

Victim-oriented work in victim-offender mediation in cases of violence in couple relationships

Victim-offender mediation – a proven instrument

Victim-offender mediation has been available in Austria since 1985. It is regulated in law in Section 204 of the Code of Criminal Procedure (StPO). Since then, more than 300,000 victims and offenders have participated in such mediation. In more than 70% of cases, a comprehensive personal reassessment and reparation for the damage caused was achieved in victim-offender mediation. Subsequently, it was therefore possible to suspend criminal proceedings after successful diversion through the judiciary system. Research results on victim-offender mediation show maximum victim satisfaction with at the same time the lowest rate of recurrence compared to other forms of sanction. In cases of criminal assault – the most frequent offence in victim-offender mediation, accounting for 2/3 of all referrals – the rate of recurrence three years after judicial sentencing is around 36%. However, after positive victim-offender mediation, the rate of recurrence is 11%¹. No other form of response comes even close to such a low rate of recurrence. General victim satisfaction is 92% (client survey in 2018).

Responsible action in cases of violence in couple relationships

NEUSTART is aware of its responsibility in the field of violence in couple relationships and also actively participates in initiatives to prevent violence against women. NEUSTART also sees itself obligated to comply with the principles of victim-oriented work with offenders. That is why a methodology was developed in the area of victim-offender mediation in cases of violence in couple relationships that aims to counter the risks in the best possible way. We believe this development has been successful, as the high victim satisfaction and low rates of recurrence show. At the present time, around 1,300 (21%) of the currently around 5,300 victim-offender mediations every year are due to violence in relationships that are ongoing or have finished. In most cases, it is men who commit the acts of violence. Victim-offender mediation is not suitable for certain cases of domestic violence and

is therefore not used by NEUSTART in such cases. This pertains, for instance, to all cases of chronic, systematic or instrumental partner violence. In suitable cases, however, victim-offender mediation results in a sustainable strengthening and support on the victim side and understanding and positive change on the offender side².

Low rate of recurrence after victim-offender mediation with high victim satisfaction at the same time

Studies on the rate of recurrence document a recurrence rate of just under 9%³ after three years in cases of violence in couple relationships.

The satisfaction of victims with the conducting of the victim-offender mediation has also been examined several times. Altweger/Hitzl⁴ and Rebhandl⁵ addressed the satisfaction of victims after victim-offender mediation in cases of violence in couple relationships. 83% of victims view the result of the victim-offender mediation as good or very good. These results are also confirmed by Pelikan who carried out research on victims of violence in couple relationships after victim-offender mediation: 80% of victims felt predominantly (25%) or very well (55.1%) supported by mediators. No other form of response in criminal law has a comparably high level of victim satisfaction.

Voluntary participation by victims given throughout

The voluntary participation of victims in such proceedings that is stipulated in Article 48 of the Istanbul Convention is given in Austria based on Section 204 Par. 2 of the Code of Criminal Procedure (StPO). This requires the victim's specific consent to the victim-offender mediation. When handling cases, it is ensured in accordance with the specified standards that participation in victim-offender mediation is always voluntary. Firstly, individual discussions are conducted with the victims. They can end the victim-offender mediation at any time. In the professional standards which are binding for social workers, the voluntary nature for victims is a principle that is particularly high-

lighted. The offender must take responsibility for his or her actions; there is no successful victim-offender mediation without the victim's consent to the result of such mediation.

Special methods and standards in cases of relationship violence ensure success

The quality and the methodological approach are deemed to be best practice in Europe⁶. Cases of domestic violence are handled in the victim-offender mediation in co-mediation by teams comprising both men and women. During the victim-offender mediation, each victim is informed about victim assistance organisations and of the possibility of support during the process. The specific support of victims through victim assistance organisations during the victim-offender mediation is actively offered and facilitated. Employees of Protection against Violence Centres or other victim assistance organisations participate if necessary; the support from lawyers is also desired and given in victim-offender mediation. On request, the victim can also be accompanied to the victim-offender mediation by a person of trust.

In the international comparative study mentioned⁷ on procedures of restorative justice in cases of relationship violence, European minimum standards are defined.

These are all met in victim-offender mediation:

- ... There are preparatory discussions that take place separately with the individual parties involved and in which reference is made to the voluntary participation and the possibility of interrupting or ending the victim-offender mediation at any time.
- ... At the victim's request, indirect mediation without direct personal contact is possible.
- ... The clear assumption of responsibility by the offender is the prerequisite for a mediation.
- ... It is standard practice to work with two mediators; at least one of them must be a woman and both must have special training in dealing with partner violence.
- ... There must be a close collaboration with victim assistance organisations in order to accompany victims in the proceedings and also to ensure that the rights of the victim are observed.
- ... The risk of repeat violence for the victim is to be monitored on a continuous basis.
- ... As victim-offender mediation remains a short-term intervention despite preparation and a period of monitoring, it needs to be transferred to other specialised institutions, if necessary, to safeguard its sustainability.

- ... A written agreement with the explicit consent from the victim constitutes the end of a successful mediation process whose compliance is reviewed by the mediator.
- ... At the end of the mediation process, a period of monitoring can be agreed with a follow-up meeting.

Internationally highest standard

In an international research project of the European Union on the topic of restorative justice in cases of domestic violence⁸, it becomes clear in the results that Austria has methods of the highest quality and the best precautions to protect the victim in these cases. The clear purport from the researchers is that, from a victim's perspective, victim-offender mediation is to be preferred to conventional court proceedings in suitable cases. The GREVIO Commission which checks the implementation of the Istanbul Convention welcomes the precautionary measures of **NEUSTART** in these cases and the great awareness of the dynamics and the gender-specific characteristics of domestic violence when handling such cases. „166. ... A closer look at Austrian practice [in victim-offender mediation in cases of violence in couple relationships] shows that protective measures are evidently envisaged in the system to ensure the victims' freedom of will. For example, victims have the possibility to refuse their consent to mediation and the association **NEUSTART** checks all cases of domestic violence assigned to victim-offender mediation to see whether the procedure is appropriate for them ...“

(Source: GREVIO's 2017 Evaluation Report⁹)

¹ Hofinger, Veronika: Legalbiografien von **NEUSTART** Klienten und Klientinnen II IRKS, Wien 2018, Seite 25

² Vgl. Pelikan, Christa: Die Möglichkeiten und die Bedingungen einer wirksamen Stärkung (Mächtigung) der Opfer von Gewalt in Paarbeziehungen durch den Außergerichtlichen Tausgleich. IRKS, Wien 2009

³ Hofinger, Veronika: Konfliktregelung statt Strafe: Zwei Studien zur spezialpräventiven Wirkung des Tausgleichs. Richterzeitung 4/2014, S. 91 ff.

⁴ Altweiger, Andrea und Hitzl, Evelyn: Außergerichtlicher Tausgleich – Kundenzufriedenheitsanalyse der Geschädigten. Diplomarbeit, Universität Innsbruck 2001

⁵ Rebhandl, Petra: Gewalt in privaten Beziehungen – Grenzen und Möglichkeiten des ATA. Diplomarbeit, Salzburg 2001

^{6,7,8} <https://www.verwey-jonker.nl/publicaties/2015/restorative-justice-in-cases-of-domestic-violence>

⁹ https://www.parlament.gv.at/PAKT/VHG/XXVI/III/III_00163/imfname_700585.pdf