Bundesverband der
Gewaltschutzzentren Österreichs

Statement by the Federal Association of Violence Protection Centres Austria

on the

Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by the Parties

1st thematic evaluation round: Building trust by delivering support, protection and justice

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Preface

The Violence Protection Centres in Austria have been developing proposals for reforms of relevant matters of law for almost two decades. Within the context of their work with endangered individuals[1], their activities do not only have a psychosocial but also a strong legal focus. Since 2000, there has been structured discussion on the national level among the Centres' legal experts with the aim of analysing experiences in practical work with individuals at risk, identifying shortcomings in the law and providing suggestions for improvement. The Violence Protection Centres are tasked by contract with the Austrian Federal Ministry of the Interior and the Directorate General for Women and Equality of the Federal Chancellery to submit suggestions for improving the situation of invidivuals at risk. Additionally, the Centres send annual suggestions to the Federal Ministry of Justice as well as other decision-makers on the federal and state level and publish them on the Centres' websites in order to make them available to a larger audience of interested specialists in the community.

These reform proposals concern all domains and topics related to the prevention of and protection from violence. They contain analyses of relevant problems based on experiences and examples from the Centres' everyday work as well as detailed suggestions for law reform. In recent years, a few areas have shown continuous relevance for work in the field of protection against violence; these concern especially the Austrian Security Police Act[2] and Enforcement Code[3], the Penal Code and the Code of Criminal Procedure, the enforcement of prison sentences and preventive custody, the Committal Act[4], the Code of Civil Procedure[5],

[1] Translators' note: In Austria, it has become common to refer to the victim and offender in situations affected by violence as the 'gefährdete Person' and the 'gefährdende Person', respectively. These (gender-neutral) descriptions do not ascribe any inherent attributes to the individuals in question. Leaving aside often-debated connotations and specific mental images linked to descriptions such as 'victim' or 'vulnerable', the phrasing shifts the emphasis to the dynamics of violence: one person is in danger ('gefährdet'), the other presents the concrete source of that potential danger ('gefährdend'). We align our translation accordingly, using both these specifically Austrian descriptions and other, more common ones in the English text, depending on context and focus.

[2] 'Sicherheitspolizeigesetz'; BGBl. No. 566/1991. 'BGBl.' ('Bundesgesetzblatt') refers to the Austrian Federal Law Gazette, in which new laws are published.

[3] 'Exekutionsordnung'; RGBl. No. 79/1896. 'RGBl.' ('Reichsgesetzblatt') refers to the Austrian Imperial Law Gazette from 1849 to 1918 under the Austrian Monarchy.

[4] 'Unterbringungsgesetz'; BGBl. No. 155/1990.

[5] 'Zivilprozessordnung'; RGBl. No. 113/1895.

the Victim of Crimes Act[6] and the Court Organisation Act[7].[8] The Centres' evaluations are also based on the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)[9] as well as the GREVIO[10] (Baseline) Evaluation Report[11].

In addition to reform proposals, delegates of the Federal Association of Violence Protection Centres regularly submit statements on relevant law reform drafts as part of the parliamentary review process.

The Violence Protection Centres see this regular evaluation of existing and proposed law as an important contribution to raising awareness for the consequences of Austrian law on the prevention of and protection from violence for people affected by violence as well as, in the best case, as a contribution to the drafting and improving of such laws.

The present document is organised by the articles of the Istanbul Convention as they are referred to in the GREVIO questionnaire[12], excerpts from which are presented in grey boxes. Emphases in bold signify key problems and suggestions as highlighted by the Federal Association of Violence Protection Centres.

Article 7: Comprehensive and co-ordinated policies

1. Please provide information on any new policy development since the adoption of GREVIO's baseline evaluation report on your country to ensure comprehensive policies covering the areas of prevention, protection, and prosecution in relation to stalking, sexual harassment and domestic violence, including their digital dimension, rape and sexual violence, female genital mutilation, forced marriage, forced abortion and forced

[6] 'Verbrechensopfergesetz'; BGBl. No. 288/1972.
[7] 'Gerichtsorganisationgesetz'; RGBl. No. 217/1896.
[8] See, for example, the reform proposals by the Federal Association of Violence Protection Centres from 2023, published (in German), among others, at https://www.gewaltschutzzentrum-steiermark.at/wp-content/uploads/2023/05/Reformvorschlaege_2023-1.pdf.
[9] See https://www.coe.int/en/web/istanbul-convention/text-of-the-convention.
[10] GREVIO (the Group of Experts on Action against Violence against Women and Domestic Violence) is the independent expert body responsible for monitoring the implementation of the Instanbul Convention; see https://www.coe.int/en/web/istanbul-convention/grevio.
[11] GREVIO (Baseline) Evaluation Report for Austria, available at https://rm.coe.int/grevio-report-austria-1st-evaluation/1680759619 and https://www.bundeskanzleramt.gv.at/dam/jcr:ad37e233-1fe5-4a94-8aaf-492d9c1550de/Grevio_Report_en.pdf.
[12] See https://rm.coe.int/first-thematic-evaluation-questionnaire-for-publication-2756-3974-5542/1680a90c67.

sterilisation, thereby demonstrating further implementation of the convention. Please specify the measures taken particularly in relation to those forms of violence against women that have not been addressed in past policies, programmes and services encompassing the four pillars of the Istanbul Convention.

2. Where relevant, please provide information on any measures taken to ensure the alignment of any definitions of domestic violence and of violence against women in national legislation or policy documents with those set out under Article 3 of the Istanbul Convention and provide the relevant applicable provisions in English or French.

3. Please provide information on how your authorities ensure that policies on violence against women and domestic violence put women's rights and their empowerment at the centre and on any measure taken to enhance the intersectionality of such policies, in line with Article 4 paragraph 3 of the convention.

Re 1

Article 7 of the Istanbul Convention requires all parties to 'take the necessary legislative and other measures to adopt and implement State-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention and offer a holistic response to violence against women'.

The Austrian Federal Act on the Protection against Domestic Violence[13] is exemplary; it has served as a role model for other countries and for international measures in the fight against domestic violence. This law has repeatedly been reviewed and revised to improve victim protection. Some recommendations from the latest GREVIO (Baseline) Evaluation Report[14] have been addressed and partly implemented. In the following, we discuss some legal improvements, most of which were introduced via the Protection Against Violence Act 2019[15] and the so-called Combatting Hate on the Net Act[16].

[13] 'Bundesgesetz zum Schutz vor Gewalt in der Familie'; BGBl. No. 759/1996.
[14] GREVIO (Baseline) Evaluation Report for Austria, available at https://rm.coe.int/grevio-report-austria-1st-evaluation/1680759619 and https://www.bundeskanzleramt.gv.at/dam/jcr:ad37e233-1fe5-4a94-8aaf-492d9c1550de/Grevio_Report_en.pdf.
[15] 'Gewaltschutzgesetz'; BGBl. I No. 105/2019.
[16] 'Hass-im-Netz-Bekämpfungsgesetz'; BGBl. I No. 148/2020.

Section 38a of the Security Police Act was revised completely to make it possible to prevent offenders from approaching victims.

The introduction of compulsory counselling for perpetrators who are subject to a prohibition of entry/approach order (section 38a, paragraph 8) represents an important milestone. This perpetrator intervention is intended to prevent further acts of violence.

Section 22, paragraph 2 of the Security Police Act forms the legal basis for establishing case conferences that bring all necessary actors together in order to develop custom protective measures in high-risk cases as part of an individual-risk-management approach.

In addition, in cases of prohibition of entry/approach orders relating to minors, law enforcement officers' obligation to provide information to offenders has been expanded in recognition of minors' need of special protection (section 38a, paragraph 4).

Prohibition of entry/approach orders are now stored for longer – up to 3 years – in the Central Violence Protection Database, which supports decision-making in regard to assessing and predicting the danger posed by an individual (section 58c).

The Protection Against Violence Act introduced additional special aggravating circumstances, higher maximum penalties for recidivists. It also introduced minimal penalties or expanded existing minimal penalties in cases of specific deliberate offences against children under the age of 14 or individuals in need of special protection as well as in cases of acts committed under particular circumstances (such as use of or threat with a weapon or exceptional violence). In the case of rape, the minimum penalty was expanded and fully suspended sentences are no longer possible.

Section 107a, paragraph 2 of the Penal Code was amended to include the publication of facts or image recordings relating to someone's highly personal sphere of life without their consent.

The Protection Against Violence Act 2019 also clearly and explicitly states that victims have the right to receive a confirmation of their report as well as a copy of the written record of their interview from the police.

In the context of victim protection, individuals in need of special protection now have the right to demand an interpreter, when possible of the same gender, during police interviews,

criminal investigation proceedings and main proceedings (Code of Criminal Procedure, section 66a, paragraph 2).

Individuals in need of special protection (section 66a) are now also included in section 250, paragraph 3 of the Code of Criminal Procedure, which expands the possibilities of sensitive examination.

The Protection Against Violence Act 2019 expanded the possibilities of interim injunctions by making it possible for courts to also order the prohibition of entry to specific places and the prohibition of approach to the applicant (Enforcement Code[17], sections 382c and 382d).

Additionally, interim injunctions for protection against privacy violations were expanded to include protection against 'cyber violence' (Enforcement Code, section 382d).

The Protection Against Violence Act 2019 further allows for material details of an interim injunction to be adapted where necessary, for example, when the person in need of protection has moved to a different address.

Rules and regulations concerning different healthcare professionals' obligations for reporting suspected cases of domestic violence to the authorities have been unified.

Changes to the General Social Insurance Act allow applications for a new national insurance number in cases where a change of identity is needed to ensure protection again violence.

The Protection Against Violence Act 2019 also introduced a number of changes to the Victims of Crimes Act. What is especially relevant here is the longer period for applications regarding lump-sum compensation. For minors, the application period now starts with the legally binding completion or termination of the criminal proceedings.

The Federal Child and Youth Support Act 2013 now includes an obligation for hospitals to report female genital mutilation to the respective child and youth welfare service.

In 2021, the Combatting Hate on the Net Act came into effect. It aims to create a legal framework regarding personality rights and providing efficient protection against hate speech on the internet. It expanded civil and media rights claims, improved law enforcement for victims, enabled courts to order the deletion of postings through the newly created mandate procedure ('Mandatsverfahren'), made it easier to identify perpetrators of offences subject to

[17] BGBl. I, No. 86/2021.

private charges, ended the risk of having to bear the costs in case of an acquittal or the termination of proceedings and expanded psychosocial and legal court assistance in cases of cyber violence.

It is important to note, however, that the Combatting Hate on the Net Act is so complex that it often creates problems in its implementation and has therefore only rarely been applied.

The Combatting Hate on the Net Act introduced a legal basis for the right to legal and psychosocial court assistance during proceedings for minors who have witnessed violence in their immediate social environment.

As shown above, since the last GREVIO (Baseline) Evaluation Report, Austria has seen the introduction of new laws and regulations as well as different amendments to existing ones relevant to the protection against violence. However, there are still legal gaps and the need for further improvements relating to victim protection, especially concerning the Security Police Act, the Enforcement Code, the Penal Code and the Code of Criminal Procedure, the enforcement of prison sentences and preventive custody, the Committal Act, the Code of Civil Procedure, the Victim of Crimes Act and the Court Organisation Act as the legal domains that are most relevant for protection against violence.

It is clear that the federal government of Austria accords special relevance to protection against and prevention of violence against women and domestic violence: the government programme for 2020–2024 explicitly mentions protection against violence, in particular in relation to expanding Violence Protection Centres as well as women's shelters and counselling services, the implementation of the Istanbul Convention and a national action plan. The latter likely refers to the National Action Plan on the Protection of Women Against Violence, which was initially supposed to be implemented between 2014 and 2016. The National Action Plan on Disability 2022–2030 also includes a chapter on protection against violence. Further, the National Action Plan on Women's Health refers to protection against violence and includes planned measures to expand support and aid for victims of violence.

It is positive, then, that Austria is committed to comprehensive protection against violence as well as to gender equality in its government programme, in reports and action plans etc. However, this commitment is characterised by fragmentation as planned and intended

measures are spread across different documents, which makes them confusing and inconsistent.

Austria needs to unify its commitments in the form of long-term planning and an overarching strategy that addresses all forms of violence as defined by the Istanbul Convention, introduces legal improvements into all relevant laws and includes binding commitments for implementation.

Re 2

A number of documents, such as the National Action Plan on Women's Health and the Women's Health Report 2022, mention the term 'violence against women' in reference to the definition in Article 3 (a) of the Istanbul Convention. However, this definition has not been adopted in national law.

The Violence Protection Centres have long demanded a binding definition of domestic violence in the Austrian Penal Code.

Article 8: Funding

4. Please provide information on any new development since the adoption of GREVIO's baseline evaluation report on your country concerning the allocation of appropriate and sustainable financial and human resources for the implementation of integrated policies, measures and programmes to prevent and combat all forms of violence covered by the Istanbul Convention.

5. Please provide information on any development concerning the provision of appropriate and sustainable financial and human resources for women's rights organisations that provide specialist support services to victims, including those supporting migrant women and girls.

The reform package of 2019 introduced important new measures for victim protection and the expansion of the Violence Protection Centres. The Centres provide support to about 25,000 indiviuals each year, making them the largest organisation for victim protection in Austria.

Their intense work in the area of victim protection, in particular due to femicides, leads to new insights that have contributed to the introduction of new forms of support in order to provide more reliable protection of victims, particularly women and children. The Centres contribute crucially to these improvements with their annual reform proposals, statements, work in various expert groups and regular exchange with government officials.

All Violence Protection Centres are victim protection organisations as recognised by Austrian law and have been in mandate contracts with the Federal Ministry of the Interior and the Directorate General for Women and Equality of the Federal Chancellery since 2012. Before that, the contracts merely took the form of funding grants that did not aim at long-term sustainability and planning. Now, the Centres receive funding in form of a fixed, index-linked amount as well as additional funding in case of a higher number of cases.

In addition, since October 2019, all Centres have received add-on contracts that enable them to further expand their case work, public relations and cooperations.

Some Centres receive additional funding for specific projects by the federal states (*Bundesländer*) or funding for work projects by the Public Employment Service.

Within the context of psychosocial and legal court assistance, the Centres' support work is financed in part by the Federal Ministry of Justice. This is done on the basis of the individual case and time required; the work is billed directly to the Ministry of Justice.

In summary, all Violence Protection Centres in Austria are currently sufficiently funded.

Article 11: Data collection and research

6. Please provide information on any new development since the adoption of GREVIO's baseline evaluation report on your country on the introduction of data collection categories such as type of violence, sex and age of the victim and the perpetrator, the relationship between the two and where it took place, for administrative data of relevance to the field of violence against women and domestic violence emanating from law enforcement agencies, the justice sector, social services and the public health care sector.

7. Where relevant, please provide information on any new development since the adoption of GREVIO's baseline evaluation report on your country to enable disaggregated data collection:

a. on the number of emergency barring and protection orders and the number of breaches and the resulting sanctions;

b. on the number of times custody decisions have resulted in the restriction and withdrawal of parental rights because of violence perpetrated by one parent against the other.

8. Please provide information on measures taken to allow cases of violence against women and domestic violence to be tracked from reporting to conviction, at all stages of the law-enforcement and judicial proceedings.

As mentioned in the evaluation report on the implementation of the Istanbul Convention, Austria has introduced the file reference label 'FAM', which public prosecution offices are required to use for cases of violence in the immediate social environment.[18]

The Violence Protection Centres record the national number of effected prohibition of entry/approach orders on a national level and then match their records with those of the Federal Ministry of the Interior.

In 2022, a study on the prevalence of gendered violence against women in Austria was conducted. [19] **Contrary to the recommendations in the GREVIO (Baseline) Evaluation Report[20], forms of violence such as forced marriage and female genital mutilation were not covered by this study.**

[18] See the decree by the Federal Ministry of Justice on Guidelines for Criminal Prosecution of Offences in the Immediate Social Environment from 30 August 2021 ('Richtlinien zur Strafverfolgung bei Delikten im sozialen Nahraum'), 3rd edition, page 3 (GZ: 2021-0.538.674).

[19] Statistik Austria (2022): 'Geschlechtsspezifische Gewalt gegen Frauen in Österreich: Prävalenzstudie beauftragt durch Eurostat und das Bundeskanzleramt'. Available in German at https://www.statistik.at/fileadmin/publications/Geschlechtsspezifische-Gewalt-gegen-Frauen_2021_barrierefrei.pdf. See also https://www.statistik.at/en/services/tools/services/publikationen/detail/1461 and https://www.statistik.at/fileadmin/announcement/2022/11/20221125GewaltgegenFrauenEN.pdf for information in English.

[20] GREVIO (Baseline) Evaluation Report for Austria, available at https://rm.coe.int/grevio-report-austria-1st-evaluation/1680759619 and https://www.bundeskanzleramt.gv.at/dam/jcr:ad37e233-1fe5-4a94-8aaf-492d9c1550de/Grevio_Report_en.pdf.

In reference to Article 11 of the Istanbul Convention, a recent study on femicide by the Institute for Conflict Research[21] seems relevant. [22] We would also like to mention a study by the Institute for Conflict Research and the Austrian Integration Fund[23] on forced marriage among young people in Austria[24].

In Austria, femicides and gender-based motivations for acts of violence are not recorded in crime statistics and do not count as aggravating factors in criminal cases. The Violence Protection Centres and the Association of Autonomous Austrian Women's Shelters deduce case numbers only from media reports. **Austrian crime statistics should record whether an act of violence had gender-specific, misogyny-related motives as well as the relationship between perpetrator and victim. Sustainable and efficient measures against violence against women and femicides require a solid foundation of reliable data.**

Article 15: Training of professionals

11. Please complete tables I and II included in the Appendix in order to provide a comprehensive overview of the professional groups that receive initial and in-service training on the different forms of violence against women and domestic violence. Please specify the frequency and scope of the training and whether it is compulsory.

12. Please specify if the expertise of women's rights organisations or specialist support services is integrated in the design and/or implementation of the training.

The Violence Protection Centres see a need for improvement regarding the regulations for training of professionals and staff who are regularly confronted with the topic of domestic violence and violence in the private sphere. In particular, there is a lack of training and often no obligation for further training for some professionals that would be necessary for learning to recognise different forms of violence, to understand the causes, consequences and

[21] 'Institut für Konfliktforschung'; https://ikf.ac.at

[22] Birgitt Haller, Viktoria Eberhardt and Brigitte Temel (2023): 'Untersuchung Frauenmorde. Eine quantitative und qualitative Analyse'. Available in German at https://ikf.ac.at/wp-content/uploads/2023/07/Untersuchung_Frauenmorde.pdf.

[23] https://www.integrationsfonds.at/en

[24] Birgitt Haller, Viktoria Eberhardt and Anna Hasenauer (2023): 'Zwangsheirat in Österreich. Studie zur Betroffenheit von Jugendlichen'. Available in German at https://ikf.ac.at/wp-content/uploads/2023/05/OEIF-Forschungsbericht-Zwangsheirat.pdf.

dynamics of domestic violence and to act accordingly in order to ensure the protection of victims.

Healthcare

The Ordinance on Education and Training for Medical Practitioners 2015[25] stipulates as part of its section 4 (basic ethical stance) that professional training needs 'to foster a particular awareness for the special circumstances/characteristics of patients who have been victims of human trafficking and/or physical and/or psychological violence, particularly children, women and people with disabilities'. **Leaving the problematic phrasing aside, the practical experience of the Violence Protection Centres indicates a lack of awareness and sensitivity among doctors in regard to recognising when people are affected by violence, engaging with victims, documenting of relevant injuries for use in court and referring patients to victim protection organisations.**

It is imperative that the following topics be included in training for all healthcare professionals: the causes of domestic violence and violence against women, forms of violence, the effects of violence and traumatisation, the dynamics of violence as well as the psychology of victims and perpetrators.

The Violence Protection Centres see an urgent need for a comprehensive strategy for developing and implementing comprehensive improvements to the education and training for all healthcare professions.

Justice system

Training for candidate judges is regulated by the Federal Ministry of Justice as part of the Ordinance on Education and Training for Candidate Judges[26]. **The ordinance's article 4, paragraph 3 should be amended to include special training for interacting with victims of domestic and/or sexualised violence. The following topics should be included in such training: the causes of violence, forms of violence, the effects of violence and traumatisation (especially of violence against women and children), the dynamics of violence as well as the psychology of victims and perpetrators.**

[25] 'Ärztinnen-/Ärzte-Ausbildungsordnung'; BGBl. II No. 129/2023.
[26] 'Richteramtsanwärter/innen-Ausbildungsverordnung'; BGBl. II No. 279/2012.

According to Act on the Service of Judges and Public Prosecutors[27], section 9, paragraph 2, mandatory training service must include, among others, work at a victim protection and/or support organisation. This obligation is increasingly utilised in Violence Protection Centres, providing candidate judges with extensive experience with violence protection work. As a result, future prosecutors and judges can acquire greater awareness, empathy and understanding for victims' needs. **The content and duration of this training service is specified by the Ministry of Justice via the corresponding ordinance. According to its section 2 (6), training includes a mandatory two-week period at a violence protection and/or care institution. This period should be extended to 4 weeks.**

Moreover, incentives should be established for judicial staff to encourage their regular participation in further education on victim protection. Topics to be covered should include causes of violence, forms of violence, effects of violence and traumatisation (in particular of violence against women and children), the dynamics of violence as well as the psychology of victims and perpetrators. Additionally, it would be helpful if routine supervision as well as peer coaching and reflection for courts as well as for district and public prosecution offices were introduced.

According to the 1986 Ordinance of the Federal Minister of Justice on the Implementation of the Public Prosecutor's Act[28], section 41, paragraph 1, district prosecutors are generally supervised by public prosecution offices and are required, except in cases of imminent danger, to await authorisation for filing applications and giving statements. According to section 41, paragraph 2, district-court judges who pass the required exam and show relevant qualification can be allowed to deal with certain matters on their own, in particular the filing of criminal charges.

We recommend amending the Ordinance on Education and Training for District Prosecutors[29] as follows: basic theoretical training for district prosecutors according to the section 8, paragraph 2 should include the topics of violence in the immediate social environment, causes of violence and dynamics of violence; and the period of training

[27] 'Richter- und Staatsanwaltschaftsdienstgesetz'; BGBl. I No. 96/2007.
[28] 'Verordnung des Bundesministers für Justiz zur Durchführung des Staatsanwaltschaftsgesetzes', 16 June 1986; BGBl. No. 338/1986.
[29] 'Verordnung über die Grundausbildung für die Bezirksanwältinnen und Bezirksanwälte'; BGBl. II No. 354/2011.

service at a violence protection and/or at a care and support organisation (section 9, paragraph 2) should be expanded to a minimum of 4 weeks.

Law enforcement

The only profession in the area of law enforcement whose training includes domestic violence is the police. The subject of violence in the private sphere is part of the mandatory basic training for police officers; it has been taught for decades by the Violence Protection Centres at the Federal Police Academies of the Federal Ministry of the Interior. This has proven fruitful.

The Violence Protection Centres recommend that relevant courses be offered not just in basic training, but also in the form of mandatory further training, regarding the Protection Against Violence Act, violence spirals, domestic violence as well as conducting interviews and interacting appropriately with people affected by violence and trauma. Continuing training on violence protection should not only be mandatory for those assigned to prevention work but for all operating police staff.

Paedagogical institutions

From the perspective of the Violence Protection Centres, the complete lack of mandatory subjects on violence-related topics in kindergarten and school teacher training is inexplicable. Teachers need a specialised understanding for recognising when students have suffered or witnessed violence in order to identify children and adolescents living in situations affected by violence and to react accordingly. Kindergartens and schools serve as primary, low-threshold sites for the recognition and support of victims of violence. Therefore, **teachers in particular should undergo mandatory training on the dynamics of domestic violence, violence spirals, trauma and victim protection.**

Finally, it is imperative to offer training not only within the context of the mandatory implementation of education and training for victim protection as laid out by Article 15 of the Istanbul Convention but also for coordinated cooperation between and among different authorities and institutions.

All such training should be conducted by experts from the field of violence prevention and protection.

Article 16: Preventive intervention and treatment programmes

13. Please provide information on measures taken to increase the number of available preventive intervention and treatment programmes for perpetrators of domestic and sexual violence both for voluntary and mandatory attendance.

14. Please provide information on measures taken to:

a. increase the number of men and boys attending perpetrator programmes for domestic and sexual violence;

b. ensure that the perpetrator programmes apply standards of best practice;

c. ensure the safety of victims and co-operation with specialist support services for victims;

d. ensure that the outcomes of the programmes are monitored and evaluated.

Re 13 and 14a

Since 1 September 2021, perpetrators who receive a prohibition of entry/approach order have to attend 6 hours of counselling at a national counselling service for violence prevention. This counselling is mandatory; those who do not attend can be summoned by the authorities. Further refusal to actively participate in counselling may result in a penalty fee.

Where appropriate, counselling services for violence prevention are in contact with the Violence Protection Centres to discuss security-related topics, with a focus on the safety of those at risk. The 6-hour counselling itself focuses on orientation and legal information for perpetrators as well as discussing the acts of violence committed. It also aims at connecting the perpetrators to further services such as anti-violence training, psychotherapy or other psycho-educational programmes in the field of victim-centred work with perpetrators.

Within the framework of interim injunctions according to sections 382b and 382c of the Enforcement Code, the opposing party (i.e., the perpetrator) can be ordered to attend mandatory anti-violence training with a counselling service for violence prevention.

At a few counselling services for men – in Vienna, Styria and Burgenland only – services for victim-centred work with perpetrators are coordinated by case managers in order to,

following an initial clearing phase, install a custom programme (psycho-educational training, individual training, anti-violence groups or therapy) based on the type of offence and perpetrator, ensuring professional exchange with victim protection organisations. **This course of action should be standardised and implemented nationwide.**

Domestic violence serves as a tool for perpetrators to gain control and power over their victims. This is a relationship pattern that can only be changed by the person committing the violence. Victim-centred work with perpetrators can contribute to this in important ways. Permanently ending violence in relationships requires holding perpetrators responsible and working on behavioural changes within the framework of victim-centred work with perpetrators.

In order to raise the number of men and adolescent boys in programmes on domestic and sexualised violence for perpetrators, referring the convicted person to victim-centred anti-violence training should be a requirement for a suspended sentence.[30] As participation in such anti-violence trainings is neither therapy nor medical treatment, it should be possible to order such a referral without the convicted individual's consent.

Within the context of visitation rights, child and youth welfare services can make it a condition for perpetrators to participate in anti-violence training. Family courts can do the same, within the framework of the Statute of Non-Litigious Matters[31], section 107, paragraph 3 (3). In order to better consider the perspective of children who directly or indirectly suffer from violence, the DV-OTA – the Austrian umbrella organisation for victim protection and victim-centred work with perpetrators[32] – is planning to include the domain of child protection services into its work.

Re 14b

The DV-OTA (see above) represents projects on violence in the immediate social environment and domestic violence in various constellations of perpetrators and victims. It defines as its mission 'to continually improve standards of victim-centred work with perpetrators and develop standards also for other constellations of violence in the immediate social

[30] This also aligns with GREVIO's recommendation to implement measures that raise the number of offenders who attend specialised programmes. See the GREVIO (Baseline) Evaluation Report on legal and other measures for the implementation of the Istanbul Convention, 78 (23).
[31] 'Außerstreitgesetz'; BGBl. I No. 111/2003.
[32] 'Dachverband Opferschutzorientierte Täterarbeit'; https://dv-ota.at.

environment and domestic violence'[33]. The Violence Protection Centres are members of the DV-OTA.

The DV-OTA's standards for victim-centred work with perpetrators sees this work as 'part of interventions focused on the perpetrator and, as such, embedded in a coordinated system for the prevention of violence in the immediate social environment and domestic violence'[34]. Victim-centred work with perpetrators serves as a structured intervention with the aim of stopping and preventing violent behaviour. 'Its focus is the protection and safety of victims; its goal is stopping violent behaviour.'[35]

The Association for Man and Gender Topics in Styria[36] offers a modular course on victim-centred work with perpetrators, which it has conducted before. This course is planned to be offered by the DV-OTA in the future, also to improve the quality of work done in the network.

Re 14c

In Austria, many different organisations and services provide work with perpetrators. As a result, **there are many different approaches to and positions on work with perpetrators and the importance of cooperating with victim protection organisations. This means that many organisations working with perpetrators do not work according to a victim-centred approach. The Violence Protection Centres consider this highly concerning as it can put victims' safety at risk.**

For work with perpetrators to be successful, cooperation between organisations that work with perpetrators and victim protection organisations is crucial. At the moment, unlike the Violence Protection Centres' standards and mandatory regulations, there are many different methodological approaches and concepts used in work with perpetrators. Many parts of Austria lack access to organisations working with perpetrators from a victim-centred approach. Non-victim-centred forms of work with perpetrators come with great risks and dangers. Perpetrators are often highly manipulative; they make promises and accusations, trivialise and deny in order to try to prevent victims from taking further legal steps and seeking support and counselling. It is only through communication between perpetrators' services and those for

[33] DV-OTA (2022): 'Mindeststandards', page 1. Available, in German, at https://dv-ota.at/wp-content/uploads/2022/03/DV-OTA-Mindeststandards-2022-01-28.pdf.
[34] DV-OTA (2022): 'Mindeststandards', pages 4–5.
[35] DV-OTA (2022): 'Mindeststandards', page 4.
[36] 'Verein für Männer und Geschlechterthemen Steiermark'; https://www.vmg-steiermark.at.

victims over the course of counselling that the respective level of danger can be assessed (for example, by information about whether counselling was ended early or whether new threats were made).

Re 14d

The DV-OTA (see above) differentiates between ordinary and extraordinary members. 'Any organisation that is an active project partner in cooperations in the field of victim protection and work with perpetrators according to the standards of victim-centred work with offenders can become an ordinary member of the DV-OTA. Organisations that are not yet active in this way but plan to be so in the future can become extraordinary members.'[37]

The board of the DV-OTA decides on the admission of new members based on an evaluation of the application and a personal interview. Members are required to submit to the standards of victim-centred work with perpetrators.[38] If necessary, the DV-OTA also contacts the service for perpetrators or victims with which the applying organisation cooperates. In the case of gross violations of the principles of victim-centred work with perpetrators, members can be expelled.[39]

Article 18: General obligations

15. Please provide information on any multi-agency co-operation mechanisms, structures or measures in place designed to protect and support victims of any of the forms of gender-based violence against women covered by the Istanbul Convention (e.g., interdisciplinary working groups, case-management systems, cross-sectoral protocols/guidelines…). Please describe:

a. the state agencies involved in their functioning (law-enforcement agencies, judiciary, public prosecutor, local authorities, healthcare services, social services, educational institutions etc.);

b. whether they involve specialist support services provided by civil society organisations, especially women's rights organisations;

[37] https://dv-ota.at/#wir.
[38] DV-OTA (2022): 'Mindeststandards'.
[39] See the association's statutes, available, in German, at https://dv-ota.at/downloads/#downloads.

c. how they adopt a gender-sensitive approach to violence against women, including the prioritisation of the safety of women and girl victims, their empowerment and a victim-centred approach;

d. the financial and human resources dedicated to their implementation; and

e. any available information on the evaluation of their outcome or impact.

16. Please detail whether any such co-operation mechanisms or structures set up for the delivery of support services for a specific form of violence covered by the Istanbul Convention is based on a legal or policy document advocating for or requiring such approaches.

17. Please explain whether all or some of the services of protection and support offered for victims of the different forms of violence against women are provided on the basis of a one-stop-shop approach.

We address these questions in the following by presenting existing cooperations on the structural level (part I) and on the level of individual cases (part II), including comments on where the Violence Protection Centres see a need for improvements or other changes. In this, we also refer to the Centres' annual reform proposals that are sent to the relevant Federal Ministries, and we discuss relevant laws and regulations.

Re 15d

Please see our responses to the questions referring to Article 8 of the Istanbul Convention above.

Re 17

The Violence Protection Centres are not fundamentally structured as one-stop-shop services. Instead, being part of an overall strategy of threat management, they are intended to increase the safety of endangered individuals by serving as a hub between different organisations, services, institutions and authorities. See also our responses to question 49 referring to Article 51 of the Istanbul Convention below.

I – Cooperation on the structural level

I-1 – Violence Protection Centres and the police

All prohibition of entry/approach orders issued by police (in all of Austria) must be reported immediately to the respective federal state's (*Bundesland*) Violence Protection Centre (as the relevant victim-protection services as defined by the Security Police Act, section 25, paragraph 3).[40] This reporting only involves the police and the Violence Protection Centres, in close cooperation with each other. As a next step, the Violence Protection Centres contact those in danger (via phone calls, in written communication, in person and/or with the help of interpreters) and offer support.[41]

The relevant decree stipulates that the Violence Protection Centres must also be informed about suspensions of prohibition of entry/approach orders, the granting of individual exceptions to such orders according to section 38a, paragraph 9 of the Security Police Act as well as violations of prohibition of entry/approach orders or interim injunctions by the endangering person. However, currently, this reporting system does not function consistently in all places. It is likely that police officers are not yet sufficiently aware of the obligation to file these reports; as the decree is available in written form and accessible to all police staff in principle, it seems necessary that training for raising awareness of the decree be provided.

Since July 2021, police are required to notify the Violence Protection Centres (using a special form) also in cases in which there is ground for initial suspicion of stalking (Penal Code, section 107a) even when there are not sufficient grounds for a prohibition of entry/approach order. This aims to make sure that the Centres have the necessary information available to be able to contact the victim in cases of stalking. **At the moment, transmission of information about reports of stalking from the police to the Violence Protection Centres does work consistently.** Given that the cooperation between the police and the Violence Protection Centres has been established for decades and is working well overall, this issue cannot be explained by a lack of

[40] Section 56, paragraph 1 (3) of the Security Police Act forms the legal basis for this. Further relevant in this context are the Decree for the Organisation and Implementation in the Domain of 'Violence in the Private Sphere' ('Violence Protection') by the Federal Ministry of the Interior ('Erlass für die Organisation und die Umsetzung im Bereich "Gewalt in der Privatsphäre" ("Gewaltschutz")'; 23 December 2021; GZ: 2021-0.896.858) and the Violence Protection Centres' mandate contracts with the Ministries.

[41] For a representative example of the Centres' services, see, in German, https://www.gewaltschutzzentrum-steiermark.at/hilfe.

willingness on the part of the police but rather by a lack of information and awareness among parts of the police force. This, again, calls for specialised and continuous police training, which the Violence Protection Centres have always provided upon request, on various levels.

Since September 2021, prohibition of entry/approach orders must also be reported by the police to the respective counselling services for violence prevention (according to section 38a, paragraph 8 and section 56, paragraph 1 (3) of the Security Police Act). The Violence Protection Centres and the counselling services for violence prevention work in close cooperation with each other as part of on-going victim-centred work with perpetrators.

I-2 – Annual police networking events

According to the Decree for the Organisation and Implementation in the Domain of 'Violence in the Private Sphere' ('Violence Protection'), local networking events in each district in Austria must be organised at least once a year. These events bring together representatives of the Violence Protection Centres and counselling services for violence prevention as well as police officers with special training who are working in this field. The decree further calls for the inclusion of a broad range of additional players and actors, such as child and youth welfare services, district courts in their role as family and guardianship courts, the respective public prosecution offices, other victim protection organisations, child protection centres, perpetrators' services etc., which is usually implemented in practice. These events are organised by the police, which is also required to send a report on the event to the Federal Ministry of the Interior.

I-3 'Round Table on Court Assistance' at the Regional Courts for Criminal Matters

On 28 July 2016, the Federal Ministry of Justice decreed that so-called 'round tables' should be organised in each of the administrative areas assigned to one of the four higher regional courts in Austria. These events are intended to improve professional cooperation and exchange of information between the relevant professional groups in the field of victim protection and court assistance. At the moment, the round tables are no longer organised annually but only every other year, with a focus on specific topics (for example, so far, on stalking and on diversionary measures).

I-4 – Teams for case conferences under the Security Police Act[42]

The organisation of case conferences as described by the Security Police Act is the responsibility of the provincial police directorates and the district administrative authorities. On 1 March 2023, the Federal Ministry of the Interior established teams at each provincial police directorate tasked with the coordination of the conferences in order to unify their implementation. These teams (called *S-FK-Teams*) consist of representatives of various security authorities, provincial criminal investigation departments, the Violence Protection Centres, the counselling services for violence prevention as well as the district administrative authorities' security spokespersons.[43] The teams are tasked with ensuring the consistent application of section 22, paragraph 2 of the Security Police Act, which concerns the implementation of case conferences and a standardisation of responses to proposals made by the conferences as well as general support in organising the conferences by the security authorities, collecting and managing team members' experiences as well as quality improvement and regular exchange and discussion. The teams further serve as the standardised point of contact for matters regarding the case conferences and point of connection to the respective department at the Austrian Criminal Intelligence Service.

As these teams were established for all federal states (*Bundesländer*) only on 1 March 2023, not enough time has passed for a useful evaluation. In Upper Austria, Salzburg and Tyrol, such teams have existed for longer already – their structures are already established and, from the perspective of the local Violence Protection Centres, have proven themselves in practice.

I-5 – Cooperations in different federal states of the Violence Protection Centres with police, public prosecution offices, criminal courts, family and guardianship courts, counselling services for violence prevention, child and youth welfare services, women's shelters, perpetrators' services and other social services

The Violence Protection Centres in different federal states cooperate with a variety of players and actors on many different levels, aiming at optimising cooperation between actors as well as preventing (further) violence in individual cases in the spirit of joint, timely safety and security planning by using established cooperation routes and working together with those in danger. For this, it is crucial that the actors involved know the respective other professions in

[42] 'Sicherheitspolizeiliche Fallkonferenzen' (S-FK).
[43] Decree by the Federal Ministry of the Interior from 9 February 2023 (GZ: 2023-0.110.809).

the field and are aware of each other's tasks and capabilities. This is why active cooperations are one of the fundamental pillars of the Violence Protection Centres' work (see also II below).

I-6 – The Violence Protection Centres' participation in interministerial working groups on violence protection and prevention

- Regular meetings (jours fixes) on legal and psychosocial court assistance at the Federal Ministry of Justice
- Interministerial working group on legal and psychosocial court assistance at the Directorate General for Women and Equality of the Federal Chancellery
- Interministerial working group on violence against women at the Directorate General for Women and Equality of the Federal Chancellery
- Working group on violence protection and prevention at the Federal Ministry of Justice
- Working group at the Federal Ministry of Justice for developing a legal draft on parental responsibility, including the creation of a folder for family and guardianship courts on the topic of violence in the context of parental responsibility

I-7 – Professional exchange on different levels

- The legal expert forum of the Federal Association of Violence Protection Centres: exchange and discussion among all legal experts at the Centres; writing the Association's annual reform proposals for the evaluation and improvement of the legal situation of victims of violence in Austria[44]
- The psychosocial expert forum of the Federal Association of Violence Protection Centres: exchange and discussion among all social workers at the Centres
- Networking meetings of women's and other social organisations on the district level
- DV-OTA – the Austrian umbrella organisation for victim protection and victim-centred work with perpetrators[45]

I-8 – Victim protection groups at hospitals

According to the Hospitals and Sanatoria Act[46], section 8e, hospitals whose purpose and offered services mean that the respective provisions apply to them are required by federal-

[44] See, for example, in German: https://www.gewaltschutzzentrum-steiermark.at/wp-content/uploads/2023/05/Reformvorschlaege_2023-1.pdf.
[45] 'Dachverband Opferschutzorientierte Täterarbeit'; https://dv-ota.at.
[46] 'Krankenanstalten- und Kuranstaltengesetz'; BGBl. I No. 13/2019.

state law to establish multiprofessional children's and adults' protection groups on domestic violence.

The law does not prescribe the Violence Protection Centres' participation in these groups. The Centres have been tasked with counselling of domestic violence victims for over 25 years and are also tasked with training hospital staff in this regard. The Centres' degree and specific quality of expertise could be made available in the groups and make it easier for them to arrive at swift solutions to problems. However, this knowledge cannot be provided to the groups because participation of the Centres is not prescribed by law. **The Violence Protection Centres demand a legal requirement for participation of victim-protection organisations as defined in section 25, paragraph 3 of the Security Police Act (i.e., the Violence Protection Centres) in such victim protection groups.**

It is crucial that victim protection groups consist of a multiprofessional team if they are to work effectively. For this reason, **the Violence Protection Centres recommend that victim protection groups at hospitals also include the hospital's social workers.**

Another problem in regard to victim protection groups is the fact that they are not required by law if there is a children protection group that can be argued to also fulfil the duties of a victim protection group according to section 8e, paragraph 5 of the Hospitals and Sanatoria Act. Working with children and adolescents requires a different kind of expertise and different approaches than working with adults. Children and adolescents often suffer from negligence, abuse or violence by their parents or caregivers, who abuse their authority over them. In contrast, adults often become victims in the context of relationships, which leads to different violence dynamics. Combining these two domains therefore contravenes professional approaches. Further, paragraphs 3 and 4 of section 8e in the Hospitals and Sanatoria Act define different staff requirements for the two groups. If the two groups are combined, this law loses its effect. Therefore, the Violence Protection Centres demand that the relevant passage in section 8e, paragraph 7 of the Hospitals and Sanatoria Act be deleted.

II – Cooperation on the level of individual cases

II-1 – Case conferences under the Security Police Act

Case conferences according to section 22, paragraph 2 of the Security Police Act are intended to apply risk management strategies in order to provide the best possible and effective

protection of individuals at high risk by establishing protective measures on an individual-case basis. They make it possible for security authorities, other authorities and selected institutions to coordinate measures for preventing specific dangerous attacks (see also section I-3 on the teams for these case conferences above).

Legal basis:

- Security Police Act, section 22, paragraph 2
- Data exchange and duties of confidentiality according to the Security Police Act, section 56, paragraph 1 (9)
- Data exchange and confidentiality regulations according to the Code of Criminal Procedure, section 76, paragraph 6
- Decree by the Federal Ministry of the Interior from 20 July 2022 (GZ: 2022-0.477.258)

Since the beginning of 2020, the Security Police Act, section 22, paragraph 2 allows for the implementation of case conferences in high-risk cases. These conferences are convened by security authorities in order to 'prevent attacks on life, health, freedom, decency, property or the environment when such attacks are likely'. At the case conferences, the authorities and institutions involved in threat management of a specific high-risk case analyse risk factors and coordinate appropriate safety and security measures for the person in question. These conferences are mostly proposed by the Violence Protection Centres, the counselling services for violence prevention (section 38a, paragraph 2 and section 56, paragraph 1 (3) of the Security Police Act), women's shelters, the police, child and youth welfare services or perpetrators' services.

This creates an opportunity for a multiprofessional team of experts to react preventatively to high-danger violence situations, to prevent serious and extreme acts of violence and to increase the safety of the individual at risk. It is the position of the Violence Protection Centres that support for and coordination of safety and security strategies in complex case constellations that require a high degree of cooperation and networking are crucial for implementing individual, custom threat management and the respective necessary safety and security measures. Since their introduction in 2020, the number of case conferences under the Security Police Act has grown every year.

II-2 Support system conferences

In complex individual cases, authorities and organisations convene special conferences to work together on measures designed to prevent (further) violence depending on the specific context. Data protection regulations allow these conferences also in cases that are not high-risk cases and therefore not grounds for a case conference under the Security Police Act if the clients in question agree to release the organisations involved from their duty of confidentiality. The aim of these conferences is the same: coordinating all available information with the goal of creating a safe environment for the person at risk.

Article 20: General support services

18. Please provide information on programmes and measures aimed at ensuring, through general services, the recovery of victims of violence, including in the health and social areas, financial assistance, education, training and assistance in finding employment and affordable and permanent housing.

Questions specific to the public health sector:

19. Have specific measures been taken to ensure that public health services (hospitals, health centres, other) respond to the safety and medical needs of women and girls victims of all forms of violence covered by the Istanbul Convention on the basis of national/regional standardised protocols?

20. Do such protocols detail the procedure to:

a. identify victims through screening;

b. provide treatment for all the medical needs of victims in a supportive manner;

c. collect forensic evidence and documentation;

d. ensure that a clear message of support is conveyed to the victim;

e. refer to the appropriate specialist support services that form part of a multi-agency co-operation structure; and

f. identify children who may have been exposed to domestic violence or other forms of gender-based violence against women and girls and require further support.

21. Please provide information on the procedures in place for the documentation and collection by actors of the public health sector of forensic evidence in relation to victims of domestic violence, victims of sexual violence, including rape, and victims of female genital mutilation.

22. Are all women victims of violence, irrespective of any of the grounds listed in Article 4 paragraph 3 of the Istanbul Convention, in particular asylum-seeking women, refugee women, migrant women, women from national or ethnic minorities, women with irregular residence status, women with disabilities and LBTI women, able to benefit on an equal footing from existing healthcare services? Please describe any measure taken to reduce legal or practical barriers to their accessing regular healthcare services.

23. Please provide information on the measures in place to facilitate the identification and care of victims of violence against women in institutions for persons with disabilities and for the elderly as well as for those in closed reception facilities for asylum-seekers and to respond to their safety and protection needs.

24. Please provide information on how the authorities ensure that different groups of women and girls, inter alia women with disabilities, Roma women and other women belonging to national or ethnic minorities, migrant women and intersex persons are fully informed, understand and freely give their consent to procedures such as sterilisation and abortion.

Re 19

The WHO defines it as the main task of the health sector in regard to violence to recognise those affected by violence and to speak to them, including when there is only a suspicion of violence.[47] The health sector holds a key position in the early detection of domestic violence. Domestic and sexualised violence is one of the greatest health risks, in particular for women and children.

Assessing a patient's medical history with violence and the proper documentation of injuries (in the form of written reports and photos) can only be guaranteed if victims are treated in a sensitive way and can build trust to the medical staff. Additionally, it is

[47] World Health Organization (2002): 'World report on violence and health. Summary.' Available in English, German and other languages at https://apps.who.int/iris/handle/10665/42512.

important that evidence be secured in such a way that it can be used in court. Also, health services need to be able to act quickly in regard to filing a report with the police, reporting the case to the respective child and youth welfare service and connecting victims to victim protection organisations.

A training project in Lower Austria on the role of the health sector in the context of domestic violence provides a best-practice example.[48] The project offered 2-day seminars under the title of 'I have a suspicion – What can I do? Victim protection and violence prevention in the health sector' for hospital staff in Lower Austria.[49]

Victim protection groups

It is positive that section 8e, paragraph 4 of the Hospital and Sanatoria Act mandates the establishment of victim protection groups for adult victims of domestic violence at hospitals. **However, it is problematic that paragraph 7 of this section allows hospitals to not provide such groups if they instead offer a children protection group that can be argued to fulfil the role of the victim protection group under paragraph 5.** Working with children and adolescents requires a different kind of expertise and different approaches than working with adults. Children and adolescents often suffer from negligence, abuse or violence by their parents or caregivers, who abuse their authority over them. In contrast, adults often become victims in the context of relationships, which leads to different violence dynamics. Combining these two domains therefore contravenes professional approaches. **Further, paragraphs 3 and 4 of section 8e in the Hospitals and Sanatoria Act define different staff requirements for the two groups. If the two groups are combined, this law loses its effect.**

It is crucial that victim protection groups consist of a multiprofessional team if they are to work effectively. For this reason, **a hospital's social workers should be part of its victim protection groups. Further, participation of victim-protection organisations as defined in section 25, paragraph 3 of the Security Police Act (i.e., the Violence Protection Centres) should be a legal requirement.**

[48] Project 'Häusliche Gewalt. Die Bedeutung des Gesundheitswesens'.
[49] NÖ-LGA Bildungsprogramm (2023): 'Opferschutz und Gewaltprävention. Ich habe einen Verdacht – was kann ich tun?', page 138. Available in German at https://www.landesgesundheitsagentur.at/fileadmin/media_data/Dateien/LKNOE_Webseite/Medien-Center/Publikationen/LGABP2023/26/index.html

Training hospital staff is part of the Violence Protection Centres' work, which have supported victims of domestic violence for over 25 years. The Centres could provide groups with their specialised expertise and support them in providing swift help.

Re 20d, 20e and 20f

Hospitals and other health services play a key role as a first point of contact for victims of domestic violence. **Currently, victims of violence that receive treatment at out-patient and emergency departments directly after experiencing an act of violence often do not receive sufficient information about support available from victim protection organisations.** As a consequence, only a small percentage of those victims contact these organisations for further information and psychosocial and legal support. However, such support is crucial in particular early on in order to preserve any claims, secure evidence and help victims access further support services. **Fact sheets and similar handouts, written in simple-to-understand language and available in different languages, should be readily available at outpatient clinics and emergency departments. Healthcare staff should know about local support services for victims of violence and connect victims to victim protection organisations.**

This also applies to hospital staff working with children. Hospitals' children protection groups need to be closely linked to specialised local victim protection organisations for children and adolescents. **Domestic and sexualised violence should be mandatory subjects in training for paediatricians.** Comprehensive training and awareness measures for healthcare staff are necessary to provide sufficient support for victims of violence.

When someone files a report with the police, appropriate professional support must be provided. Victims of violence often turn to healthcare services first, seeking treatment for their injuries. **Therefore, general practitioners in particular require appropriate training.** Many women affected by domestic violence would like healthcare staff to ask them about the causes for their injuries or mention their suspicion of violence.[50] In a 2014 study by the European Union Agency for Fundamental Rights, 87% of women respondents said that they would find it acceptable if healthcare staff were to regularly ask about violence if patients

[50] See Daniela Gloor & Hanna Meier (2014): '"Der Polizist ist mein Engel gewesen." Sicht gewaltbetroffener Frauen auf institutionelle Interventionen bei Gewalt in Ehe und Partnerschaft.' The full report as well as a summary report in English and French are available at https://www.socialinsight.ch/index.php/8-nf60/24-veroeffentlichungen-zum-forschungsprojekt.

showed specific injuries or characteristics.[51] **Thus, all healthcare staff urgently require comprehensive training in order to be able to recognise forms and consequences of violence and to address them appropriately with affected patients.**

Re 21

Article 25 of the Istanbul Convention requires the parties to 'take the necessary legislative or other measures to provide for the setting up of appropriate, easily accessible rape crisis or sexual violence referral centres for victims in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for victims'.

In summer 2022, the Federal Minister for Women, Family, Integration and Media, the Federal Minister for Justice and the Federal Minister for Social Affairs, Health, Care and Consumer Protection commissioned a study on the provision of outpatient clinics for assault victims in Austria (so-called 'Gewaltambulanzen'). Among other topics, the study examined the status quo of forensic institutes in regard to their current areas of work and responsibility, staff, services offered as well as funding. Based on the study's analysis of the current situation, its authors formulated recommendations regarding forensic support for victims of violence. This led to a list of requirements for forensic examination provision and the development of a model concept to be trialed in Vienna, Lower Austria and Burgenland.[52]

The study concluded that there is a lack of forensic examination in Austria (independent from criminal proceedings)[53], which corresponds to the experience of the Violence Protection Centres in their work with victims. Making it possible for victims to receive, independently of criminal proceedings, forensic examination and the documentation that comes with it means a significant improvement in protecting the interests of victims. **This is particularly important for victims of sexual crimes, as they often cannot decide right away whether they want to report the incident to the police. In these cases, forensic examination would provide a way of securing evidence in addition to clinical examinations and treatment.** Such documentation would enable victims to file a police report for a longer period after the incident (according to the concept paper, evidence can usually be preserved for a year or even

[51] European Union Agency for Fundamental Rights (2014): 'Violence against women: an EU-wide survey'. Available at http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report.
[52] Kathrin Yen, Martin Grassberger & Robert Yen: 'Die Versorgung Österreichs mit Gewaltambulanzen', page 9.
[53] Ibid., page 19.

longer if needed[54]), without having to worry that valuable evidence may be lost in the meantime.

In work with victims, the expanded obligation for healthcare staff to file police reports as introduced by the Protection Against Violence Act 2019[55], which now includes incidents of rape, has repeatedly been found to be problematic. It is imperative that this obligation be evaluated and revised by experts. The Violence Protection Centres know of cases in which hospitals reported incidents to the police without the victims' consent, sometimes even without the victims' knowledge, and without any possibility for the victims to influence this process. **It is not currently clear how forensic examination independent of criminal proceedings can be provided if victims cannot rely on being able to decide for themselves if they want to file a police report because section 54, paragraph 4 of the Medical Doctors Act [56] prevents this. The stipulation in section 54, paragraph 5 of the Medical Doctors Act, according to which it is possible to not file a police report in cases in which there is no imminent danger to the patient or another person, cannot be relied upon in most cases, especially when the rape was committed by a person close to the victim, sometimes even living with the victim.**

One reason for Austria's low conviction rate is the fact that there is often insufficient evidence available that is suitable for use in court. Currently, Austria does not provide sufficient infrastructure for forensic examination. Especially in rural areas, there is often no option at all that is accessible within a reasonable timeframe. This problem can be addressed by establishing a fully developed network of outpatient clinics that provide forensic medical examinations. This would also mean that rulings would not have to rely on victims' statements only, which is also a demand by the GREVIO (Baseline) Evaluation Report.[57] To ensure timely preservation of evidence for acts of violence, a well-developed, comprehensive infrastructure of outpatient clinics for assault victims is necessary.

[54] Ibid., page 102.
[55] BGBl. I No. 105/2019.
[56] 'Ärztegesetz'; BGBl. No. 169/1998.
[57] Kathrin Yen, Martin Grassberger & Robert Yen: 'Die Versorgung Österreichs mit Gewaltambulanzen', pages 11–12. See also the GREVIO (Baseline) Evaluation Report for Austria, available at https://rm.coe.int/grevio-report-austria-1st-evaluation/1680759619 and https://www.bundeskanzleramt.gv.at/dam/jcr:ad37e233-1fe5-4a94-8aaf-492d9c1550de/Grevio_Report_en.pdf.

Article 25: Support to victims of sexual violence

28. Please indicate if any of the below services are available in your territory:

a. sexual violence referral centres (e.g. specialist support services offering immediate medical care, forensic examination and crisis intervention to victims of sexual violence);

b. rape crisis centres (e.g. specialist support services offering long-term counselling, therapy and support to victims of sexual violence regardless of whether the sexual violence occurred recently or in the past);

c. any other specialised services offering short-term and/or long-term medical, forensic and psycho-social support to victims of sexual violence.

29. Please provide information on the number of such services and the number of women and girls supported annually.

30. Please indicate the procedures and time frames for collecting and storing forensic evidence in cases of sexual violence (e.g. existence of protocols, use of rape kits) in the relevant services.

31. Please describe any applicable access criteria for use of these services (e.g. affiliation with a national health insurance, residence status, prior reporting of the case to the police, other).

Counselling services for sexualised violence differ between federal states. We would like to list the following counselling services in this context:

- The Violence Prevention Centres Austria[58]
- Women's Helpline Against Violence: 0800 222 555 (24-hour hotline)[59]
- Women's Counselling Service for Sexual Violence Carinthia (belladonna)[60]
- Women's Counselling Service for Sexual Violence Upper Austria (Autonomous Women's Centre)[61]
- Women's Counselling Service for Sexual Violence Styria (TARA)[62]

[58] https://www.gewaltschutzzentrum.at .
[59] https://www.frauenhelpline.at.
[60] https://frauenberatung-belladonna.at.
[61] https://www.frauenzentrum.at.
[62] https://www.taraweb.at.

- Women's Counselling Service for Sexual Violence Tyrol (Women Against Rape)[63]
- The 24-Hour Women's Emergency Helpline of the City of Vienna: 01 71 71 9[64]
- Women's Counselling Service for Sexual Violence Vienna, Lower Austria and Burgenland[65]
- Women's Counselling Service for Sexual Violence Salzburg (Women's Emergency Hotline Salzburg)[66]
- The Ombud for Equal Treatment in cases of sexual harassment as addressed by the Equal Treatment Act[67]

Due to time and resource constraints, the present statement on these matters represents the view of the Violence Protection Centres only, with the intention of providing a first impression.

The Violence Protection Centres provide psychosocial and legal counselling, crisis intervention and court assistance for those threatened or affected by violence.[68] Many women and girls who have experienced sexualised violence do not know right away whether they would like to file a report with the police and/or do not know what the consequences of doing so are. The Centres provide them with free, confidential counselling to help them with these decisions. These services explicitly also address women and girls whose experience with rape or other forms of sexualised violence happened in the more distant past. For further help in the form of psychotherapy, the Centres need to refer women and girls to other institutions or psychotherapists. However, the amount of free therapy spots is very limited and clients often cannot rely on their own means or other institutions for funding. Victims of violence are often highly burdened by the suffering they have experienced and should not be stressed further with having to pursue complicated bureaucratic paths that might end up leading nowhere.

A study on gender-specific violence against women and other forms of interpersonal violence from 2021 shows that 23.75% of women in Austria (between the ages of 18 and 74) have experienced sexualised violence.[69] According to the Austrian police crime statistics, in 2022,

[63] https://www.frauen-gegen-vergewaltigung.at.
[64] https://www.wien.gv.at/english/social/women/services/emergency-helpline.html.
[65] http://www.frauenberatung.at.
[66] https://www.frauennotruf-salzburg.at.
[67] https://www.gleichbehandlungsanwaltschaft.gv.at/english.html.
[68] There are no requirements in regard to residency status or health insurance for accessing these services.
[69] Statistik Austria (2022): 'Geschlechtsspezifische Gewalt gegen Frauen in Österreich: Prävalenzstudie beauftragt durch Eurostat und das Bundeskanzleramt'. Available in German at https://www.statistik.at/fileadmin/publications/Geschlechtsspezifische-Gewalt-gegen-

365 reports of rape were filed, a rise of 6.7% compared to 2021 (342 cases).[70] Conviction rates are extremely low: for example, in 2019, the conviction rate was 10.34%.[71] The estimated number of actual cases, on the other hand, is notoriously high: only 8.8% of women who experience rape file a police report in the first place.[72]

Healthcare staff play a key role in recognising (sexualised) violence and providing adequate care to victims. Medical examination includes not only securing evidence (such as sperm or saliva) but also documenting injuries. Specialised expertise is required for providing documentation that can be used in court.[73]

One way of ensuring that proper forensic documentation is available would be a reliable infrastructure of outpatient clinics for assault victims, where victims of violence can receive medical examinations for free so that evidence can be secured and injuries can be documented in a way that is suited for court.[74] This is already done at the Medical University of Graz, which provides extensive forensic examination including the proper securing of evidence for victims of physical and/or sexualised violence. In addition to the free examination, victims receive information about further support and other services, such as further medical examinations and treatments, victim protection organisations as well as psychological or legal counselling.

Frauen_2021_barrierefrei.pdf. See also https://www.statistik.at/en/services/tools/services/publikationen/detail/1461 and https://www.statistik.at/fileadmin/announcement/2022/11/20221125GewaltgegenFrauenEN.pdf for information in English.

[70] Criminal Intelligence Service Austria (2023): 'Polizeiliche Kriminalstatistik 2022', page 69. Available, in German, at https://bundeskriminalamt.at/501/files/2023/PKS_Broschuere_2022.pdf.

[71] Frauenberatung Notruf bei sexueller Gewalt Wien (2021): 'Zahlen und Fakten zu sexueller Gewalt gegen Frauen. Stand 3/2021', page 6. Available, in German, at https://www.sexuellegewalt.at/site/assets/files/1450/zahlen_und_fakten-sexuellegewalt_03-2021.pdf.

[72] Frauenberatung Notruf bei sexueller Gewalt Wien (2021): 'Zahlen und Fakten zu sexueller Gewalt gegen Frauen. Stand 3/2021', page 5. Available, in German, at https://www.sexuellegewalt.at/site/assets/files/1450/zahlen_und_fakten-sexuellegewalt_03-2021.pdf.

[73] Christina Riezler (2013): 'Gewaltschutz in Österreich. Grundlagen, Neuerungen und Ausblick'. In: Astrid Deixler-Hübner & Marielle Mayerhofer: 'Gewaltschutzrecht. Samt Cybermobbing, Strafrecht und Familienrecht.', Verlag Österreich, page 27.

[74] The Austrian government has established a working group for the introduction of such outpatient clinics ('Gewaltambulanzen') and announced in the media that they will become available nationwide. See, in German, Erik Schwienbacher (2022): 'Mehr Schutz für Frauen'. Öffentliche Sicherheit 3–4/22, page 39. See also Gudrun Springer (2022): 'Regierung kündigt Gewaltambulanzen für Sicherung von Beweisen an', available, in German, at https://www.derstandard.at/story/2000141558316/regierung-kuendigt-gewaltambulanzen-fuer-sicherung-von-beweisen-an.

Outpatient clinics for assault victims provide their services at no cost for people of all ages who have been affected by physical and/or sexualised violence, child abuse or molestation, after an appointment has been made over the phone. This can be done by affected individuals themselves or by doctors, police, public prosecution offices, courts, child and youth welfare services or victim protection organisations. Examinations are possible whether or not a police report has been filed already. Doctors at these outpatient clinics are generally bound by professional confidentiality. In cases where a report has been filed already or is obligatory, relevant law (such as the Medical Doctors Act, section 54) applies. If no report is filed, all collected data are stored for 12 months and potential evidence is secured. This information can be accessed at any time. Prosecution offices and courts can order detailed reports via soliciting an expert opinion.[75]

Individuals whose sexual integrity and self-determination may have been violated are considered victims in need of special protection and have specific rights in criminal proceedings (as described in the Code of Criminal Procedure, section 66a). They are entitled to psychosocial and legal court assistance in proceedings insofar as it is necessary to safeguard their procedural rights, with the greatest possible consideration for their personal affectedness (Code of Criminal Procedure, section 66b, paragraph 1). This psychosocial and legal court assistance during criminal proceedings is free of charge. Psychosocial court assistance includes preparing victims for the proceedings and the related emotional stress as well as accompanying them to interviews during both investigative and main proceedings. Legal court assistance comprises legal counsel and representation by a lawyer (Code of Criminal Procedure, section 66b, paragraph 2).

The Austrian Victims of Crimes Act[76] regulates victims' claims to assistance. On the basis of legally and/or politically binding international law[77], the Victims of Crimes Act must provide fair and adequate services if these are not provided by the principal parties. However, it creates many obstacles to successful claims, which is why it is only rarely used in practice. For

[75] See the folder by the Medical University of Graz 'Gewaltambulanz. Klinisch-forensische Untersuchungsstelle', available, in German, at https://gerichtsmedizin.medunigraz.at/frontend/user_upload/OEs/diagnostik-forschungszentrum/_gerichtliche-medizin/pdf/gewaltambulanz.pdf.

[76] BGBl. No. 288/1972 in the version of BGBl. I No. 105/2019.

[77] Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0080; see also the Istanbul Convention, available at https://www.coe.int/en/web/istanbul-convention/text-of-the-convention.

example, the criteria on which the Federal Office for Social Affairs[78] assesses claims are not clear; the final decision often cannot be known ahead of time (for example, when applying for a refund of psychotherapy costs at the time when the therapy itself is needed).

The experience of the Violence Protection Centres has shown that the Federal Office for Social Affairs often waits for criminal proceedings to end before it decides on claims to compensation. Given that proceedings often take a long time, this creates many insecurities for victims.

According to section 1 of the Victims of Crimes Act, EU and EEA citizens as well as legal residents of Austria who have been victims of a crime in Austria are eligible for compensation if they have suffered bodily harm or other damage to health as the result of an intentional criminal act punishable by imprisonment of more than 6 months. Surviving dependants are eligible as well if the criminal act caused the victim's death.

Currently, section 6a, paragraph 1 of the Victims of Crimes Act stipulates that a lump-sum compensation of €2,000 has to be paid for pain and suffering in the case of grievous bodily harm under section 84, paragraph 1 of the Penal Code that resulted from an act as defined in section 1, paragraph 1 of the Victims of Crimes Act. The amount of the compensation is higher for specific consequences. The consequences of sexualised violence often do not qualify as grievous bodily harm as defined in section 84, paragraph 1, at the time of the review during the criminal proceedings or the review by the Federal Office for Social Affairs (for example, because the victim does not require medication or psychotherapy) even though the psychological consequences of sexualised violence are often acute traumatisation and include a lifelong risk of retraumatisation.

Section 6a of the Victim of Crimes Act names the consequences of the act of violence, i.e., grievous bodily harm as defined in section 84, paragraph 1 of the Penal Code, as the criterion for distinction. We do not question this distinction but consider it necessary that victims of sexualised violence be generally entitled to lump-sum compensation due to the consequences of sexualised violence as described above. To this end, the acts as listed in chapter 10 of the Penal Code (on criminal offences against sexual integrity and self-determination) should be added to section 6a of the Victims of Crimes Act. Further arguments for this special treatment

[78] 'Sozialministeriumservice'; https://www.sozialministeriumservice.at.

of acts of sexualised violence can also be derived from other areas of law. For example, section 1328 of the Civil Code[79] declares a right to compensation following violations of one's sexual self-determination independent of grievous bodily harm. Section 198 of the Code of Criminal Procedure serves as an example for special regulations for violations of one's sexual integrity and self-determination due to their intrusive nature: section 198, paragraph 3 precludes diversionary measures as alternative dispute resolution in cases of acts as defined by chapter 10 of the Penal Code punishable by imprisonment of more than 3 years.

We therefore encourage that offences against sexual integrity and self-determination be considered in section 6a of the Victims of Crimes Act by including offences as described in chapter 10 of the Penal Code. Any potential limitation of a claim could be tied to specific minimum penalties.

Article 30, paragraph 2 of the Istanbul Convention aims for adequate state compensation for victims. Additionally, the EU Council Directive 2004/80/EG on compensation to crime victims[80] requires that states establish a programme for the fair and adequate compensation of victims.

Against this background, it seems necessary that the amounts for compensation as defined in section 6a of the Victims of Crimes Act be raised as the current amounts do not seem to qualify as 'fair and adequate' compensation.

The Violence Protection Centres have for many years argued for a general revision of the Victims of Crimes Act inspired by, for example, the Swiss Victim Support Act[81], which provides more expansive and more easily accessible support. This suggestion aligns with the result of the Council of Ministers' resolution regarding the task force on criminal law from February 2019, according to which the regulations in the Victims of Crimes Act need to be harmonised and adapted in order to allow better use of the law, the many amendments of which currently make it difficult to interpret.[82] It is our hope that the

[79] BGBl. I No. 15/2013.
[80] Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0080.
[81] 'Bundesgesetz über die Hilfe an Opfer von Straftaten (Opferhilfegesetz, OHG)'. See https://www.fedlex.admin.ch/eli/cc/2008/232/de. For information in English, see https://www.bj.admin.ch/bj/en/home/gesellschaft/opferhilfe.html.
[82] See page 13 in the report on the Austrian 'task force criminal law' from 2019: Task Force Strafrecht, Opferschutz & Täterarbeit (2019): 'Gemeinsam gegen Gewalt. Ergebnisse des Ministerratsbeschlusses zur Task Force Strafrecht'. Available, in German, at https://www.bmi.gv.at/Downloads/files/Taskforce_Bericht_1302_RZ_Web.pdf.

evaluation of the Victims of Crimes Act that has been announced by the Ministry of Justice will lead to a reform and adjustment of the Act.[83]

Article 31: Custody, visitation rights and safety

32. Please indicate whether under national law incidents of violence covered under the scope of the convention must be taken into account in the determination of custody and visitation rights of children. If this is the case, please clarify to what extent these provisions:

a. explicitly list domestic violence as a criterion to be taken into account when deciding on custody and/or visitation rights in the applicable legislation. If so, please clarify whether this criterion is/has been applied in practice in the determination of both custody and visitation rights;

b. acknowledge the harm that witnessing violence by one parent against the other has on a child;

c. ensure that custody with the non-violent parent is preferred over foster-care;

d. foresee the screening of civil proceedings related to the determination of custody or visitation rights for a history of domestic violence among the parties;

e. foresee that judges conduct risk assessments or request the disclosure of risk assessments drawn up by law-enforcement agencies or other competent stakeholders for victims of domestic violence, with a view to taking them into account and determining the best interest of the child in the context of custody and visitation decisions.

33. Please describe the measures in place to ensure that judges, court-appointed experts and other legal professionals:

a. have sufficient knowledge of the law and understanding of the dynamics of intimate partner violence, including the psychological impact of witnessing violence on the child;

[83] The Ministry of Justice announced plans to evaluate the Victims of Crimes Act in its reply to an inquiry by the Violence Protection Centres from 25 August 2022.

b. duly take into account victims' grievances in cases of domestic violence and hear children victims/witnesses, where applicable, in the determination of custody and visitation rights;

c. are informed of the unfoundedness of notions of "parental alienation" or analogous concepts that are used to overshadow the violence and control exerted by perpetrators of domestic violence over women and their children.

34. Please provide details on the procedures in place to ensure that the competent court for family-related issues co-operate/communicate with other relevant bodies/professionals, including, but not limited to, criminal courts, law-enforcement agencies, health and education authorities and specialist women's support services when taking decisions on custody and visitation or when offering family law mediation. Please specify whether the law provides a legal framework for any of the procedures in place.

35. Please provide detailed information on the procedures in place (including, if applicable, the relevant personnel used, the specific infrastructure available), in the exercise of custody and visitation rights, to:

a. eliminate the risk for the abused parent to be subjected to further violence;

b. eliminate the risk for the child to witness or experience violence;

c. ensure that the responsible personnel are trained and that the facilities are suited to enable safe supervised visitation.

36. Please indicate whether national provisions foresee the withdrawal of parental rights in criminal sentences if the best interest of the child, which may include the safety of the victim, cannot be guaranteed in any other way.

Re 32

The legal basis for the protection of children and adolescents against violence in Austria is mainly provided by Article 19 of the United Nations Convention on the Rights of the Child and the Federal Constitutional Act on the Rights of Children[84]. On the level of simple law, the Civil

[84] BGBl. I No. 4/2011.

Code[85] declares a prohibition of violence against minors in section 137, paragraph 2. Section 138 stipulates that the best interest of the minor must be taken into account and guaranteed to the best extent possible in all matters concerning minors, particularly in regard to custody and personal contacts. Clause 7 lists important criteria for assessing this best interest, which include preventing the risks of children becoming victims of acts of violence or assault as well as witnessing such acts committed to their important attachment figures.

As stated by the Austrian government in its Thematic Evaluation Report from June 2023[86] in reference to Article 31 of the Istanbul Convention, in non-litigious matters concerning custody of and contact with children (visitation rights), acts of violence against the children themselves as well as violence witnessed by the children are taken into account when assessing a child's best interests under section 137 of the Civil Code. Under certain circumstances, decided on a case-by-case basis, a child advocate may be appointed (Statute on Non-Litigious Matters, section 104a).

Re 32a

The regulations as discussed above must be considered in custody and visitation rights proceedings. **However, Austria is currently missing legal regulations that provide for clear consequences for acts of violence against minors not only in regard to criminal law but also in regard to custody and visitation rights. At the moment, there is no regulation that stipulates that specific criminal offences against children and adolescents, prohibitions of entry/approach or interim injunctions for the benefit of an endangered minor have an impact on custody and visitation rights proceedings.**

There is currently a legal draft at the Federal Ministry of Justice that fundamentally reimagines custody and visitation rights also in regard to the effects of violence on children and adolescents. This draft was the result of a broad discussion process between the Federal Ministry of Justice and civil society, including a large number of organisations working to protect children and women against violence. Unfortunately, the Violence Protection Centres

[85] BGBl. I No. 15/2013.

[86] Federal Chancellery of the Republic of Austria (2023): 'Thematic Evaluation Report on the Implementation of the Istanbul Convention. "Building trust by delivering support, protection and justice"', pages 61 and 62. Available at https://www.bundeskanzleramt.gv.at/dam/jcr:3bcf9045-c364-48d9-9ee9-971f7d758c2e/en-staatenbericht-final-v2.pdf and, as a more accessible PDF, at https://www.bundeskanzleramt.gv.at/dam/jcr:3bcf9045-c364-48d9-9ee9-971f7d758c2e/en-staatenbericht-final-v2.pdf.

do not have access to the latest version of the draft but only a version from 2022, which is unlikely to match the current version at the Federal Ministry of Justice. Thus, the Federal Association of Violence Protection Centres would like to make GREVIO aware of this important legal draft but cannot comment on its content in detail; we can only emphasise its importance in the given context. At present, official statements do not indicate when further legislative steps can be expected. **As this depends on factors that are not known to the Federal Association of Violence Protection Centres, we ask GREVIO to contact the Austrian Federal Ministry of Justice in this matter.** It should be noted that this important legal draft is not mentioned at all in the Federal Chancellery's Thematic Evaluation Report.

The discussion process with civil society as mentioned above also led to the creation of a handbook on dealing with violence in relation to parental responsibility, again as a result of broad discussion between the Federal Ministry of Justice and victim and child protection organisations, child and youth welfare services as well as family and guardianship courts. This handbook is intended to serve as a basis for decisions by judges in custody and visitation rights proceedings by providing expansive explanations of forms of directly or indirectly experienced violence against children and adolescents, the impact of violence on children and adolescents as well as the consequences of (witnessed) violence for court decisions on parental responsibility regarding custody. (Currently, the German term in relevant Austrian law is 'Obsorge', i.e., parental custody; the legal draft mentioned above would change it to 'elterliche Verantwortung', i.e., parental responsibility.) The Federal Association of Violence Protection Centres are familiar with this handbook due to current involvement and fully support it as a very positive resource.

The Violence Protection Centres cannot confirm that family and guardianship courts consistently take into account as information relevant to the proceedings the harm caused by witnessing violence of one parent against the other by the child in question. In the case of interim injunctions for the protection of children at risk, it is the experience of the Centres that indirect violence is only sometimes acknowledged as a reason for protection.

Re 32b

It is the experience of the Violence Protection Centres that in cases of violence, placement in out-of-home care is considered when the respective child and youth welfare service assumes that the parent who has custody and is not violent (usually the mother) cannot ensure the

child's protection. However, in such cases, the child and youth welfare service could, under section 211 of the Civil Code, apply for an interim injunction for the child (under sections 382b, 382c and 382d of the Enforcement Code) at the district court. **From the perspective of the Centres, this option is used only rarely; one reasoning is that enforcing the interim injunction usually requires the mother's compliance.**

Re 32c

Currently, within certain custody and visitation rights proceedings, a history of domestic violence between the parties is acknowledged in accordance with the existing legal framework (as mentioned above). **However, the Violence Protection Centres have not observed a consistent and, more importantly, standardised consideration of this history.** The legal draft at the Federal Ministry of Justice concerning the redefinition of parental responsibility, along with the aforementioned handbook (see re 32a), would form a legal foundation for achieving this standardisation.

Re 32d

Currently, to the best of the Violence Protection Centres' knowledge, the district courts responsible for decisions regarding custody and visitation rights do not carry out risk assessments. This is not to say that such assessments are never conducted, but they do not appear to be established practice. The Centres proactively submit their own risk assessments in court proceedings, in particular in high-risk cases, in consultation with the individuals at risk. **The extent to which these assessments are taken into account by the courts depends on individual cases and the evaluation of the respective judges.**

Re 33

The Violence Protection Centres assume that there is a lack of awareness of the dynamics of intimate partner violence and of the impact of direct and indirect violence on children among the professional groups listed in 33a, 33b and 33c in the questionnaire. For this reason, we recommend that candidate judges receive specialised training on dealing adequately with victims of domestic and sexualised violence. The training should, in particular, encompass the causes and forms of violence, the impact of violence and traumatisation, the dynamics of violence as well as the psychology of victims and perpetrators. This specialised training should be legally integrated into training regulations.

Such training should also be mandatory for court-appointed experts, who should be required to provide evidence of completion before they can be appointed and sworn in by a court.

Sitting judges cannot be required to attend training due to their constitutional independence, non-transferability and irremovability. **In light of this, the Federal Association of Violence Protection Centres recommends in its reform proposals the creation of incentives to encourage judicial staff to regularly attend training in the domain of victim protection on topics such as causes and forms of violence, the impact of violence and traumatisation (in particular violence against women and children), the dynamics of violence as well as the psychology of victims and perpetrators.**

The Federal Association of Violence Protection Centres would also welcome routine opportunities for supervision as well as peer coaching and reflection at courts and public prosecution offices. In general, it is important to establish in the justice system a culture that emphasises the importance of supervision for individuals' ability to work as well as the system as a whole. Taking advantage of supervision and similar services should be valued rather than being construed as a sign of individual 'weakness'.

Re 34

There are legal foundations for cooperation with the institutions and authorities mentioned in the questionnaire, in particular with criminal courts and family court assistance ('Familiengerichtshilfe', these are offices at district courts that provide support by psychologists and social workers for proceedings); see section 106a of the Statute on Non-Litigious Matters. **However, there are no provisions to ensure that family courts cooperate with specialised women's and children's protection organisations.** In high-risk cases where serious or extreme violence is impending, the Violence Protection Centres provide risk assessments and statements on risk analyses also in family-court proceedings. There is cooperation in the form of established, active partnerships and the resulting agreements with district courts as well as individual judges.

The participation of family and guardianship courts in case conferences under the Security Police Act in high-risk cases is at their discretion; **there is no basis in civil procedure law for**

disclosing the contents of civil-court proceedings in these case conferences[87] (unlike for public prosecution offices and criminal courts, for whom participation and information sharing are governed by section 76, paragraph 6 of the Code of Criminal Procedure[88]). Due to concerns about possible bias, family and guardianship court judges typically do not participate in the case conferences; they do, however, attend the standardised networking meetings organised by the police as part of violence protection and prevention, which are conducted annually in Austrian districts.

Re 35a, 35b and 35c

According to section 111 of the Statute of Non-Litigious Matters, guardianship courts can appoint a suitable and willing person to provide support for the exercise of visitation rights if the minor's best interest requires it. This support is intended to prevent the possibility that the violent parent and endangered parent meet, which can reduce the risk of further violence in these situations and, consequently, prevent children from witnessing violence or experiencing it directly in the context of visitations. Supervised visitation as a measure can be implemented not only by courts but also by child and youth welfare services. **It is important to add, however, that from the perspective of the Violence Protection Centres, the financial and personnel resources for supervised visitation are insufficient to ensure that it can be provided for the required duration in every case that would require it. Additionally, there is also a need for raising awareness for the option of supervised visitation among guardianship judges.**

Further, guardianship courts may, according to section 106b of the Statute on Non-Litigious Matters, use family court assistance (section 106a of the Statue on Non-Litigious Matters; see above) for visitation support in proceedings that regulate or enforce visitation rights. In these cases, the family court assistance works with the parents to discuss the specific forms of visitation and to mediate between the parents in conflicts. Its representatives have the right to be present during preparations for visitations by the parent that does not live with the child as well as during pick-up and returning of the child. They are required to report on their observations during visitation in written form or orally during the proceedings if requested by

[87] See the Federal Ministry of Justice's decree from 24 January 2023 (GZ 2023-0.041.528).
[88] See also the Decree by the Federal Ministry of Justice on Guidelines for Criminal Prosecution of Offences in the Immediate Social Environment from 30 August 2021 (GZ 2021-0.538.674).

the court. The exact number of cases in which this kind of support by family court assistance is provided is unknown to the Federal Association of Violence Protection Centres. The Centres only rarely experience this type of visitation support in their day-to-day work with individuals affected by violence.

Re 36

Austrian law does not stipulate the withdrawal of parental rights upon a criminal conviction for violence. The legal draft for redefining parental responsibility at the Ministry of Justice (as discussed above; see re 32) would introduce such a withdrawal in the case of certain criminal acts. According to the current version of the aforementioned handbook, custodial responsibility is to be revoked automatically when the violent parent is sentenced to imprisonment of more than 3 months resulting from an intentionally committed criminal act against life and body, freedom or the sexual integrity or self-determination of a child, the other parent or a child's sibling (section 177c of the Civil Code as proposed in the legal draft).

Article 48: Prohibition of mandatory alternative dispute resolution processes or sentencing

Criminal law:

37. Please provide information on the measures taken to ensure that mandatory alternative dispute resolution processes are prohibited in criminal proceedings related to cases involving the different forms of violence against women covered by the Istanbul Convention.

38. Where voluntary alternative dispute resolution processes exist for any criminal offences within the remit of the Istanbul Convention, such as conciliation or mediation, please provide information on the safeguards incorporated to ensure the free and informed consent of the victim to such processes and the measures taken to avoid that direct or indirect pressure is placed on the victim. Please also state whether the offer of alternative dispute resolution processes may result in the discontinuation of criminal investigation and prosecution or other consequences for the victim.

Civil law:

39. Please provide information on the measures taken to ensure that alternative dispute resolution processes such as mediation or procedures which can be considered tantamount to the latter are not used in family law proceedings such as divorce proceedings or proceedings related to custody and visitation of children, where there is a history of violence.

Criminal Law

In sections 198 et seq., the Austrian Code of Criminal Procedure provides for various forms of diversionary resolution: payment of a sum of money; community service; probation with obligations; and out-of-court offence resolution via victim-offender mediation.

Since the 2015 amendment of the Penal Code, diversionary measures can also be employed with offences that carry a maximum penalty of up to 5 years of imprisonment. The law states that diversionary measures are only permissible if the guilt of the accused is deemed not severe (Code of Criminal Procedure, section 198, paragraph 2 (2)). This assessment must take into account the nature, intention and success of the act as well as perpetrator-related aspects.[89] The decree by the Federal Ministry of Justice on Guidelines for Criminal Prosecution of Offences in the Immediate Social Environment stresses that in cases of such offences, considerations of diversionary measures should take into account sections 198 et seq. of the Code of Criminal Procedure.[90] **Yet, even severe cases of domestic violence are sometimes resolved through diversionary measures (especially via out-of-court offence resolutions, see section 204 of the Code of Criminal Procedure).**

Community service and payment of a monetary sum (which might negatively affect the family's income) are especially ill-suited diversionary measures in cases of domestic violence as they do not require perpetrators to engage with the acts committed. They also carry the risk of trivialising domestic violence and a lack of norm clarification, which can further weaken victims.[91]

[89] See Maria Eder-Rieder (2022): 'Opferrechte', 2nd edition. NWV im Verlag Österreich, page 43.
[90] Decree by the Federal Ministry of Justice on Guidelines for Criminal Prosecution of Offences in the Immediate Social Environment, page 12 (GZ 2021-0.538.674).
[91] See Silvia Jurtela (2007): 'Häusliche Gewalt und Stalking. Die Reaktionsmöglichkeiten des österreichischen und deutschen Rechtssystems'. StudienVerlag, page 95.

It is in the shared interest of everyone involved in criminal proceedings to establish long-lasting changes and to deter offenders from future crimes. In order to reach this goal, instructions and specific conditions can be issued (such as prohibition of entry/approach orders and victim-centred anti-aggression training in combination with probationary services), also within the framework of diversion. **In the view of the Violence Protection Centres, these means are currently underutilised.**

Out-of-court offence resolutions are problematic in cases linked to domestic violence, not least because they are sometimes executed in the form of mediation as part of conflict resolution. Chronic cycles of violence typically generate unequal power dynamics. **This means that there is a risk that the victim cannot participate in the resolution process as an equal partner, as even expert trained resolution mediators find such dynamics difficult to resolve.** The experience of the Violence Protection Centres shows, however, that many victims view such resolutions very positively and wish for criminal proceedings to conclude without a trial. It is important to note here that Neustart, the association that handles such resolutions in Austria[92], are decidedly committed to the principles of victim-centred work; they have developed and apply an independent approach for addressing partner violence.

In regard to offences against sexual integrity and self-determination, diversion is limited to offences punishable by imprisonment of up to 3 years (Code of Criminal Procedure, section 198, paragraph 3). **Diversion should not be an option for any offence against sexual integrity and self-determination.**

Section 205 of the Code of Criminal Procedure provides for the subsequent continuation of criminal proceedings under certain circumstances, except when refraining from such continuation is justifiable due to 'special reasons' or when such continuation is 'not warranted under the circumstances'. **It is incomprehensible that there should be no consequences if obligations from proceedings that have already be resolved through diversionary measures are not adhered to.**

As per section 206, paragraph 1 of the Code of Criminal Procedure, victims in cases in which a prohibition of entry/approach order has been issued in order to protect them from violence according to section 38a of the Security Police Act or who are victims as defined by section 65

[92] See https://www.neustart.at/en/conflict-regulation.

(1a) of the Code of Criminal Procedure need to be given sufficient time to provide comment before terminating proceedings. Prior to the Protection Against Violence Act 2019, this provision applied not only to victims as defined in section 65 (1a) of the Code of Criminal Procedure, but also to 'victims of violence in residences'. This meant that the prior issuance of a prohibition of entry/approach order was not necessary, and victims who had experienced violence in their residence also had the right to provide comment even when no order had been issued yet. **Therefore, the change in phrasing in the Protection Against Violence Act 2019 is a limitation.**

It is also important to note that victims' right to making a statement exists 'to the extent that this appears necessary to protect their interest and rights, particularly their entitlement to compensation for harm'. **This entails the risk of misunderstandings about when this right is to be accorded to victims.** In its reply to an inquiry, the (then) Federal Ministry for Constitutional Affairs, Reforms, Deregulation and Justice stated that victims of violence in residences (section 38a of the Security Police Act) and victims as defined by section 65 (1a) of the Code of Criminal Procedure are to be granted the right to providing comment in any case, including when compensation has already been provided. **However, there is no clear legal formulation on this matter.**

It should be stated that the provisions of section 206, paragraph 1 of the Code of Criminal Procedure are, in the experience of the Violence Protection Centres, almost never applied in practice. This seems problematic in regard to the requirements of the Istanbul Convention, which, under Article 48, prohibits mandatory alternative dispute resolution processes or sentencing**. Additionally, experience shows that in cases in which victims do not consent to a given diversionary measure, proceedings are either discontinued or resolved by a different diversionary measure. This is highly problematic. Amicable termination for the accused often takes precedence over the victim's interests.**

It can be inferred from section 206 of the Code of Criminal Procedure that victims should be afforded a right to object to an intended diversionary measure. It should also be noted that it is an essential need for victims of crimes to be included and taken seriously in criminal proceedings. The aforementioned ordinance by the Ministry of Justice explicitly states that

victims need to be informed according to section 206, paragraph 2 of the Code of Criminal Procedure.[93]

Case example 1

Ms A filed a police report under section 83 of the Code of Criminal Procedure and availed herself of court assistance. Later on, the accused was offered diversionary resolution of the case in the form of community service. Neither Ms A nor her court assistant were informed about this. In response to corresponding inquiries, the prosecution stated that it had provisionally discontinued the prosecution and that the final discontinuation would only occur after the completion of community service; at this point, the victim would be given the opportunity to provide comment.

Case example 2

Ms B filed a police report against her former partner for repeated threats of violence and physical assaults that happened regularly over a span of 1.5 years. During his questioning, Ms B's former partner admitted the repeated acts of violence but displayed no remorse for his behaviour. The proceedings regarding the dangerous threats were subsequently discontinued. Concerning the admitted continued acts of violence, the prosecution offered the option of diversion: a payment of €500. Ms B was not informed of this and therefore was not provided the opportunity to comment on the proposed measure. The outcome of the proceedings was disappointing for Ms. B as the accused had been offered diversion despite not showing remorse or acknowledging his guilt. Further, Ms B had no opportunity to assert her claims for compensation in the criminal proceedings.

Civil law

When courts do not decide, via a formal ruling, on an application for an interim injunction but instead work toward a settlement between the parties regarding the content of the application, the settlement cannot be extended, enforced by the police or appealed.

Courts should always decide on applications for the issuance of an interim injunction according to sections 382b, 382c and 382d of the Enforcement Code in the form of a formal ruling.

[93] Decree by the Federal Ministry of Justice on Guidelines for Criminal Prosecution of Offences in the Immediate Social Environment, page 13 (GZ 2021-0.538.674).

Articles 49 and 50: General obligations and immediate response, prevention and protection

40. Please describe the human, financial and technical resources provided to law enforcement agencies to diligently respond to and investigate all cases of violence against women, including their digital dimension.

41. Which measures have been taken to ensure that the premises of police stations are accessible and suitable for receiving and interviewing victims of violence while ensuring their privacy? Is it possible to report cases of violence against women elsewhere than in police stations, including through digital means?

42. Please explain whether specialist police/prosecution units exist to investigate and prosecute violence against women and specify:

a. which forms of violence against women they are competent for;

b. whether such units exist in all police/prosecution districts throughout the country.

43. Please describe any measures taken to ensure swift investigation into and effective prosecution of cases of violence against women and domestic violence such as prioritisation through fast-tracking, benchmarking or other initiatives, without compromising the thoroughness of the investigation.

44. Are any measures taken to encourage women and girls who experience any of the forms of violence against women covered by the Istanbul Convention to report incidents of violence to the authorities? Please provide examples of any measures taken to instill confidence in law-enforcement officials, including those aimed at addressing any language or procedural difficulties they encounter when lodging complaints, in particular those of migrant women, asylum-seeking women, women with disabilities, women with addiction issues and other women and girls at risk of intersectional discrimination.

45. Please indicate whether protocols/standard operating procedures or guidelines for police officers are in place providing guidance on how to receive reports, interview victims, investigate and collect evidence in cases of rape and sexual violence, domestic violence, psychological violence, stalking, sexual harassment (including their online

manifestation), forced marriage, female genital mutilation and forced sterilisation/abortion. Please provide information on how the authorities ensure the comprehensive collection of evidence beyond the victim's testimony.

46. Please describe the efforts taken to identify and address all factors that contribute to attrition (the process whereby cases drop out of the criminal justice system) in cases of violence against women and domestic violence.

47. Please indicate if legislative or other measures have been taken to issue a renewable residence permit to migrant women who have become a victim of any of the forms of violence covered by the Istanbul Convention if the competent authority considers that their stay is necessary for the purpose of their co-operation in investigation or criminal proceedings.

Re 40

In the domain of cyber violence, there is a significant and widespread shortfall in IT forensic staff in the police who can promptly and comprehensively secure evidence. Victims often have to surrender their digital devices to investigation authorities for several weeks so that evidence can be secured. When victims of cyber violence go to their local police station to file a report, there is no guarantee that evidence preservation will be carried out by specially trained staff. **Inadequate evidence collection frequently results in the dismissal of investigations by the public prosecution offices.**

Staff within the justice system regularly address – including publicly in the media – the acute shortage of personnel in various courts and departments. **This shortage leads to prolonged legal proceedings, thereby exacerbating the burden on victims of violence.**

Re 41

In Austria, it is not currently possible to file a report digitally. Similarly, filing a report is not usually possible outside of police stations or field offices of the Criminal Intelligence Service. **For traumatised victims in particular, it would be crucial to be able to have the police interview in a relaxed and supportive environment, such as those provided by Violence Protection Centres.** Police officers evidently seek to create a relatively comfortable atmosphere for victims. **In reality, however, such efforts are sometimes hampered by the**

limited space available at police stations and the lack of witness interview rooms as most criminal courts have them.

Re 42

At public prosecution offices with at least 10 permanent prosecutorial positions, the head prosecutor has to delegate the management of proceedings related to violence in the immediate social environment (domestic violence, violence against children) to one or more specially trained public prosecutors (see section 4, paragraph 3a of the Ordinance on the Implementation of the Public Prosecutor's Act). This specialisation, which has proven effective in practice, should also encompass cases involving offences against sexual integrity and self-determination.

Further, not only criminal proceedings concerning offences against sexual integrity and self-determination but also cases involving violence in the immediate social environment should be assigned to specialised court departments.

Re 45

The quality of records of witness statements has an enormous impact on the course of criminal proceedings (termination of the investigation or initiation of formal proceedings). Also, accurate records (verbatim transcripts, if possible) minimise stress for witnesses during their court testimonies.

In practice, the Violence Protection Centres often encounter situations where records do not faithfully reflect what (unaccompanied) clients have conveyed in interviews because records are often not produced verbatim (in a question-answer format) but as summaries. Experience shows that many victims of violence are still in a state of crisis during police interviews, which are often conducted shortly after the incident. Their mental state is often marked by shock, confusion and sometimes impaired concentration. This makes it hard, especially for victims without court assistance[94], to focus on thoroughly reading their recorded statement after hours of an emotionally taxing interview, checking for misinterpretations that result from the fact that the statement is only provided as a summary. Sometimes, victims are

[94] In most cases, victims do not already receive court assistance when they file a report with the police; it is usually only initiated after the police interview.

also reluctant to object to incorrect phrasings and statements or to request corrections. However, the results of these records impact the course of proceedings to a great extent.

The report by the Federal Ministry of the Interior's screening group for the investigation of murder cases with a focus on femicides highlighted that records of police interviews were 'heterogeneous' in relation to their content, indicating a strong dependence on the respective individual investigators.[95] As a remedy, the report recommends that interviews be transcribed verbatim in order to mitigate differences in quality among 'file-producing investigators'[96].

Re 46

Training for candidate judges is regulated by the Federal Ministry of Justice through the Ordinance on Education and Training for Candidate Judges[97]. **The ordinance's article 4, paragraph 3 should be amended to include specialised training for handling victims of domestic and/or sexualised violence. The following topics should be covered: the causes and forms of violence, the effects of violence and traumatisation (in particular of violence against women and children), the dynamics of violence as well as the psychology of victims and perpetrators.[98] Training on violence-related topics should be incorporated into section 4, paragraph 3 of the Ordinance on Education and Training for Candidate Judges.**

According to Act on the Service of Judges and Public Prosecutors[99], section 9, paragraph 2, mandatory training service must include, among others, work at a victim protection and/or support organisation. This obligation is increasingly utilised in Violence Protection Centres, providing candidate judges with extensive experience with violence protection work. As a result, future prosecutors and judges can acquire greater awareness, empathy and understanding for victims' needs.

[95] Isabel Haider, Jacques Huberty, Nicole Lang, Hanna Rumpold, Werner Schlojer (2020): 'Screening Mordfälle. Schwerpunkt Frauenmorde', page 8. Available in German at https://bundeskriminalamt.at/202/Gewalt_widersetzen/files/Screening_Gruppe/STUDIE_Screening_Mordfaelle_Schwerpunkt_Frauenmorde_01012018_-_25012019.pdf and https://ales.univie.ac.at/fileadmin/user_upload/p_ales/Projekte/STUDIE_Screening_Mordfaelle_FINAL.pdf.
[96] Ibid., page 99.
[97] BGBl. II No. 279/2012.
[98] The only profession in the area of law enforcement whose training includes domestic violence is the police. The Violence Protection Centres have been involved in mandatory basic training for police staff for years. This has proven very effective.
[99] BGBl. I No. 96/2007.

The content and duration of this training service is specified by the Ministry of Justice via the corresponding ordinance. According to its section 2 (6), training includes a mandatory two-week period at a violence protection and/or care institution. **This period should be extended to 4 weeks.**

Moreover, incentives should be established for judicial staff to encourage their regular participation in further education on victim protection. Topics to be covered should include causes of violence, forms of violence, effects of violence and traumatisation (in particular of violence against women and children), the dynamics of violence as well as the psychology of victims and perpetrators. Additionally, it would be helpful if routine supervision as well as peer coaching and reflection for courts as well as for district and public prosecution offices were introduced.

Article 51: Risk assessment and risk management

48. Please describe any standardised and mandatory risk assessment tools in use by all relevant authorities in all regions for forms of violence against women such as stalking, violence committed in the name of so-called honour and domestic violence and to what extent these tools are being used in practice to assess the lethality risk, the seriousness of the situation and the risk of repeated violence with a view to preventing further violence. Please specify whether the following elements are considered as red flags when carrying out the risk assessment:

a. the possession of or access to firearms by the perpetrator;

b. the filing for separation/divorce by the victim or the break-up of the relationship;

c. pregnancy;

d. previous acts of violence;

e. the prior issue of a restrictive measure;

f. threats made by the perpetrator to take away common children;

g. acts of sexual violence;

h. threats to kill the victim and her children;

i. threat of suicide;

j. coercive and controlling behaviour.

49. Please specify how effective co-operation is ensured between the different statutory authorities and specialist women's support services in making risk assessments and whether the risks identified are managed by law enforcement agencies on the basis of individual safety plans that include also the safety of the victim's children.

50. Please describe the efforts made to analyse retrospectively all cases of gender-based killings of women, in the context of domestic violence and other forms of violence against women to identify the existence of possible systemic gaps in the institutional response of the authorities with the aim of preventing such acts in the future.

Re 48 – Risk-assessment tools

Police, public prosecution offices, courts, child and youth welfare services

Neither the police[100] nor the judiciary/prosecution authorities nor the child and youth welfare services have a standardised and binding instrument for risk assessment in cases of domestic violence and violence against women and children. Child and youth welfare services carry out risk assessments as part of their legal mandate. The police must ascertain certain risk factors when imposing prohibition of entry/approach orders in accordance with section 38a of the Security Police Act. As part of the decree by the Federal Ministry of Justice on Guidelines for Criminal Prosecution of Offences in the Immediate Social Environment, public prosecution offices have been provided with a checklist of items that the offices' on-duty criminal investigation departments can work through in order to assess the respective reasons for arrest and to provide a better basis for deciding on whether to impose pre-trial custody.

Violence Protection Centres

The Violence Protection Centres operate as professional victim-protection services with a focus on enhancing affected individuals' safety and security and, in doing so, preventing

[100] Isabel Haider, Jacques Huberty, Nicole Lang, Hanna Rumpold & Werner Schlojer (2020): 'Screening Mordfälle. Schwerpunkt Frauenmorde', pages 98–99. Available, in German, at https://bundeskriminalamt.at/202/Gewalt_widersetzen/files/Screening_Gruppe/STUDIE_Screening_Mordfaelle_Schwerpunkt_Frauenmorde_01012018_-_25012019.pdf and https://ales.univie.ac.at/fileadmin/user_upload/p_ales/Projekte/STUDIE_Screening_Mordfaelle_FINAL.pdf.

violence as well as, within the framework of threat management, forming a network with authorities and institutions. Various risk assessment instruments are used in this process. The Centres aim to identify current risk factors through conversations with individuals affected by violence by asking for key information, such as the offender's history, past and current behaviour and communication, in order to analyse and interpret the offender's behaviour in the context of their history of violence, external negative conditions and critical behavioural patterns.

The path to committing violence is marked by warning signals that must be noticed and recognised. The behaviour of both the (potential) victim and the (potential) offender needs to be considered and analysed within the overall context; evaluations of isolated actions are not meaningful. Based on their background knowledge on the dynamics of violence, the Violence Protection Centres undertake risk assessment dynamically and in a process-oriented manner, continuously updating assessments based on changes in circumstances that could affect risk. In the context of intensive cooperation between the Violence Protection Centres as victim protection organisations and the counselling centres for violence prevention, which provide counselling to perpetrators in cases of prohibition of entry/approach orders – as well as within the framework of court probationary services – information that indicates an increase in risk and/or that is relevant to safety and security is exchanged and incorporated into the risk assessment.

The primary risk assessment tools used by the Violence Protection Centres, which include the red flags listed in the GREVIO questionnaire (48a to 48j), are:

<u>Risk assessment according to Gavin de Becker</u>

This tool is used as a first step to check whether a more detailed risk analysis is required. Its four central questions are:

- Does the offender justify the violence to themselves?
- Is the offender willing to accept the consequences of an act of violence?
- Does the offender see alternatives to committing acts of violence?
- Is the offender capable of committing an act of serious violence (e.g., is the offender experienced with firearms)?

Protective factors model by Frederick S. Calhoun

Protective factors bring stability; they include aspects such as a home, family, reputation, health, alternatives for one's actions, self-esteem, dignity and career. On the other hand, risk factors include death threats, suicide threats, use of weapons, announcements of post-offence behaviour, 'tunnel vision' and an existing or developing lack of protective factors. Key questions are:

- What protective factors does the (potential) offender have?
- How does the (potential) offender evaluate the loss of specific protective factors?
- Are there more protective or more risk factors at play?

If risk factors predominate, a detailed analysis of the situation is essential.

Danger Assessment Scale by Jacquelyn C. Campbell

Campbell's scale is based on a list of 20 questions regarding past and current behaviour, history, risk and protective factors as well as the (potential) offender's capability for serious violence. Questions that indicate a higher risk of violence are given more weight, and the total points calculated from the answers are plotted on a scale with four predefined levels of threat.

Dynamic Risk Analysis System Intimate Partners (DyRiAS)

DyRiAS consists of 39 questions relating to an individual's past and current behaviour, history, risk and protective factors as well as their capability for serious violence. Violent behaviour is understood within the dynamics between the offender, the victim and situational influences. Reponses are weighted differently during evaluation. The evaluation, which operates on a 5-step scale, takes information quality into account – the more comprehensive the information, the more valid the result. When Violence Protection Centres conduct DyRiAS analyses, these are always embedded in a structured internal process that ensures that at least two people are involved at every level of analysis and formulation of statements (employing a 'four-eye principle').

Re 49

In the context of domestic violence and violence against women and children, the Violence Protection Centres carry out risk assessment as described above (re 48) and develop safety and security plans together with the endangered individuals, which mandatorily include the

safety and security of their children. If, through applying one or several risk assessment tools, the Centres reach the conclusion that there are indications for an impending act of serious violence, they share this assessment with relevant institutions involved in the case, such as the police, public prosecution offices, criminal courts, family and guardianship courts, child and youth welfare services as well as counselling centres for violence prevention. After an individual assessment on this basis, a case conference under the Security Police Act may be suggested for further review.[101] The aim of sharing these assessments is to ensure the flow of information necessary for further, coordinated safety and security planning for the individuals at risk and to facilitate information flow to those places where the authorities can take the appropriate safety and security measures (such as imposing pre-trial custody). According to the decree by the Federal Ministry of Justice on Guidelines for Criminal Prosecution of Offences in the Immediate Social Environment, these risk assessments by the Centres serve as 'an additional tool for assessing the danger posed by the accused and the risk of a criminal offence'. The criminal investigation departments are to verify these analyses for use in criminal proceedings and to increase their objectivity, for example, by conducting additional interviews with the victim about any further allegations against the offender that may arise from the content of the analyses or about further assaults that might have occurred in the meantime.[102] In this way, the analyses serve as a foundation for further investigation as well as for (further) safety and security measures.

As for GREVIO's question 49 regarding 'whether the risks identified are managed by law enforcement agencies on the basis of individual safety plans that include also the safety of the victim's children', the answer is no. Police do assess risk factors for further violence when imposing prohibition of entry/approach orders, and they contact victims on a voluntary basis as well as conduct conversations to clarify legal issues in order to prevent further violence after such a ban has been imposed. **However, this does not include the threat management in high-risk cases as relevant to the questionnaire.** The Violence Protection Centres conduct such threat management in close cooperation with all involved authorities and institutions, in

[101] See also the responses to the questions referring to Article 18 of the Istanbul Convention, in section II-1 above.

[102] See the decree by the Federal Ministry of Justice on Guidelines for Criminal Prosecution of Offences in the Immediate Social Environment, section III (GZ 2021-0.538.674).

particular the police, public prosecution offices, criminal courts, family and guardianship courts, child and youth welfare services and counselling centres for violence prevention.

Re 50

The Violence Protection Centres, in cooperation with Neustart (see above), have submitted a proposal for the evaluation of (attempted) homicides in the immediate social environment to the civil-society dialogue forum 'Polizei.Macht.Menschen.Rechte'[103]. This proposal suggests that an evaluation of cases of (attempted) homicides in the context of family and (former) relationships should be adopted as standard procedure in order to learn from these cases and prevent further acts of serious violence. To accomplish this, all involved authorities and institutions should convene for working discussion and consolidate their information in order to gain an overview of the situation. Evaluating the process could provide insights into which factors should receive more attention in the future. This includes questions such as in which areas cooperation needs to be improved or which services should have been available to provide support or relief to the victim and perpetrator. Collective evaluation and case examination involving all authorities and institutions would yield valuable information and insights for preventing future acts of serious violence and (attempted) homicides. In this context, it would be important that the analysis of the respective steps taken in specific cases be professional, objective and non-accusatory.

It should become standard that homicides in the immediate social environment lead to the convening of a working group that includes all authorities and institutions that had interactions with the victim or the accused. The aim of such working groups would be to gain insight into how to prevent homicide and severe physical assault in the future. Ideally, these groups would comprise representatives from the following sectors: victim protection organisations, child protection services, perpetrators' services, police, public prosecution offices as well as child and youth welfare services.

[103] Translators' note: The German name 'Polizei.Macht.Menschen.Rechte' does not only list some relevant topics of the project (police, power, people, rights) but can also be read as a statement to say that, in a very literal interpretation, the 'police makes human rights'. The word 'Macht', here, refers to both 'power' in a social/societal context and to the act of putting human rights ('Menschenrechte') into practice. For more information about this project, in German, see https://www.bmi.gv.at/408/PMMR/start.aspx.

In a recently published Austrian study on femicides[104], the authors call for timely analyses of femicides that involve all concerned institutions in order to identify potential weak points (e.g., in cooperation) or misjudgements regarding the presence of a high-risk situation.

It would further be important for police crime statistics to include the relationship between perpetrator and victim in cases of (attempted) homicides. Reliable data is needed in order to conduct relevant investigations and formulate measures based on their results.

Article 52: Emergency barring orders

51. Have any legislative or other measures been taken to introduce and/or amend the legal framework governing emergency barring orders in order to align it with the requirements of Article 52? If yes, please specify whether:

a. emergency barring orders may remain in place until a victim can obtain a court-ordered protection order in order to ensure that gaps in the protection do not arise;

b. support and advice are made available to women victims of domestic violence in a pro-active manner by the authority competent to issue an emergency barring order;

c. children are specifically included in contact bans issued under the emergency barring order;

d. any exceptions to contact bans are made and in which circumstances.

52. Please provide information on the measures taken to enforce emergency barring orders and on responses to any violations of such orders.

Re 51

According to section 38a of the Austrian Security Police Act, police are obligated to impose a prohibition of entry/approach order on (potential) offenders in order to protect (potential) victims. These police orders can be replaced by a longer judicial protective order of 6 or 12 months if the victim applies for an interim injunction in civil court (for more details, see Article 53 of the Istanbul Convention). Consequently, prohibition of entry/approach orders, along

[104] Birgitt Haller, Viktoria Eberhardt, Brigitte Temel (2023): '2022: Untersuchung Frauenmorde. Eine quantitative und qualitative Analyse', page 152. Available in German at https://ikf.ac.at/wp-content/uploads/2023/07/Untersuchung_Frauenmorde.pdf.

with interim injunctions for protection against violence (sections 382b and 382c of the Enforcement Code) or invasion of privacy (section 382d of the Enforcement Code), serve as the fundamental pillars of protection against violence.

According to section 38a of the Security Police Act, police have the authority to ban an individual who is likely to commit (further) acts of violence from entering the residence of an endangered person for a period of 2 weeks. This ban extends to a radius of 100 metres around the residence. The prohibition of entry is connected to the prohibition of approach, which means that the endangering person may not come within 100 metres of the endangered person; general contact such as phone calls, text messages, e-mail etc. are still allowed, however.[105] This person-focussed prohibition of approach was introduced with the Protection Against Violence Act 2019[106]. Before that, the endangered person's workplace or, in the cases of minors, educational institution were not included in section 38a of the Security Police Act. This is why, at the start of the reform, it was intended to amend this section in order to include these locations. However, as defining places of work for mobile professions, such as carers, interpreters, train conductors etc., turned out to be difficult and as the desired expansion required flexibility, it was decided to introduce a prohibition of approach instead of an expanded prohibition of entry that also included the workplace.[107] The expanded prohibition of approach order does not fully meet the requirement of Article 52 of the Istanbul Convention for a general contact ban. However, it sends a clear message to the endangering person to cease all personal contact with the endangered person. With the 2019 act, the protection now extends not just to specific locations but also the endangered individuals themselves. In their 2019 statement[108] on the reform, the Violence Protection Centres generally endorsed the prohibition of approach order, noting that many of their reform proposals (such as raising the age limit for children and adolescents in relation to the

[105] If a full contact ban is required, it can be issued via an interim injunction (see below).
[106] 'Gewaltschutzgesetz'; BGBl I No. 105/2019.
[107] Mariella Mayrhofer (2023): 'Betretungs- und Annäherungsverbot sowie einstweilige Verfügungen. Aktueller Stand aus Sicht des Opferschutzes'. In: Astrid Deixler-Hübner & Marielle Mayerhofer: 'Gewaltschutzrecht. Samt Cybermobbing, Strafrecht und Familienrecht.', Verlag Österreich, page 108.
[108] See the 2019 statement by the Federal Association of Violence Protection Centres and the Intervention Centre for Trafficked Women on the Federal Act Amending the Security Police Act and the Change of Name Act ('Stellungnahme des Bundesverbandes der Gewaltschutzzentren und der Interventionsstelle für Betroffene des Frauenhandels zum Bundesgesetz, mit dem das Sicherheitspolizeigesetz und das Namensänderungsgesetz geändert werden'), page 7. Available, in German, at https://www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_04982/imfname_758055.pdf.

protected area as described in section 38a, paragraph 1 (2) of the Security Police Act; expansion of the scope of protection for children and adolescents), which they had submitted after the last amendment in 2013[109], had been taken into consideration in the legal draft.

Experience shows that allowing non-personal contact (e.g., via phone or in writing) after the issue of a prohibition of entry/approach order often aligns with the victims' wishes (for example, for coordinating issues related to shared children). If there are security concerns regarding direct contact, additional measures can be taken, such as filing for a contact ban through an interim injunction.

This system does not cover cases that would require only a prohibition of approach, not a prohibition of entry, as the prohibition of approach order can only be issued in combination with a prohibition of entry order. In cases in which the endangering person does not know the endangered person's residence (for example, because they have moved or because the incident happened at work) or in which the endangering person should not learn the location of the endangered person's residence (for example, because they have fled to a family member's home or to a womens' shelter), a prohibition of entry/approach order cannot be issued[110], as that would require specifying the relevant protected area (i.e., the victim's address) and communicating it to the offender.

Re 51a

The prohibition of entry/approach expires 2 weeks after it was issued (section 38a, paragraph 10 of the Security Police Act). If the relevant law enforcement authority is informed within this period of 2 weeks by the competent court that an application for an interim injunction under section 382b and 382c of the Enforcement Code has been submitted, the ban extends until the court decision is delivered to the offender, but no longer than 4 weeks from the initial order (section 38a, paragraph 10 of the Security Police Act).

Before the 2013 Security Police Act amendment, applying for an injunction was sufficient for extending the prohibition of entry order. Now, information flow between court and police is required for such an extension of a prohibition of entry/approach order. The

[109] BGBl I No. 152/2013.

[110] Sandra Messner, Andrea Hoyer-Neuhold, Magdalena Habringer, Martina Stöffelbauer & Petra Warisch (2022): 'Evaluierungsbericht Gewaltschutzgesetz 2019', published by the Federal Ministry of the Interior, the Centre for Social-Science Research and Science Didactics ('Zentrum für Sozialforschung und Wissenschaftsdidaktik') and the University of Applied Sciences Campus Vienna, page 117.

Violence Protection Centres know of isolated cases in which the police was not informed or not promptly informed about the injunction request (for example, because the person responsible at the court was ill or the urgent information took too long to arrive via mail), resulting in the expiration of the prohibition of entry/approach order after 2 weeks although the application for an interim injunction had been submitted in time.

With the 2019 Protection Against Violence Act, civil courts can potentially shorten the prohibition of entry/approach order if they reject an interim injunction application within the 2-week period.[111] While this might rarely happen as filing the application and the subsequent decision by the court are unlikely to take less than 2 weeks, it is important to note that the law reform made it possible to shorten the ban. **We suggest reversing this provision allowing for shortening the duration and restoring the original phrasing from before the reform.**

Irrespective of the above, extending the prohibition of entry/approach order as discussed above is still not possible with applications for an interim injunction for protection against invasion of privacy (such as stalking; according to 382d of the Enforcement Code). This leads to a differentiation between types of interim injunctions that appears inexplicable and produces gaps in the protection of the endangered person. It is also important to note here that in cases of stalking, prohibition of entry/approach orders are only rarely issued, even when they would be supported by law. Given the high potential risk associated with stalking, there seems to be an obvious need for sensitisation and training for law enforcement.[112]

Further, it is problematic that the offender is not specifically informed about the extension of the prohibition of entry/approach order. This can escalate the situation when, after 2 weeks, the offender is convinced that they have the right to return to the residence. **We therefore suggest introducing an obligation for the police to inform the offender in section 38a, paragraph 10 of the Security Police Act.**

A prohibition of entry/approach order issued by the police is not a prerequisite for applying for an interim injunction. If such a prohibition order is issued, it can provide immediate protection from violence during the interim injunction proceedings if the civil court acts in a

[111] See also Rudolf Keplinger in Thomas Bauer & Rudolf Keplinger (2022): 'Gewaltschutzgesetz. Praxiskommentar', 6th edition, proLIBRIS, page 166, footnote 205.
[112] Mariella Mayrhofer (2023): 'Betretungs- und Annäherungsverbot sowie einstweilige Verfügungen. Aktueller Stand aus Sicht des Opferschutzes'. In: Astrid Deixler-Hübner & Marielle Mayerhofer: 'Gewaltschutzrecht. Samt Cybermobbing, Strafrecht und Familienrecht.', Verlag Österreich, page 114.

timely manner. **As there is no legally stipulated time frame for decisions about applications for interim injunctions or for the formal notification about such decisions, it is possible for a gap to arise between the end of the prohibition of entry/approach order and the issuing/receiving of the interim injunction. Applying for an interim injunction before a prohibition of entry/approach order has been issued might also lead to security risks.**

Therefore, from the perspective of the Violence Protection Centres, prohibition of entry/approach orders are an effective tool for combatting violence. However, as discussed above, there is room for improvement in some cases to avoid gaps in protection.

Re 51b

It is the Violence Protection Centres' task to improve the protection of victims of violence in the immediate social environment and stalking as well as to (re-)establish objective and subjective safety for victims. After a prohibition of entry/approach order has been issued, this is accomplished through immediate legal counselling and support, safety and security planning, risk and threat management, providing stabilising support in crises (crisis intervention[113]) and psychosocial support.[114]

Due to mandatory data transfer after a police intervention for a prohibition of entry/approach order (according to section 38a of the Security Police Act) or due to stalking (section 107a of the Penal Code) as regulated by the relevant ordinance[115], the Violence Protection Centres can quickly and proactively contact at-risk individuals and offer support.

However, as there is no such data transfer from the police in cases of continued violence (section 107b of the Penal Code) or continuous harassment via telecommunication or computer systems (cyberbullying, see section 107c of the Penal Code), the Violence Protection Centres cannot contact victims in these cases. As a result, these victims lack crucial information about their rights such as court assistance and claiming compensation, and they do not receive support or counselling, in particular regarding their safety.

[113] For more information on crisis intervention, see Barbara Juen & Dietmar Kratzer (eds.) (2012): 'Krisenintervention und Notfallpsychologie. Ein Handbuch für KriseninterventionsmitarbeiterInnen und psychosoziale Fachkräfte'. Studia Universitätsverlag Innsbruck.
[114] Christina Riezler (2013): 'Gewaltschutz in Österreich. Grundlagen, Neuerungen und Ausblick'. In: Astrid Deixler-Hübner & Marielle Mayerhofer: 'Gewaltschutzrecht. Samt Cybermobbing, Strafrecht und Familienrecht.', Verlag Österreich, pages 10–11.
[115] See section 56 of the Security Police Act and also the Federal Ministry of the Interior's ordinance from 23 December 2021 (GZ 2021-0.896.858), page 20.

Positive feedback regarding proactive outreach by Violence Protection Centres was corroborated in evaluations conducted in 2018 and 2019 in Carinthia, Tyrol, Lower Austria and Burgenland. Surveys of clients indicated that the proactive initiation of contact was consistently considered helpful, especially since victims of domestic violence often isolate after an incident rather than actively seek assistance.[116]

An Austrian study from 2014 showed that women with disabilities had limited access to victim protection and support services. The reasons for this are many and complex, from physical barriers to a lack of services; in particular, there was often a lack of knowledge in organisations regarding the needs of women with disabilities, and services lacked the financial and personnel resources to ensure full accessibility.[117] However, the Violence Protection Centres are working to improve access for individuals with disabilities through targeted violence prevention projects.

It is also important to note that police, after issuing a prohibition of entry/approach order or receiving a report on stalking, are required to inform endangered individuals about relevant victim protection organisations (see section 25, paragraph 3 of the Security Police Act). In these cases, the Violence Protection Centres receive the individual's contact details to get in touch with them proactively. Law enforcement agencies are further required to inform endangered individuals that they can apply for an interim injunction according to sections 382b and 382c of the Enforcement Act (see also section 38, paragraph 4 of the Security Police Act). This information is usually provided via information sheets and leaflets.[118]

As data transfer to the Violence Protection Centres is not currently required in cases of continued violence (section 107b of the Penal Code) or continuous harassment via telecommunication or computer systems (cyberbullying, section 107c of the Penal Code), it should be introduced to the Federal Ministry of the Interior's Decree for the Organisation and Implementation in the Domain of 'Violence in the Private Sphere'.

[116] These evaluations were led by Stephan Sting.
[117] Christina Riezler (2013): 'Gewaltschutz in Österreich. Grundlagen, Neuerungen und Ausblick'. In: Astrid Deixler-Hübner & Marielle Mayerhofer: 'Gewaltschutzrecht. Samt Cybermobbing, Strafrecht und Familienrecht.', Verlag Österreich, page 18.
[118] Ordinance of the Federal Ministry of the Interior, 23 December 2021, page 20 (GZ 2021-0.896.858).

Re 51c

An 'endangered person', i.e., a person at risk or (potential) victim, can be anyone who faces a 'dangerous attack' on their life, health or freedom, regardless of age or gender. If multiple people are at risk (for example, a mother with her two children), police must create separate risk prognoses for each individual and issue individual prohibition of entry orders. A prohibition of entry order automatically includes a prohibition of approach order, which means that the endangering person must come no closer than 100 metres to the endangered person. This order is not designed to create a fully restricted area, which means that in cases where it is the endangered person who approaches the endangering person, the latter is not required to back away. A general contact ban resulting from police intervention does not exist (see also above, re 51); such a ban requires applying for an interim injunction.

It is crucial that minors are classified as at risk by the police if they are directly affected by violence. **Currently, the law does not permit issuing prohibition of entry/approach orders based solely on witnessed violence. If minors are not classified as at risk (for example, because their experience with violence is exclusively one where they are witnesses, not direct victims), they cannot receive protection through a prohibition of entry/approach order, only later, via a court. This is the case even though encountering the offender could already endanger a child or adolescent's well-being (in the sense of section 138 of the Civil Code) if they have experienced violence indirectly.**

Against this background, police training on how to interact with children and adolescents during interventions and on comprehensive assessment as to whether children and adolescents should be classified as at risk is essential.[119]

Entry bans for extended prohibition zones (schools, childcare facilities, daycare centres), which previously provided protection regardless of whether the minor at risk was present, were removed from the law as part of the Protection Against Violence Act 2019, in part with the purpose of simplifying the law. This makes sense insofar as these extended areas of protection were replaced by the prohibition of approach.

[119] Sandra Messner & Andrea Hoyer-Neuhold (2018): '"Und neben der Polizei hab' ich mich dann sicher gefühlt". "EinSatz" – Eine Studie über Polizeieinsätze nach § 38a SPG fokussiert auf Kinder und Jugendliche'. SIAK-Journal. Zeitschrift für Polizeiwissenschaft und polizeiliche Praxis 2018/3, pages 53ff. For more information about the study, in German, see also https://www.kiras.at/gefoerderte-projekte/detail/einsatz.

In exceptional cases, however, a 100-metre restraining order may be insufficient in large care facilities. Also, in cases where the offender is already present at the location (such as a school) before the victim arrives, their potential meeting would not correspond to the definition of 'approach'. This means that in educational settings in particular, minors may, in individual cases, be put at risk and enforcing prohibition of approach orders may be difficult despite the fact that minors are a group in need of special protection.[120]

Law enforcement officers are obligated to inform those regularly responsible for a minor at risk, if it becomes necessary in the specific case. For this, it is vital that police be trained on interacting with children and on their consistent classification as at-risk individuals.

As a consequence of the current legal phrasing 'if necessary in the specific case', and in contrast to the situation before the Protection Against Violence Act 2019, it is no longer necessary that heads of schools, childcare institutions and daycare centres be informed about issued prohibition of entry/approach orders.

While some materials[121] indicate that there is a duty to inform in cases of children under the age of 14, a corresponding legal clarification to protect affected children is still missing. Given that young children are often not capable of articulating their own rights and interests adequately or assessing a dangerous situation, an obligation for state authorities to notify relevant institutions and caregivers would be desirable in cases affecting minors below the age of 14.

Another change needed to enhance the safety of children affected by violence is making it possible, in terms of data protection, to provide childcare staff with photographs of the endangering individual so that staff can recognise them in emergency situations. The current limitation in this regard contradicts the idea of comprehensive victim protection for children affected by violence.[122]

[120] Mariella Mayrhofer (2023): 'Betretungs- und Annäherungsverbot sowie einstweilige Verfügungen. Aktueller Stand aus Sicht des Opferschutzes'. In: Astrid Deixler-Hübner & Marielle Mayerhofer: 'Gewaltschutzrecht. Samt Cybermobbing, Strafrecht und Familienrecht.', Verlag Österreich, page 119.
[121] Explanatory notes to the government bill ErläutRV 2434 BlgNR 24. GP 8.
[122] Mariella Mayrhofer (2023): 'Betretungs- und Annäherungsverbot sowie einstweilige Verfügungen. Aktueller Stand aus Sicht des Opferschutzes'. In: Astrid Deixler-Hübner & Marielle Mayerhofer: 'Gewaltschutzrecht. Samt Cybermobbing, Strafrecht und Familienrecht.', Verlag Österreich, page 126.

Re 51d

For the first time since the introduction of prohibition of entry orders in 1997, the Protection Against Violence Act from 2019 included an exception. Such an exception may only apply to a radius of 100 metres around the residence and to approaching the endangered person. There are no exceptions in regard to the residence itself, according to section 38a, paragraph 9 of the Security Police Act. This provision makes it possible for the authorities to grant exceptions, regarding either the place or the time, in cases of urgent necessity and upon request by the endangering person. However, the victim's legitimate interests must be considered (section 38a, paragraph 9 of the Security Police Act). Urgent necessities can include economic or health-related reasons, such as access to one's workplace (for example, at a farm or at a doctor's surgery in the building of residence) or a visit at a hospital that is close to the residence.[123] The law enforcement authority's decision on the request for an exception must be immediately communicated to the individual at risk as well as the applying offender.[124]

In the review process preceding the introduction of the law, this exception, which requires weighing the interests of both the endangered and the endangering person, was assessed as a danger to the unequivocal legal prohibition of entry and its signalling effect.[125] To date, only very few such exceptions have been requested in practice, which means that this problem has barely arisen so far.

Nonetheless, we would like to advocate for a restrictive interpretation of 'economic reasons' as grounds for such exceptions. The right of the person at risk to a life free from violence (Article 2 of the European Convention on Human Rights and Article 3 of the Universal Declaration of Human Rights) takes priority over the right to economic freedom (Article 6

[123] Ibid., page 129.
[124] Ulrich Pesendorfer (2019): 'Das Gewaltschutzgesetz 2019. Familienrechtliche Aspekte im Überblick'. iFamZ 5/2019, page 293.
[125] See the 2019 statement by the Federal Association of Violence Protection Centres and the Intervention Centre for Trafficked Women on the Federal Act Amending the Security Police Act and the Change of Name Act, pages 12ff. Available, in German, at https://www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_04982/imfname_758055.pdf.

of the Basic Law on the General Rights of Nationals[126] and Article 15 of the Charter of Fundamental Rights of the European Union[127]).[128]

Re 52

Upon issue of a prohibition of entry/approach order, law enforcement officers must order the offender to leave if they are found in the protected area (section 38a, paragraph 2 (6) of the Security Police Act). The order to leave enforces the prohibition of entry/approach order; it requires the person to leave the residence or the 100-metre area.[129] If the offender does not leave or offers passive resistance, physical force or technical aids such as batons or firearms may be used (section 50 of the Security Police Act).

The order to leave is therefore an act of direct administrative authority and coercive power as defined by section 130, paragraph 1 (2) of the Federal Constitutional Law[130] and section 88, paragraph 1 of the Security Police Act.[131] It is intended to enforce a prohibition of entry/approach order. As long as the order is in effect, the offender must not enter the protected area[132] (the residence and its surrounding area within a radius of 100 metres) or approach the victim. Disobeying the order constitutes an administrative offence (section 84, paragraph 1b (1 and 2) of the Security Police Act). In extreme cases, an arrest under administrative criminal law according to section 35 (3) of the Administrative Penal Act[133] can be effected; however, this is rarely done in practice. Section 84, paragraph 1 of the Security Police Act stipulates that violations are punishable by a fine of up to €2,500 or, in case of repetition, up to €5,000. A prison sentence of up to 6 weeks may be imposed if the fine is not paid.[134]

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[126] 'Staatsgrundgesetz über die allgemeinen Rechte der Staatsbürger'; RGBl. No 142/1867.
[127] 2000/C 364/01.
[128] Mariella Mayrhofer (2023): 'Betretungs- und Annäherungsverbot sowie einstweilige Verfügungen. Aktueller Stand aus Sicht des Opferschutzes'. In: Astrid Deixler-Hübner & Marielle Mayerhofer: 'Gewaltschutzrecht. Samt Cybermobbing, Strafrecht und Familienrecht.', Verlag Österreich, pages 129–130.
[129] Rudolf Keplinger in Thomas Bauer & Rudolf Keplinger (2022): 'Gewaltschutzgesetz. Praxiskommentar', 6th edition, proLIBRIS, page 152.
[130] 'Bundes-Verfassungsgesetz'; BGBl. I No. 14/2019.
[131] Rudolf Keplinger in Thomas Bauer & Rudolf Keplinger (2022): 'Gewaltschutzgesetz. Praxiskommentar', 6th edition, proLIBRIS, page 146.
[132] The offender may only enter the residence when accompanied by a law enforcement officer (section 38a, paragraph 3 of the Security Police Act).
[133] 'Verwaltungsstrafgesetz'; BGBl. No 52/1991.
[134] Mariella Mayrhofer (2023): 'Betretungs- und Annäherungsverbot sowie einstweilige Verfügungen. Aktueller Stand aus Sicht des Opferschutzes'. In: Astrid Deixler-Hübner & Marielle Mayerhofer: 'Gewaltschutzrecht. Samt Cybermobbing, Strafrecht und Familienrecht.', Verlag Österreich, page 132.

As a prohibition of entry/approach order is issued against one specific individual, only that individual can be considered the immediate offender. Prevailing opinion would allow for victims to be considered to have aided and abetted the perpetrator under Section 7 of the Administrative Penal Act 1991 if they allow the offender to return to the residence.[135] However, this would be subject to scrutiny for grounds for justification and excuse[136], which may negate criminal liability. This means that victims become responsible to make credible a justification or excuse.[137] This contradicts the original intent of the Protection Against Violence Act and sends the wrong signal to victims. After a prohibition of entry/approach order has been issued, offenders often exert pressure on victims, for instance, demanding to be let back into the residence. Given that the victim may still be under the emotional and psychological impact of previous acts of violence, it can be difficult for them to resist the pressure from the offender. For this reason, we recommend that section 7 of the Administrative Penal Act should not be applicable in cases covered by section 84, paragraph 1b of the Security Police Act.

Article 53: Restraining or protection orders

53. Have any legislative or other measures been taken to introduce and/or amend the legal framework governing restraining and protection orders in order to align it with the requirements of Article 53? If yes, please specify whether:

a. restraining or protection orders are available – in the context of criminal proceedings and/or upon application from civil courts – to women victims of all forms of violence covered by the Istanbul Convention, including domestic violence, stalking, sexual harassment, forced marriage, female genital mutilation, violence related to so-called honour as well as digital manifestations of violence against women and girls;

[135] Rudolf Keplinger in Thomas Bauer & Rudolf Keplinger (2022): 'Gewaltschutzgesetz. Praxiskommentar', 6th edition, proLIBRIS, page 186; Rudolf Keplinger & Lisa Pühringer (2021): 'Sicherheitspolizeigesetz'. Praxiskommentar', 20th edition. proLIBRIS, page 263; see also, in contrast, Albin Dearing's unpublished talk at the event 'Weltweit vorbildlich – 20 Jahre Gewaltschutzgesetz' on 9 May 2017 in Linz (Austria), pages 11ff.
[136] Regarding grounds for justification and excuse, see, e.g., Wolfgang Wessely in Nicolas Raschauer & Wolfgang Wessely (eds.) (2016): 'Kommentar zum VStG ; Verwaltungsstrafgesetz', 2nd edition. Jan-Sramek-Verlag. Section 6 (1ff.).
[137] For a detailed discussion of this, see Mariella Mayrhofer & Christina Riezler (2018) in Astrid Deixler-Hübner, Robert Fucik & Mariella Mayrhofer (2018): 'Gewaltschutz und familiäre Krisen'. Verlag Österreich; see also section 84 (7) of the Security Police Act.

b. children are specifically included in protection orders;

c. any exceptions to contact bans are made and, if so, in which circumstances these may be made.

54. Please provide information on the measures taken to enforce protection orders and on responses to any violations of such orders.

Re 53a – Legal changes concerning restraining orders and other interim injunctions

Women victims of all forms of violence as defined by the Istanbul Convention can, if the necessary conditions are met, apply for interim injunctions for protection against violence (such as restraining orders) as defined in the Enforcement Code.

On 1 July 2021, a comprehensive reform of the Enforcement Code came into force.[138] It established the (limited) power of representation for victim protection organisations (section 25, paragraph 2). Since then, the endangered party can be represented by an appropriate victim protection organisation (section 25, paragraph 3 of the Security Police Act) when applying for an interim injunction for protection against violence (sections 382b and 382c of the Enforcement Code) or for protection against invasion of privacy (section 382d of the Enforcement Code) as well as when submitting additional documents during first-instance proceedings.

The Enforcement Code also established a legal basis for mandatory violence prevention counselling for offenders as part of proceedings for an interim injunction (section 382f, paragraph 4). In proceedings under sections 382b and 382c, the court can mandate that respondents who have not yet attended violence prevention counselling under section 38a, paragraph 8 of the Security Police Act contact a counselling service for violence prevention within 5 days of the injunction being issued and to actively participate in violence prevention counselling, which must begin within 14 days after the initial contact. The federal government bears the cost for the counselling; offenders must present a confirmation of participation to the court.

[138] 'Exekutionsordnung'; BGBl I No 86/2021.

However, the law does not allow for mandatory referral to counselling if the offender has previously participated in violence prevention counselling under section 38a, paragraph 8 of the Security Police Act. Past participation in such counselling should not prevent future referrals in case of newly committed acts of violence.

Further, a referral to counselling is only possible in cases where an interim injunction against violence is requested, but not in cases where an interim injunction against invasion of privacy (such as stalking) is sought. This differentiation seems unjustified, especially since mandatory counselling is also required in cases of prohibition of entry/approach orders due to stalking.

Re 53b – Children

Children can be protected from violence via interim injunctions such as restraining orders. Child and youth welfare services must apply for court orders in the domain of custody as necessary to safeguard the well-being of a minor. If the minor's legal representative does not immediately submit an application as necessary, the respective child and youth welfare service can apply for an interim injunction according to sections 382b, 382c and 382d of the Enforcement Code and for its enforcement. Experience shows that child and youth welfare services rarely exercise this right.

Further, the 2021 amendments to the Enforcement Code have made it a requirement that the respective child and youth welfare service as well as the respective guardianship court must be informed immediately if any of the parties are minors or if the case files indicate that a minor lives at the residence affected by an interim injunction.

Interim injunctions under section 382b of the Enforcement Code can be extended for the duration of the main proceedings by initiating divorce, division or eviction proceedings. Even if all parties involved in the proceedings for the interim injunction are minors, interim injunctions can still only be extended through one of the above-mentioned proceedings. As an example: A child is the applying party for an interim injunction on the ground of suspected sexual abuse by the father; the mother, who could initiate divorce proceedings, is not the applicant.

A ruling by the Regional Court for Civil Matters Vienna[139] states that even in this configuration, the minor not involved in the divorce proceedings may refer to the main proceedings, which means extending the interim injunction should be possible. **For legal clarity, there is an urgent need for legislative clarification confirming that interim injunctions for minors can be extended through a main proceeding as per section 391, paragraph 2 of the Enforcement Code.**

Re 53c – Exceptions to contact bans

Austrian law does not provide for any exceptions to contact bans in the context of interim injunctions.

Re 54 – Enforcement of interim injunctions

Certain violations of interim injunctions can be enforced by security authorities and may also be subject to administrative penalties – but not all types of violations are covered.

Prohibitions on written, telephone, or other forms of contact within the context of an interim injunction under section 382d (2) of the Enforcement Code as well as other protective measures under 382d (4–7) of the Enforcement Code cannot be enforced by security authorities (section 382d in conjunction with section 382i, paragraph 2 of the Enforcement Code). Further, section 1 of the Federal Act Declaring Violations Against Certain Interim Injunctions for Protection Against Violence and Protection Against Invasion of Privacy as Administrative Offences[140] does not stipulate an administrative penalty either.

In the case of a contact ban under section 382c of the Enforcement Code, courts can order the police to enforce it. Upon the applicant's request, the police is obligated to establish a situation as specified by the interim injunction through direct orders and coercive measures, and to report the situation to the court. This means that in such cases, the police must also intervene in case of a contact ban violated through contact by telephone or e-mail (not only in person). Given this, the differentiation applied in regard to enforcing a contact ban for written, telephone or other forms of contact in the context of an interim injunction under 382d of the Enforcement Code appears unjustified. Police enforcement of all prohibitions

[139] LGZ Wien, 20 October 1998, 44 R 814/98a = EFSlg 88.386.

[140] 'Bundesgesetz, mit dem Verstöße gegen bestimmte einstweilige Verfügungen zum Schutz vor Gewalt und zum Schutz vor Eingriffen in die Privatsphäre zu Verwaltungsübertretungen erklärt werden'; BGBl. I No. 152/2013.

under section 382d of the Enforcement Code would offer the opportunity to act on the offender via preventive legal clarification or, under certain circumstances, norm clarification under section 38b of the Security Police Act. Again, this differentiation lacks justification with regard to administrative criminal law.

Violations of interim injunctions often also increase the risk to endangered individuals and need to be taken into account in any security planning.

In addition to the fact that police enforcement of contact bans is a clear consequence for offenders and a signal to victims that they are taken seriously, such enforcement also means that violations against interim injunctions are documented by police. It is crucial that police must report all violations of contact bans to the district court, including in cases of interim injunctions under section 382d of the Enforcement Code. This could be significant for extending an existing interim injunction due to non-compliance according to section 382e, paragraph 2 of the Enforcement Code.

Legal clarification regarding direct orders and coercive measures outlined in section 382i, paragraph 2 of the Enforcement Code, with reference to the Security Police Act, would be advisable.

Section 1 of the Federal Act Declaring Violations Against Certain Interim Injunctions for Protection Against Violence and Protection Against Invasion of Privacy as Administrative Offences specifies a penalty of up to €2,500 (€5,000 in cases of repeat offences) for violations against certain interim injunctions if enforcement according to the Enforcement Code has not yet happened. According to section 7 of the Administrative Penal Act, under certain circumstances, the applicant may also be punished for complicity.[141]

Punishing the applicant, i.e., the individual at risk, contradicts the intent of the Protection Against Violence Act. While the effectiveness and duration of the prohibition of entry/approach order should be independent of the victim's will, once the order has expired, it is the victim that decides whether and to what extent an interim injunction is necessary and useful for making required changes in their life. **Imposing administrative penalties on them**

[141] See the discussion in Thomas Bauer & Rudolf Keplinger (2022): 'Gewaltschutzgesetz. Praxiskommentar', 6th edition, proLIBRIS, page 116.

at this time, should the prohibitions directed at the opposing party not be followed, sends the wrong signal to victims of violence.

Faced with state intervention against their violent behaviour, offenders often exert pressure on their victims and demand a return to the previous state of affairs. **This is another reason to object to punshing victims for complicity.**

Section 84, paragraph 1b of the Security Police Act took the step of explicitly focusing the wording of the legal text on the culpability of the offender. Yet, prevailing opinion does not rule out treating victims as having aided and abetted the offender. In reference to section 84, paragraph 1b of the Security Police Act and section 1 of the Federal Act Declaring Violations Against Certain Interim Injunctions for Protection Against Violence and Protection Against Invasion of Privacy as Administrative Offences, legal clarification is required in order to exclude the possibility of complicity under section 7 of the Administrative Penal Act.

Currently, victims are not informed about the initiation or outcome of administrative criminal proceedings under section 1 of the Federal Act Declaring Violations Against Certain Interim Injunctions for Protection Against Violence and Protection Against Invasion of Privacy as Administrative Offences. **For risk assessment and as evidence in any potential proceedings for an interim injunction, it is necessary that victims are able to receive, upon request, information about the course of relevant administrative criminal proceedings according to section 1 of the above-mentioned federal act.** This is also required to avoid double punishment, as the victim can also request that a violation of an interim injunction be penalised within the framework of the Enforcement Act.

Article 56: Measures of protection

55. Please provide information on the measures taken to ensure the following:

a. that the relevant agency informs the victim when the perpetrator escapes or is released temporarily, at least when they or their family might be in danger (paragraph 1 b);

b. the protection of the privacy and the image of the victim (paragraph 1 f);

c. the possibility for victims to testify in the courtroom without being present or at least without the presence of the alleged perpetrator, notably through the use of appropriate communication technologies, where available (paragraph 1 i);

d. the provision of appropriate support services for victims so that their rights and interests are duly presented and taken into account (paragraph 1 e).

Re 55a – Duty to inform upon release or escape

The duty to inform victims is regulated both by the Code of Criminal Procedure and the Enforcement of Sentences Act[142].

Code of Criminal Procedure

All victims as defined in section 65 (1a) as well as victims in need of special protection as defined in section 66a of the Code of Criminal Procedure are to be promptly notified, ex officio, about the release, lifting of pre-trial custody, or escape of the accused, as well as any potential recapture. All other victims are to be informed about upon their request.

The differentiation into different victim groups and the resulting differentiation of rights depending on a victim's status create unclear regulations and, in some cases, unequal treatment that appears unjustifiable. Unifying ex officio notifications for all victim groups would be desirable in order to simplify the handling of these regulations and minimise sources of errors.

It should also be noted that there are no legal provisions requiring victims to be informed about the imposition of pre-trial custody or temporary accommodation orders. Such notification would be desirable in the interest of victim protection and providing relief to victims, as the affected individuals could then know that they are no longer in danger.

Further, it is the experience of the Violence Protection Centres that restrictive measures such as contact and residence bans are sparingly imposed in connection with the release from pre-trial custody. However, these measures would significantly contribute to victim protection. **Furthermore, it is essential for security authorities to be informed about the issue of such orders and to report any violations to the court.**

[142] 'Strafvollzugsgesetz'; BGBl. No. 144/1969.

In addition, a legal basis should be established for requiring the police to restore the situation as ordered with direct administrative orders and coercive measures in the event of a violation of such orders.

Enforcement of Sentences Act

Victims must file a request to be informed about release from criminal custody as well as day leaves and other forms of temporary release. In the event of an escape from prison, victims are informed only if they have submitted a relevant request.

In case of an escape, victims should be notified automatically (ex officio). Requiring victims to anticipate the risk of escape and submit a corresponding request undermines confidence in the penal system. Additionally, processing such preventive requests, which only very rarely become actually relevant, adds an unnecessary burden to the justice system.

Ex officio notification is not necessarily required in case of release from criminal custody. Especially with long-term sentences, victims sometimes prefer not to know when the perpetrator is released (especially when there is little or no remaining close connection to the perpetrator).

Those victims who have requested notification should be informed not only of the first unsupervised leave but every time the perpetrator leaves the institution. It seems unreasonable that victims are only notified about the first unsupervised leave, as the risk of threats or violence against the victim does not decrease with each consecutive leave.

By law, victims (who have submitted the corresponding request) must be notified about an upcoming or already occurred release. **However, post-release notification undermines victim protection, as it leaves victims with no time to take adequate safety measures.** Victims should be given at least 48 hours to initiate necessary precautions. **It is also problematic that the law does not clearly specify to whom the victim should address their request for notification.** The law only explicitly states that the prison administration is responsible for notifying the victim, which does not necessarily mean that the request should be directed to the prison administration. The latter would also be problematic in many ways because victims frequently do not know in which prison the convicted is serving their sentence. Moreover, the place of imprisonment can change in the case of longer sentences. For these reasons, section 149, paragraph 5 of the Enforcement of Sentences Act should be amended to explicitly state

that the notification request must be submitted to the court of first instance responsible for the criminal proceedings.

Additionally, it should be noted that victims often do not know when and where the convicted will start their sentence and/or whether a postponement has been granted. The fear of encountering the offender often means a heavy burden for victims. Establishing a corresponding legal framework would serve the interests of victim protection.

Re 55b – Protection of victims' privacy and image

According to section 162 of the Code of Criminal Procedure, witnesses have the option to testify anonymously if there is reason to fear that disclosing their identity would pose a serious danger to the life, health, physical integrity or freedom of the victim or a third party.

Further, under section 161, paragraph 3 of the Code of Criminal Procedure, questions about matters from a witness' highly personal sphere of life may be asked only if the specific circumstances of the case make this absolutely essential. Under Section 161, paragraph 1 of the Code of Criminal Procedure, it is to be ensured to the greatest extent possible that witnesses' personal circumstances are not disclosed to the public if other persons are present in the courtroom.

Section 229, paragraph 1 (2) of the Code of Criminal Procedure stipulates that the public may be excluded – ex officio or upon request by the victim – from the main proceedings before discussions of the victim's personal life or secret matters.

In addition to the possibility of separate examination ('kontradiktorische Vernehmung'), in which witness and accused do not encounter each other in the court room, section 247a of the Code of Criminal Procedure allows for the examination of witnesses using technical equipment for audio and visual transmission for other significant reasons.

These legal measures are intended to protect victims' privacy and image. **However, experience shows that these provisions are only rarely referred to and put into practice. In any case, the biggest attacks on victims' privacy happens in form of the sensational and perpetrator-centred reporting by Austrian media. For years, victim protection organisations have been demanding clear guidelines for media reporting to ensure sufficient victim protection.**

Re 55c – Separate examination

Criminal proceedings

Section 165 and section 250, paragraph 3 of the Code of Criminal Procedure regulate the separate and 'sensitive' examination ('kontradiktorische Vernehmung' and 'schonende Vernehmung') of victims during both the investigative and main stages of criminal proceedings.

For examinations of victims in need of special protection (section 66a of the Code of Criminal Procedure) or any other witnesses meeting the criteria outlined in section 66a, or if otherwise in the interest of establishing the truth, the extent of participation in proceedings can be limited, either at the request of the prosecutor or ex officio, in such a way that the parties and their representatives can follow the examination using technical equipment for audio and visual transmission and exercise their right to question without being present during questioning. Especially for cases where there is a need for special protection, an expert may be assigned for the questioning. In any case, care must be taken to minimise the chance of the witness encountering the accused or other parties to the proceedings.

For minor victims that may have been violated in their sexual sphere by the accused's alleged crime, the court must always conduct the examination in the manner described above; the same applies to all other victims upon their request or upon request by the prosecutor.

This provision is mandatory and leaves no room for discretion. In practice, however, it often depends on the judge's goodwill whether a video examination is carried out. Since not adhering to victims' rights has no legal repercussions within proceedings, enforcing these rights can be challenging. **The Violence Protection Centres have been demanding for years the right to file an appeal for annulment in cases of significant violations of crucial victims' rights – so far, without success.**

Sensitive examination as described above is sometimes refused by the court. As an alternative, a different kind of sensitive interrogation is provided for under section 250, paragraph 3 of the Code of Criminal Procedure, in which the judge has the discretion to ask the accused to leave the courtroom during the victim's testimony.

Victims under section 65 (1a) and section 66a of the Code of Criminal Procedure – but not those under section 65 (1b) (i.e., surviving family members of the killed victim) – have an

explicitly legislated right to sensitive examination. **This should be implemented for all categories of victims.**

Civil proceedings (divorce proceedings, proceedings for issuance of protective orders etc.)

In civil proceedings that are materially connected to a criminal case, the option for sensitive questioning via video (following the model in criminal law) also exists (section 289a, paragraph 1 of the Code of Civil Procedure). This regulation benefits all victims as defined in section 65 (1a) of the Code of Criminal Procedure. **Other victims, such as surviving family members in proceedings against convicted individuals, victims of stalking or cyberstalking as well as minors who have witnessed violence in their immediate social environment, should also have the option to request separate examination under section 289a of the Code of Civil Procedure.**

Unfortunately, this provision is rarely applied in practice. **The relationship between victims and perpetrators should also be given greater consideration in civil proceedings conducted between them.**

In addition, according to section 289a, paragraph 2 of the Code of Civil Procedure, separate examination can also be requested irrespective of victim status or a related criminal case, if testifying in the presence of the parties or their representatives is unreasonable due to personal involvement and the subject matter of the evidence. **In order to minimise secondary victimisation, this provision should be made mandatory.**

In proceedings for the issuance of interim injunctions according to sections 382b, 382c and 382d of the Enforcement Code, simultaneous presence with the endangering person in the same courtroom can be a significant psychological burden for the applicant. Especially in proceedings under section 382d of the Enforcement Code, it is problematic if the stalking person encounters the victim in court, as contact with the victim is precisely the matter of the proceedings.

According to section 382f, paragraph 2 of the Enforcement Code, the court must examine whether to forego the hearing of the opposing party due to imminent danger. In cases where bilateral participation is required, endangered individuals should be examined separately or sensitively. **Since sensitive interrogation via video transmission requires some preparatory work, section 289a, paragraph 1 of the Code of Civil Procedure should be expanded to**

include a simpler option for separate interrogation, modelled after section 250, paragraph 1 of the Code of Criminal Procedure, in order to ensure that victim-protecting interrogation can be guaranteed.

Re 55d – Victim support services

Section 66b of the Code of Criminal Procedure outlines which victims have the right to free psychosocial and legal court assistance. The group of eligible individuals was expanded in 2020.

Victims of defamation, insults and false accusations relating to previously settled criminal offences were granted the right to court assistance by the 2020 Combatting Hate on the Net Act. However, these victims are only entitled to more extensive victims' rights if they are classified as victims in need of special protection under section 66a of the Code of Criminal Procedure. **Since these offences are private prosecution offences, the question arises as to who should promptly assess the special need for protection in order to ensure the associated victims' rights are upheld.**

The entitlement to legal court assistance raises practical questions, since until the Combatting Hate on the Net Act came into force, only victims of offences subject to public prosecution were entitled to such support. **Clarification is needed in regard to the responsibilities of legal court assistance in relation to the position of the victim as private prosecutor.** The requirements for initiating a private prosecution and the corresponding investigative proceedings are legally complex; this makes pursuing a private prosecution without legal representation difficult to imagine. Whether and to what extent legal court assistance can act as representation in such cases is unclear. According to the cost regulations, if the accused is acquitted, the defence costs must be borne by the victim (section 393, paragraph 4a of the Code of Criminal Procedure).[143] This situation is likely to deter victims as defined by section 66b, paragraph 1 (d) of the Code of Criminal Procedure from filing a private prosecution due to the financial risk.

Since 2020, minors who have witnessed violence in their immediate social environment have also been entitled to court assistance, which closes a long-standing gap. **However, these minors were not included in section 65 (1a) of the Code of Criminal Procedure and therefore**

[143] Michael Rami (2022): 'Privatanklage und Prozesskosten nach dem Hass-im-Netz-Bekämpfungs-Gesetz'. ÖJZ 2/2022, pages 5–6.

do not belong to a category of victims. This means that they only have the right to court assistance, but not other victims' rights (such as access to files).

Under section 67, paragraph 6 of the Code of Criminal Procedure, private parties in criminal proceedings have more extensive rights than victims as defined in section 65, paragraph 1 of the Code of Criminal Procedure. Article 56, paragraph 1 (d) of the Istanbul Convention states that all victims should have the opportunity to be heard, present evidence and express their views, needs and concerns as well as have them examined, either directly or through representation.[144] The Austrian Code of Criminal Procedure attaches enhanced participation rights to private participation. **However, victims of domestic violence often have a limited interest in financial compensation, which leads to the paradoxical and often incomprehensible situation that victims, even if they do not actually seek compensation, must quantify a claim in order to obtain essential participation rights such as the right to propose evidence. We therefore demand that victims be entitled to all information and participation rights independent of the assertion of a financial compensation claim.**

In general, it should be noted that the right to court assistance is still not widely known among the Austrian public. The number of individuals receiving court assistance has been steadily increasing since its introduction, with an annual increase of around 5% to 6% since 2011. In 2021, a total of 9,105 individuals received court assistance.[145] This figure cannot be put in an exact comparison with the number of victims in the police crime statistics, as not all victims of crime are entitled to court assistance. Nevertheless, victim protection organisations know that only a fraction of all victims of violent crimes utilise court assistance. **Public awareness campaigns about court assistance are needed, and both the police and the justice system should draw more attention to this right.**

[144] See https://www.coe.int/en/web/istanbul-convention/text-of-the-convention.
[145] See Federal Ministry of Justice (2023): 'Tätigkeitsbericht Prozessbegleitung 2012 – 2021', pages 23–24. Available in German at https://www.justiz.gv.at/service/opferhilfe-und-prozessbegleitung/weiterfuehrende-informationen.2c94848535a081cf0135bdec5753010a.de.html.