total number of reported cases).**
3. Further, **criminal proceedings were, most often, terminated**, as seen in Table 4.

Table 4: Data on domestic violence cases reported to the police (disaggregated by the victim-perpetrator relationship); criminal proceedings opened and their outcomes (termination, suspension, etc.), 2014-2016

	2014	2015	2016
DV cases reported to the police	678	784	756
Criminal proceedings opened (out of the total number of reported cases)	57	150	311[14]
The victim-perpetrator relationship:	unknown		
violence byhusband towards wife		471	471
violence by wife towards husband		15	20
violence by children towards parents		106	99
violence by parents towards children		65	66
violence by male partner against female partner		unknown	3
Violence by other family members		127	97
Type of violence:		unknown	
Physical			699
Sexual			4
Other types			53
Criminal proceedings terminated	unknown		206[15]
Criminal proceedings suspended	unknown		7

Created based on: Data provided by the police and the Investigative Committee of the RA to the Human Rights Defender of Armenia (published in: Truchero 2017)

In comparison to the period before adoption of the DV law, the available data for 2019-2020, collected by the police (reports of HRD for 2019 and 2020), implies that **deficiencies in the investigation and prosecution of domestic violence persist** (see Table 5 and Graph 1).

Table 5: Data provided by the police: investigated cases of domestic violence, disaggregated by the victim-perpetrator relationship, and type of violence, 2019-2020

	2019	2020
The total number of DV cases investigated, of which:	485	540
The victim-perpetrator relationship:		
a) violence by husband towards wife	329	366
b) violence by wife towards husband	10	22
c) violence by children towards parents	53	57
d) violence by parents towards children	41	43
e) violence by male partner towards female partner	2	4
f) violence by other family members	50	43
Type of violence:		
a) Physical	469	541
b) Psychological	14	25[16]
c) Economic	2	

14 The cases were opened under Articles 104-106, 109-114, 117-121, 124, 131-133, 137-142, 144, 165-174, 185-186 and other articles of the Criminal Code of Armenia adopted on April 18, 2003 (Truchero 2017).

15 In 40 cases the proceedings were terminated on acquittal grounds and in 166 cases the termination was based on non-acquittal grounds. Six cases were suspended as the perpetrators were under investigation (ibid).

16 It seems that police officers in some cases recorded both physical and psychological violence.

Criminal cases initiated (out of the total number of investigated cases), of which:	126 (26%)	150 (28%)
Discontinued /dismissed[17] cases at the pre-trial stage (out of the total number of initiated cases)	93 (74%)	111 (74%)
Cases sent to court for trial (out of the total number of initiated cases)	33 (26%)	39 (26%)
Initiation of criminal case was refused/rejected (out of the total number of investigated cases)	359 (74%)	390 (72%)
Reasons for refusal:		
a) Paragraph 1(4) of Art. 35 of the CPC in force before July 1, 2022 (the victim/injured party does not complain)	353 (98%)	386 (99%)
b) Paragraph 1(10) of Art. 35 of the CPC in force before July 1, 2022 (the person has died)[18]	3	1
c) Paragraph 1 of Art. 37 of the CPC in force before July 1, 2022 [19]	2	
d) Paragraph 1(13) of Art. 35 of the CPC in force before July 1, 2022 [20]	1	
e) Paragraph 1(5) of Art. 35 of CPC in force before July 1, 2022 [21]		3

*Created based on: Data provided by the police (published in: Human Rights Defender of Armenia, reports for 2019 and 2020), *CPC=Criminal Procedure Code (which was in force until 1 July 2022)*

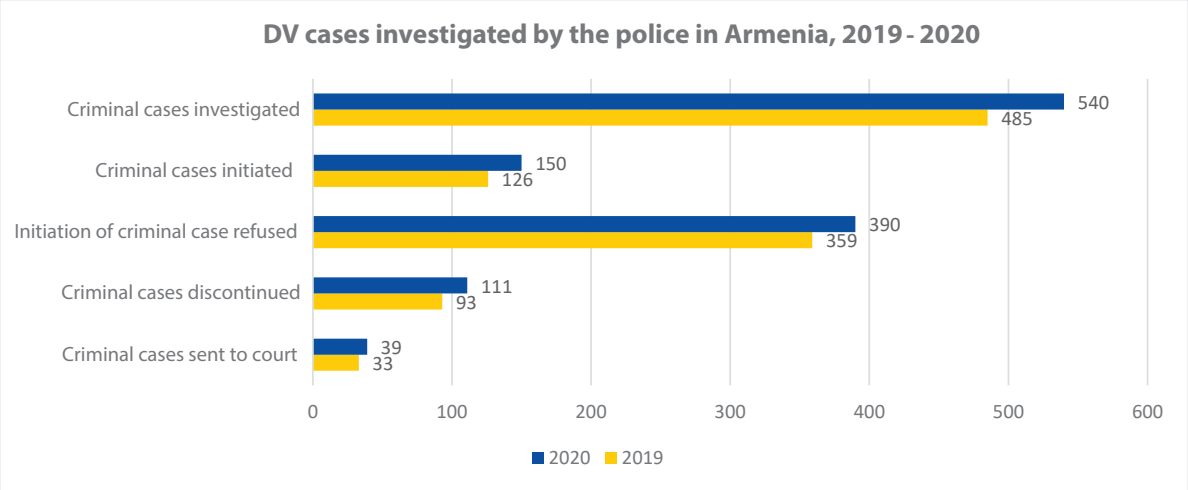
17 Additional information used in the interpretation of data was obtained in the interview with the Armenian legal expert Nina Pirumyan (formerly: Office of the Human Rights Defender). As she explained (Pirumyan, 2022), the term "discontinued/dismissed" refers to the procedural institute envisaged in Article 35 of the Criminal Procedure Code of the Republic of Armenia (which was in force until 1 July 2022). Article 35 provided the reasons for refusal to initiate criminal proceedings or for suspension of the initiated criminal proceedings; it prescribed the following:
"1. Criminal case cannot be instituted and criminal prosecution may not be started and the instituted criminal case is subject to suspension, if:
1) in the absence of any criminal act punishable under the Criminal Code;
2) if the alleged act contains no corpus delicti;
3) if the alleged act, which has resulted in damages, is legitimate under criminal law;
4) in the event of absence of a complaint of the injured, in cases prescribed by this Code;
5) in the event of reconciliation of the injured party and the suspect or the accused, in cases prescribed by this Code;
6) the prescription has expired;
7) against the person and upon a cause, with respect to whom and upon which cause the court has already passed a judgment and such judgment has entered into legal force, or any other enforceable judicial decision is available to exclude criminal prosecution.
8) against the person and upon the same charge, with respect to whom and upon which charge the agency for inquest, the investigator, or the prosecutor has already made a decision denying criminal prosecution, and such decision is still in force.
9) At the moment of commitment of the crime the person had not reached the age punishable by law, as established by law.
10) The person died, except the cases when the proceedings are necessary to rehabilitate the rights of the deceased or to resume the case on occasion of new circumstances with regard to other persons.
11) The person refused to complete the crime of one's own accord if the action already committed has no other formal elements of crime.
12) The person is liable to exemption from criminal liability as stipulated in the General Part of the Criminal Code of the Republic of Armenia.
13) Amnesty act has been adopted".

18 As mentioned in the previous footnote, paragraph 1(10) of Art. 35 of the Criminal Procedure Code (which was in force until 1 July 2022) prescribed as follows: "The person has died, unless the case proceedings are necessary for restoring the rights of the deceased or resuming the case in connection with circumstances newly discovered in relation to other persons".

19 "The court or the prosecutor, or the investigator—with the prosecutor's consent, may discontinue the initiated criminal case proceedings and terminate the criminal prosecution in the cases provided by Articles 72, 73, or 74 of the RoA Criminal Code (which was in force until 1 July 2022".

20 "A law on amnesty has been adopted".

21 "In the event of reconciliation of the injured party and the suspect or the accused, in cases prescribed by Criminal Procedure Code".



Graph 1: DV cases investigated by the police in Armenia, 2019-2020

3.3.1. Conclusions based on data provided by the police

Taking into account the available data, as well as the interpretation of HRD (in reports for 2019 and 2020) and additional explanations provided in interviews[22], the following conclusions can be made. It should be emphasised, as explained earlier (see section: 1.1. Methodology, sample and data sources), that this study was carried out in the period prior to amendments to the Criminal Code, and Criminal Procedure Code, which came into force on 1 July 2022. Therefore, the analyses below (in this and the following sections), refer to criminal provisions that were valid before the amendments.

1. **Almost all investigated cases relate to physical violence** (97% in 2019 and 100% in 2020), and mostly the perpetrator is the husband of the victim. It is well-known that physical violence often goes hand in hand with psychological violence; further, although psychological violence may, in principle, be prosecuted under the Criminal Code of Armenia adopted on April 18, 2003 (Article 119[23]), data implies that this is rarely done in practice. It seems that investigative practice reflects a view that criminal prosecution is justified only in cases of physical violence. As interpreted by HRD (2019), this is due to certain public perceptions, whereby the victim's reporting to law-enforcement bodies is considered justified in cases of physical violence, as well as the absence of legislation that would ensure an adequate criminal-law response to other forms of violence.

2. Further, **most investigated cases do not proceed beyond the investigative stage –** out of the total number of initiated criminal cases, most of them are discontinued at the pre-trial stage (74% in both years), thus, they do not reach court. This represents a worrying trend. As indicted above, the grounds for discontinuing the initiated criminal proceedings at the pre-trial stage were provided in Article 35 of Criminal Procedure Code[24], which was in force until 1 July 2022.

3. **Information on reasons for refusal to initiate criminal proceedings is revealing – in almost all the cases, the main reason is that there is no complaint by the victim.** As experts have noted in previous analyses (Truchero 2017), most cases of DV are prosecuted under provisions regarding minor bodily injuries or battery, which are subjected to private prosecution. Investigation and prosecution may be wholly dependent on the victim's request, thus forcing the victims to bear the responsibility for bringing perpetrators to justice.

Further, data in the HRD reports for 2019 and 2020 implies that in total, 635 criminal cases related to DV were

22 Interview with Nina Pirumyan, 2022 (formerly: Office of the HRD).

23 Article 119 (1) of the Criminal Code adopted on April 18, 2003, reads, "Intentionally causing severe physical pain or mental suffering to a person, where this has not caused the consequences provided for by Articles 112 and 113 of this Code, and where the elements of crime provided for by Article 309.1 of this Code are missing, shall be punished by imprisonment for a term of maximum three years."

24 Some of the reasons for discontinuing initiated cases at the pre-trial stage (based on Article 35 of the Criminal Procedure Code) are mentioned in the footnotes above. The entire Article 35 of the Criminal Procedure Code (which was in force until 1 July 2022) is quoted in the footnote 17.

investigated by the Investigative Committee in 2019, and in relation to 468 cases, the proceedings were completed. In 2020, 730 criminal cases were under proceedings by the Investigative Committee, of which 453 were instituted in 2020. The outcomes are presented in the Table 6 below.

Table 6: Data provided by the Investigative Committee, 2019-2020

	2019	2020
Total number of DV cases investigated	635	730
Criminal proceedings were concluded[25]/completed[26], out of which:	468	507
Criminal proceedings were discontinued, of which:	326 (70%)	358 71%
a) Criminal proceedings discontinued on acquittal grounds (out of the total number of discontinued cases)	197 40%	126 35%
b) Criminal proceedings discontinued on non-acquittal grounds (out of the total number of discontinued cases)	129 (60%)	232 65%
Sent to the court with indictment	128	144
Sent to the court for imposing a compulsory medical treatment	14	5
Suspended, of which:	33	25
a) On the grounds that the suspect is a fugitive	18	14
b) On other grounds	15	11

Created based on the source: HRD reports for 2019 and 2020

Additionally, the HRD report for 2020 specifies to which articles of the Criminal Code the investigated cases were related (such data was not available in the HRD report for 2019). This information is valuable as it makes it possible to review which specific offences have been used most often in relation to acts of DV, see conclusions below.

3.3.2. Conclusions based on the data provided by the Investigative Committee

1. Data provided by the Investigative Committee (as published in the HRD reports for 2019 and 2020) indicates that 468 proceedings were concluded/completed in 2019 and 507 in 2020. Out of these, many were **discontinued** (70% in 2019 and 71% in 2020). In this context, it should be added that figures and analyses presented in the HRD reports (ibid) are based on official information/data provided by responsible bodies (the police, the Investigative Committee and the Office of Prosecutor General – see in the following text). Certain discrepancies and/or inconsistencies in the official data of these bodies exist, and these probably occurred due to differences in defining data categories, and/or lack of harmonisation in data collection between different bodies/institutions included in the criminal justice "chain". With this in mind, it would be desirable to improve data collection systems, and harmonise data collection between law-enforcement agencies and the judiciary including the police, Investigative Committee, prosecutors' offices, and courts (see more in: Study recommendations).

2. A review of specific offences used by the Investigative Committee (as listed in HRD, 2020) leads to the following conclusions. In 2020, out of 453 criminal cases that were initiated in 2020, four were related to murder (Article 104 of the Criminal Code). Further, about two thirds of criminal cases were related to the following two offences[27]: 242 cases (53%) were related to Battery (Article 118 of the Criminal Code[28]) and 51 cases (11%), to threat of murder, of causing

25 As explained by Pirumyan (2022), the term "concluded proceedings" means that no proceedings are ongoing, i.e. the proceedings were discontinued at the pre-trial stage and the case was not sent to court.

26 The term "completed proceedings" means that the pre-trial investigation was carried out completely and the case was sent to court (Pirumyan, 2022).

27 Many other criminal offences were also used, for example, causing severe physical pain or mental suffering (Article 119 of the Criminal Code adopted on April 18, 2003), inducement to suicide (Article 111 of the Criminal Code), intentionally causing light harm to the health (Article 117 of the CC), intentionally causing grave harm to the health (Article 112 of the CC), etc.

28 Article 118 of the Criminal Code of Armenia adopted on April 18, 2003 (Battery) reads as follows, "Battery or other violent actions that have not resulted in consequences provided for in Article 117 of this Code — shall be punished by a fine in the amount of one-hundred-fold of the minimum salary, or by detention for a term of maximum two months". Article 117 (Intentionally causing light harm to health) refers to "intentionally causing a bodily injury or other harm to another person's health, which has resulted in short-term health disruption or insignificant constant loss of the general working capacity and is carries a harsher prescribed punishment: the amount of fifty-fold to one-hundred-and-fifty-fold of the minimum salary, or by detention for a term of maximum two months.

grave harm to health, or of property destruction (Article 137[29]). Article 137 requires proof of real danger that the threat would be carried out, which is a high threshold. Frequent use of Article 118 is consistent with assumptions of legal experts (Truchero 2017; Mann 2019) that most cases of DV in Armenia have been prosecuted under this article.

3. A total of 31 cases were related to the intentional failure to execute an emergency intervention order or protection order (Article 353.1 of the Criminal Code). This is an encouraging finding since at least a few perpetrators who violated an EIO or protection order issued against them were under investigation. However, most likely, many violations were not recorded and/or identified. As the data shows (see section on the implementation of protective measures) some violations were reported by the victims but very few were pro-actively discovered by the police. This should be seen as a worrying trend, considering that violation of orders may be a risk factor for more severe violence. It is not known whether all victims were even alerted/informed that they should report violations to the police.

4. It is indicative (and unfortunate) that only 10 cases were related to causing severe physical pain or mental suffering (Article 119 of the Criminal Code). As mentioned, this provision can be used to prosecute psychological violence, but as the data implies – this has been rarely done in practice.

5. Since information about the outcomes of investigation and prosecution under Article 119 on mental suffering is not available, a more general remark (relying on findings of GREVIO) can be made to possibly guide future legislative efforts to address psychological violence. In many of its baseline evaluation reports, GREVIO (2022: paragraph 347) has found that in countries where psychological violence is captured by general offences such as coercion or threats, such general offences set the threshold of conduct very high to be considered criminal behaviour and are designed to sanction single isolated events, rather than a pattern of repeated and prolonged abuse committed through acts which do not, *per se*, necessarily reach the threshold of criminalisation. Armenia may possibly benefit from the conclusion of GREVIO that such general offences do not capture the harm experienced by victims of psychological violence by the intimate partner. Therefore, they are ill-suited to capture the offence of psychological violence, as defined in the Istanbul Convention[30].

6. As shown in Table 6, **the majority of cases were discontinued**. Out of the total number of discontinued cases, 60% were discontinued based on non-acquittal grounds in 2019 and 65% in 2020, respectively. As explained by legal experts (Pirumyan 2022), in case of acquittal grounds, the person against whom the criminal prosecution was discontinued, obtains the status of an acquitted person with the right to compensation[31]. Grounds for an acquittal are set out below (points 1-3 of Article 35 of the Criminal Procedure Code):

    1) Absence of any criminal act punishable under the Criminal Code.

    2) The alleged act contains no *corpus delicti*. This means that the alleged act did not contain all the necessary elements (absence of *means rea* or *actus reus* of the crime prescribed by the Criminal Code).

    3) The alleged act, which has resulted in damage, is legitimate under criminal law.

In addition, the acquittal grounds further include the following (Part 2 of Article 35): "criminal prosecution is liable to termination and the case proceedings are liable to suspension, if the involvement of the accused in the committed crime has not been proven, if all possibilities to obtain new evidence have been expired". For example, as clarified

29 Article 137 of the Criminal Code adopted on April 18, 2003, stipulates, "1. Threat of murder, of causing grave harm to health, or of destruction of large amount of property, where there has been a real risk of realising such threat — shall be punished by a fine in the amount of fifty-fold to one-hundred-and-fifty-fold of the minimum salary, or by detention for a term of maximum two months, or by imprisonment for a term of maximum two years."

30 Under Article 33 of the Istanbul Convention, the drafters agreed to criminally sanction any intentional conduct that seriously impairs another person's psychological integrity through coercion or threats. This provision refers to a course of conduct rather than a single event. It is intended to capture the criminal nature of an abusive pattern of behaviour occurring over time – within or outside the family (Explanatory report to the Istanbul Convention, paragraphs 179 and 181).

31 Thus, according to Paragraph 1 of the Article 66 of the Criminal Procedure Code (which was in force until 1 July 2022), ''the acquitted is the person whose criminal prosecution is terminated or the criminal proceedings are suspended, based on Points 1-3 of Article 35 of this Code and part 2, or acquittal verdict has been adopted.''

by Pirumyan (ibid), it may have happened that the act of DV did not cause severe physical pain and therefore did not include elements of the crime of battery (Article 118) or that of causing severe physical pain or mental suffering (Article 119).

The reports of HRD for 2019 and 2020 also contain valuable information provided by the Office of Prosecutor General (See Table 7).

Table 7: Data provided by the Office of Prosecutor General

	2019	2020
Total number of DV criminal cases initiated, of which:	458	214
Indictment was sent to court	108	39
Case sent to court with a motion to impose compulsory medical treatment	6	
Case was discontinued and the criminal prosecution was terminated or not pursued, of which:	269 59%	111 52%
Reasons for discontinuing or terminating or not pursuing criminal prosecution:		
a) Paragraph 1(5) of Article 35 of the CPC[32]	104	28
b) Paragraph 1(2) of Article 35 of the CPC	94	
c) Paragraph 1(4) of Article 35 of the CPC	62	80
d) Paragraph 1(1) of Article 35 of the CPC	3	
e) Paragraph 1(10) of Article 35 of the CPC		2
f) Under the procedure provided by Article 37 of the CPC	6	1
Proceedings were suspended, of which:	14	11
a) On the ground specified in Paragraph 1(1) of Art. 31 of CPC	5	4
b) On the ground specified in Paragraph 1(2) of Art. 31 of CPC	9	7
Preliminary investigation of criminal case is still underway		52

*Created based on the source: HRD reports for 2019 and 2020; *CPC = Criminal Procedure Code (which was in force until 1 July 2022)*

3.3.3. Conclusions based on data provided by the Office of Prosecutor General

1. The above-presented data, provided by the Prosecutor's General Office implies that in 2019, 59% of criminal cases were discontinued, while in 2020, the same happened in 52% of the cases. The most frequent reasons for discontinuing or terminating or not pursuing criminal prosecution were reconciliation between the victim/injured party and the perpetrator/accused, and lack of complaint by the victim.

2. The 2020 HRD report also provides data on the application of the amendments to the Criminal Procedure Code. Due to legislative amendments in 2017, which came into force in 2018, Article 183 of the Criminal Procedure Code was supplemented with part 4, which stipulates that, regardless whether the victim/injured person has filed a complaint, the prosecutor shall be entitled to initiate a criminal case in relation to crimes provided for by part of Article 183 in cases of domestic violence, if the injured person cannot defend his or her legal interests due to a helpless state, or due to being dependent from the person who committed the alleged offence. In such cases, the criminal case shall be initiated and examined under the general procedure as prescribed by the Criminal Procedure Code, and in case of reconciliation between the victim and the accused the criminal prosecution shall not be terminated. In 2019, 25 criminal cases were initiated by the public prosecutor under this provision (HRD 2019) and 31 criminal cases were initiated in 2020 (HRD 2020).

3. While this recent practice of the Prosecutor General may contribute to improved access to justice, in relation to some of the victims, it is instructive to consult the case-law of the European Court of Human Rights in this respect.

32 The entire Article 35 of the Criminal Procedure Code (which was valid until 1 July 2022) is quoted in the footnote 17 above (see section: Conclusions based on data provided by the police).

The requirement of *ex officio* prosecution derives from cases such as *Opuz v. Turkey* and *Bevacqua and S. v. Bulgaria* where the Court established that private prosecution does not fulfil states' obligations to prosecute cases of DV with due diligence, as explained by legal experts (Truchero 2017). In the *Opuz* case (see more in: Duban and Radacic 2017), the Court identified factors to be taken into account when engaging in *ex officio* prosecution: the seriousness of the offence; whether the victim's injuries are physical or psychological; if the defendant used a weapon; if the defendant has made any threats since the attack; if the defendant planned the attack; the effect (including psychological) on any children living in the household; the chances of the defendant offending again; the continuing threat to the health and safety of the victim or anyone else who was, or could become, involved; the current state of the victim's relationship with the defendant and the effect on that relationship of continuing with the prosecution against the victim's wishes; the history of the relationship, particularly if there has been any other violence in the past; and the defendant's criminal history, particularly any previous violence. Therefore, in deciding whether to proceed with an *ex officio* prosecution, the main determinants are related to behaviour of the perpetrator, and seriousness of the offence, rather than to the helpless state of the victim.

4. Considering the above, it can be assumed that, most likely, without ensuring *ex officio* prosecution, as required by international standards (and in accordance with the case-law of the European Court of Human Rights, as mentioned above), victims' access to justice will not improve. Studies in different countries show that victims may decide to withdraw their complaints for many reasons, including a fear of retaliation by the perpetrator, economic dependency, a fear of losing children, lack of trust in institutions, etc. As mentioned before, the CEDAW Committee in its GR 35 (2017) also emphasised the obligation of the state to ensure *ex officio* prosecution and dissuasive sanctions (see Box: Positive obligations of the state in prosecution and punishment). In this context, it is important to emphasise that recent amendments to the Criminal Procedure Code in Armenia (which came into force on 1 July 2022) brought significant changes with respect to *ex officio* prosecution of crimes containing elements of DV[33]. In future research, it would be crucial to review how these new provisions on *ex officio* prosecution have been implemented in practice.

5. Based on the available data, it is not possible to conclude how the process of reconciliation between the victim and the alleged abuser has been conducted in practice. Relying on GREVIO reports (as explained above), it would be important to further explore in the future whether measures have been undertaken in practice to ensure free consent, having regard to power imbalances and with safeguards that fully respect the rights, needs and safety of victims, as well as to ensure that victims receive adequate information, particularly about the non-mandatory nature of reconciliation.

6. Challenges highlighted above may be best addressed by defining domestic violence as a specific, separate criminal offence, in line with suggestions of Council of Europe legal experts (e.g. Truchero 2017).

Data presented in the text that follows point to similar conclusions.

3.3.4. The police databases created within this project

Obligations of the police in preventing DV and protecting victims are prescribed by Article 15 of the DV law. In addition, police officers and inspectors are obliged to complete prescribed forms about each case. Introduction of these prescribed forms represents a very important step in creating accurate statistics on reported cases of DV in Armenia.

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33 Article 11 (Forms of Conducting Criminal Prosecution) of the Criminal Procedure Code (in force since 1 July 2022) prescribes as follows,
"1. Within the framework of the criminal proceedings, the criminal prosecution shall be performed in public or private prosecution procedure, based on the nature and the gravity of the crime.
1. Criminal prosecution in the proceedings related to the crimes prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia shall be conducted in the private procedure. Criminal prosecution in the proceedings related to any other crime shall be conducted in the public procedure.
2.If some of the acts attributed to the same person are subject to public criminal prosecution and others - to private criminal prosecution, the public criminal prosecution shall be conducted.
3. Upon the initiative of the prosecutor, regardless of bringing a criminal claim or dropping the criminal claim, the public criminal prosecution is performed on:
The crimes containing elements of domestic violence;
The crimes prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia, if the person is unable to protect his legitimate interests because of his helplessness or due to the fact of dependence from the person who has inflicted the alleged damage".

Based on these paper-and-pencil forms, completed by the police, electronic databases were created, which include cases reported in the period 2019-2021. This data (the police databases) is analysed below.

During interviews, it was not possible to obtain an explanation as to the meaning of many important categories included in these databases and many answers to questions in the forms were missing. It can be therefore assumed that the police databases do not provide a complete picture. The text that follows points to certain unexplained discrepancies between the information contained in the police databases and other official sources (HRD reports: see Table 1).

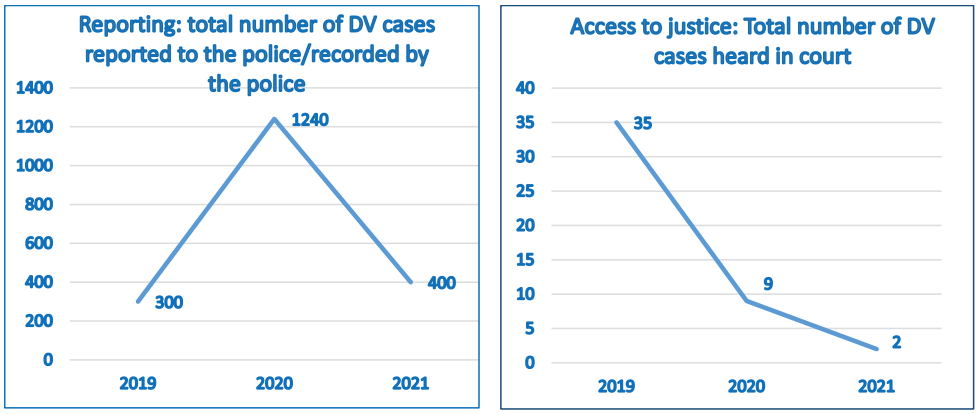
For example, the police databases simply refer to "domestic violence cases". In the interviews, it was confirmed that these are cases reported to the police as recorded in the above-mentioned prescribed forms. It can be assumed that the police databases include criminal cases, but also those where the police only applied regulations provided by the civil law - DV law (for example, issuing a warning or an EIO). In the future, it would be crucial to introduce a clear distinction between the two: criminal cases and those in which the police applied the DV law.

Table 8 shows discrepancies between data provided in the police databases and data provided in HRD reports for 2019 and 2020 (see Table 8, column 2), HRD refers to data obtained from the police about investigated cases. Some discrepancies are notable: in 2019, the number of reported cases as recorded in the police databases, column 1, is lower than the number of the investigated cases in 2019 as recorded in HRD report, column 2. It can be assumed that the number of investigated cases includes cases that were reported in the previous year, but the investigation continued from one year to the next. In 2020, the situation is the opposite, the number of investigated cases is far lower than the number of reported/recorded ones). Presumably, many cases have not been investigated. In the future, it would be important to examine how many DV reports did not result in investigation.

Table 8: Comparison of data on reported/recorded and investigated cases

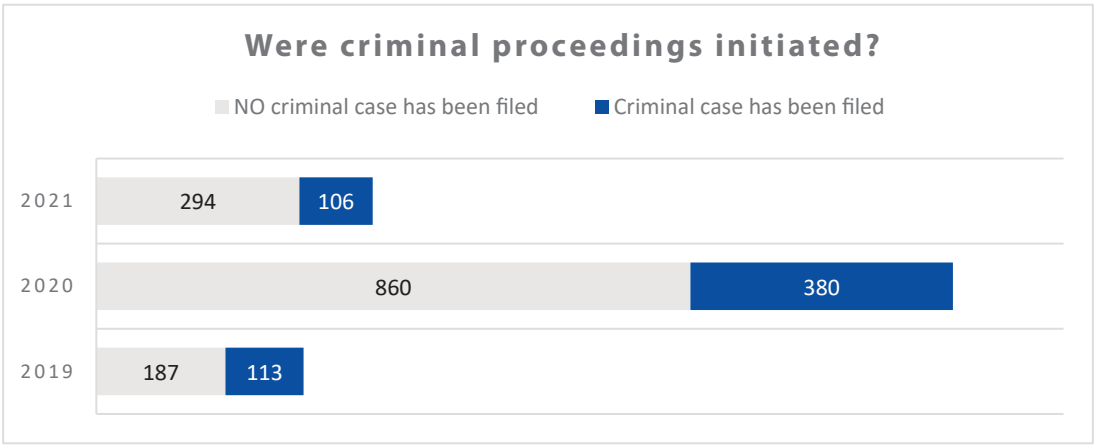
	The police databases: Reported/recorded cases	Data provided by the police in HRD reports: Investigated cases
2019	300	485
2020	1240	540

The police databases further include important information about cases heard in court (graphs 2 and 3). The number of cases heard in court is extremely low, considering that the total number of cases reported to the police in respective years was quite high (as presented in Graph 2). However, the police may not possess complete data on the total number of DV criminal cases heard in court, because the pre-trial investigation in some cases might be initiated and conducted by the Investigative Committee. Therefore, given that the prosecutor is responsible for defending a charge in court, the Prosecutor's Office presumably can possess information on the total number of such cases (Pirumyan 2022).

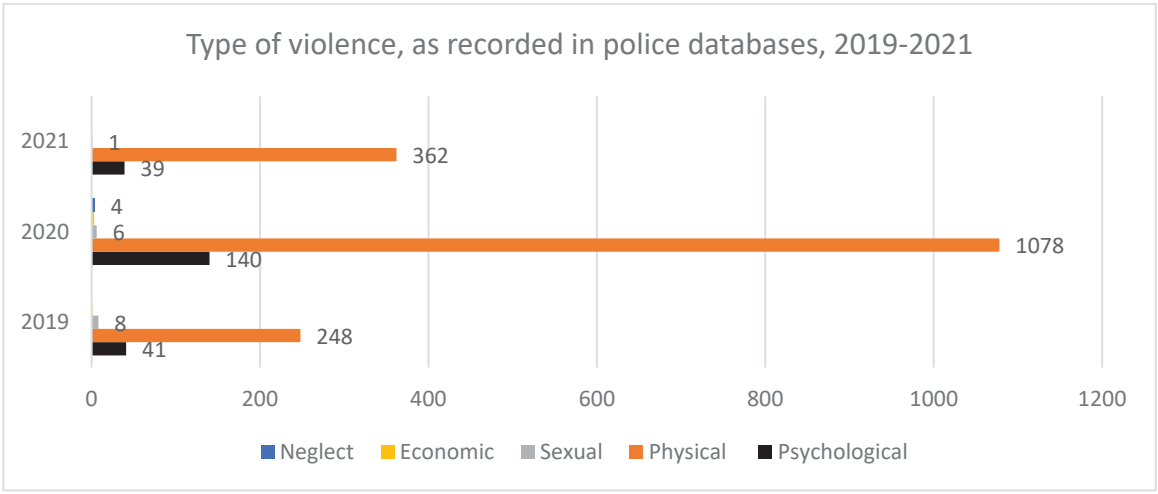


Graphs 2 and 3: Reporting to the police and access to justice
Created based on source: police databases

Further valuable information relates to criminal cases initiated (presumably) by the police (see Graph 4).



Graph 4: Were criminal proceedings initiated?
Created based on source: police databases



Graph 5: Type of violence
Created based on source: police databases

The police databases further show that **physical violence is recorded most frequently**, **psychological violence – rarely, and other forms of violence (economic, sexual) almost never** (in the prescribed form, police officers and inspectors can check more than one answer with respect to types of violence). The recorded data seems to indicate that police officers do not identify/recognise psychological violence. Data on the victim-perpetrator relationship includes numerous categories, which are difficult to present here.

Characteristics of perpetrators include age group, educational and employment status, disability status, and information on mental health issues (all these factors are included in the form about the case the police officers are obliged to complete). The majority of perpetrators possess secondary education (see Table 9).

Information on the sex of the perpetrator is missing in some cases. Out of the total number of perpetrators for whom the sex is recorded (1 890 in the period 2019-2021), 269 (14%) are females, and 1612 are males (86%).

Table 9: Educational status of the perpetrator

	Primary	Basic	Secondary	Basic vocational	Secondary vocational	Higher
2019	8	14	211	4	15	38
2020	26	84	873	11	60	154
2021	11	24	286	4	20	48

Table 10: Employment status of the perpetrator

	The perpetrator has a job	The perpetrator does not have a job
2019	42	237
2020	134	967
2021	64	317

Table 11: Information whether the perpetrator has mental health issues

	There are mental health issues	There are no mental health issues
2019	62	28
2020	272	119
2021	70	102

The police databases also include information on the victim's sex, educational and employment status, as well as disability status. Information on sex of the victim is recorded for 1873 victims, and most of them are female (1569 or 84%, out of whom 12 were minors), while 304 are male (16%).

Table 12: Educational status of the victims

	Primary	Basic	Secondary	Primary vocational	Secondary vocational	Higher
2019	11	10	199	2	28	44
2020	34	82	791	5	89	201
2021	6	20	258	5	32	70

Table 13: Employment status of the victims

	The abused person has a job	The abused person does not have a job
2019	52	232
2020	148	938
2021	50	325

The police databases contain valuable information on the number of children in the family, by age groups, but do not include relevant data - whether children witnessed domestic violence.

Table 14: Number of children in the family, by age groups

	Age group	Number of children
2019	up to 10 years old	164
2019	10-13 years old	43
2019	14-18 old	54
2020	up to 10 years old	498
2020	10-13 years old	165
2020	14-18 old	250
2021	up to 10 years old	152

2021	10-13 years old	45
2021	14-18 old	65

Further, the form police officers use contains a question whether violence has happened for the first time or not.

Table 15: Information whether DV was identified by the police the first time or not

	Frequency of violence cases	Number
2019	first time	188
2019	two times and more	47
2020	first time	3
2020	two times and more	5
2021	first time	20
2021	two times and more	18

The police databases also contain useful information whether cases were reported by the victim or a third party (person or organisation).

Table 16: Was the case reported by an organisation or a physical person

	By organisation	By a physical person
2019	71	90
2020	375	311
2021	84	150

Data about warnings and emergency intervention orders issued by the police are most likely incomplete, as numbers are far lower in comparison to those provided in HRD reports for 2019 and 2020, and therefore are not presented.

3.3.4.1. Conclusions based on the police databases

1. Assuming that the data in the police databases is reliable, it can be concluded that there was a substantial increase in the total number of DV cases reported to the police **in 2020** (the year of the war in Nagorno-Karabakh, and the peak of the COVID-19 pandemic). In that year, **the number of reported/recorded cases was four times higher as compared to the previous year (2019).**

2. It is encouraging that **organisations/institutions inform the police about DV relatively often**: they reported 71 cases in 2019, 375 cases in 2020 and 84 cases in 2021.

3. The most intriguing finding is that in total, 1940 cases were reported to/recorded by the police in the three-year period (2019-2021: graph 2), and **the number of those heard in court was very low, almost negligible: only 46** (graph 3). Caution is advisable: recorded cases possibly include those investigated within the criminal proceedings, but also those where the police applied the DV law but there were no grounds for initiating criminal proceedings as assessed by the police; further, data on the number of cases heard in court may not be complete. Nevertheless, the fact that the police recorded only 46 cases that reached court raises questions about victims' access to justice and possibly, about a too high threshold for initiating criminal action. Analysis of data from HRD reports (see previous section) clearly showed that most of the cases of DV do not proceed beyond the stage of pre-investigation/investigation. Low numbers of cases that are considered worthy of criminal investigation and prosecution send a message that the abusers will not be held accountable, and this, in turn, may contribute to low reporting to the police in the future.

4. While bearing in mind cautious remarks above, other findings provide an indication of why so few cases reach court. **In most cases, the police do not initiate criminal proceedings** (See graph 4). In 2019, 400 cases were reported/recorded, but in 74% of these, a criminal case was not initiated. In 2020, although the total number of reported/recorded cases was far higher (1240), no criminal case was initiated in 69% of these. In 2021, no criminal

case was opened in 62% of recorded cases (in total, 300). As mentioned, Article 118 (battery) of the Criminal Code adopted on April 18, 2003, was the most frequently used to prosecute DV acts; this offence captures isolated incidents, which, taken separately, do not reach threshold for prosecution (Truchero 2017). However, a decrease in the proportion of cases that were not considered serious enough (from 74% in 2019 to 62% in 2021) can be viewed as an encouraging trend.

5. Data on type of violence implies that police officers mostly **do not identify/recognise psychological violence**.

6. Data in police databases on types of violence, and characteristics of victims and perpetrators, is not consistently disaggregated by sex of the perpetrator, sex of the victim, and the victim-perpetrator relationship, so only limited conclusions are possible. Information on the sex of the perpetrator and/or sex of the victim is missing in some cases. This information was available for in total 1890 perpetrators and 1873 victims; **perpetrators were mostly men (1612 or 86%), and the victims were mostly women (1569 or 84%, out of whom 12 were minors**).

7. Databases also contain information about age group, educational and employment status of both the victim and the perpetrator, as well as valuable data about the number of children in the family. In total, **1436 children up to 18 years of age were recorded in the statistics for the period 2019-2021**. However, as noted above, the police databases do not contain information whether these children were witnesses of domestic violence. Many of them probably did witness violence; the impact on their lives and well-being is unpredictable.

8. Numbers indicating **mental health issues** among the perpetrators were rather high. In total 404 perpetrators in the period 2019-2021 were recorded as having mental health issues. This raises a question – who and how it was determined that the perpetrator had or did not have mental health issues. If this data represents the assessment of the police officers, it remains unclear whether they are qualified to provide such an assessment.

9. The form that police officers and inspectors are obliged to complete contains information of **whether violence has happened for the first time or not**. Unfortunately, in most cases, this information is missing (1940 cases were recorded in the period 2019-2021, but this info is included in relation to only 281 cases). Such information is of crucial importance, as in line with DV law, one of relevant conditions for issuing a warning (rather than an EIO) is that violence is identified by the police the first time. Namely, Article 6 of the DV law prescribes that a "warning shall be applied when the police identify a case of violence within the family for the first time, it does not have evident elements of an offence and there are no grounds for an emergency intervention". Absence of information in the police databases whether the police recorded violence for the first time or not is problematic, as a mistake with respect to this crucial issue may justify issuance of a warning instead of an EIO.

4. IN-DEPTH STUDY OF VICTIMS' EXPERIENCES OF DOMESTIC VIOLENCE AND INSTITUTIONAL/JUDICIAL RESPONSE TO VIOLENCE

As noted in earlier chapters, women victims of DV in Armenia face obstacles in accessing justice and protection (as granted by DV law, including access to EIOs and protection orders).

This section provides an **in-depth analysis of victims' experiences with DV**, its manifestations, frequency, severity, and impact on victims and their children, and on the other hand, **an examination of the institutional and judicial response to violence**. Through such analysis, we can gain insight into the bigger picture and thus assess if the authorities respond to violence in an adequate manner. This part of the study aims therefore, to complement and deepen the findings of previous chapters and it is focused on the period after the adoption of the DV law.

4.1. The content of the questionnaire[34]

Detailed questionnaires were designed for the first part of the research, which was focused on the in-depth analysis of the violence women have survived, including:

34 Methodology and sample are described above (see section: Methodology, sample, and data sources). As explained, in addition to questionnaires, some elements of qualitative methodology were used.

1. Specific manifestations of psychological, physical, sexual and economic violence.

2. Indicators of the need for immediate protection.

3. Consequences of violence on victims: emotional/mental difficulties, physical injuries.

4. History of violence: duration, frequency, severity, (possible) escalation and characteristics of violence (how long violence had lasted – how long ago the first violent incident had happened; how often the violence happened; had violence escalated in recent period).

5. Children as witnesses and/or victims of DV (whether children have witnessed violence against their mothers; if so, how often; whether children were ever direct victims; and whether mental health consequences were present).

6. Indicators of domestic violence in the primary family of the perpetrator and the victim.

The second part of the analysis was dedicated to the institutional and judicial response to violence, including:

1. Interventions of the police: strengths and weaknesses in the police practice in the process of issuing warnings and EIOs and monitoring/supervising the orders issued; approach to risk assessment; measures undertaken to protect victims and their children and reduce their re-traumatisation during interventions; application of pro-active approach to evidence gathering; attitude towards victims (victim-centred approach).

2. Access of victims to criminal-law protection: response of the criminal justice sector, including the outcomes of judicial process; provisions of the Criminal Code used in pre-investigation, investigation, and prosecution; reasons for withdrawal of the complaints by the victims; measures undertaken to reduce re-traumatisation during judicial proceedings; professionals' behaviour at different stages of the criminal justice chain, from pre-investigation, investigation and prosecution, to court trial (professional versus biased attitude).

3. Outcomes of civil law proceedings related to custody and visitation.

4.2. RESULTS: In-depth analysis of victims' experiences of domestic violence

Firstly, a simplified indicator (See Table 18) related to the types of violence experienced by victims was used. As can be seen in Table 18, psychological, physical, economic and sexual violence are interwoven. All these forms of violence are explored in more detail in other sections of the research. The perpetrators are mostly, husbands/common-law husbands, with whom victims live (Table 17).

Table 17: The victim-perpetrator relationship

The perpetrator is in the following relationship with the victim:	
Husband (they live together)	37
Common-law husband (they are not officially married, but they live together)	30
Husband/common-law husband (they do not live together/ they are separated)	14
Son	2
Intimate partner (they do not live together, but they are in intimate relationship	1

Table 18: Types of violence women have survived

Types of violence:	
Psychological	86
Physical	83
Economic	71
Sexual	35

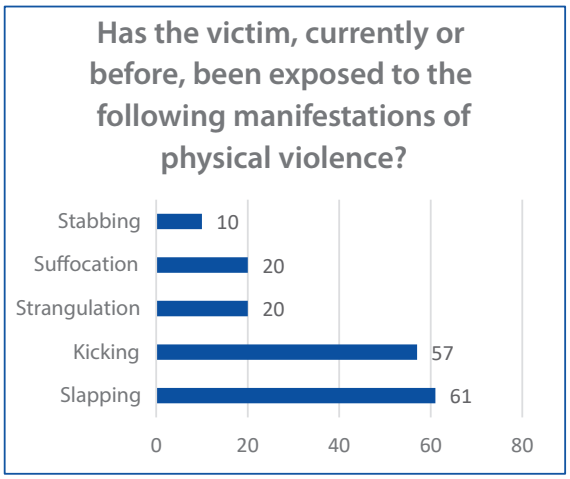
Secondly, it was examined whether women were exposed to severe violence or threats that may indicate a need of an immediate protection.

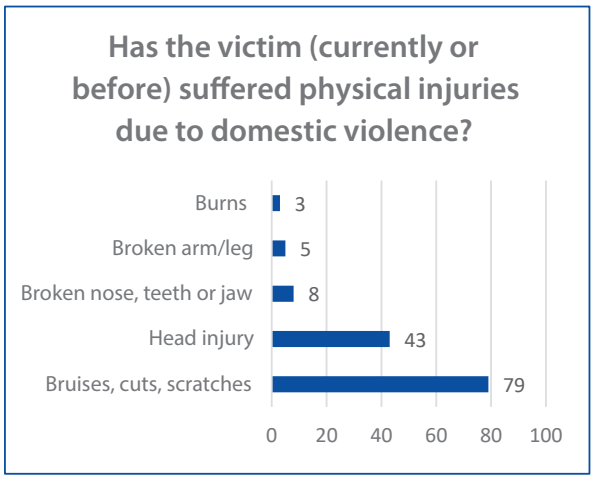
Table 19: Indicators of the need for immediate protection

	Yes	No	Unknown
The perpetrator has threatened to kill her	**71**	11	4
The perpetrator does not give her money for food, and she has no income of her own	**36**	31	19
The perpetrator has thrown her out of the family home/apartment at least once	**35**	37	14
She has previously been hospitalised due to physical injuries inflicted by the perpetrator	**34**	40	12
She has previously been hospitalised due to psychological problems related to violence	**16**	56	14
She has attempted suicide due to violence	**15**	57	14

4.2.1. Manifestations, consequences and frequency of physical violence

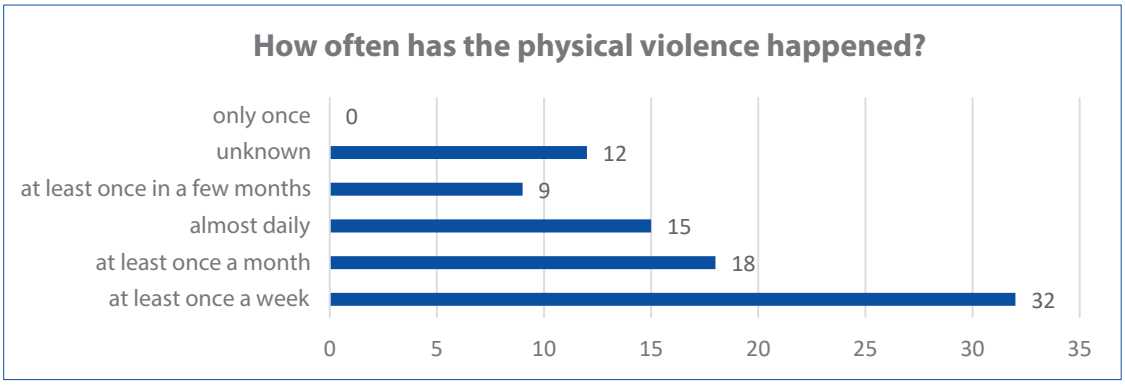
Since institutional and judicial response to DV is commonly focused on physical violence only, or primarily, its manifestations and consequences have been explored in more depth (see Graphs 6 and 7).





Graphs 6 and 7: Manifestations of physical violence and its consequences

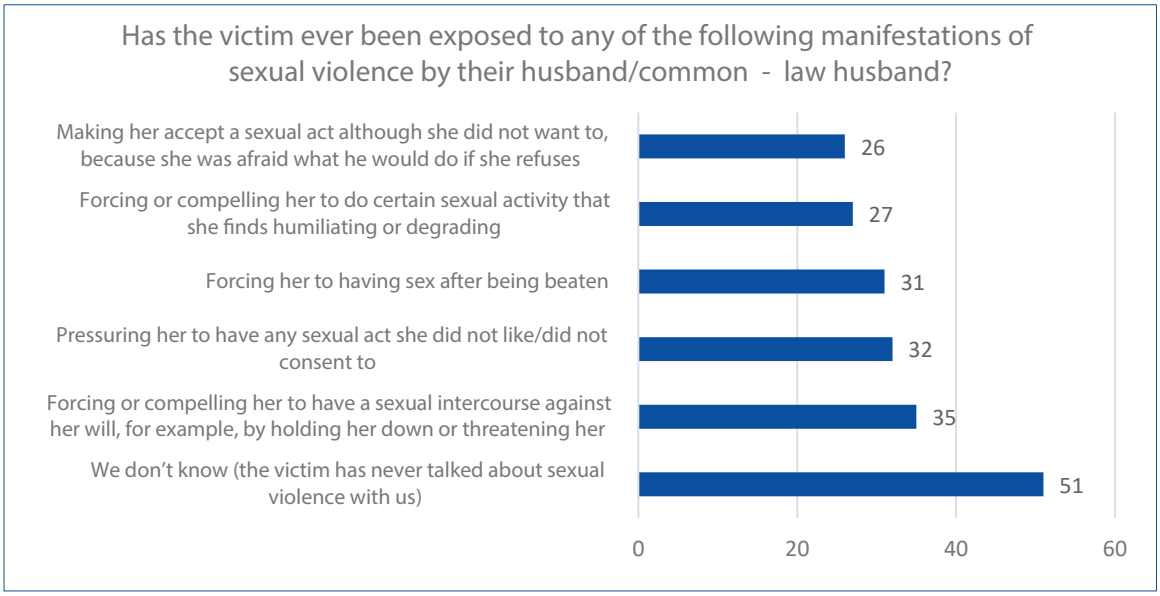
Further, it was revealed that physical violence happened frequently, even when it consisted of supposedly minor episodes, such as slaps, See graph 8.



Graph 8: Frequency of physical violence

4.2.2. Manifestations of sexual violence

Sexual violence by a husband/common-law-husband is a topic that women victims very rarely talk about. The research indicates that victims have trust in the staff of the Women's Support Centre, as some of them have disclosed experiences of sexual violence.



Graph 9: Manifestations of sexual violence

4.2.3. Manifestations of economic violence

Economic dependency on the perpetrator represents one of the factors that reduce the possibility for victims to escape the "cycle of violence". The research therefore involved questions whether the victim has her own source(s) of income or not. As it can be seen, many of them are economically dependent on the perpetrator. However, regardless of whether the victims have their own income or not, they are exposed to various manifestations of economic violence (Table 20).

Table 20: Does she have her own income?[35]

No, she is fully economically dependent on the perpetrator	38
Yes, she works	30
Yes, friends and relatives occasionally give her money	12
She is economically dependent on the perpetrator, and friends and relatives occasionally give her money	2
She works and friends and relatives occasionally give her money	2

Table 21: Control over spending and women's economic activities: manifestations of economic violence

	Yes	No	Unknown
He prohibits or restricts her access to money	**72**	11	3
He makes her beg/ask him for money	**68**	11	7
He prevents her from knowing the total family budget (or: how much he earns, if only he is working)	**66**	12	8

35 This question offered multiple responses

He refuses to give her money she needs for household expenses even when he has money for other things (such as alcohol, cigarettes, etc.)	**65**	13	8
He takes away her money against her will (if she works or gets the money from relatives/ friends)	**61**	15	10
He forbids her to find a job/asks her to quit the job she has/prevents her from keeping the job she has	**59**	25	2
He blackmails her with money, for example, gives her money only if she meets his conditions or requests	**54**	15	17
He forbids her to study / continue her studies	**44**	30	12

4.2.4. Coercive control: how do perpetrators intimidate, control and isolate women victims?

Intimate partner violence should not be seen as consisting of acute, discreet, isolated incidents of violence. Starting from the 1970s, researchers have tried to explore patterns of behaviour and tactics used by perpetrators to gain power and control over the victims (Power and control wheel, developed by the Domestic Abuse Intervention Project[36]). More recently, Stark (2007) developed the concept of "coercive control", which highlights that intimate partner violence is ongoing, chronic, and routine. It is based on tactics used by men to gain and maintain control over women - their current or former intimate partners. This concept is used as a theoretical framework for this part of research.

Stark (ibid) defines coercion as the use of force or threats to compel or dispel a particular response, while control refers to structural forms of deprivation, exploitation, and command that compel obedience indirectly. He argues that coercive control is a pattern of behaviour which seeks to take away the victim's liberty or freedom, to strip away their sense of self. A major consequence of coercive control for victims is the experience of "entrapment", which Buzawa et al. (2017) describe as "the most devastating outcome of intimate partner abuse".

Abusers use physical violence; however, such violence is not always present in a situation of coercive control. Coercive control relies on three equally important tactics: **control, intimidation and isolation** (Stark 2007; 2009; Kelly, Sharp and Klein 2014). Control is comprised of structural forms of deprivation (such as money, food and other survival resources), dictating choices and micro-regulating everyday behaviour through limiting options and sources of support. This control is rarely confined to specific times or places; rather it extends through behavioural regulation into all the spaces women enter, for example, employment, school and places of worship. Intimidation instils fear, secrecy, dependence, compliance, loyalty and shame and is exerted through threats, surveillance and degradation. Surveillance falls on a continuum of tactics ensuring the victim knows she is being watched or that information about her whereabouts is being monitored in other ways such as tracking her use of time. Degradation is exercised through repeated acts and statements of disrespect which induce shame and self-blame. Isolation enhances control, instils dependence, and limits access to help or support. Not only does this undermine a women's identity, but the abuser becomes the primary source of information and validation. Coercive control undermines the victim's physical and psychological integrity. Many women have a sense that the abuser is omnipresent and come to believe the perpetrator's negative evaluation of them and their capacities.

Findings imply that most of the women involved in this research have been exposed to coercion and control.

Table 22: Control, surveillance

	Yes	No	Unknown
He is the only one who makes decisions, his word must be "the last"	**83**	0	3
He gives her orders/commands	**83**	0	3
He controls her daily activities; checks where she is; controls how she dresses	**73**	9	4

36 See more in: UN Women Virtual Knowledge Centre to End Violence against Women and Girls, https://www.endvawnow.org/fr/articles/1775-history.html

He acts as if she is a servant, or compels her to ask his permission to do something	**72**	7	7
He insists on knowing what she is doing, whom she is seeing; she has to explain herself for every moment she spends without him	**66**	13	7
He is violently and constantly jealous	**58**	23	5
He gets angry when she speaks to another man	**53**	3	30
He is suspicious that she is unfaithful to him	**50**	17	19
He follows her when she is out of the home, or spies on her, to check where she is and who she meets	**49**	10	27
He accuses her of adultery or expresses doubt that a child is his	**39**	38	9
He sometimes locks her up in a room/at home	**39**	25	22
He restricts her movement (for example, forbids her to go out without his permission)	**39**	18	29
He forbids her to go to a doctor/hospital until her wounds are healed	**32**	28	26
He controls her emails and/or her activities on social networks	**28**	28	30
He expects her to ask his permission before seeking health-care for herself	**23**	39	24

Table 23: Isolation

He forbids or restricts her contacts with friends, or her family	**66**	9	11
He completely isolated her from friends, family or her social network	**26**	39	21
He forbids or restricts her access to a mobile phone	**23**	30	33

Table 24: Threats

	Yes	No	Unknown
He threatens to physically harm or hurt her	**72**	8	6
He threatens to kill her	**60**	12	14
He threatens to throw her out of the house/apartment	**49**	19	18
He uses the children to emotionally blackmail her, for example, threatens to take the children away from her or to harm the children if she leaves him	**44**	35	6
He threatens her with a weapon/knife	**43**	30	13
He uses a weapon/knife against her	**33**	36	15
Threats through children: he uses the children to send her abusive/threatening messages	**32**	44	9
He threatens to hurt somebody who is important to her (children, relatives, or pets)	**28**	28	29
He threatens to commit suicide	**20**	36	29
He openly threatens her relatives or friends	**19**	35	31
He sends her threatening messages	**16**	42	27
He tries to hurt someone she cares about	**14**	33	37

Table 25: Intimidation

	Yes	No	Unknown
He tries to intimidate her on purpose	**75**	4	7
He intimidates her by yelling, or by frightening gestures or behaviour	**72**	4	10
He punishes her	**62**	9	15
He destroys her things, or smashes/destroys stuff at home	**38**	28	20

Table 26: Degradation, humiliation, inducing shame and self-blame

	Yes	No	Unknown
He humiliates her when the two of them are alone, or in front of other people (children, relatives)	**83**	1	2
He imposes feelings of guilt in her	**83**	0	3
He belittles or underestimates her, makes her think she is worthless	**82**	1	3
He has outbursts of verbal aggression, for example, curses, swears, or calls her or her family ugly names	**81**	2	3
He accuses her of being insane, irresponsible, or makes her think something is wrong with her	**79**	1	6
He insults her or makes her feel bad about herself	**79**	1	6
He claims she has "provoked" him, that she is responsible for his violent behaviour	**73**	1	10
He induces her to perceive violence in a distorted manner, for example, to minimize or deny violence, or to justify his behaviour ("He is tired…", "He is drunk…")	**72**	1	10
He makes her feel guilty for supposedly not meeting her parental responsibilities	**72**	9	5
He often criticises, underestimates, judges, mocks her	**71**	5	10
He forces her to do something humiliating, to comply with his senseless or irrational requests	**65**	9	12
He doesn't speak to her for a prolonged time	**45**	10	31

4.2.5. Emotional/mental difficulties experienced by women victims

Research has shown that intimate partner violence may have serious consequences on victims' physical and mental health (Campbell 2002; Garcia-Moreno et al 2005; Heise and Garcia-Moreno 2002; Dube et al. 2005; UN Secretary-General in-depth study on VAW 2006; Martin et al. 2007; WHO 2012; Ferrari et al. 2014; Lancet Psychiatry Commission on Intimate Partner Violence and Mental Health 2022; Newnham et al. 2022). Mental health consequences include depression, suicide attempts, post-traumatic stress disorder; other stress and anxiety disorders; sleeping/eating disorders and psychosomatic disorders. This part of the research explores the various emotional/mental difficulties of women participants in the research (see Table 27).

Table 27: Emotional/mental difficulties experienced by victims

Emotional/mental difficulties victims currently report experiencing (or: something that a psychologist/social worker has noticed/identified while talking to the victim)	
Anxiety	75
Fears	64
Being nervous, agitated, tensed, "jumpy"	62
Insomnia, sleeping problems	60
Feeling of hopelessness	59
Loss of self-confidence	57
Bad mood, or sudden changes in the mood	52
Underestimates herself; feels that she is "worthless/useless"	51
Headaches, dizziness, shivering, difficulty breathing	47
Panic attacks	46
Self-blame, feeling of "guilt"	39
Suicidal thoughts	27
Discomfort in contacts with other people	21
Depression	18
Sexual problems: avoiding sex, lack of enjoyment	17

Difficulties in concentrating on work or study	17
Suicide attempts	15
Avoiding people or places that remind her of traumatic events	11
Apathy, lethargy, lack of motivation to work or study	11
Aggressiveness or outbursts of anger	10
Beating children, or shouting at them often	8
Feeling of being "alienated" from other people	7
Withdrawal from people, isolation	6
Frequent conflicts with others: friends, colleagues…	2
Food disorders: overweight or extreme slimness	2
Problems in trusting other people and establishing close relations with them	1
Over-use of tranquilizers/sleeping pills	1

4.2.6. Duration, severity, and (possible) escalation of violence

The data confirms that in most cases, domestic violence is a typical pattern of behaviour, not just an episode, which is in line with the literature on the topic, as explained above.

It was examined how long ago the first violent incident happened – how many months or years had passed since the first violent "episode". It turned out that, on average, women suffered violence for 10,5 years, although there were considerable variations – duration of violence ranged from two months to 40 years.

Most frequently, the first violent incident happened soon after the victim and the abuser married/started to live together and often, it occurred during pregnancy (see tables 28-31).

Table 28: Has some event represented a "trigger" for violence – was the beginning of abusive behaviour connected to some specific event?

Soon after they married/started to live together	57[37]
During pregnancy	48
After he started to drink extensively or to take drugs	31
After a bad event in his life (loss of a job, death of a close person, etc.)	21
After the first or the second child was born	9
Violence started even before they got married/started to live together	2

Table 29: Has violence/abuse happened while the victim was pregnant?

Yes	56
No	27
Unknown/The victim was never pregnant	3

Table 30: Has the violence/abuse escalated in recent time – became more frequent or severe)?

Yes	60
No	26

37 More than one answer was possible here

Table 31: If yes, has the escalation occurred after any specific event:

The victim tried to flee/leave the perpetrator	46[38]
The victim became pregnant	35
The victim filed for divorce	6
The perpetrator returned from war/armed conflict	3

4.2.7. Children as witnesses and/or victims of domestic violence: consequences

Witnessing violence has a harmful impact on children. It breeds fear, causes trauma and adversely affects their development. Explanatory report to the Istanbul Convention (para 141) clarifies that "For this reason, Article 26 sets out the obligation to ensure that, when providing services and assistance to victims with children who have witnessed violence, the latter's rights and needs are considered. The term "child witnesses" refers not only to children who are present during the violence and actively witness it, but to those who are exposed to screams and other sounds of violence while hiding close by or who are exposed to the long term consequences of such violence. It is important to recognise and address the victimisation of children as witnesses of all forms of violence covered by the scope of this Convention and their right to support. Paragraph 2 therefore calls for age and developmentally appropriate best evidence-based psychosocial interventions that are specifically tailored to children to cope with their traumatic experiences where necessary. All services offered must give due regard to the best interests of the child.

As explained by Hester et al. (2007), children who live in the context of witnessing domestic violence may have more "adjustment difficulties" than those from non-violent homes. They may experience the following behavioural, physical and psychological effects which may be short- and/or long-term: introversion and withdrawal; low self-esteem; fear, insecurity and tension; sadness and depression; difficulties with trusting others; poor social skills; difficulties at school; disruptions in schooling and living arrangements; emotional confusion in relation to parents, bedwetting, nightmares and sleep disturbances; eating difficulties and weight loss; self-blame and bitterness, etc. Studies also mention cognitive functioning disorders and accepting attitudes around violence that need to be addressed in the long term (Edleson 1999). Child witnesses are more likely to experience emotional and behavioural problems and to be at risk of perpetrating or experiencing violence in the future (see, for example, Wood and Sommers 2011, Kitzmann et al. 2003), while some of long-lasting consequences may include depression in adolescence and young adulthood (Russell, Springer, Greenfield 2011; Huang, Chen and Cheung 2021), or illnesses such as heart disease or diabetes in adulthood (Monnat and Chandler 2015).

This study has attempted to examine if children were witnesses and/or victims of violence, and whether they had suffered from any emotional problems that might be associated with such experiences.

Women included in the study have between one and eight children, many of whom were under the age of 18.

Table 32: Have the children ever witnessed[39] violence against their mother/step-mother - have the children been present at the acute scene of violence?

Yes	68
No	9
Unknown/The victim has no children	8

Table 33: If yes, how often?

At least once a week	22
At least once a month	15
Almost daily	14

38 More than one answer was possible here

39 Regardless of whether the perpetrator is the children's father or whether the children currently live with both the victim and the perpetrator of domestic violence; i.e. the questions related to children also include children from the victim's or the perpetrator's previous marriage, as well as adopted/foster children

At least once in a few months	9
Only once	0
Unknown/something else	8

Table 34: Have any of the children, when he/she was young (5 to 12 years old), experienced any of the following

Timidity	66
Aggression towards mother/step-mother, or other children	46
Stopped going to school temporarily	18
Wet bed	14
Running away from home	5

Table 35: Children victims of violence

Was the perpetrator ever violent towards (any of the) children		If yes, which form of violence the children suffered and how often?			
		Forms of violence:	**Often**	**Seldom**	**Never**
Yes	54	Psychological	38	12	0
No	22	Physical	17	27	0
Unknown	1	Sexual	1	2	11

In addition to witnessing violence (See Tables 32-33), some children were also victims of violence (See Table 35).

Due to the above-described experiences, in six cases, children had to receive a help of the psychiatrist/psychologist.

4.2.8. Indicators of domestic violence in the primary family of the perpetrator and the victim

Professionals at the WSC did not always know whether DV was present in the primary family of the victim or of the perpetrator. But in some cases, perpetrators came from families in which the father was violent towards their mothers and/or abused them directly (i.e. they were exposed to physical and/or psychological violence by their father; see Tables 36 and 37). Some victims also came from families in which they witnessed or were directly exposed to violence.

Table 36: Did the father of the perpetrator:

	Yes	No	Unknown
Abuse the perpetrator's mother (psychologically and/or physically)	36		50
Abuse the perpetrator (psychologically and/or physically)	32	22	32

Table 37: Did the father of the victim:

Abuse the victim's mother (psychologically and/or physically)	16	63	7
Abuse the victim (psychologically and/or physically)	12	65	9

4.2.9. Conclusions on the duration, severity and characteristics of violence, and its impact on victims and children

1. As has been seen, most women involved in this research have experienced severe abuse, which included murder threats (in 71 cases); many suffered serious consequences, including hospitalisation due to physical injuries inflicted by the perpetrator (in 34 cases); some even needed psychiatric help due to psychological problems related to abuse (16); further, some of them attempted suicide (10). The presence of these indicators implies that the violence had jeopardised their physical and mental integrity and therefore, most of them needed immediate protection. Other findings further confirmed that most of the women could be seen as **high-risk cases, as**

findings below - on the duration and seriousness of the abuse and its impact on victims and their children - imply. Most often, physical, psychological, economic and sexual violence were interwoven.

2. Findings on duration and severity of violence indicate that **most of the women had been exposed to prolonged and serious intimate partner abuse**. Violence **mostly lasted for years** (on average 10,5 years; ranging from two months to 40 years). Most frequently (in 57 of the cases), the first violent episode happened soon after the woman got married/started to live together with the perpetrator. Another disturbing finding was that often, violence happened while the woman was pregnant (in 56 of the cases). In many cases, violence had recently escalated, especially – when the woman tried to flee/leave the abuser (in 46 cases). These findings are consistent with those obtained in research on the "cycle of abuse", including those indicting that a woman is in a great danger when she tries to leave the abuser. Since most of the women had been exposed to prolonged abuse, their mental health had been damaged. **They suffered from numerous emotional/mental difficulties**, as identified by professionals from the WSC who are trained to recognise such manifestations. Only those difficulties that are the most frequent are listed here: anxiety; fears; being nervous, agitated, tensed, "jumpy"; sleeping problems; feeling of hopelessness; loss of self-confidence; sudden changes in the mood; feeling of being worthless/useless; panic attacks; self-blame, feeling of guilt and suicidal thoughts.

3. **Physical violence happened frequently** (in 32 cases: approximately, once a week), and there was no single case in which physical violence happened on only one occasion. Physical violence in some cases included suffocation (in 20 cases) and strangulation (also in 20 cases), which can be seen as a risk factor for fatal/lethal violence. Further, many of them had suffered (currently or previously) from physical injuries due to violence, including bruises, cuts and scratches (in 79 cases), head injuries (43), broken nose, teeth or jaw (8), broken arm/leg (5), and burns (3).

4. Most of the women (38) were economically dependent on the abuser. However, regardless of whether the woman had her own sources of income from employment or other sources, such as financial help by relatives and friends, it was the perpetrator who exerted control over money (in 72 cases). The abuser employed various tactics to restrict her access to money and to control her and/or family economic activities and budget. Only those tactics that were the most frequent are listed here: making her beg him for the money; controlling the money he gives her for household expenses; taking away her money.

5. General public and some legal professionals often perceive psychological violence within intimate partner abuse in a simplified manner, as insults, swearing and using ugly words during "marital conflicts". However, most of the women involved in this research have survived far more than periodic insults. They had been exposed to a pattern of prolonged abuse which is described as "coercive control" (Stark 2007). In addition to physical violence, women included in this study lived in constant fear, since their abusers had consistently tried to gain and maintain control over every aspect of their everyday lives. Abusers rely on a toxic combination of tactics and reference is made here only to those that are the most frequent. Namely, the abusers relied on control and surveillance, including, in almost all cases: giving orders/commands; controlling everyday life; monitoring whereabouts and spying; and requiring explanations for every moment spent without him. Further, they also tried to isolate the woman victim, most often, by forbidding or restricting her contacts with friends and her family. Moreover, they relied on threats and intimidation, most often: treats to physically harm or hurt her, or to kill her; intimidating her on purpose by yelling, or by frightening gestures or behaviour. Further, many of the abusers exercised degradation, humiliation, inducing shame and self-blame - most often, they purposefully humiliated the woman victim, by imposing a feeling of guilt in her and making her feel worthless, and/or accusing her of being insane, or irresponsible. As described in the literature (see, for example, Buzawa et al. 2017), women who have been exposed to coercive control feel entrapped. Considering the seriousness and duration of abuse, it is not surprising that many of the women experienced emotional/mental difficulties (as described above).

6. It is particularly disturbing that the **children of the women involved in this study had been also hurt by domestic violence, either as witnesses or direct victims**. When assessing the seriousness and attempting to assess the long-term consequences of violence, it should be kept in mind that women included in this study had in total 148 children under the age of 18. In the majority of cases (68), children were present at the acute scene of violence. Many of them had witnessed violence frequently (at least once a week: in 22 cases, at least once a month: in another 15 cases). It is alarming that, in addition of witnessing violence, many of the children were

direct victims: in 54 cases, the perpetrator had used psychological or physical violence against children as well. In some cases, this happened often (the perpetrator often used psychological violence in 38 cases; and physical in 17 cases). Most of the children had experienced emotional problems. Some of them even suffered serious consequences, so they had to receive help of professionals (psychiatrists or psychologists). It remains to be seen what will happen to these children as they grow up, but it may be assumed, based on previous studies, that some of them will experience long-term psychological consequences.

7. There are indicators that **some of the perpetrators experienced or witnessed violence in their primary family**: 36 of them come from the families in which the father abused their mother psychologically and/or physically, and 32 of them were victims of physical and/or psychological violence by their father. Some of the women included in the study (16 of them) witnessed psychological/physical abuse of the father towards their mother or were victims of psychological/physical abuse (12).

The following sections of the study examine how the institutions (the police, investigators, and judiciary) responded to the above-described specific cases of violence.

4.3. Response of the police to violence: strengths and weaknesses in implementing civil and criminal law

This section examines the police response to DV, including strengths and weaknesses in their implementation of the DV law (including, but not limited to, issuance of warnings and EIOs), and their involvement in criminal cases.

The team from the WSC noted that, since the adoption of the DV Law, certain improvements in police practice had been noticeable (such assessment was obtained in quantitative and qualitative analysis of the responses).

For example, police officers, most often, respected the integrity and privacy of the victim, wrote reports about the case and importantly, did not interview the victim in presence of the perpetrator (See Table 38). In follow-up interviews with the team from the WSC, in was also revealed that, in their opinion, there had been improvements in police practice since the adoption of the DV law, but many shortcomings still persisted (see in next sections).

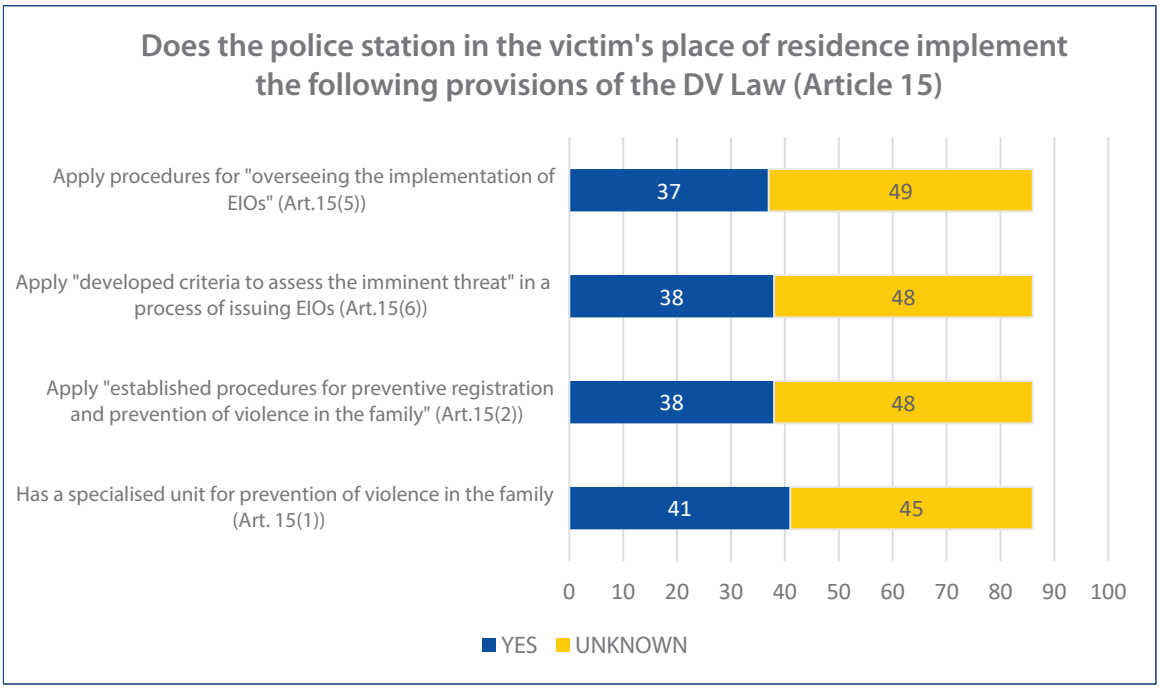
Table 38: General assessment of the police practice

	Yes	No	Unknown
The police provided a report about the DV case	58	6	22
Police officers during the intervention respected the integrity and privacy of the victim	58	3	25
Police officers recorded elements related to the crime scene in their reports (for example, injuries inflicted on the victim)	48	13	25
The police officer made inquiries about the victim's private life that were not relevant and directly linked to the investigation	3	62	21
Interviewed the victim in presence of the perpetrator	1	58	27

4.3.1. Implementation of provisions prescribed in the DV law on the role of the police (Article 15)

Article 15 of the DV law defines the mandate of the police in preventing domestic violence and protecting victims. How these provisions have been implemented in practice is analysed in Graph 10[40]. The results are rather encouraging, especially, with respect to establishing specialised units in the police responsible for preventing DV.

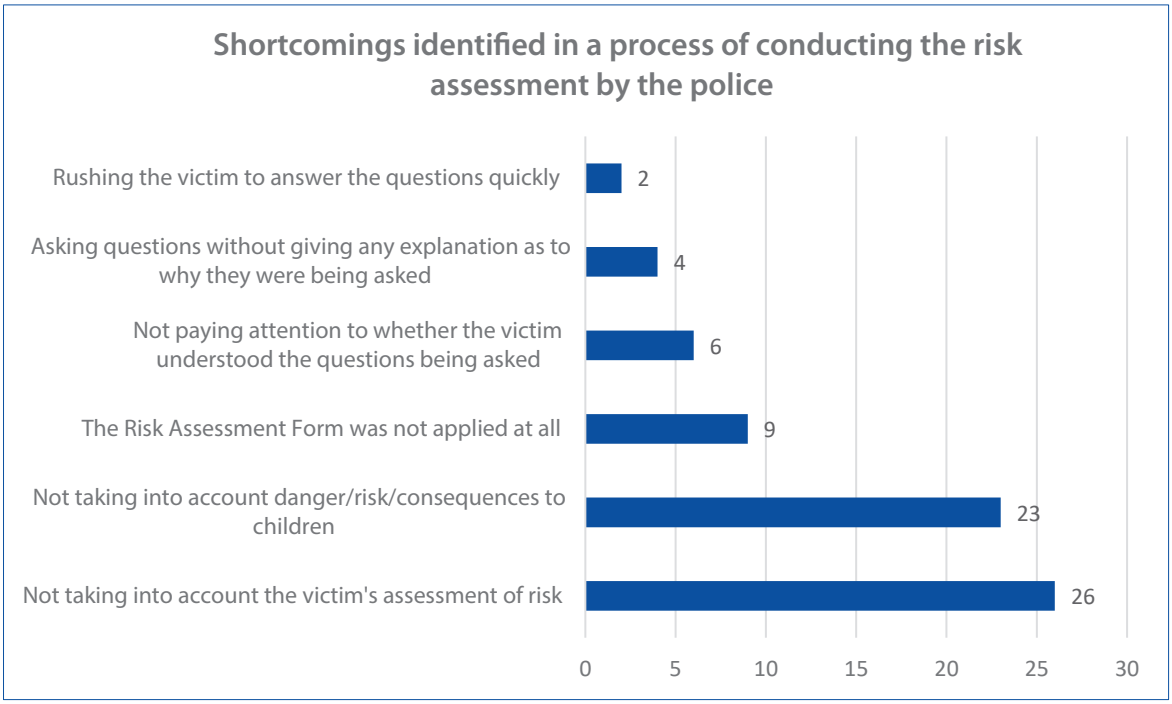
40 The DV law also prescribes that the police should organise trainings for its officers (Article 15(4)), but the team from the WSC did not possess such information, so it is not presented in the table.



Graph 10: Implementation of Article 15 of the DV law

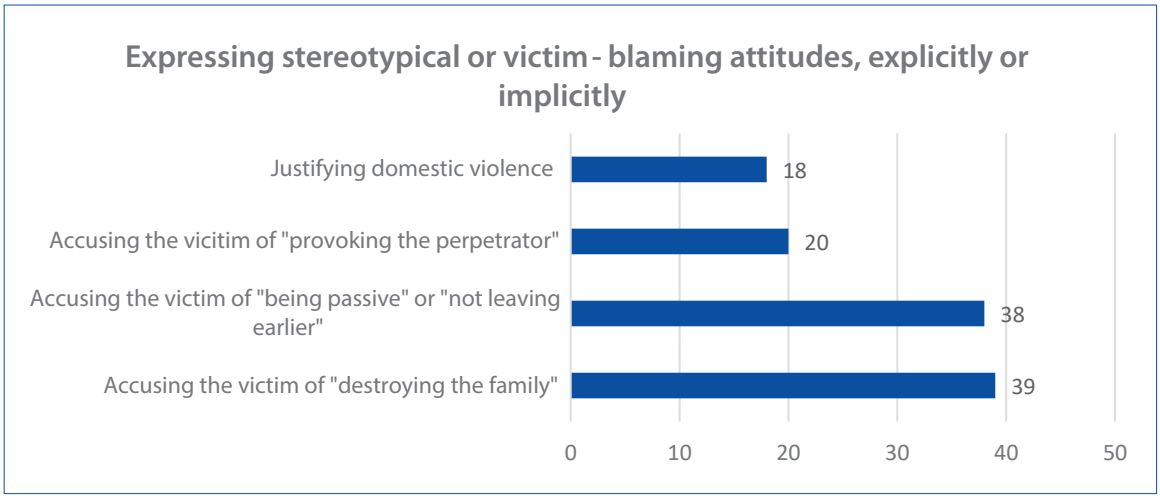
4.3.2. Shortcomings identified in the interventions of the police during their contact with victims and perpetrators

Responses to the questionnaire indicate numerous shortcomings in the police response to cases of DV, primarily, with respect to risk assessment. It should be highlighted that, in some cases, the Risk Assessment Form was not applied at all (see Graph 11).

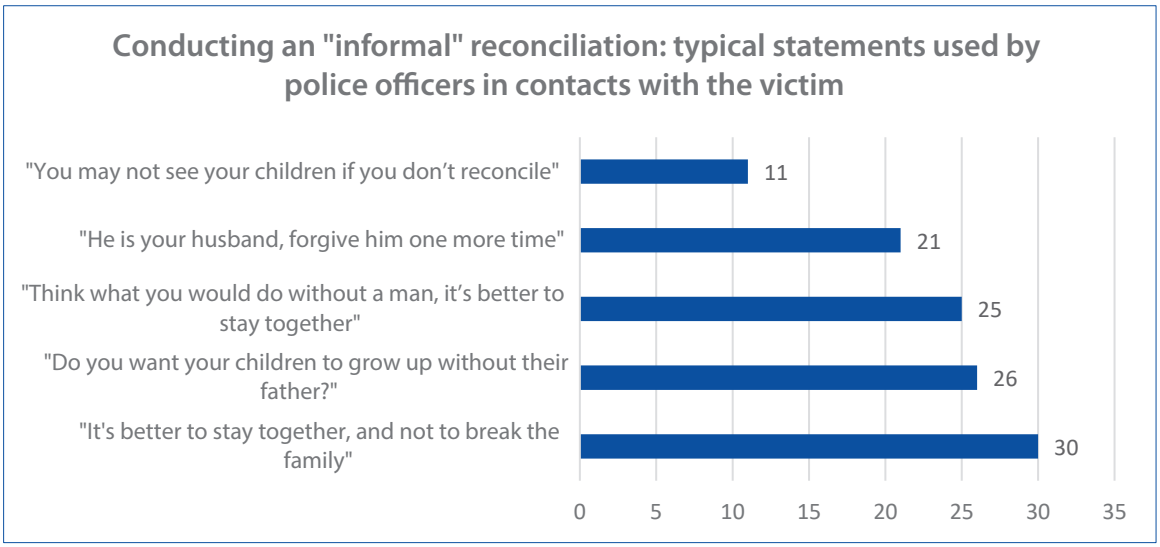


Graph 11: Risk assessment by the police

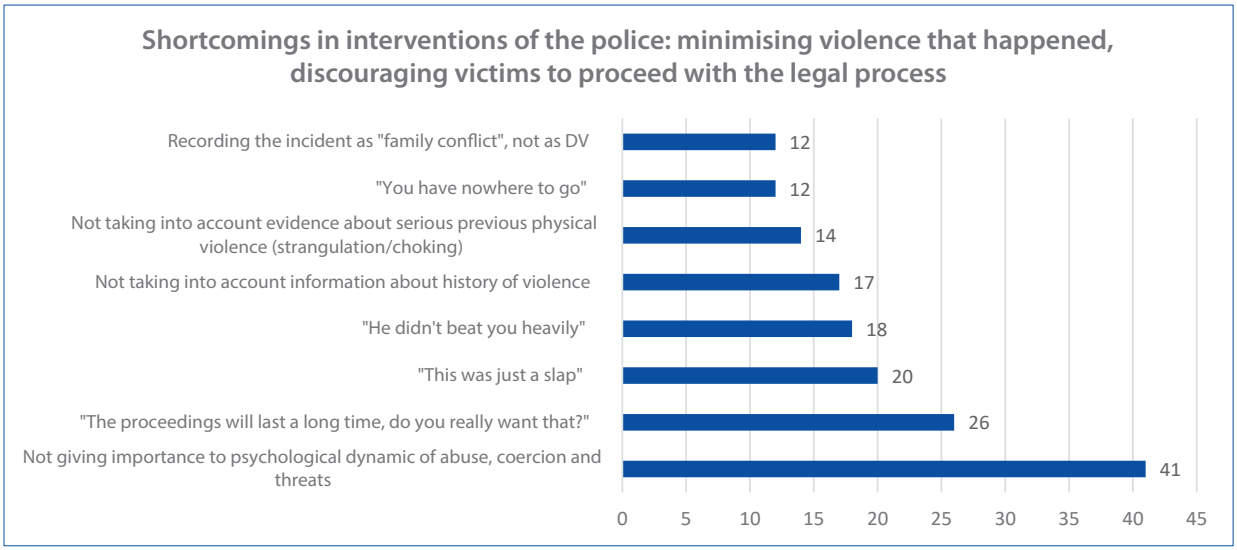
Other shortcomings in the interventions of the police are presented in the graphs below. These occurred during any of the police interventions, as in some cases the police intervened several times.



Graph 12: Expressing stereotypical or victim-blaming attitudes



Graph 13: Attempts to conduct an informal reconciliation



Graph 14: Minimising violence or discouraging victims to proceed with the legal process

Responses to the questionnaire indicate that often the police do not undertake measures to prevent/reduce re-traumatisation of the victim and the children (see Table 39), and do not take a proactive approach to evidence gathering. In addition, in 29 of the cases, the police did not try to interview neighbours, friends, family or other persons who might have known about the violence or heard violence happening.

Table 39: Did anything from the list below happen during any of the contacts between the victim and the police?

	Yes
The victim was called to the police station several times and had to repeat her statements	44
Police officers called the victim to come to the police station to complete the report	35
The victim was not informed about her rights and sources of help (NGOs, shelters)	9
The police officer interviewed the children in presence of the perpetrator	2

4.3.3. Conclusions on the shortcomings in police practice during contact with victims related to criminal cases

Responses to the questionnaires indicate relevant problems in the practice of the police.

1. **Shortcomings in risk assessment**: the police often did not consider the victim's assessment of risk and the danger/risk to the children; and occasionally, the Risk Assessment Form was not applied at all.

2. **Expressing stereotypical, or victim-blaming attitudes**, implicitly or explicitly: it is interesting that some police officers implied or said that the victim wanted to "destroy the family" or to "leave children without their father", but some of them expressed attitudes that have a very different connotation, like accusing victims of being "passive" or "not leaving earlier".

3. **Conducting an "informal reconciliation"**: during contacts with the victim, police officers sometimes expressed that it was in the interest of the victim to stay together with her husband.

4. **Minimising violence that happened, disregarding previous violence, discouraging the victim to proceed with the legal process**: often, police officers did not give importance to psychological dynamic of abuse, coercion and threats, nor take into account information from the victim about the previous violent incidents. Sometimes, although less frequently, they also characterised violence as minor, and discouraged victims, for example, by telling them that they had nowhere to go or that legal proceedings would last a long time.

5. **Insufficient measures to reduce re-traumatisation of victims**: often, victims were called to the police station to repeat their statements.

6. **Shortcomings in evidence collection, failure to provide thorough reports:** in addition to the responses in the questionnaires described above, the WSC team during the follow-up interviews explained that the police reports were often incomplete and contained vague information about cases, which represented an obstacle to a successful investigation.

These findings indicate that improvements in police practice are needed. When analysing the reasons why so many victims in Armenia withdraw their complaints, it is important to consider that victims, during contacts with the police (as the above-presented results imply), have been faced with judgmental and stereotypical attitudes; officers have even sometimes actively discouraged them and minimised or justified violence. Such messages can have a detrimental effect on victims and undermine their trust in the police. Moreover, a judgmental approach by the police can possibly influence victims' decisions whether to continue with legal actions, and seek justice in court, or whether to seek help and support from any institution. A case, briefly described by the WSC, provides an example of such judgmental approach of the police. The aim is not to create a general picture of police practice as the conclusions cannot be generalised, but to provide an illustration:

Example: **A brief description of the case: "the cycle of violence**"
"The victim had run away from home to escape violence. At the time she reported the incident to the police, she had a broken arm, due to a severe beating by her husband. The police issued a warning to both the victim and the perpetrator and discouraged the victim from submitting any more complaints. The Women's Support Centre provided legal and psychological support to the victim, and she was subsequently granted an Emergency Intervention Order, in line with the law. The staff at the Centre noted that the perpetrator's relative worked for the police, and due to his "interference", the police officers had been biased towards the case. During the interventions, the police had tried to reconcile the victim with the perpetrator and had minimised or justified the violence, accusing the victim of "destroying the family", and making remarks such as, "you may not see your children if you don't reconcile", "he provides for the children, do you want children to live without their father?".
The victim was given visitation rights, with the help of lawyers from the Women's Support Centre, however, during each visit, she experienced more violence at the hands of her husband. The custody trial lasted a long time, and the perpetrator continuously threatened the victim that she would never see her children. A criminal case was initiated against her husband; but although the victim had suffered domestic violence for many years, the case related to the last incident of violence only. The victim soon decided to withdraw her complaint.
Eventually, she returned to her husband".

Women's Support Centre, Yerevan

4.4. How have warnings and emergency intervention orders been implemented

Police officers are responsible for issuing two protective measures under the DV law: warnings (Article 6) and emergency intervention orders (Article 7). They are also tasked with monitoring and supervising the implementation of these measures. The team from the WSC did not have information on the exact number of warnings issued against the perpetrators in the analysed cases, but said that, in general, based on their practice, **warnings are used very frequently**. Their estimation is consistent with other findings presented earlier in this study (see: Conclusions on the implementation of warnings and emergency intervention orders by the police).

With respect to EIOs: out of the 86 cases analysed in the research, EIOs were issued in 41 cases (in five of these – two EIOs were issued against the same abuser, in different periods). Responses in the questionnaires provided by the WSC indicate the following problems in the implementation of warnings and EIOs.

1. Within the limits of the DV law, the police have discretion to decide whether to issue a warning in a case which has been reported for the first time, and there are no grounds for issuing an EIO. The results imply that the **police often fail to examine cases thoroughly**; do not apply the Risk Assessment Form properly; do not consider

evidence related to the (prolonged) history of abuse; and/or sometimes do not consider evidence of serious previous incidents, such as strangulation. Due to these deficiencies, the staff of the WSC explained in the questionnaires that in some cases the police issue a warning instead of EIO although an EIO is justified, in their opinion. Using a warning as the first step in attempts to prevent further abuse may not be useful or, even, may be counter-productive and may leave victims without the necessary protection. Improvements in procedures regulating issuance of warnings/EIOs, therefore, needed.

2. The type of EIO used was examined. **Removal of the perpetrator from the home was used very rarely (in only two cases).** In most cases, EIOs included banning communication with the victim (Article 7, paragraph 3(5) of the DV law), and prohibition from approaching the victim and her children/persons under her care (Article 7, paragraph 3(3) of the DV law). Controlling behaviour or any form of psychological violence were not considered in a process of issuing EIO.

3. Based on the available data, it was not possible to conclude which criteria the police apply in issuing EIOs in practice, i.e. whether a danger of serious or lethal violence is required. In this respect, the authorities may consider the recommendation of GREVIO (2022: paragraphs 463-464) that **emergency barring orders** (as these are called in the Istanbul Convention), **are to be issued in cases of immediate danger.** This does not necessarily require the risk of death or other serious violence, which would represent an unacceptably high threshold. They should, therefore, also be issued for less serious violence. Secondly, these should not depend on the will of the victim and must be ordered *ex officio* as part of the state obligation to prevent any act of violence covered by the Istanbul Convention that are perpetrated by non-state actors.

4. Occasionally, **EIOs were not issued immediately**, and in some cases the victim was not provided with a copy. A copy was only given to the victim when lawyers from the WSC insisted. In addition, the WSC was not informed by the police about the issuance of EIOs, as required by the DV law.

5. **Both warnings and EIOs are poorly monitored/supervised by the police**. Some EIOs did not include the indication of the legal sanction for breaching the EIO, as required by Article 7(15) of the DV law. Due to insufficient monitoring/supervision by the police, it is not ensured that the EIOs can achieve their intended aim.

Protection orders, which are issued by the court, are also examined in the study. However, the team from the WSC recorded only eight cases in which the victim had applied for a protection order and the order had been granted by the court. Out of these, in seven cases the WSC supported the victim in the process of applying, by preparing documentation. In one case, the perpetrator had violated the protection order. No sanctions were recorded for violation of an EIO or protection order, although a few cases were initiated in this respect (see next section).

4.5. Access of women to justice: response of the criminal justice sector

A brief description of the case – femicide/gender-based killing: the life of this woman might have been saved?

"The woman had suffered domestic violence for 20 years and had had three children. She had left her husband and taken the children; she then called the police and received an Emergency Intervention Order for 20 days. However, the perpetrator violated that order on numerous occasions and sent the victim messages containing serious threats who in turn informed the police.

In one instance the perpetrator fired a gun towards the elder son. The police did nothing, the perpetrator was not even handcuffed. The police suggested to the victim that she should file a criminal case to the court which she did. However, the investigators did not seriously take into consideration her complaints and for months they delayed the case under the pretext that they were still investigating.

One day the perpetrator who had never been held accountable for his violence or been confronted by authorities, went to the house and blew himself and the victim up with a grenade, killing them both".

Women's Support Centre, Yerevan

This DV case resulted in the murder of the woman victim. The case against the husband was sent to court, but the WSC team did not have information about the proceedings. The description of the case indicates serious shortcomings in the response of the police and legal professionals.

A question may be raised as to whether at least some of the victims of femicide/gender-based killings might have been saved. No single action may prevent a femicide, but the criminal justice sector can send the message that domestic violence will not be tolerated. This section explores the response of the criminal justice sector to (serious) cases of domestic violence. A desk review of the available data in Armenia indicates that the majority of the criminal cases do not lead to any legal sanction on the perpetrator. The aim of this section is to explore when, how and why cases have been dropped from, or otherwise have been "lost", to the criminal justice process.

In total, **64 criminal cases were analysed**[41]. Cases were related to women who came to the Women's Support Centre in Yerevan to ask for help for the first time in the period from October 2018 to December 2021. The abuser was the husband/common-law husband, and in two cases – the son of the victim. These victims were assisted by lawyers with specialised knowledge of DV and supported by social workers and other WSC professionals. The level of support was, therefore, far higher as compared to other victims across Armenia.

- **Most of the cases (40) were investigated/prosecuted under Article 118 of the Criminal Code (Battery[42])** adopted on April 18, 2003. In two cases, investigation/prosecution was carried out under several other criminal provisions in addition to battery (Articles 117, 137, 147 and Article 113). The other cases were investigated as follows:
- four cases under Article 117 (intentionally causing light harm to health)
- four cases under Article 353.1 (intentional failure to fulfil EIO or protection order) As this offence is related to violation of an EIO or protection order, it should be further noted that these violations were committed repeatedly
- three under Article 119 (causing severe physical pain or mental suffering; in one of these, also under Article 117)
- three under Article 137 (threat of murder, of causing grave harm to health, or of property destruction; in one of these, also under Articles 112 and 113)
- two under Article 113 (intentionally causing medium gravity harm to health)
- two under Article 131 (kidnapping); in one of these, also under Article 34-138(1) (attempted rape).

Further, one case was related to each of the following:

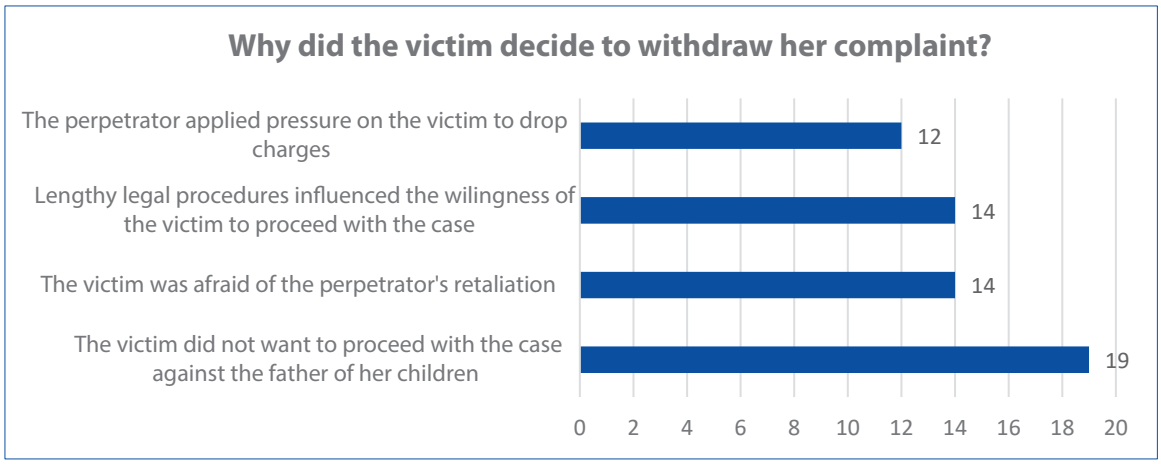
- Article 104 (murder)
- Article 110 (intentionally causing somebody to commit suicide)
- Article 34-104 (attempted murder)
- Article 34-138, paragraph 1 (attempted rape)
- Article 140 (compelling to sexual intercourse or actions of sexual nature)
- Article 112 (intentionally causing grave harm to health; and also under Articles 113 and 137)
- Article 113 (intentionally causing medium gravity harm to health)
- Article 147 (violating the inviolability of residence).

41 In relation to several perpetrators, two or even three criminal cases were initiated; each case was calculated separately.

42 Article 118 specifies that battery or other violent action that have not resulted in consequences provided for in Article 117 of this Code — shall be punished by a fine in the amount of one-hundred-fold of the minimum salary, or by detention for a term of maximum two months.

4.6. Shortcomings identified during pre-investigation, investigation and criminal proceedings in the court

Many of the analysed criminal cases were discontinued due to withdrawal of the complaint by the victim. The study analysed in more detail the possible reasons behind this high level of withdrawal. The results are presented in Graph 15.



Graph 15: Reasons for the decision of a victim to withdraw the complaint

Behaviour of professionals during the stage of pre-investigation and investigation (including the police officers involved in pre-investigation, investigators, prosecutors and judges) was also examined.

Table 40: Overlooking the consequences and seriousness of domestic violence psychological violence, and consequences of witnessing violence by children

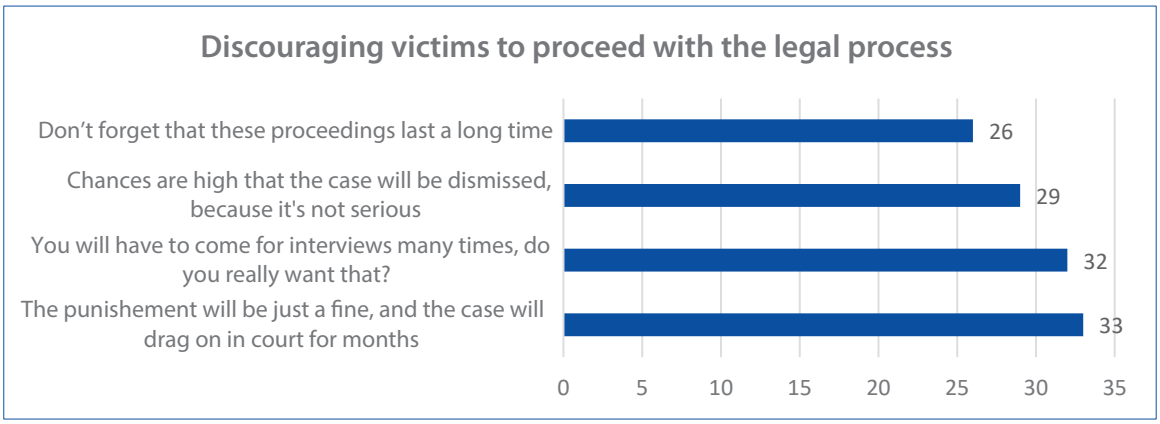
The victim was not sent for psychological evaluation to determine the consequences of past violence	36
Psychological dynamic of the abuse, coercion and threats were not considered as relevant	34
No attention was paid to the emotional state of the victim or her fears	32
No mechanisms were applied to assess psychological damage on children, caused by witnessing DV	34
Perpetrator coercion and control over the victim was not considered	26

Table 41: Implying that reconciliation between the victim and the alleged offender would be preferable

"He is your husband, forgive him one more time"	26
"It is better that you stay together, and don't break up the family"	27
"What would you do without a man?"	22
"Do you want your children to live without their father?"	15

Table 42: Judgmental attitude, bias and stereotyping

Victim blaming attitude: accusing the victim of "provoking" the perpetrator	30
Accusing the victim of being "passive", or for not "leaving earlier"	30
Expressing stereotypic attitudes about women, such as "a wife should be obedient"	29
Giving the impression during interrogation that DV is "the woman's fault"	28
Victim's statement was treated as "not credible", because "women often lie"	25
Justifying domestic violence	13
If the victim left the perpetrator several times and returned: considering that she "does not deserve the help from the state institutions"	8



Graph 16: Discouraging victims to proceed with the legal process

It was also examined whether, and if so, how often, prosecutors applied the possibility (provided under Article 183, part 4 of the Criminal Procedure Code in force till 1 July, 2022) of initiating a criminal case if the injured person could not defend his/her legal interests due to a helpless state, or due to being dependent on the alleged offender[43]. The team from the WSC responded that prosecutors had **applied this provision in five cases**, and further, that they did not systematically check whether victims were in a helpless state or economically dependent on the alleged abuser.

Most of the cases examined did not reach court, so results regarding the strengths and weaknesses of the response of the judiciary are scarce. The team from the WSC assessed that judge occasionally made stereotypical or victim-blaming statements. With respect to the protection of victims and their children during legal proceedings no major issues were found. In two cases the request of lawyers to organise an interrogation online (relying on amended provision in the Criminal Procedure Code since June 2020, Article 209.1) was refused. The outcomes of criminal proceedings are briefly described in Table 43.

Table 43: Outcomes of criminal cases

Stage of criminal proceedings:	Number of cases
Pre-investigation or investigation is still ongoing (including cases in which the crime was re-classified, or a new crime was committed by the same perpetrator)	9
Discontinued, due to withdrawal of the complaint by the victim	23
Discontinued, due to insufficient evidence	4
Sent to court with indictment (including cases in which no court hearing had yet been conducted)	11
Terminated in court due to reconciliation	6
Terminated in court due to statute of limitation	1
Conviction reached in court: acquittal	2
Conviction reached in court, and the sentence was as follows:	5
a) The accused was sentenced to imprisonment	1
b) The accused was fined	3
c) Conditional imprisonment of six months was imposed, with one-year probation period	1

43 As mentioned earlier in the study, this provision of the Criminal Procedure Code (which was in force until 1 July 2022, stipulated that, regardless of whether the victim/injured person has filed a complaint, the prosecutor shall be entitled to initiate a criminal case in relation to crimes provided for by part of the Article 183 in cases of domestic violence, if the injured person cannot defend his or her legal interests due to a helpless state, or due to being dependent from the person who committed the alleged offence. In such cases, the criminal case shall be initiated and examined under the general procedure as prescribed by the Criminal Procedure Code, and in case of reconciliation between the victim and the accused the criminal prosecution shall not be terminated.

4.7. Conclusions: response of the criminal justice sector

1. The findings are consistent with those obtained in other parts of this study, which show that many of the initiated criminal cases related to domestic violence **do not proceed beyond the stage of pre-investigation** or investigation.

2. **In 64 criminal cases which were initiated in a period of four years**, **only seven resulted in a conviction**. Two of the accused were acquitted. Only one of them received a prison sentence (the offender was sentenced under Article 137 - threat of murder, of causing grave harm to health, or to property). Further analysis of this particular case revealed that the woman had been exposed to domestic violence by her husband for 16 years, including during pregnancy. One of the accused received a conditional sentence of six-months imprisonment, with a one-year probation period, under Article 113 (intentionally causing medium gravity harm to health). Three of the accused were fined: one under Article 147(1) of the Criminal Code (violating the inviolability of residence), and the fine amounted to 50.000 AMD (about 122 euros). One of them was fined for battery (Article 118); the imposed amount: 100.000 AMD (about 244 euros). Finally, one accused was fined for (multiple) violations of an emergency intervention order or protection order (under Article 353.1 of the Criminal Code), the imposed amount was 400.000 AMD (about 979 euros). The results seem to indicate serious problems in victims' access to justice, and a mild penalising policy of the courts. In addition, legal proceedings, from the stage of pre-investigation to the decision of the court of the first instance, last a long time, mostly, 2-3 years. Long proceedings, most likely, lead to high levels of re-traumatisation of the victims.

3. **Fines cannot be seen as a dissuasive sanction for domestic violence**. They are so rarely imposed that questions may be raised about their purpose. The Istanbul convention (Article 48, paragraph 2) requires state parties to ensure that any fine that a perpetrator is ordered to pay shall not indirectly lead to financial hardship on the part of the victim and thus present an indirect punishment of the victim (Explanatory report to the Istanbul Convention: paragraph 253). As revealed in this study, many of the victims are economically dependent on the perpetrator, and thus could be indirectly punished for violent acts committed against them.

4. As it can be seen (Table 43), 23 criminal cases (out of 64) were discontinued, due to withdrawal of the complaint by the victim. Lack of *ex officio* prosecution is one of the important factors that contribute to the poor judicial outcomes described above. As explained by GREVIO (2022: paragraphs 479-480), under Article 55 of the Istanbul Convention investigations into or prosecution of physical violence, sexual violence, including rape, forced marriage, FGM, and forced abortion or forced sterilisation should not be wholly dependent upon a report or complaint filed by a victim; proceedings may continue even if the victim withdraws her or his statement[44]. Criminal investigations and proceedings for the above-mentioned offences should not place the onus of initiating such proceedings and securing convictions on the victim, due to the particularly traumatising nature of these offences (Explanatory report to the Istanbul convention: paragraph 279).

5. **Most cases of domestic violence (40 out of in total 64 cases) were investigated/prosecuted under Article 118** which is defined as commission of violent acts that have not resulted in light injuries (as envisaged by Article 117). According to the explanation of legal experts (Mann 2019), the Cassation Court of Armenia has held "that battery is the infliction of multiple (more than one) blows to the victim that resulted in physical pain"[45].Battery is thus the threshold crime, below which there can be no criminal action (ibid).

6. These findings are consistent with those presented in other parts of this study, which show that Article 118 of RA Criminal Code adopted on April 18, 2003, has been used most often to prosecute DV. As clarified by Council of Europe legal experts in the analysis of criminal provisions related to DV and corresponding legal practice (Truchero 2017), in Armenia, in the absence of a specific/dedicated offence of DV, the provisions regarding bodily injuries remain the primary criminal offences for which perpetrators of DV can be held accountable. The Armenian criminal law should at least ensure that battery (Article 118) is not used as the "standard response" to

44 Though, under Article 78 of the Istanbul Convention, State Parties can enter a reservation to Article 55, paragraph 1, with respect to Article 35 on physical violence, for minor offenses of physical violence.

45 See, Decision of the Cassation Court No. ԱՐԴ/0176/01/11, case of Arevik and Tsovinar Sahakyans, 1 November 2012, paragraph 18

most cases of DV (ibid). Bearing in mind the considerations of legal experts, it is important to highlight that, out of 64 criminal cases analysed in this section of the study, **only one case that was prosecuted under this article led to conviction in court** and the accused was fined (the imposed amount was about 94 euros). The team from the WSC explained that cases under this article are often initiated in relation the last episode or last two episodes of domestic violence, although violence had been prolonged (had lasted for years). This lasting element (previous history of violence) is not being considered in legal practice, as clarified by the team from the WSC. Analysis by Truchero (2017) further indicates that Article 118 of the Criminal Code (Battery), which is focused on "isolated episodes", rather than on series of violent acts occurring over a prolonged period, is unfit to capture characteristics of most cases of DV. Namely, Truchero (ibid) clarifies that in legal practice, to qualify a certain conduct as battery (under Article 118), the conduct has to involve two or more acts of violence. In fact, the Cassation Court held in the case of *Arevik and Tsovinar Sahakyans* that: "It flows from the content of Article 118 of RoA Criminal Code that battery is infliction of multiple (more than one) beats to the victim resulted in physical pain". Truchero (ibid) concludes that "this construction of the *actus reus* fails to capture the elements that characterize most cases of domestic violence, typically involving series of acts over long periods of time, each of which may in itself not be penalised (e.g. one slap). The Armenian legal response to violence relies on a traditional perception of the criminal action, focused on isolated events causally related to consequences. This approach makes it exceedingly difficult to effectively prosecute behaviours such as those comprised in the definition of domestic violence." Other legal experts (Hakobyan 2016) made similar conclusions with respect to criminal legislation and judicial practice in cases of DV, emphasising that the fact that repeated domestic violence is not taken into consideration when qualifying the offence. Only the action reported directly before the arrest and proved by "material evidence", such as medical report, is acknowledged in the indictment. There are many cases when previous acts of physical and psychological violence did not affect the qualification and the perpetrator was accused of only one episode of violence (ibid).

7. Cases of DV are rarely initiated under the applicable provision related to mental suffering (Article 119 of the Criminal Code adopted on April 18, 2003). Legal experts (ibid) clarified that the **Criminal Code does not define "mental suffering" and Article 119 lacks any reference to the means or acts the perpetrator may employ to achieve the resulting suffering**. Such vagueness hinders the application of this provision. In addition, the wording of Article 119 leads to the consideration of isolated events only, while the Article 33 "Psychological violence" of the Istanbul Convention aims to capture the criminal nature of an abusive pattern of behaviour occurring over time – within or outside the family. Therefore, Article 119 is ineffective in cases of domestic violence, where sustained intimidation, economic violence or coercion might be interpreted as not suitable to generate the required result (mental suffering).

8. Findings on judicial outcomes (as presented in Table 43) seem to indicate that **criminal provisions which are used in legal practice to prosecute DV are ill-suited to effectively address domestic violence.** For example, Article 137 of the Criminal Code, which is related to threat of murder requires proof of real danger that that threat will be carried out which represents too a high threshold to enable an effective prosecution (Truchero 2017), while others are designed to prosecute isolated events of violence, and thus are ill-suited to capture the abusive pattern of behaviour in which isolated incidents do not reach the criminal threshold, as noted above. As further described by experts, criminal provisions fail to capture behaviours described in Article 33 of the Istanbul convention on psychological violence, as some forms of threat and mental suffering resulting from a conduct over a period may not be covered by Articles 119 and 137. In this context, it may be interesting to the authorities to consider the promising practice example of Sweden (GREVIO 2022: paragraph 346) where the offence of "gross violation of a woman's integrity" was introduced as a specific domestic violence offence aiming to capture the continuum of violence – psychological, physical and sexual – which women face at the hands of men who were or still are their spouse or cohabiting partner. GREVIO has noted that this offence is comprehensive as it applies to a range of threatening or violent behaviour by current and former spouses and partners, irrespective of whether the couple has lived together.

9. Poor judicial outcomes, as presented above, seem to indicate that the suffering of women due to domestic violence most often remains invisible and unpunishable in the eyes of the law. The inefficient judicial response can send the worrying message to society that DV is not a crime.

10. At the time this study was conducted, the fact that a violent act had been committed against a former or current spouse or partner could not be considered as an aggravating circumstance under the applicable criminal provisions in Armenia, as explained by the team from the WSC. International standards can be instructive in this respect. Article 46 of Istanbul Convention requires ensuring that a number of circumstances (listed in indents a to i) may be taken into consideration as aggravating circumstances[46] (including for example, that the act was commissioned against a current or former spouse/partner) in the determination of the penalty for offences established in the Istanbul Convention. Depending on the legal system, some of the aggravating circumstances may form part of the elements of the crime, thus qualifying them as more serious offences punishable by harsher sentences or may be set out in specific criminal law provisions (GREVIO 2022: paragraph 400). As explained by legal experts (Pirumyan 2022), in accordance with the Criminal Code of RoA, which has been in force since 1 July 2022, a crime committed by a close relative[47] within the meaning of the Criminal Code is prescribed as an aggravating circumstance in a number of *corpora delicti*, such as murder, causing somebody to commit suicide, inflicting heavy injury to health, causing moderate damage to health, causing a light damage to health, illegal deprivation of freedom, psychological pressure, physical pressure, etc. The implementation of these provisions in court practice should be carefully assessed in the future research studies.

11. This study has explored the **reasons why so many victims decide to withdraw their complaints**. As might have been expected, the analysis showed that victims come to such a decision for reasons such as: not wanting to proceed with the case against the father of their children or being afraid of retaliation of the abuser. Lawyers from the WSC emphasised that, often, women decide to withdraw due to economic dependency, and/or threats by the perpetrator, for example, that she will not see her children if she proceeds with the case. In addition, some women also change their mind due to lengthy legal proceedings. They consider that lengthy court proceedings are not worthwhile as the most likely outcome will be that the perpetrator might be only fined and the fine would be paid from the household budget. The WSC team also said that some abusers reported women to the police, accusing them of child abuse, as a form of pressure to withdraw complaints against them (see section: Domestic violence appears minor in the eyes of the law). Reasons for withdrawal are, therefore, complex. Other findings lead to the conclusion that it is likely that attitudes of professionals explained above expressed during the stage of pre-investigation or investigation, when withdrawal most often occurs, also contribute to withdrawal. Adding to the fact that the investigation and prosecution depends on the victim's request, which forces them to bear the responsibility for bringing perpetrators to justice[48], other factors, such as discouraging or judgmental messages of professionals and insufficient protection during legal proceedings most likely worsen the position of the victims. These contribute to secondary victimisation and possibly have an impact on their decision to withdraw their complaints. More specifically, these factors include:

    a) overlooking the consequences and seriousness of domestic violence, in particular, psychological violence;
    b) discouraging victims to proceed with the legal process;
    c) implying that reconciliation between the victim and the alleged offender would be preferable;
    d) judgmental attitude, bias and stereotyping;
    e) insufficient measures to protect victims during legal proceedings and to reduce re-traumatisation: commonly, the victim had to testify several times, and the interrogation of the victim online was not used, although recent changes in procedural law allow for such a possibility, as explained by the team from the WSC.

46 The Council of Europe's opinion on the revised draft Criminal Code of the Republic of Armenia (2020) recommended to the Armenian authorities to adopt the requirements of the above-mentioned Article 46.

47 Pirumyan (2022) explains that Article 3, paragraph 1, point 18 of the Criminal Code, which has been in force since July 1, 2022, prescribes the notion of "close relative" as follows, "Close relative - irrespective of the fact of sharing the residence, spouse, ex-spouse, the parent, including the step parent, the adopting parent, the custodian parent, the child (including adopted, step, godchild), brother, sister (including stepbrother and stepsister) grandfather, grandmother, grandchild, the spouse or ex-spouse of the adopting parent or custodian parent, the parents of the spouse or ex-spouse, as well as the daughter or son in laws for the spouse's or ex-spouse's parent. The spouse or ex-spouse is also considered to be a person who is or was in a de facto marital relationship".

48 Under Article 55 of the Istanbul Convention, investigations into or prosecution of physical violence, sexual violence, including rape, forced marriage, FGM, and forced abortion or forced sterilisation should not be wholly dependent upon a report or complaint filed by a victim; proceedings may continue even if the victim withdraws her or his statement. Criminal investigations and proceedings for the above-mentioned offences should thus not place the onus of initiating such proceedings and securing convictions on the victim, due to the particularly traumatising nature of these offences (GREVIO 2022: paragraph 479).

The Criminal Procedure Code[49] has recently been amended in Armenia, allowing for *ex officio* prosecution of crimes containing elements of domestic violence, as clarified by legal experts (Pirumyan 2022). Research studies should be carried out in the future, with the aim of analysing the application of these provisions in legal practice and the impact on victims' access to justice.

12. Finally, the cases analysed in this study mostly included severe and prolonged domestic abuse, marked by high levels of control and coercion by the perpetrator, but **criminal proceedings initiated with respect to these cases mostly did not lead to any legal sanction**. There is a great discrepancy between the seriousness of the cases, as determined in this study (see: In-depth analysis of victims' experiences with domestic violence) on the one hand, and outcomes of legal proceedings, on the other, which gives the impression that the violence these women have suffered appears minor in the eyes of the law.

4.8. Domestic violence appears minor in the eyes of the law: examples from the practice of the Women's Support Centre in Yerevan

Responses provided by the WSC in questionnaires illustrate strengths and weaknesses in the criminal sector response, including the reasons why many victims withdraw their complaints.

- "The victim received 18 stab wounds. In such serious cases, a criminal case is initiated immediately. Initially, criminal charges were brought under Article 112; subsequently, according to the results of the forensic examination, the act was re-classified as attempted murder, Article 34-104. The investigator worked very conscientiously, operatively. Now the case is in court, the court is handling the case perfectly, without any discrimination.

- The perpetrator was arrested, but the court changed its initial decision to send him to pre-trial detention, and as a result he was able to commit a new crime – he seriously injured the victim, and two of her close relatives, after which he was arrested again and a new criminal case was initiated against him, which has been ongoing for more than three years.

- In general, cases of domestic violence are very rarely initiated in Armenia under the provision on mental suffering. Firstly, it envisages a more severe punishment, secondly, an additional psychological examination must be performed, and there are few professional institutions which can provide an expert opinion. We had a case where the criminal charge was initially brought under Article 118 (battery), but the Prosecutor's Office re-classified the crime as causing severe physical pain or mental suffering (Article 119), so there is a new investigation going on.

- The case was initiated under Article 118 (battery); the victim withdrew her complaint, but the prosecutor proceeded with the case, relying on the possibility of initiating a criminal case regardless of the victim's complaint, if the victim is in a helpless state or is economically dependent on the accused. However, the abuser was acquitted in the court of first instance. Due to the appeal of the victim (initiated by the WSC), the Court of Appeal overturned the judgment of the court of the first instance. Since the perpetrator prevented the victim from seeing her children, and the husband accused her of violence, she eventually decided to reconcile with him during the newly initiated court hearing. The case is now being re-examined. However,

49 Article 11 (Forms of Conducting Criminal Prosecution) of the Criminal Procedure Code, which has been in force since July 1. 2022, prescribes as follows,
"1. Within the framework of the criminal proceedings, the criminal prosecution shall be performed in public or private prosecution procedure, based on the nature and the gravity of the crime.
2. Criminal prosecution in the proceedings related to the crimes prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia shall be conducted in the private procedure. Criminal prosecution in the proceedings related to any other crime shall be conducted in the public procedure.
3. If some of the acts attributed to the same person are subject to public criminal prosecution and others - to private criminal prosecution, the public criminal prosecution shall be conducted.
4. Upon the initiative of the prosecutor, regardless of bringing a criminal claim or dropping the criminal claim, the public criminal prosecution is performed on:
1)The crimes containing elements of domestic violence;
2) The crimes prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia, if the person is unable to protect his legitimate interests because of his helplessness or due to the fact of dependence from the person who has inflicted the alleged damage."

during the new court hearing, the victim again decided to reconcile with the abuser. Victims often decide to withdraw complaints due to the husband's threats that they will not see their children.

- In the practice of the WSC, there are cases where husbands accuse their wives of child abuse (once the victim files for divorce or reports them to the police for physical violence). Thus, victims are pressured to withdraw their complaints. In one such case, the police issued a warning against both the husband and the wife, without assessing the situation in depth. The victim thus became the accused. Often, such cases result in reconciliation. In one case, the husband reported to the police that the woman stabbed him and beaten their child (as a way of pressuring her to withdraw complaint against him). No criminal case was initiated against her, but eventually she decided to withdraw her complaint".

Case example: struggle of the woman victim of (severe) physical violence in the criminal justice sector

"The victim had suffered domestic violence from her husband for many years, including severe physical violence, such as slapping, kicking, strangulation, and suffocating. The violence had started soon after they got married and occurred even during pregnancy.

She was economically dependent on her husband, and had experienced various manifestations of psychological violence, such as isolation and control (he controlled her daily activities, forbade her to contact her family and friends, restricted her movement, locked her up in the room). He had also threatened to kill her multiple times and had exposed her to economic violence: refused to give her money for household expenses, restricted her access to money and forbade her to find a job.

Children witnessed violence multiple times.

She submitted the complaint to the police, but only a warning was issued to the perpetrator. Upon a severe beating, she again called the police, and the criminal case against her husband was initiated.

The husband and his relatives accused her of beating her children, which is often the "tactic" for putting pressure on victims to withdraw their complaints. The investigator conducted an objective and thorough investigation, and the case against her was terminated, due to 'lack of guilt'".

Women's Support Centre, Yerevan

- "Investigations last a long time. The woman was incited to commit suicide by her husband. She was in a hospital for months. We submitted the photos of the injuries to the investigator. The investigation is still ongoing.

- The criminal case under Article 118 was terminated on the ground of insufficient evidence. The victim did not want to appeal, considering it pointless and reasoning that the perpetrator would pay a fine if he was found guilty. During the cross-interrogation, the victim was kidnaped by her husband and husband's relatives right in front of the investigation department. The criminal case sent the court with the indictment under Article 131 (kidnaping)".

Case example: Dragging on of a criminal case - an intriguing tactic of the perpetrator (will this case eventually be terminated?)

"The victim has suffered domestic violence for several years; the perpetrator, her common-law husband has beaten her from the beginning of their relationship, during pregnancy, during parties, and in front of guests. He insists on knowing what she has been doing, and whom she is seeing; she has to explain herself for every moment she spends without him; he humiliates her in front of other people (children, relatives), accuses her of being insane, irresponsible, restricts her access to money, and refuses to give her money for household expenses. She suffers from panic attacks, anxiety, and apathy, she has lost self-confidence and is overwhelmed by feelings of helplessness.

She went to the police and received an Emergency Intervention Order.

However, when the criminal trial started, it was constantly postponed following requests by the defendant. In line with legislation, in case of battering, if the court does not reach a decision after two years, the case is terminatedbased on the period of limitations. Thus, the Women's Support Centre notes that perpetrators often use a tactic to postpone and "drag" the proceedings, hoping that the case will be eventually terminated.

The legal proceedings in this case are ongoing; the lawyer of the Women's Support Centre has asked for a trial date, and if this next date is not honoured, the case will have to be terminated".

Women's Support Centre, Yerevan

Case example: Repeated beating during pregnancy – does this qualify as "severe psychological suffering"?

"The victim has suffered prolonged physical and psychological violence from her husband. He has threatened her with a weapon/knife, and tried to kill her. She has had physical injuries due to violence, including cuts, bruises and scratches. Her husband has been violently and constantly jealous; he controls her activities and restricts her contacts with family and friends, and often has outbursts of verbal aggression. The violence started soon after their marriage and continued during her two pregnancies.

She went to the police and received an Emergency Intervention Order.

The police minimised the violence that had happened, making remarks such as, "you don't want to go to the court for this, he didn't beat you severely", and did not apply the Risk Assessment Form. They did not mention in their report that the victim had been severely beaten during her two pregnancies; they wanted to initiate a criminal case under Article 118 of the Criminal Code (battery), not under Article 119 (severe psychological suffering), which carries a more severe punishment, but requires an additional psychological examination.

At that point, the lawyer of the Women's Support Centre filed a complaint that the investigation was not being conducted properly, and presented the medical records verifying that beatings had occurred during pregnancy. Only after that, the investigator changed his attitude toward the qualification of the crime, and the case will go to trial under Article 119.

The trial is ongoing".

Women's Support Centre, Yerevan

4.9. Custody and visitation

Most of the children in the cases considered in this part of the study had witnessed domestic violence against their mothers or had been present at acute scene of violence (see: Children as witnesses and/or victims of domestic violence: Consequences).

Article 31 of the Istanbul Convention seeks to ensure that incidents of violence covered by the Convention, in particular domestic violence, are considered when making decisions on custody and visitation rights to ensure that the exercise of these rights do not harm the rights and safety of the victim or children (GREVIO, 2022: paragraph 324). Article 31.1 aims at ensuring that judicial authorities do not issue contact orders without considering incidents of violence against the non-abusive carer as much as against the child itself, while paragraph 2 lays out the obligation

to ensure that the exercise of any visitation and custody rights does not jeopardise the rights and safety of the victim and/or the children.

In all states parties to the Istanbul Convention, GREVIO (2022: paragraphs 326-327) has observed shortcomings in the legal framework and/or implementation with respect to the obligation to ensure the safety of victims and their children in the decision on and exercise of custody and visitation rights. In Andorra, Austria, Finland, France, the Netherlands, Portugal, Spain, and Sweden, where there is a legal basis to prevent the granting of parental responsibility, including custody and visitation to abusive parents, GREVIO has found that the relevant provisions are rarely applied. In Albania, Belgium, Italy, Monaco, and Turkey, GREVIO has found that there is no explicit reference to domestic violence as a legal criterion to be considered when deciding on custody and/or and visitation rights.

In Armenia, there is no legal basis to prevent granting of parental responsibility, including custody and visitation to abusive parents, as explained by the team of the WSC. In line with family law, domestic violence against another parent does not represent a reason for restricting parental rights of the abusive parent. However, **under the DV law, protection orders** (Article 8 of the DV law) **may include prohibition of child visitations, if necessary**.

In this part of the study, twenty civil cases related to custody and visitation proceedings were analysed, in which the mother of the children was the victim of domestic violence. Outcomes of the trials were as follows: custody was granted to the mother (in nine cases); to the father (in five cases); decision on shared custody was made (in two cases); proceedings were ongoing in four cases. In seven cases, the court issued an interim decision related to visitation rights of another parent.

4.10. Conclusions related to court decisions on custody and visitation

1. **Judges do not consider violence witnessed by children** when making decisions on custody and visitation, as there is no legal mechanism to do so. Parental or visitation rights of the perpetrator of DV/father of the children were thus not restricted in any of the analysed cases. Two of the women included in this part of the study were granted a protection order against the perpetrator, and child visitation was not prohibited/not included in the order.

2. **Proceedings related to custody and visitation are lengthy,** around 2-3 years (on average/mean duration: 2,28 years), ranging from 6 months to 5 years (in four cases, the trial is ongoing). Trials do not take place in a timely manner, as assessed by the lawyers of the Women's Support Centre. Lengthy proceedings most likely lead to secondary victimisation of mothers, and possibly, children, if they are required to testify.

3. The team at the WSC identified the following **problems in practice**: it is not ensured that children testifying in court will be assisted by a child psychologist, and there is no legal mechanism to assess psychological consequences on children due to witnessing violence. They also noted the lack of services/care for child victims of violence, and the lack of compulsory participation of an enforcement officer during visitation and communication of the father with the children. In 10 cases, the perpetrator or his family prevented the mother from visiting or communicating with the children, with no consequences. Other fathers/perpetrators of DV did not respect court decisions related to visitation and communication with children, but they suffered no consequences. In one case, as the children lived with the mother while the trial was underway, the father retained their children during visitation. The court issued an order to return the children and it took the Compulsory Enforcement Service (the body responsible for the implementation of the court decisions) five months to return the children to their mother.

5. STUDY RECOMMENDATIONS

With respect to protective measures prescribed by the DV law, as well as provisions related to custody and visitation, it is advisable to consider the following legislative and other measures:

1. Harmonise provisions on emergency intervention orders (Article 7 of the DV law) and protection orders (Article 8 of the DV law) with General Recommendation 35 of the CEDAW Committee (2017) and the Istanbul Convention (Articles 52 and 53).

2. Evaluate the use and effectiveness of "warnings" keeping in mind that this measure should not replace actual EBO and regular risk assessment. This measure is frequently applied in practice, but its impact on ensuring protection of victims and preventing further violence is questionable[50].

3. Improve record-keeping on whether the police are identifying domestic violence that took place for the first time in the family, in line with the DV law. This represents one of the factors used by the police to issue a warning, rather than an EIO and to consider that wrong information on this issue may lead to the application of a warning instead of EIO; as a consequence, precious time for preventing further violence may be lost and the victim may be left without the necessary protection.

4. Review and revise procedural rules for appealing warnings.

5. Review and revise the requirements for issuing EIOs by the police in practice. How police officers decide whether to apply an EIO should be explored further. In line with international standards, i.e. the Istanbul Convention, emergency barring orders are tools to be used in cases of immediate danger[51] and this does not necessarily require the risk of death or other serious violence. Therefore, these orders should also be issued in situations of less serious violence since their intended aim is to put the safety of the victim first in a situation when the harm is imminent and to prevent further violence. Therefore the police should not use too high a threshold for issuing an EIO, such as an intention of the perpetrator to commit a serious crime.

6. Organise specialised training programmes for police officers on issuing protective measures. It is essential to increase their knowledge on domestic violence, its impact on victims and children and its psychological dynamic and gendered nature (for more details about the topics to be covered, see next section).

7. ise procedural rules hindering the enforcement of EIOs, with the aim of ensuring that EIOs are issued swiftly to avert situations of imminent danger and that police decisions on the issuance of EIOs enter into force immediately, without delays caused by procedural challenges related to the notification to the perpetrator.

8. Ensure that the police implement in practice the obligation to provide a copy of an EIO to the Women's Support Centre in the victim's place of residence as prescribed by the DV law.

9. In a process of issuing an EIO, inform victims about their rights. Ensure that police officers refer victims to the Women's Support Centre closest to their residence, and/or to other entities where they can receive assistance, such as psychological and legal counselling and/or other support that can contribute to their empowerment.

10. Review and revise the practices of the police during interventions in acute situations of violence and in conducting risk assessment with the aim of ensuring that police officers pay due attention to the following factors: indicators related to history, duration, and seriousness of violence, including death threats or strangulation, and also, manifestations of psychological violence; the victim's own assessment of risk; danger/risk to the children witnessing violence.

11. Address the interference of family members of perpetrators in the process of issuing protective measures.

12. If the victim and the perpetrator live separately, ensure that the perpetrator's visitation rights do not hinder the effectiveness of an EIO issued against him.

13. Explore and address the reasons for the low use of protection orders (prescribed by Article 8 of the DV law).

14. Organise awareness raising programmes aimed at informing victims that such orders are available, and that Women's Support Centres can apply for such orders on their behalf (with their consent) and that legal aid and support can be provided in this respect.

15. Ensure complementarity between EIOs and protection orders as prescribed by Article 8 of the DV law so that no gap in the protection of the victim arises due to the expiry of an EIO. This means making available, protection orders that can be applied immediately afterwards.

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50 See in Mann 2019

51 The term "immediate danger" refers to any situation of domestic violence in which harm is imminent or has already materialised and is likely to happen again (Explanatory report to the Istanbul Convention, paragraph 265)

16. Preserve the deterrent potential of EIOs (issued by the police) and protection orders (issued by the court) by enforcing and monitoring them properly. The police need to efficiently monitor and supervise the compliance of perpetrators with the orders. This could be done, for example, by organising regular meetings with the victim, improving co-operation with other entities/institutions and Women's Support Centres that provide help to victims, and ensuring that each victim is given a copy of the EIO. It is important to ensure that the police identify violations pro-actively, rather than relying only on the victim to report violations as this place the entire burden on the victim to provide evidence of a breach of the EIO.

17. Examine and revise applicable procedures related to preventive registration of the perpetrators by the police, by ensuring that all relevant information and/or data related to criminal proceedings, as well as to civil-law measures issued against the perpetrators in accordance with the DV law have been recorded and regularly updated. Upon the review, the applicable procedures need to be implemented effectively in practice.

18. Ensure the application of dissuasive, proportionate, and effective sanctions for violation of EIOs and protection orders, taking into account that such violations, in general, may signal a situation of high risk for the victim. In this context, consider police detention in cases of multiple or serious violations. Fines cannot be considered dissuasive sanctions; moreover, imposing fines may lead to financial hardship on the part of the victim.

19. Amend the family law, and/or other relevant provisions, in accordance with the General Recommendation 35 of the CEDAW Committee (2017[52]), decisions of CEDAW Committee under Optional Protocol[53] and related international standards[54]. Ensure that incidents of domestic violence against the non-abusive parent as well as against the child are considered when decisions on custody or the extent of visitation rights are taken[55], including the possibility of using domestic violence as a separate ground for restriction of parental rights, including visitation rights.

To contribute to the improvement of access of victims to justice, consider legislative and other possible measures that:

20. Define domestic violence as a specific, separate criminal offence and make perpetrators accountable for the violence committed, in line with recommendations to Armenia by the CEDAW Committee (2016[56]) and the UN Committee against Torture (2017[57]); recommendations to Armenia provided by Council of Europe Commissioner for Human Rights (2015); and recommendations accepted by Armenia during the 2nd cycle of Universal Periodic Review of the Human Rights Council.[58] Dedicated/specific/separate offences may improve criminal justice response to domestic violence, in particular when dealing with cases that involve courses of conduct or abusive patterns of behaviour in which isolated acts of violence do not reach the criminal threshold.

21. Ensure sanctions are dissuasive and commensurate with the gravity of the offence in cases of domestic violence. The authorities may consider the provision of the Istanbul Convention (Article 48, paragraph 2), which requires

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52 The CEDAW General Recommendation No. 35 (2017) on gender-based violence against women affirms that "perpetrators or alleged perpetrators' rights or claims during and after judicial proceedings, including with respect to property, privacy, child custody, access, contact and visitation, should be determined in the light of women's and children's human rights to life and physical, sexual and psychological integrity, and guided by the principle of the best interests of the child".

53 See Communication No. 47/2012 *González Carreño v. Spain*, CEDAW/C/58/D/47/2012. In the Gonzalez case, where an abusive father murdered his daughter and then took his own life during an unsupervised visit, the CEDAW Committee found that, by ruling to allow unsupervised visits without giving sufficient consideration to the background of domestic violence, the Spanish authorities had failed to fulfil their due diligence obligations under the Istanbul Convention (paragraph 9.7) The Committee recommended, among others, that any history of domestic violence be considered when determining visitation schedules in order to ensure that these do not endanger women or children.

54 The Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence in its Article 31 requires States to "take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights of children, incidents of violence covered by the scope of this Convention are taken into account" and that "the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children".

55 Explanatory report to the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence, paragraph 175

56 CEDAW Committee, *Concluding observations on the combined fifth and sixth periodic reports of Armenia***,** 25 November 2016, CEDAW/C/ARM/CO/5-6

57 Committee against Torture, *Concluding observations on the fourth periodic report of Armenia*, 26 January 2017, CAT/C/ARM/CO/4

58 *Report of the Working Group on the Universal Periodic Review: Armenia: Addendum* (June 5, 2015), U.N. Doc. A/HRC/29/11/Add.1, 120.100, 120.105, 120.106, 120.107, 120.108, 120.109, 120.111, 120.112, 120.113.

State Parties to ensure that any fine a perpetrator is ordered to pay shall not indirectly lead to financial hardship on the part of the victim and thus present an indirect punishment of the victim[59].

22. Closely analyse and assess the implementation in practice of the provisions in the Criminal Procedure Code of RoA[60] related to *ex officio* prosecution of cases containing elements of DV (which came into force on 1 July 2022), relying on data provided by the police, the Investigative Committee and the Office of Prosecutor General, as well as on analyses of case-law. Based on the outcomes of the assessment, introduce changes/improvements in legislation and/or legal practice accordingly, if required.

23. Taking into account that in accordance with the Criminal Code of RoA (which has been in force since 1 July 2022), a crime committed by a close relative[61] within the meaning of the Criminal Code, is prescribed as an aggravating circumstance[62] in a number of *corpora delicti*, such as murder, causing somebody to commit suicide, inflicting a heavy injury to health, causing a moderate damage to health, causing a light damage to health, illegal deprivation of freedom, physical pressure, psychological pressure, etc., it would be advisable to assess, by carrying out research studies and/or case-law analyses, whether these aggravating circumstance have been properly applied in court practice. Depending on the outcome of the assessment, legislative and/or other measures should be implemented to address the shortcomings, if needed.

24. Review and revise reconciliation procedures to impose a stricter control over this mechanism and introduce provisions, in line with Article 48 of the Istanbul Convention on prohibition of mandatory alternative dispute resolution processes or sentencing and with the Recommendation 35 of CEDAW Committee (see Box: Positive obligations of the state in Prosecution and punishment).

Improving the implementation of criminal law and civil law provisions in practice is also advisable. The following measures may be considered:

25. Ensure that police officers provide a thorough report on cases of domestic violence reported to them, with reference to evidence collected.

26. Ensure immediate access of victims of domestic violence to forensic examination, with the aim of obtaining and preserving evidence accurately and appropriately.

27. Consider adopting a protocol or guidelines for police officers that would provide clear instructions on how to handle cases of domestic violence, starting from the first contact with the victim and the perpetrator. Taking

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59 Explanatory report to the Istanbul Convention, paragraph 253

60 The Criminal Procedure Code (in force since July 1. 2022), in its Article 11 (Forms of Conducting Criminal Prosecution) prescribes as follows,
"1. Within the framework of the criminal proceedings, the criminal prosecution shall be performed in public or private prosecution procedure, based on the nature and the gravity of the crime.
2. Criminal prosecution in the proceedings related to the crimes prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia shall be conducted in the private procedure. Criminal prosecution in the proceedings related to any other crime shall be conducted in the public procedure.
3. If some of the acts attributed to the same person are subject to public criminal prosecution and others - to private criminal prosecution, the public criminal prosecution shall be conducted.
4. Upon the initiative of the prosecutor, regardless of bringing a criminal claim or dropping the criminal claim, the public criminal prosecution is performed on:
1) The crimes containing elements of domestic violence;
2) The crimes prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia, if the person is unable to protect his legitimate interests because of his helplessness or due to the fact of dependence from the person who has inflicted the alleged damage."

61 Article 3, para 1, point 18 of the Criminal Code (which is in force since July 1, 2022) prescribes a notion of "close relative" as follows, "Close relative - irrespective of the fact of sharing the residence, spouse, ex-spouse, the parent, including the step parent, the adopting parent, the custodian parent, the child (including adopted, step, godchild), brother, sister (including stepbrother and stepsister) grandfather, grandmother, grandchild, the spouse or ex-spouse of the adopting parent or custodian parent, the parents of the spouse or ex-spouse, as well as the daughter or son in laws for the spouse's or ex-spouse's parent. The spouse or ex-spouse is also considered to be a person who is or was in a de facto marital relationship".

62 Article 46 of Council of Europe requires to ensure that a number of circumstances (listed in indents a to i of this article) may be taken into consideration as aggravating circumstances in the determination of the penalty for offences established in the Istanbul Convention. For example, one of the aggravating circumstances may be that the offence was committed against a former or current spouse or partner as recognised by internal law, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority. As assessed in Mid-term horizontal evaluation of GREVIO baseline evaluation reports (2022), depending on the legal system, some of the aggravating circumstances may form part of the elements of the crime, thus qualifying them as more serious offences punishable by harsher sentences or may be set out in specific criminal law provisions. Another approach consists of establishing a non-exhaustive list of aggravating circumstance in the law coupled with awareness-raising on the Istanbul Convention for the judiciary.

into account promising practice examples identified by GREVIO (2022), these guidelines should be based on a victim-centred approach and gendered understanding of domestic violence, and should include topics such as creating favourable conditions for victims to be heard; preventing secondary victimisation of victims and children, as well as ensuring a pro-active role of law enforcement in gathering evidence, with the aim of reducing over-reliance on victims' statements and thus supporting a successful investigation. It is further advisable that the guidelines explicitly prohibit judgmental, victim-blaming, stereotypical or stigmatising attitudes; bias towards victims; attempts to minimise or justify violence; implying that only the reconciliation between the victim and the perpetrator would be preferable; as well as attempts to discourage victims from proceeding with the legal process.

28. Pursue ongoing efforts to organise in-service training programmes on domestic violence for police officers working in specialised units for preventing domestic violence, as well as investigators, with the aim of offering them guidelines on how to comprehensively and pro-actively seek evidence and build a case fit for prosecution. Relying on Article 15 of the Istanbul Convention on training the professionals and the relevant recommendations of GREVIO (2022), such programmes should focus on understanding domestic violence as a manifestation of unequal power relations between women and men, and should cover topics such as recognising the psychological dynamics of intimate partner abuse and the "cycle of violence"; understanding the mechanisms of coercion and control, and the need to record information on history, duration, frequency and seriousness of violence; as well as on instructions/guidelines on how to interview victims and children in a manner that reduces secondary victimisation (including, but not limited to, by refraining from making statements or displaying non-verbal behaviour that imply victim-blaming or judgmental attitudes, as noted in the analysis provided in previous chapters, see above). It is advisable to make such programmes mandatory and organise them regularly to refresh and/or enrich officers' knowledge, as well as to address frequent staff changes. Further, introducing similar initial training programmes into the regular curriculum for the Educational Complex of the RA Ministry of Internal Affairs should be considered.

29. Consider introducing mandatory in-service training programmes for other relevant professionals (prosecutors, judges, lawyers) and organise such programmes regularly, in addition to already-existing programmes in the Academy of Justice. The programmes should address those professionals' respective roles in implementing criminal and civil-law provisions related to domestic violence. In addition to general topics such as gendered understanding of domestic violence, its causes and consequences, distinction between violence and conflict, manifestations of psychological violence, including coercion and control, and the dynamics of post-separation abuse, these training programmes could also focus on the prevention of secondary victimisation of victims and children, the impact of violence on children victims and witnesses, and in particular, the need to take into account domestic violence in making decisions about custody and visitation rights, in order to: a) ensure that the exercise of these rights do not harm the rights and safety of the victims or their children, as well as b) ensure that judges and other relevant legal professionals recognize that witnessing violence against a close person (such as a mother) jeopardizes the best interest of the child.

30. Consider introducing specialisation on DV for prosecutors and judges; this would enhance and strengthen measures to protect victims and their children during all stages of legal processes in criminal cases, as well as in civil proceedings related to custody and visitation arrangements, with the aim of reducing or avoiding secondary victimisation. These measures should include ensuring that the interrogation of the victim and the perpetrator is carried out separately. Reducing, or avoiding, secondary victimisation could, for example, be achieved by accepting audio-visual evidence, as well as by providing the possibility of online interrogation whenever technically possible.

31. Examine how the process of reconciliation between a victim and an alleged abuser has been carried out in legal practice. Relying on international standards, in particular, General Recommendation 35 of the CEDAW Committee (see box: Positive obligations of the state in Prosecution and punishment), it would be important to examine whether measures have been undertaken to ensure free consent, considering power imbalances between the victim and the perpetrator, and with safeguards that fully respect the rights, needs and safety of victims. It is also important to ensure that victims receive adequate information, particularly about the non-mandatory nature of reconciliation.

32. Improve multi-agency co-operation in responding to domestic violence.

33. Organise perpetrator programmes, which are prescribed in provisions of the DV law, with the aim of preventing re-offending and supporting perpetrators of violence in changing violent behavioural patterns, while paying due regard to safety and the human rights of victims and their children.

34. With respect to civil proceedings related to custody and visitation, the following must be ensured:

    a. the implementation of proper mechanisms for assessing psychological damage caused by domestic violence;
    b. that judges systematically take into account violence witnessed by children when making decisions about custody and visitation arrangements;
    c. the provision of adequate age-appropriate psychological support and counselling to child victims and witnesses of violence;
    d. that children who testify in court are systematically assisted by a child psychologist or other specialists;
    e. compulsory participation of law enforcement officers during visitation and communication of a perpetrator with children;
    f. the effective implementation in practice of Article 8 of the DV law which provides for the possibility that a protection order includes the prohibition of child visitation, if necessary.

Bearing in mind that in line with international standards, in particular, the Istanbul Convention, data collection and research represent crucial tools for evidence-based policy-making, data-collection models in the police, prosecutors' offices, courts, and other entities should be improved, since currently available data provided in different sources is often inconsistent or incomplete. The following measures can be considered:

35. Improve the reliability of recording of reported cases of domestic violence, in particular, by the police. Ensure that in the data-collection systems of the police a distinction is made between cases in which the police have applied measures prescribed by the DV law and data related to criminal proceedings. It is further important to provide complete and reliable records with respect to whether the police have identified the case of domestic violence that took place in the family for the first time, as specified in applicable provisions of the DV law[63].

36. Consider developing guidelines for all relevant institutions on data collection and also consider integrating modules on data collection into regular in-service training programmes for all relevant professionals involved in preventing and combating domestic violence.

37. Ensure that data collected by state institutions (law-enforcement agencies, prosecutors' offices, courts, and health and social services) is disaggregated by the sex of both the victim and the perpetrator, the relationship between the victim and the alleged perpetrator, the different forms of violence and offences covered by the Criminal Code, geographical location, as well as other factors deemed relevant, such as disability. It should be also ensured that in data-collection systems of the above-mentioned relevant institutions, the information on the presence of child witnesses of domestic violence is included.

38. Harmonise data collection between law-enforcement agencies and the judiciary including the police, Investigative Committee, prosecutors' offices, and courts and ensure the comprehensive collection of disaggregated data in relation to domestic violence cases, from reporting, to investigation, opening of criminal proceedings and their outcome, with the aim of:

    a) allowing the assessment of rate of conviction, attrition and recidivism;

63 Article 6 of the DV law prescribes that "Warning shall be applied when the Police identifies a case of violence within the family for the first time, it does not have evident elements of an offence and there are no grounds for an emergency intervention". The form that police officers and inspectors are obliged to complete in relation to cases of DV contains information of **whether violence was identified by the police for the first time or not**, but, as this study has showed (see: Conclusions based on the police databases), in most cases, this information is missing. This information is of crucial importance, since in line with above-mentioned provision of the DV law, one of relevant conditions for issuing a warning (rather than an emergency intervention order) is that violence has been identified by the police the first time. Absence of information in the police databases as to whether the police recorded violence for the first time or not is problematic, as a mistake with respect to this crucial issue may justify issuance of a warning instead of an EIO.

b) enabling a thorough analysis of the pathway of cases in the criminal justice system through the chain – law enforcement, prosecutors' offices and the courts;
c) assessing the effectiveness of the criminal justice sector's response to cases of domestic violence and identifying gaps in the response of institutions which may contribute to low conviction rates and/or discrepancies between reporting rates and conviction rates.

Such data should be co-ordinated and comparable, and the system should be established to allow for the possibility to "track" cases at all stages of the law-enforcement and judicial proceedings.

39. Conduct annual studies on cases of gender-based killings of women (femicide), which would serve as input data for analyses aimed at assessing possible systemic gaps in institutional/judicial response to domestic violence. Consider relying on the experience of women's NGOs in this respect.

40. Record data on protective measures prescribed by the DV law, to verify whether these measures achieve the intended aim. The following data should be ensured, annually:

    a) the numbers of DV cases reported to the police or other relevant institutions;
    b) the numbers of warnings, EIOs and protection orders issued, separately by each of these, and
    c) the number of sanctions imposed because of breaching (separately for multiple violations and single violations).
    Recording EIOs and protection orders by type would be advisable, with the aim of examining, for example, how often the removal of the perpetrator from the residence of the victim has been applied, as compared to other types of orders, such as contact bans, restraining orders, etc..

41. Use the above-mentioned data-collection models to enable monitoring/evaluating the implementation of civil law measures and criminal law measures, including following trends across years related to issuance of protective measures, as well as trends with respect to outcomes of criminal prosecution, with the aim of addressing the identified gaps and suggesting revisions in laws and policies, as appropriate. To analyse trends related to victims' access to justice, the following indicators would be advisable:

    a) the proportion of cases discontinued at the pre-investigative/investigative stage (out of the total number of reported cases);
    b) the proportion of criminal cases initiated (out of the total number of reported cases);
    c) the number of convictions handed down by the courts;
    d) the number and type of sanctions imposed on perpetrators by the courts.

42. Ensure that the process of collecting, storing, and transforming collected data complies with standards on personal data protection, as contained in the Istanbul Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ratified by Armenia).

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To assist the authorities in their future efforts to prevent and combat domestic violence (DV), a baseline study was carried out on cases of DV reported to/recorded by the police, the Investigative Committee, prosecutors' offices, other responsible institutions and the Women's Support Centres, with the aim of providing an overview of: a) access of victims to protective measures introduced by the recent law on DV; as well as b) their access to justice.

Considering that the available official data is rather limited, this study is complemented by an in-depth analysis of a sufficiently large sample of cases of DV reported to the 'Women's Support Centre' NGO in Yerevan, with the aim of providing a deeper insight into women's experiences with DV on the one hand, and the institutional/judicial response to DV, on the other.

ENG

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