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**European Court of Human Rights  
Council of Europe  
67075 Strasbourg Cedex  
FRANCE**

**Third-party intervention in *Kurt vs. Austria*, Application no. 62903/15**

03 02 2020

The “Bundesverband Gewaltschutzzentren Österreichs” is an association of the Austrian protection against violence centres, the Vorarlberg Protection Against Violence Contact Point and the Vienna Domestic Abuse Intervention Centre.

## **1. Introduction**

Protection against violence centres<sup>1</sup> have been provided nationwide in Austria for all the federal provinces since 1995. The protection against violence centres as statutory recognised victim protection facilities<sup>2</sup> are commissioned by the Federal Ministry of the Interior and the Ministry of Women’s Affairs, to provide victims of family violence or victims of stalking with advice confidentially and free of charge, and to support them on their way to a violence-free life. The protection against violence centres offer support in criminal and civil proceedings without charge for victims of violence. Support was provided for a total of 253,138 victims of violence in the two decades from 1997 to 2018.

The proposed intervener considers that this case raises critical questions about the scope and content of the obligations to be met by the contracting parties, in particular, under Articles 2 and 3 of the Convention on Human Rights.

The legal development in the field concerning the protection of victims, which the protection against violence centres have been observing over the course of 25 years and in which they have also participated as co-developers for an almost equally long period<sup>3</sup>, is positive.

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<sup>1</sup> In the first Protection Against Violence Act the legally recognised victim protection facilities were named as “Interventionsstellen” or domestic intervention centres. For over a decade now these have been referred to as “Gewaltschutzzentren” or “Gewaltschutzstelle” - protection against violence centres or protection against violence contact points, with the exception of the Vienna Domestic Abuse Intervention Centre. The name “protection against violence centres” as used in this text also includes the Vienna Domestic Abuse Intervention Centre and the Vorarlberg Protection against Violence Contact Point.

<sup>2</sup> § 25 para 3 Austrian Federal Security Police Act (Sicherheitspolizeigesetz), BGBl (Federal Law Gazette) I 1999/146 in the version of BGBl (Federal Law Gazette) I 2006/56.

<sup>3</sup> Since 1997 reform suggestions are made for victim relevant laws and are presented annually to the relevant government departments. Reform suggestions, which can be seen among others on the website of the Styrian Protection Against Violence Centre, [http://www.gewaltschutzzentrum-steiermark.at/images/Reformvorschlaege\\_2018.pdf](http://www.gewaltschutzzentrum-steiermark.at/images/Reformvorschlaege_2018.pdf) and also [http://www.gewaltschutzzentrum-steiermark.at/images/Reformvorschlaege\\_2019.pdf](http://www.gewaltschutzzentrum-steiermark.at/images/Reformvorschlaege_2019.pdf). (31.01.2020).



Austria was a pioneer with the first Protection Against Violence Act<sup>4</sup> in Europe. Deficiencies in this are fewer to be found in the criminalising of violence against women and domestic violence in themselves, as punishable offences have been continuously adjusted, the stringency of punishments for crimes of violence have been significantly increased and a more equitable relationship has thus been established to crimes against property. To this extent a good report can be issued on the findings of the legal developments. But in relation to children, it should be noted that the Protection Against Violence Act 2019 no longer provides the previously defined fixed protection areas for schools, kindergartens and after-school care centres. They are to be replaced by the prohibition of approach. However, from the point of view of the protection against violence centres, the prohibition of approach does not provide equivalent protection.

Furthermore protection against violence centres see deficiencies in the implementation of the provisions for the protection of victims, which were also established in the course of international procedures and investigations.<sup>5</sup>

According to the EU wide survey of the European Union Agency for Fundamental Rights (FRA), reporting rates of incidents of violence against women to the police are generally low. Only one in three victims of partner violence reports their most recent serious incident to the police or some other service.<sup>6</sup> It is very common that perpetrators warn victims not to report them the police and even threaten them and the children in case they do report. Thus it needs immense courage, empowerment and support for victims to report and it should not be hold against them if they are not able to report immediately after an incident. Moreover, violence often escalates after victims report it and try to assure that separate and effective protection needs to be in place. As repeated homicide cases, such as the CEDAW cases in Austria show, protection orders by the police or civil court are not strong and effective enough to prevent murder and should not be used instead of pre-trial detention.

In response to this the protection against violence centres see it as problematic, that threatening persons are frequently not remanded in custody after being reported to the police. It has frequently been shown in the past that the instruments and measures for protecting the victims of violence, such as police emergency barring orders and judicial interim injunctions, have not offered an adequate victim protection in high risk cases.

Interim injunctions cannot provide adequate protection as, after the application for an interim injunction, it often takes several days, or up to several weeks, before it is actually issued. It thus does not enable the immediate protection of victims. As a rule – in view of the fair trial principle (ECHR Art. 6), among other reasons – the courts obtain a personal

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<sup>4</sup> BGBl 1996/759.

<sup>5</sup> See the CEDAW ruling in *Yildirim versus Austria*, 2007, Communication No 6/2005, [https://www.coe.int/t/dg2/equality/domesticviolencecampaign/resources/FatmaYildirimVsAustria\\_en.pdf](https://www.coe.int/t/dg2/equality/domesticviolencecampaign/resources/FatmaYildirimVsAustria_en.pdf); *Gökze versus Austria*, 2005, Communication No 5/2005, [http://www.worldcourts.com/cedaw/eng/decisions/2007.08.06\\_Goekce\\_v\\_Austria.htm](http://www.worldcourts.com/cedaw/eng/decisions/2007.08.06_Goekce_v_Austria.htm) (31.01.2020), and the GREVIO Baseline Evaluation Report Austria.

<sup>6</sup> European Union Agency for Fundamental Rights (2014a): Violence against Women – A EU wide survey. Results at a glance, Vienna, <http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-results-glance> (2016), 10.



impression of the party in danger, as well as of the perpetrator, before they decide on an application. In most cases, the courts use the full 14-day period of extension of the barring order after the application for interim injunction. Even though it would not be obligatory to interview the perpetrator (who, in turn, could lodge an objection, which would lead to a new first-instance decision on the application after conducting a hearing), the courts usually decide only after interviewing both parties, which, according to the experience of the violence prevention centres, normally takes between one and two weeks. Even if the courts do not interview the perpetrator, the process of summoning and interviewing the survivor takes a few days, and the courts thus cannot make a decision immediately. In addition, it has become an established practice that survivors who want to file an application for interim injunction are referred to the violence prevention centre or intervention centre, in view of the statutory duty of the latter to provide support and assistance to victims. Many courts refuse applications that survivors file on public consultation day, even though bringing action and filing applications would, in fact, be one of its purposes.

It is essential for the protection of the victims in such high risk cases that the threatening party is remanded in custody.<sup>7</sup> Therefore it is imperative that the authorities have adequate knowledge for dealing with the situation and in particular about the specific and special dynamism involved in violence against women and domestic violence and that these dynamics are taken into account in a danger analysis.

## 2. The special dynamics of violence against women and domestic violence

The issue in a violent relationship is not that of a repetitive violent quarrel - there are no isolated violent events – it is far more a case of systematic violence. Violent actions are embedded in a cycle consisting of tension development, violence escalation and remorse, which is constantly repeated. The greatest difference between this and situational violence is that of the distribution of power among the persons involved. The issue for the threatening person is dominance, control and power over the other person. These circumstances lead to an asymmetrical relationship between the partners. It is characteristic for a violent relationship, that it generally does not stop at a single violent act, but that the frequency and intensity increase as the violent relationship continues. Women who are on the point of leaving the relationship are subject to the high risk of being murdered by their partners in particular when there has been a long history of violence before the intended separation.<sup>8</sup> The dynamism of the violence can only be broken by external interventions.

Domestic violence is a complex system of caring, violence and control. It is through this that an ambivalent relationship is developed with the threatening person, whose behaviour varies between loving and violent phases. A cycle consisting of tension development, violence escalation and remorse develops, which is constantly repeated. This phased sequence was described by *Lenore Walker*<sup>9</sup> as the so-called “cycle of violence”. The violence spiral is comprised of four stages:

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<sup>7</sup> Comp. also Austrian NGO-Shadow Report to GREVIO (2016), 10.

<sup>8</sup> *Haller, B.*, High Risk Victims - Tötungsdelikte in Beziehungen. Verurteilungen 2008-2010 (2012), 60. This Study was commissioned by the Austrian Chancellery and Ministry for Women’s Affairs.

<sup>9</sup> Professor of Psychology at the University of Denver, Colorado.



- Tension development: This phase is above all one of psychological violence in the form of insults and degradation when the endangered person attempts to avoid conflict situations, but is ultimately unable to control the violent behaviour of the partner.
- Abuse: In this phase psychological, physical and sexualised assaults take place. People subjected to violence react in different ways to the use of violence, such as flight, self-defence or freezing, by means of which abuse is endured. This phase is marked by hopelessness, loss of own control of the situation and a sensation of deadly fear. In this crisis situation, it can happen that the experience will become dissociated, which can have the result that the persons affected will behave with police officers in an aggressive, apathetic or a contradictory manner in the statements they make.
- Remorse and affection (“latency or the honeymoon phase”): Following an abuse it can happen that some violent people will show remorse and promise that they will improve. In this phase it frequently happens that the person affected by violence will shelve the intention of a separation and revive the relationship, and also refuse to make a statement in a criminal case that is already before the courts. This also often goes along with a sudden refusal to accept offers of help and with a renewed concentration on the partner and the shared relationship together. What is behind this is the hope that the violence will have an end and that the threatening person really means it this time around about never again to use violence.
- Pushing away responsibility: Attempts at explanation and justification attempts both by the violent person and also the one at risk, on the issue of how the escalation began now start. In the case of the person at risk, a readiness to accept responsibility for the violence can result from a wish of being able to prevent the violence escalation or to influence it the next time around. Feelings of guilt result from this about the failure of being unable to prevent the use of violence. When the threatening person once again gains control over the relationship the cycle of violence begins once again.<sup>10</sup>

The “cycle of violence” is a psychological declaration model. It must also be taken into account, however, that there is also a sociological context in this violence against women and domestic violence. Existing gender roles in particular and the unequal distribution of power between the partners and the fear of further violent attacks make it difficult for women to find a way out of a violent relationship. This fear of the victims – also in regard to the endangering of the children – and ignorance of the legal possibilities that exist is made use of by the threatening person for maintaining the unequal distribution of power.

Without this background knowledge as described the behaviour of the victims to the outside world can appear ambivalent and contradictory. It is perceived that the victim frequently does not inform the police immediately after a violent attack, refuses to make a statement in a criminal case and the threatening person involved will appear to the police, the court or members of the public involved “mildly agitated” or “cooperative”.

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<sup>10</sup> Comp. The summarising *information paper: Gewaltspirale in Paarbeziehungen – spiralling violence in the relations of couples*, Swiss Prevention of Violence Office, Eidgenössisches Büro für die Gleichstellung von Frau und Mann EBG (Equality of the Sexes Office), <https://www.ebg.admin.ch/ebg/de/home/dokumentation/publikationen-allgemein/publikationen-gewalt.html> (31.01.2020); Jauk, B., Gewalt im sozialen Nahraum. In Nau, J./Walter, G./Oud, N. (Hrsg), Aggression, Gewalt und Aggressionsmanagement (2019), 389f.; Wehinger, A., Zwischen Selbst- und Fremdbestimmung – Opfer häuslicher Gewalt im Spannungsfeld. In Mayrhofer M./Schwarz-Schlöglmann, M. (Hrsg), Gewaltschutz. 20 Jahre Gewaltschutzgesetz und Gewaltschutzzentren /Interventionsstellen (2017), 34 ff.



Behaviour of this kind by the victims can become understandable, as soon as it can be seen in the context of the “cycle of violence”, the previous history of the case, the fear of continued violence or also the emotional and economic dependence of the victim on the threatening person. When victims continue to maintain contact with the threatening person in a situation of great risk to them or hold back on making an official complaint to the police, this can also be an indicator that the victim is in a state of deadly fear, and has hopes of either being able to control or to de-escalate the situation. Unfortunately, a lack of knowledge about this dynamic frequently leads to the persons concerned being themselves made responsible for the renewed violence by outside parties and the authorities. This phenomenon is known as a perpetrator and victim reversal. The person involved does not, however, have any responsibility for renewed violence, which could even result in a homicide and she must not be held responsible for the pattern of behaviour described above (no immediate official complaint to the police or the making of contradictory statements). The perpetrator is always responsible for the own actions and the state has the obligation to provide the best possible protection for the victims.

In order to be able to recognise a high risk potential, all the available information must first be collected and evaluated, above all that on the history of violence together with the current risk factors and the background knowledge about violence against women and domestic violence. The behaviour of both victims and threatening persons must be observed in an overall context, the assessment of isolated actions has no validity as a statement in respect to the existence or non-existence of a high level of risk. Only in the course of an overall assessment can it be possible to reach a correct interpretation for the behaviour of threatening persons in the context of a history of violence, external negative conditions that affect them, their inner processing of the external situation and critical patterns of action. All of this background knowledge is to be expected from authorities and experts – but not, however, from the victim itself. The victims will among other points, differently assess the risk potential of the perpetrator, among other reasons because of the hope that he will improve, but also as a result of traumatisation and inner repression and refusal to accept the facts. This is also a reason why victims occasionally permit contact between the threatening person and the joint children.

The risk exists that the police and the authorities will believe incorrectly that the children will not be in danger when the man is violent with the woman or threatens her. But the experience of witnessing violence can also be traumatic for children. Violent men know that the children are most important for their partners and kill joint children in order to hurt their partners. The killing of a child is always an act of aggression against the woman too. This is why a professional risk assessment must always take the children into account and what the authorities involved must fulfil their obligation to protect the children on the slightest suspicion that they might be at risk.

### **3. The requirements for imposing pre-trial detention**

The requirements for imposing pre-trial detention are a strong suspicion that an offence has been committed, the existence of a reason for imprisonment and the proportionality of pre-trial detention (Section 173 Austrian Code of Criminal Procedure - StPO). A person may only be deprived of freedom under the terms of the constitution within the meaning of article 5 para. 1 lit c ECHR and article 2 para. 1 no 2 of the Law on the Protection of Personal Freedom

(PersFrSchG), when there is sufficient suspicion that he has committed a punishable offence or when it is reasonably considered necessary to prevent his committing an offence.<sup>11</sup>

Section 173 para 2 no 3 of the Austrian Code of Criminal Procedure deals with the justification for custody on committing a crime or on the risk that an offence might be committed and thus the question of whether the nature of the offence gives just reason to fear that the accused person might commit an offence against the same instance protected by the law or that the accused might attempt or threaten to do so. Pursuant to Section 173 para. 3 second sentence of the Austrian Code of Criminal Procedure this is of particular relevance when there is a danger to the life and limb of other persons from the accused.

In the context of violence against women and domestic violence the experience of the protection against violence centres has shown that pre-trial detention is only rarely made in these cases in Austria.<sup>12</sup> The GREVIO Baseline Evaluation Report also makes reference to the fact that the public prosecution offices rarely make use of a remand, since the grounds for a remand in custody are rarely seen as being applicable. GREVIO states specifically in this matter: “The specialist support and counselling services, however, repeatedly pointed out that even in cases of severe violence and where a woman and her children are clearly at risk, the (public) prosecution offices rely on a (civil law) protection order to ensure their safety rather than opting for pre-trial detention. Whether the reasons lie in an over-reliance on the system of emergency barring and protection orders, short-comings in how the risk to an individual victim is assessed, or general attitudes regarding domestic violence and the seriousness of threats made in such a context, GREVIO is of the opinion that this practice should be re-assessed.”<sup>13</sup>

There is no statistical data in Austria how often pre-trial detention is ordered by the courts in cases of violence against women and domestic violence because this data has not been collected by the authorities, which is only one facet of the fundamental problem of either the general shortage of statistical material or the inconclusive nature of that which is available on violence against women and domestic violence.<sup>14</sup>

Dangerous threats are frequently underestimated as indications of a real danger. It is regularly argued that the threatening person has often made threats in the past and none of these has yet been carried out. This is incorrectly interpreted as a sign that the threats will not be carried out. Threats are ever and again interpreted by the public prosecution offices as “statements of resentment made due to the social milieu or the situation”. This interpretation leads to the assumption that there is no danger of recurrence and when a criminal charge is made against a person, they remain free until the court hearing. Most of the homicides that are committed are preceded by threats - in combination with other risk factors.

In Austria Section 173 para. 1 last sentence of the Austrian Code of Criminal Procedure (StPO) is often applied under the assumption that an emergency barring order to enter the home (sicherheitspolizeiliches Betretungsverbot) pursuant to Section 38a of the Federal

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<sup>11</sup> *Kirchbacher/Rami in Fuchs/Ratz, WK Austrian Code of Criminal Procedure StPO § 173.*

<sup>12</sup> See also the Austrian NGO-Shadow Report to GREVIO 2016, 10.

<sup>13</sup> GREVIO Baseline Evaluation Report Austria (2017), 41.

<sup>14</sup> Comp in this the extensive differentiation concerning the data materials gathered in the Austrian NGO-Shadow Report to GREVIO 2016, 17.





Security Police Act (SPG) is a milder measure in the meaning of Section 173 StPO and is adequate for keeping the accused person from carrying out the threatened crime. In practice, however, the protection against violence centres report ever and again cases in which women have been killed, despite the issuing of a police barring order to enter the home. According to a study on homicides committed in personal relationships in Austria, a history of violence was on file in over half of the cases, and it was in the majority of cases habitual and regular violence, which had to some extent a duration of decades.<sup>15</sup>

The observations of the CEDAW committee no. 5/2005 (in reference to Sahide GOEKCE) and no. 6/2005 (in reference to Fatma YILDIRIM) referred in both cases to the fact that the public prosecutor being aware of the previous history and the reported cases of violence should have ordered pre-trial detention. The Republic of Austria was recommended, among other issues, that it must react with due diligence to prevent violence against women and to prosecute perpetrators of domestic violence vigilantly and in a speedy manner in order to convey to offenders and the public that society condemns domestic violence. The state must also ensure that criminal and civil remedies are utilized in cases where the perpetrator in a domestic violence situation poses a dangerous threat to the victim. Furthermore the state has to ensure that in all action taken to protect women from violence, due consideration is given to the safety of women, emphasizing that the perpetrator's rights cannot supersede women's human rights to life and to physical and mental integrity.<sup>16</sup>

The GREVIO Report 2017 includes the following statement: "GREVIO strongly encourages the Austrian authorities, to (...) step up measures to assess the real risk of re-offending in domestic violence cases in order to make more appropriate use of pre-trial detention where warranted."<sup>17</sup>

A decree of the Federal Ministry for the Constitution, Reform, Deregulation and Justice of 03.04.2019 referring to the directives for the punishment of crime in the intimate social environment<sup>18</sup> refers to the GREVIO Baseline Evaluation Report Austria of 2017 and borrows from its content in stating the position of the Republic of Austria on the recommendations of the CEDAW Committee of 6.8.2007<sup>19</sup>. On quoting the risk factors which are relevant in the context of violence against women and domestic violence, the public prosecution offices are provided with directives for checking on the custody issue from the aspect that a widening of the basis on which decisions are to be made should include the provision of an overview that is as complete as possible concerning the situation in all its aspects. The decree signalises the significance to be given to a comprehensive investigation and the taking into account of decision-relevant factors in the context of violence in the intimate social environment in the assessment of the detention question. This decree was first issued in 2019 and for this reason its terms did not yet have validity in 2012. In the assessment of the

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<sup>15</sup> Haller, B., High Risk Victims - Tötungsdelikte in Beziehungen. Verurteilungen 2008-2010 (2012).

<sup>16</sup> Recommendations of the CEDAW Committee, *Yildirim* versus Austria, 2007, Communication No 6/2005, *Gökze* versus Austria, 2005, Communication No 5/2005, Para 12.3, comp FN 5.

<sup>17</sup> GREVIO Baseline Evaluation Report Austria (2017), 42.

<sup>18</sup> BMVRDJ-S1068/003-IV 5/2019.

<sup>19</sup> <https://www.google.com/search?client=firefox-b-d&q=Stellungnahme+der+Republik+%C3%96sterreich+zu+den+Empfehlungen+des+CEDAW-Komitees+vom+6.8.2007> (31.01.2020).

danger posed by the accused person, attention is drawn among other points to the use of the standardised threat assessments, and this “to the extent that any such measures are available.”

In the experience of the protection against violence centres, unified and standardised threat assessments are not currently applied by the authorities on a comprehensive basis. It is a fact that police officers are informed about risk assessment in the course of their basic training, but there is no instrument included in their daily work. The issues of risk assessment and threat management in cases of domestic violence have not yet been adequately covered in the training provided for public prosecutors and judges.

The Austrian NGO-Shadow Report to GREVIO also places on record that “there is still no standard procedure for the protection and support of women who are the victims of repeated and serious violence (including women threatened by femicide)”. “The Austrian police have developed the risk assessment tool SALFAG (situational analysis for violence in the family and relationships), but this has been neither adequately tested and evaluated in research, nor has a specific assessment of deadly violence been made, as specified by the Istanbul Convention”.<sup>20</sup>

It has to be established that the assessment of the risk to common children and stepchildren is still neglected.

#### **4. Risk assessment and security planning**

Article 51 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)<sup>21</sup>, signed by the Republic of Austria in 2011 and ratified in 2014, obliges the authorities to carry out standardised risk prognosis. The explanatory report on the Istanbul Convention comments on the context that this article establishes the obligation that all responsible authorities (and not only the police) must make an effective evaluation of the risks and produce a risk management plan on the basis of standard procedures and also do so in the scope of the interdisciplinary cooperation of the authorities in individual cases.<sup>22</sup>

The Austrian protection against violence centres all regularly make use of risk assessment tools in their work with victims. This risk assessment is carried out in a dynamic and process oriented manner, and this means it is continuously updated from the moment of a risk relevant change of circumstances either with the threatening person or the victim. In this context essential supplements or adaptations to the individual security plans are worked out together with the victims. It is important during the course of the security planning, not only to keep the place of residence of the victims in scrutiny, but also to include their workplace and locations where their children might be endangered (schools, nurseries, afternoon care centres etc.).

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<sup>20</sup> Austrian NGO-Shadow Report to GREVIO (2016) 79 f, <http://www.ohchr.org> (31.01.2020).

<sup>21</sup> BGBl (Federal Law Gazette) III 2014/164 in the version of BGBl (Federal Law Gazette) III 2016/61.

<sup>22</sup> Text and explanatory report of the Istanbul Convention, 94.





In the course of this the following risk assessment tools are mainly in use: the Danger Assessment Scale after *Jaquelyn C. Campbell* (DAS)<sup>23</sup>, the Dynamic Risk Analysis System for Intimate Partners (DyRiAS<sup>®</sup>) of the Institute for Psychology and Threat Management<sup>24</sup>, the threat assessment model after *Gavin de Becker*<sup>25</sup> and the protection factor model after *Frederick S. Calhoun*<sup>26</sup>. In each of these tools the focus is on the dynamic of violence against the (ex-)intimate partner and the concomitant risk factors involved. A risk assessment which does not take account of these especially dangerous moments that occur, should not be used in cases of domestic violence or it would lead to an incorrect assessment of the risk involved.

These tools examine various factors, in which risk characteristics are manifested. Factors of this kind are, for example, separation situations, previous violent behaviour and a subjective assessment as also the processing of current and future situations on the part of the threatening person, the possession and use of weapons, threats of violence, suicide and murder, failure to observe police or court orders, control and jealousy behaviour, unexpected changes in behaviour patterns and announcement of behaviour following the murder as also deadly fear on the part of the victim. The guiding principles of threat management according to *Jens Hoffmann* (DyRiAS<sup>®</sup>) include the previous history, the behaviour and communication of the threatening persons as central sources of information, which must be both seen and recognized as warning signals on the path to violent actions.<sup>27</sup> An important point in risk assessment is orientation to the perpetrator and also to the perpetrator type. *Jens Hoffmann* differentiates between the cyclic perpetrator type, the overcontrolled perpetrator type and the psychopathic perpetrator type.<sup>28</sup> A closer analysis with perpetrators shows that they often appear to be very adapted and controlled to the outside world and can accept subordination to the authorities (such as e.g. the police). These are the perpetrators who are at first experienced by the police as extremely cooperative and understanding. But this does on no account mean that they are not dangerous. In the microcosm of the family these are the men who assert and maintain their power over their partners with violence.

When the analysis using DyRiAS<sup>®</sup> indicates a high risk of a seriously violent act, the evaluation result including all known facts of the case underlining in particular the “Red Flags”<sup>29</sup> is communicated to the authorities and other facilities. In the scope of an opinion

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<sup>23</sup> *Campbell/Webster/Glass*, The Danger Assessment. Validation of a Lethality Risk Assessment Instrument for Intimate Partner Femicide, in: *Journal of Interpersonal Violence* 24/4 (2009) 653 – 674, <https://www.dangerassessment.org/DATools.aspx> (31.01.2020).

<sup>24</sup> <http://www.i-p-bm.com/dyrias/dyriasintimpartner.html> (31.01.2020). *Hoffmann/Glaz-Ocik*, in: *The independent and interdisciplinary Journal Wissenschaft & Polizei*, 45 (48).

<sup>25</sup> *De Becker, G.*, *The gift of fear* (1997).

<sup>26</sup> *Calhoun, F.S./Weston, S.W.*, *Contemporary threat management, A Practical Guide for Identifying, Assessing and Managing Individuals of Violent Intent* (2003).

<sup>27</sup> *Institut für Psychologie und Bedrohungsmanagement*, *Homicides and Serious Violence of Intimate Partners*, (2010) 7.

<sup>28</sup> *Hoffmann/Glaz-Ocik*, DyRiAS-Intimpartner: Konstruktion eines online gestützten Analyse-Instruments zur Risikoeinschätzung von tödlicher Gewalt gegen aktuelle oder frühere Intimpartnerinnen, in: [https://www.i-p-bm.com/images/Literatur\\_und\\_Presse/hoffmann%20%20glaz-ocik%20-%20dyrias%20intimpartner%20paper.pdf](https://www.i-p-bm.com/images/Literatur_und_Presse/hoffmann%20%20glaz-ocik%20-%20dyrias%20intimpartner%20paper.pdf) (31.01.2020).

<sup>29</sup> The behaviour patterns through which the targeted crimes of violence by perpetrators are shown with intensified clarity, <http://www.i-p-bm.com/dyrias/dyriasintimpartner.html> (31.01.2020).

remand in custody is suggested, when it is to be feared that there is a risk of a serious violent act being committed.

The risk assessments that have been carried out by the protection against violence centres include important information for the police and the public prosecution offices. So that they can be interpreted correctly, however, it is important that both the police and the public prosecution offices are in possession of appropriate risk assessment knowledge.

## 5. Conclusion

It is an established and incontestable fact that the state is responsible for the protection of women and children from domestic violence. The victims must be empowered in the process achieving of measures for their own protection and supported in this. They must not be left alone with the sole responsibility for their own security, not least because in an acute violent situation they are often not even in a position to make use of all the protective measures that are theoretically available to them. The state has the positive obligation, to make use of all possible means and measures at its disposal, to protect women and children from domestic violence. This also includes making use of all the available legal instruments such as the possibility of child and youth welfare, of applying for a restraining order to protect children and to initiate action to suspend, limit or make subject to supervision the right to contact threatening persons may have with their children.

All authorities must ensure that the decisions and measures in this context have a preventative and dissuasive effect on the threatening person and restrain this person from committing offences.

In the event of serious violence against women and children protection by means of a police barring order and injunctions under civil law are not adequate means of prevention. It is instead in all circumstances essential that the authorities should make use of the measures available to them under penal law. A legal instrument, that is suitable for preventing a directly threatened criminal offence from being committed, is the imposing of pre-trial detention. For this reason, the existence of the requisite conditions for this must be checked without fail. In the course of this all the known risk factors must be taken as a basis for assessment and evaluated in accordance with appropriate specialist knowledge.

Yours faithfully,



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Federal Chairperson

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