

# FATALITY REVIEW REPORT

of cases examined by the Commission in charge of monitoring and analysing domestic violence cases resulting in victims' death or severe harm to bodily integrity in 2022



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AL FEMEILOR



This Report has been developed by the Ministry of Interior in cooperation with the Women's Law Centre, in the context of the activity of the Commission in charge of monitoring and analysing domestic violence cases resulting in victims' death or severe harm to bodily integrity with the financial support of Sweden and the U.S. Department of State: Bureau of International Narcotics and Law Enforcement Affairs (INL) of the Embassy of the United States of America in the Republic of Moldova.

The report is the result of the analysis of the collected data, but also of the consultation and debate process of the Commission Members that met during 2022.

The Report has been developed with the support of the team of national experts, based on the data collected by the Commission members over the year 2022.

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The opinions expressed in this Report do not necessary represent the opinions of the donors.

# TABLES OF CONTENTS

<b>ABBREVIATIONS .....</b>	<b>4</b>
<b>INTRODUCTION.....</b>	<b>5</b>
<b>RESEARCH FRAMEWORK .....</b>	<b>7</b>
1.1. Goal and Objectives of the Report.....	7
1.2. Research methodology .....	7
1.3. Challenges and limitations within the examination of cases by the Commission in charge of monitoring and analysing domestic violence cases resulting in victims' death or severe harm to bodily integrity.....	9
<b>LEGAL AND CRIMINAL ANALYSIS OF THE CASES EXAMINED BY THE COMMISSION IN 2022 .....</b>	<b>10</b>
2.1. Classification of crimes in the cases analysed by the Commission.....	10
2.2. The particularities of the crimes analysed by the Commission (way of perpetration, consequences).....	12
2.3. Profile of victims.....	19
2.4. Profile of the perpetrators .....	23
2.5. Authorities involved in the examination of cases .....	29
2.6. Prevention measures and punishments enforced .....	32
<b>JUDICIAL PRACTICE IN CRIMINAL CASES EXAMINED BY THE COMMISSION IN 2022 .....</b>	<b>34</b>
<b>CHALLENGES IN THE INTERVENTION IN CASES OF DOMESTIC VIOLENCE RESULTING IN DEATH OR SERIOUS HARM TO BODILY INTEGRITY IN 2022 .....</b>	<b>40</b>
4.1. Risk factors .....	40
4.2. Issues identified as a result of risk analysis by the Commission .....	43
<b>CONCLUSIONS.....</b>	<b>45</b>
<b>RECOMMENDATIONS.....</b>	<b>48</b>

## ABBREVIATIONS

<b>ACA</b>	Agency for Court Administration
<b>NASA</b>	National Agency for Social Assistance
<b>NAP</b>	National Administration of Penitentiaries
<b>LPA</b>	Local Public Administration
<b>BMA</b>	Bureau for Migration and Asylum
<b>NBS</b>	National Bureau of Statistics
<b>CEDAW</b>	UN Committee on the Elimination of All Forms of Discrimination against Women
<b>CI</b>	(Istanbul Convention) the Council of Europe Convention on preventing and combating violence against women and domestic violence
<b>ILETC</b>	Integrated Law Enforcement Training Centre
<b>CC</b>	Contravention Code
<b>FJC</b>	Family Justice Centre
<b>FMC</b>	Forensic Medicine Centre
<b>NC</b>	National Coalition „Life Without Violence”
<b>NLAC</b>	National Legal Aid Council
<b>NCFACEM</b>	National Centre for Training, Assistance, Counselling and Education of Moldova
<b>CC</b>	Criminal Code
<b>CPC</b>	Criminal Procedure Code
<b>CPC</b>	Civil Procedure Code
<b>CPTS</b>	Centre for Temporary Placement of Foreigners and Migrants of the Bureau for Migration and Asylum
<b>CUATM</b>	Classifier of Administrative-Territorial Units of the Republic of Moldova
<b>GDCI</b>	General Directorate for Criminal Investigation
<b>MDT</b>	Multidisciplinary team
<b>ICCS</b>	International Classification of Crime for Statistical Purposes
<b>GPI</b>	General Police Inspectorate
<b>NIPS</b>	National Inspectorate for Public Security of GPI of Mol
<b>NPI</b>	National Probation Inspectorate
<b>Mol</b>	Ministry of Interior
<b>MLSP</b>	Ministry of Labour and Social Protection
<b>NGO</b>	Non-Governmental Organisation
<b>PO</b>	protective order
<b>ERO</b>	emergency restraining order
<b>RM</b>	Republic of Moldova
<b>DV</b>	Domestic violence
<b>SV</b>	Sexual violence
<b>VaW</b>	Violence against Women
<b>VDV</b>	Victims of domestic violence
<b>UNODC</b>	United Nation Office on Drugs and Crime

# INTRODUCTION

The Republic of Moldova is a party to most of the major international treaties on human rights, which set the highest standards for the protection of human dignity and full exercise of rights and fundamental freedoms.

Article 24 of the Constitution stipulates that “*The State guarantees every individual the right to life and physical and mental integrity*”. According to Art. 25 of the same supreme law, “*Individual freedom and security of person are inviolable*”.

An international instrument in the field of protection of human rights and fundamental freedoms is the Council of Europe Convention on preventing and combating violence against women and domestic violence, known under the name of Istanbul Convention. The need for adopting the Convention was determined by the extent to which women are subject to the violence both in Europe and all over the world, which required a new approach to the policies in this area. Opened for signature on May 11, 2011 in Istanbul (Turkey), the Convention represents the first legally binding document at European level for the prevention, investigation and punishment of violence against women and domestic violence, protection of victims, prosecution of perpetrators and taking a wide range of actions to stop this scourge. At the same time, this is the most complex instrument for international legal cooperation. The Convention was ratified by the Republic of Moldova and is in force from May 1, 2022.<sup>1</sup>

In order to prevent the lethality risk, a mechanism for monitoring and analysis of domestic violence cases resulting in victims' death or severe harm to bodily integrity was established by a joint Order of the Ministry of Interior, Ministry of Justice, General Prosecutor's Office, Ministry of Health, Ministry of Labour and Social Protection, Ministry of Education and Research No.89/22/172/56/20/121 of 28.02.2022. To enforce the said mechanism, ***The Commission in charge of monitoring and analysing domestic violence cases resulting in victims' death or severe harm to bodily integrity*** (hereinafter – *Commission*) was established.

The Commission represents a mechanism for cross-sectoral cooperation. Its members are representatives of the authorities and institutions with a mandate to prevent and combat domestic violence, non-commercial organisations, service providers in the field, as well as development partners.

The role of the Commission is to analyse cases falling under its mandate and examine objectively and multilaterally the circumstances with a view to identifying the actions/inactions by the competent authorities and institutions. Therefore, the Commission aims at identifying specific practical measures to ensure the most efficient, appropriate and timely response by the government authorities jointly with the civil society and international partners to prevent and combat such cases.

Its Regulation binds the Commission to submit a **situation analysis report** on an annual basis to reveal the gaps and shortages that haven't been addressed. In addition, the report provides recommendations for improving the national system response, including suggestions for amending the legislation, promoting cross-sectoral cooperation, streamlining the prevention activities, increasing access to support services for the female survivors of violence, etc.

In the context of this obligation, this Report was developed by the Ministry of Interior, with the support of the team of national experts, based on the data collected by the Commission members over the year 2022 and the proposals submitted by the Commission members in the process of consultations and debates during the meetings during 2022.

<sup>1</sup> Law No. 144 of 14.10.2021 regarding the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, [https://www.legis.md/cautare/getResults?doc\\_id=128240&lang=ro](https://www.legis.md/cautare/getResults?doc_id=128240&lang=ro)

## ■ The need for measuring femicide

The general concept of femicide refers to the killing of a woman or a girl because of her gender. The United Nations Vienna Declaration on Femicide identified different types of femicide, including the murder of women as a result of intimate partner violence. The United Nations Office on Drugs and Crime (UNODC) highlights that intentional homicide of female victims perpetrated by intimate partners or family members is the most prevalent form of femicide.

According to the Global estimates (UNODC) 2020 homicides within private sphere affect both sexes, but women and girls bear the largest burden of lethal violence perpetrated within the home, accounting for approximately 6 out of 10 homicide victims killed by intimate partners or other family members<sup>2</sup>. Home remains the most dangerous place for women who continue to carry the heaviest burden of lethal victimisation as a result of gender inequality and stereotypes. The killing of women and girls committed by intimate partners or other family members, who should normally be trusted, is one of the most extreme manifestations of gender-based violence. Such crimes are often the culmination of previous experiences of gender-based violence, which may include psychological, sexual and physical violence<sup>3</sup>.

The shortage of uniform data is an obstacle to measuring femicide, which becomes invisible among the general homicide data. To encourage states to collect comparable data, the United Nations Office on Drugs and Crime (UNODC) published in 2015 **the International Classification of Crime for Statistical Purposes (ICCS)** which was approved as an international statistical data collection standard<sup>4</sup>. Therefore, in order to ensure the monitoring of domestic violence cases resulting in the death of victims, a national study was conducted in 2021, covering the period 2016-2019<sup>5</sup>. According to the data, around **65** women were killed in Moldova because of the lack of a coordinated response and lack of access to specialized services for women with multiple vulnerabilities. At the same time, according to this study **24** cases of femicide were analysed by the Commission in 2022.

In order to raise awareness about the fact that violent death of women and girls is a crime that should not be confused with homicide, a separate chapter is dedicated to “*femicide*” cases in this report. The separate analysis of femicide cases is also determined by the fact that femicide differs from other crimes, based on several criteria: (i) most of the cases of femicide are committed by current or former intimate partners; (ii) femicide cases are preceded by continuous domestic violence, threats or intimidation, sexual violence; (iii) femicide cases are characterized by inequality of force and resources compared to the partners. This report has only analysed the cases of violence against women and girls which fall under the mandate of the Commission, i.e. the term femicide is limited to femicide committed by the intimate partner or by a family member. The results of this Report will contribute to the development of a concept to improve the response by the state to cases of domestic violence resulting in victims’ death or severe harm to bodily integrity and to reducing the number of lethal cases, including the prevention of femicide cases.

<sup>2</sup> United Nations Office on Drugs and Crime (UNODC), Global estimates 2020 Gender-related killing of women and girls [https://www.unodc.org/documents/data-and-analysis/statistics/crime/UN\\_BriefFem\\_251121.pdf](https://www.unodc.org/documents/data-and-analysis/statistics/crime/UN_BriefFem_251121.pdf).

<sup>3</sup> United Nations Office on Drugs and Crime (UNODC), Global Study on Homicide – Gender-related killing of women and girls (2019), Vienna.

<sup>4</sup> <https://www.unodc.org/unodc/en/data-and-analysis/statistics/iccs.html>

<sup>5</sup> Women’s Law Center, National Analytical Study on Femicide, 2021 file:///C:/Users/User/Downloads/Study-national-de-analysis-a-femicide cases%20(13).pdf.



# RESEARCH FRAMEWORK

## 1.1. Goal and Objectives of the Report

The goal of this Report is to highlight the peculiarities of domestic violence cases resulting in death, to document and analyse the cases of *femicide*, with a view to improving institutional response mechanisms in cases of gender-based and domestic violence and to reducing the number of lethal cases.

### Specific objectives:

- Analyse statistical data on the number of homicide/femicide cases as a result of acts of violence by family members or intimate partners;
- Analyse domestic violence cases resulting in victims' death or severe harm to bodily integrity, in order to provide objective information on trends in legal practice;
- Find and identify lethality factors;
- Identify the main obstacles to ensuring efficient protection of victims in such cases;
- Make recommendations to improve the institutional response mechanism for cases resulting in the death of the victims.

## 1.2. Research methodology

In order to achieve the goal and objectives of the research, a complex methodological approach comprising several key methods was used:

**Collecting and analysing data regarding the circumstances in which the acts falling under the mandate of the Commission have been perpetrated**, namely the cases classified under Art. 145 para.(2) letter e1), Art.201<sup>1</sup> para.(3) letter a), Art.201<sup>1</sup> para.(3) letter b), Art.201<sup>1</sup> para.(4), Art.146 and Art.156 Criminal Code, for any of the situations in which the perpetrator and the victim:

- 1) are family members within the meaning of Art. 133<sup>1</sup> Criminal Code;
- 2) used to live together at one point;

- 3) had a partner-like relationship;
- 4) the perpetrator was stalking or persecuting the victim because of or in connection with the intimate nature of the relationship between them.

The cases analysed by the Commission were collected based on the Form for collection of data on domestic violence resulting in victims' death or severe harm to bodily integrity, approved based on Annex no.2 to the Regulation on the Organization and Operation of the Commission in charge of monitoring and analysing domestic violence cases resulting in victims' death or severe harm to bodily integrity approved by the Interinstitutional Order No.89/22/172/56/20/121 of February 28, 2022.

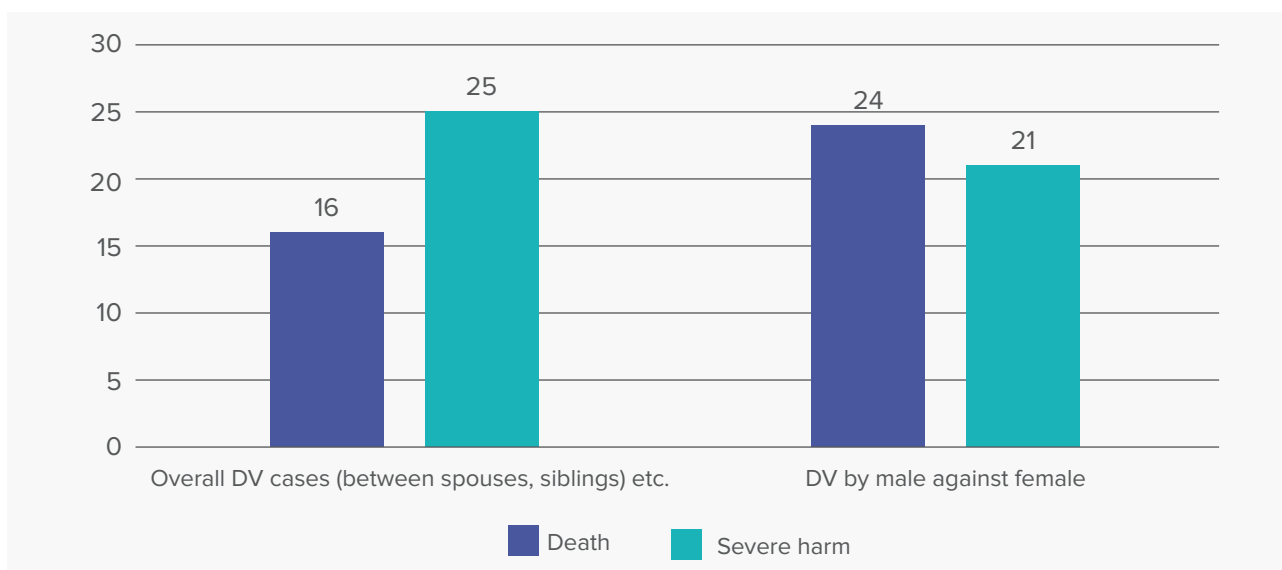
Therefore, in 2022, the law enforcement bodies registered **92** cases that are subject to the research by the Commission.

This report covers the information for **86** cases of domestic violence resulting in victims' death or severe harm to bodily integrity, regardless of the sex and relationship between the victim and the perpetrator; these are called cases of Domestic Violence (**DV**). And separately the Report covers information for cases resulting in death or severe harm to bodily integrity of women victims, in which the perpetrator is a male; these are called cases of Violence against Women (**VaW**). Cases resulting in bodily harm were analysed and presented separately from those resulting in the death of victims.

Thus, **40** out of the **86** recorded cases resulted in the death of the victims (four of which 24 female victims and 16 male victims), and another **46** cases resulted in severe bodily harm (male/female victims).

In **45** out of the **86** analysed cases the perpetrator was a male and the victim was a female, while in the other **41** cases, the perpetrator was a female while the victim was a male or the violence occurred between persons of the same sex (male-male, female-female) (Figure 1).

**Figure 1. Cases of domestic violence resulting in victims' death or severe harm to bodily integrity**



In **24** out of the **45** cases of violence in which the perpetrator was a male and the victim was a female, the victim died (**femicide**), in more than half of cases (**53%**).

If we compare the number of women's deaths with the total number of cases resulting in death or serious injury to the victims' bodily integrity, then we find that one in four women (**28%**) dies in such situations.



**Analysis of conviction sentences** in the cases examined by the Commission in 2022.

In order to validate the statistical data collected and analysed by the Commission, **52 criminal cases** were analysed based on the sentences/judgements published in the courts' database, for the category of cases examined by the Commission in 2022. The analysis was based on the case documentation sheet. All the information registered in the sheet was processed and included in the report to validate the findings statistical data analysis. Chapter III of this Report is based on the analysis of the criminal cases and presents all the findings related to the practice of the judiciary with regard to the crimes falling under the mandate of the Commission.

The examination of criminal cases allowed to obtain and consolidate data on the:

- Circumstances in which the crimes falling under the mandate of the Commission were committed (place, time, method and motive)
- Forms of violence the victim was subject to;
- Services provided to the victim prior to the crime;
- Examination of cases in court;
- Punishments applied against perpetrators.

### **1.3. Challenges and limitations within the examination of cases by the Commission in charge of monitoring and analysing domestic violence cases resulting in victims' death or severe harm to bodily integrity**

#### **■ Collection and analysis of statistics**

Given the fact that the data collection systems vary a lot from one institution to another, it was a challenge for the Secretariat of the Commission to conduct an efficient documentation and obtain comparable data in order to carry out evidence-based analysis and identify the existing shortcomings.

#### **■ Data collection tool**

The Form for data collection in cases of domestic violence resulting in victim's death or severe harm to bodily integrity approved by Interinstitutional Order no. 89/22/172/56/20/121 of February 28, 2022 needs to be adjusted to better meet the purpose of the research and the set objectives. The statistical data collection tools need to be brought in line with the international ones, particularly for cases of femicide.





# LEGAL AND CRIMINAL ANALYSIS OF THE CASES EXAMINED BY THE COMMISSION IN 2022

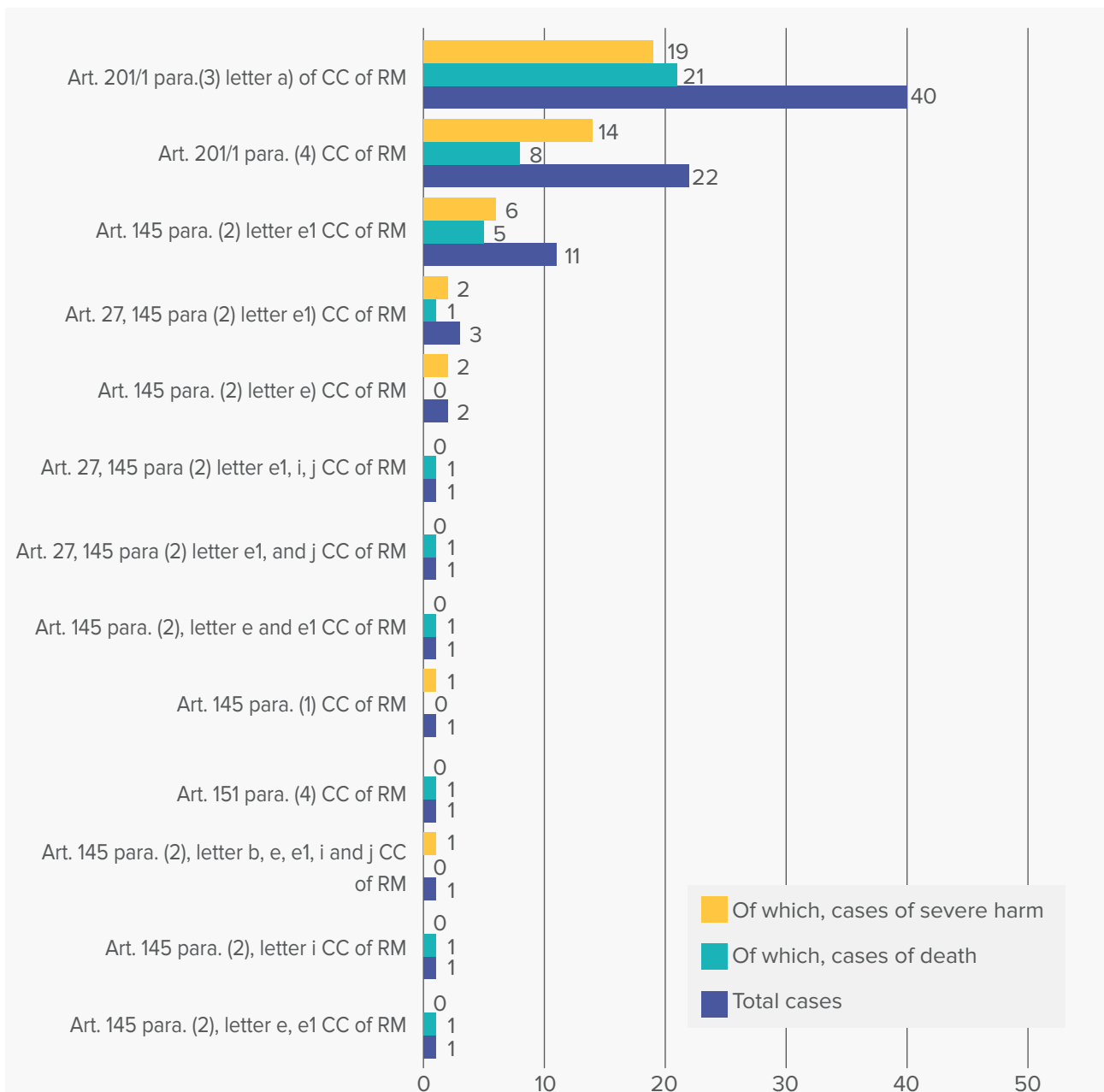
## 2.1. Classification of crimes in the cases analysed by the Commission

For the purpose of this Report, **86 cases** of domestic violence resulting in victim's death or severe harm to bodily integrity submitted for analysis to the Commission in charge of monitoring and analysing domestic violence cases resulting in victims' death or severe harm to bodily integrity (established by Order of the Ministry of Interior No.89/22/172/56/20/121 of 28.02.2022) were analysed.

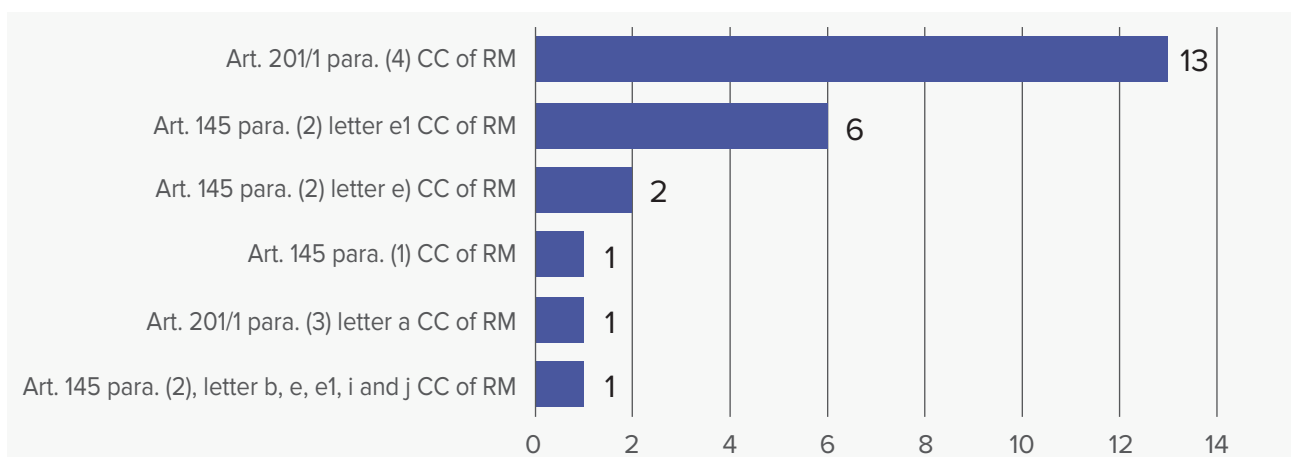
Almost half of the total number of DV cases examined were classified under Art.201/1 paragraph (3) letter a) CC of the Republic of Moldova (RM); ¼ of the cases were classified under Art. 201/1 paragraph (4) of the CC of RM (Figure 2).

**Twenty-four** out of the **86 cases** of domestic violence analysed, in which the abuser was a male and the victim was a female resulted in the death of the victim, which accounts for **28%** of the total number of DV cases or **53% of the total number of cases of VaW** examined by the *Commission*. More than half of the femicide cases fall under Art.201/1 paragraph (4) CC of RM, and another ¼ fall under Art.145 paragraph (2) section e1 CC of RM (Figure 3). Out of these, 2 cases were re-classified along the way: one case was initially started pursuant to Art. 201/1 paragraph (3) letter a) CC of RM and was re-classified under Art. 201/1 paragraph (4) CC of RM; and another case was initially started pursuant to Art. 201/1 paragraph (4) CC of RM and was re-classified under Art.145 para. (2) letter e1 CC of RM.

**Figure 2. Legal classification of the DV acts**



**Figure 3. Legal classification of the femicide acts**



Five out of the total number of cases analysed by the Commission were reclassified done during the criminal investigation<sup>6</sup>. In 2 cases the reclassification was done following the reception of the forensic medical report which found serious bodily injuries, and in 3 cases the act was reclassified as a result of the occurrence of death (Table 1).

**Table 1. Legal classification of the act**

Initial legal classification	Legal reclassification	Type
Art. 201/1 paragraph (3) letter a CC of RM	Art. 201/1 paragraph (4) CC of RM	Death
Art. 157 CC of RM	Art. 201/1 paragraph (3) letter a CC of RM	Serious harm
Art. 201/1 paragraph (3) letter a CC of RM	Art. 201/1 paragraph (4) CC of RM	Death
Art. 201/1 paragraph (3) letter a CC of RM	Art. 145 paragraph (2) letter e1 CC of RM	Serious harm
Art. 201/1 paragraph (4) CC of RM	Art. 145 paragraph (2) letter e1 CC of RM	Death

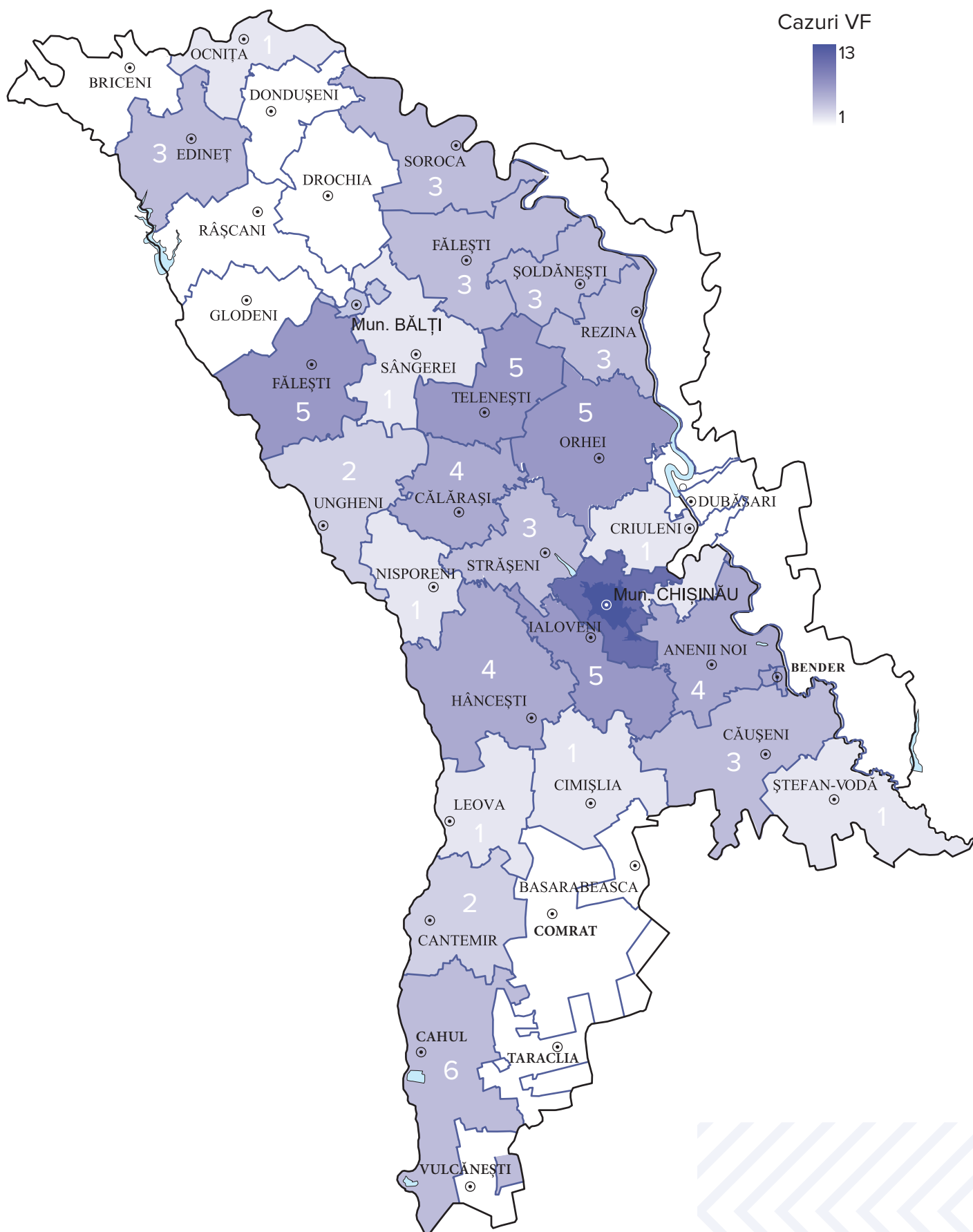
## 2.2. The particularities of the crimes analysed by the Commission (way of perpetration, consequences)

**In 64 out of the 86 DV cases analysed (i.e.  $\frac{3}{4}$ ), the crime was perpetrated in rural area, and in 22 cases (i.e.  $\frac{1}{4}$ ) it was perpetrated in urban area.** As for the femicide cases most of them were perpetrated in the district of Cahul (4 cases), followed by the municipality of Chisinau (3 cases), Făleşti, Orhei, Străşeni, Ialoveni, Anenii Noi (2 cases each). Thus, **if in the general case of DV most crimes occurred in rural communities, in the cases of femicide the share of urban settlements is on rise** (10 cases occurred in urban area and 14 cases in rural area). The data presented leads to the conclusion that in rural area there is a higher risk of such crimes compared to urban area.

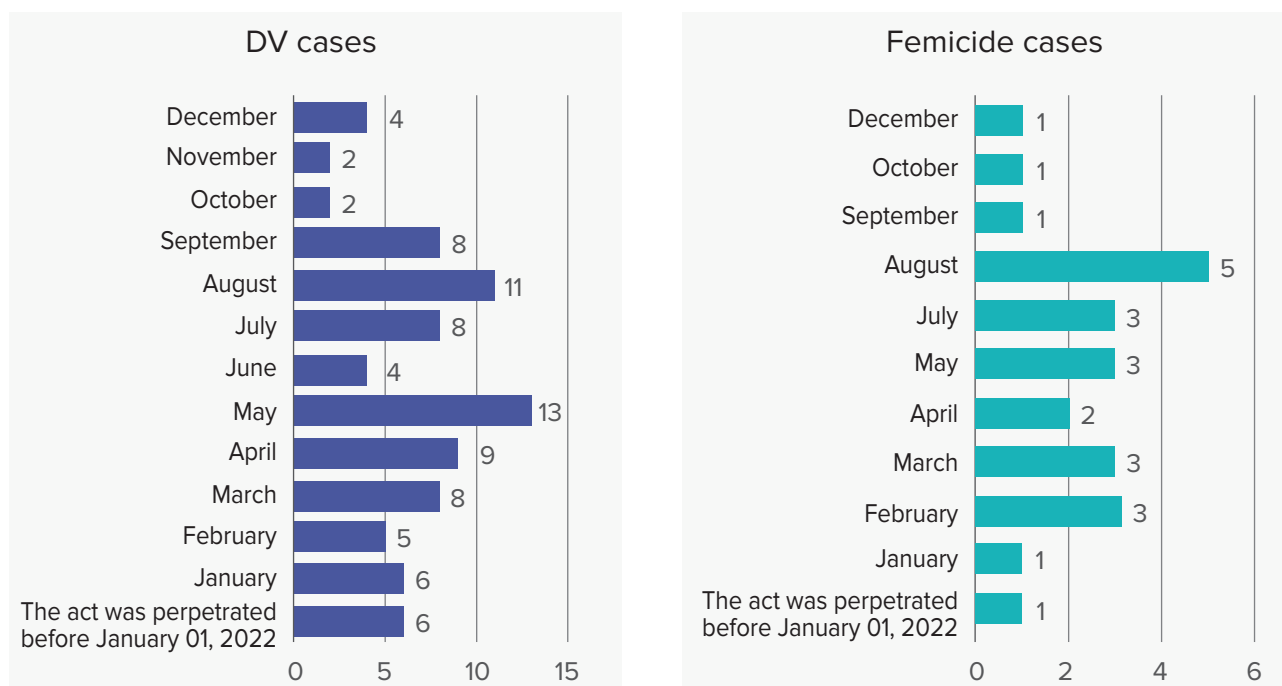
It should be noted that not all territorial administrative units have reported cases of DV during 2022. Most of the cases were recorded in the municipality of Chisinau – 11 cases (15% of the total number), followed by Cahul district – 6 cases (7%), Teleneşti, Orhei, Făleşti, Ialoveni 5 cases each (6 %) (Figure 4).

<sup>6</sup> Given the fact that the Data collection form is based on the primary information about the case and does not refer to how the case progressed in the stages of criminal investigation and trial, it does not contain any variables about whether or not the act was re-classified. In reality, the number of re-classified cases could be higher.

**Figure 4. DV cases by territorial-administrative units**



The analysis shows that most cases of DV happened during the spring-summer period. Thus, ¼ out of the 86 cases of DV were committed in May and August.



**Figure 5. Period in which the crime was perpetrated**

The breakdown of the crimes by period and by area of residence shows that **in the rural area the cases of femicide occurred more often in the winter-spring period**, while in the urban area they occurred more frequently in the summer-autumn period. (Table 2).

**Table 2. Period of femicide by residence area**

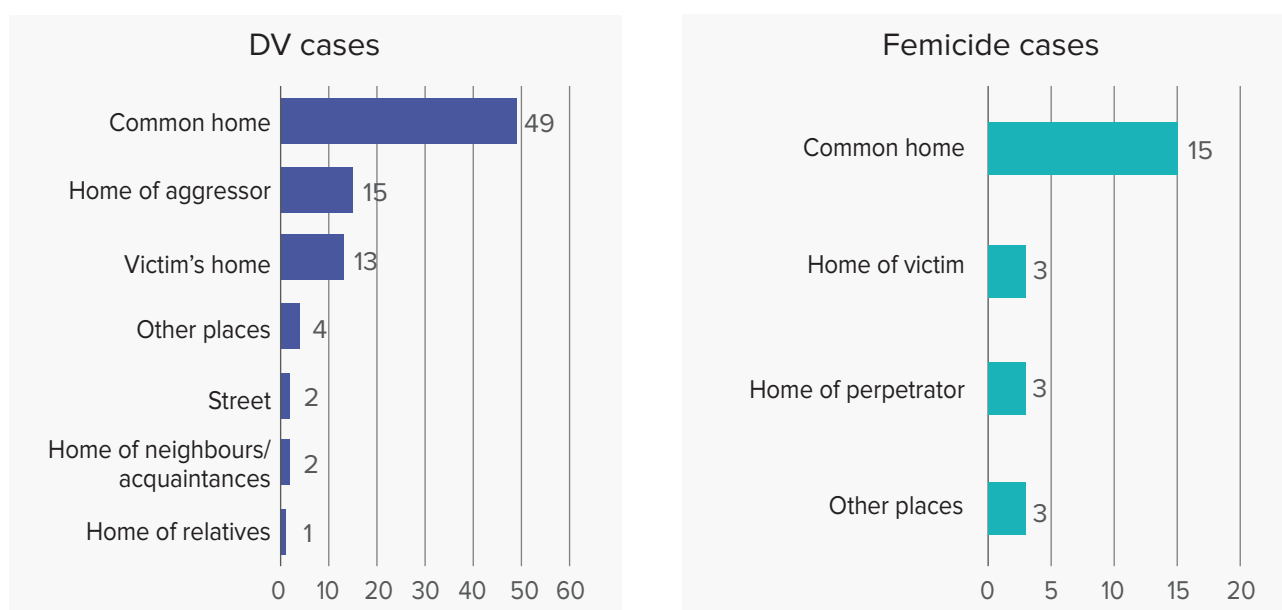
	Urban	Rural	all new cases
The offence was committed before January 1, 2022	0	1	2
January	0	1	1
February	1	2	4
March	0	3	2
April	1	1	3
May	1	2	1
June	0	0	2
July	3	0	2
August	2	3	2
September	1	0	1
October	1	0	1
November	0	0	1
December	0	1	2
<b>Total</b>	<b>10</b>	<b>14</b>	<b>24</b>

The most frequent place where DV crimes resulting in death or serious harm to bodily integrity were committed is the common home of the victim and the perpetrator (2/3 of cases). Other scenes of the crimes include victim's home, street, sheepfold, relatives' home, etc. (Figure 6).

Home remains the most dangerous place for women who carry on the heaviest burden of fatal victimisation as a result of gender inequality and stereotypes.

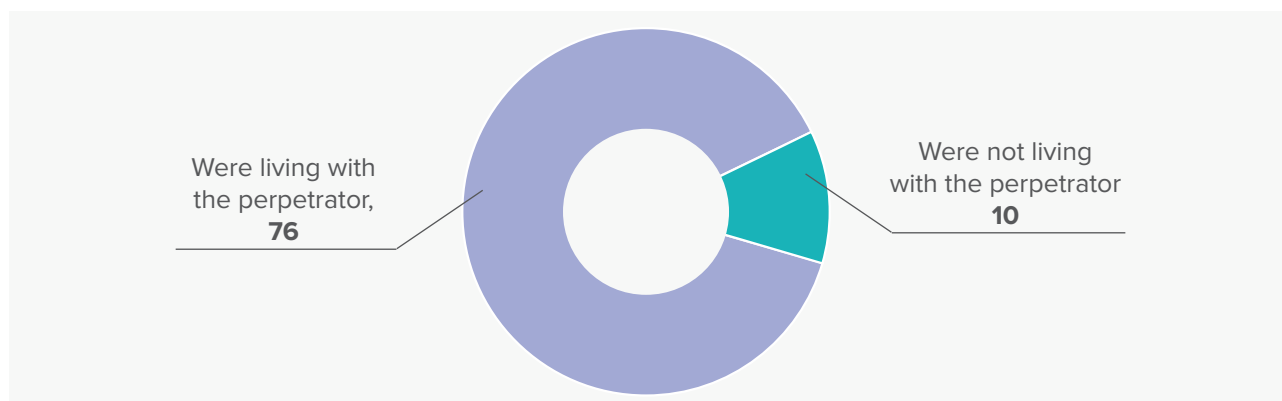
As for the femicide, the analysis reveals that most frequently it was committed in the common home, but sometimes also in the victim's home or other places (Figure 6). Thus, in **2/3 of the cases, the crime was committed in the common home of the victim and the perpetrator, in 3 cases it was committed in the victim's home**, in 3 cases – in the perpetrator's home, and another 3 cases – at the perpetrator's workplace (sheepfold), the home they rented or the relative's home (Figure 6). In 23 cases, the victim lived with the perpetrator in their common home, or in the home of the perpetrator or the victim, or in another home.

Figure 6. Scene of crime



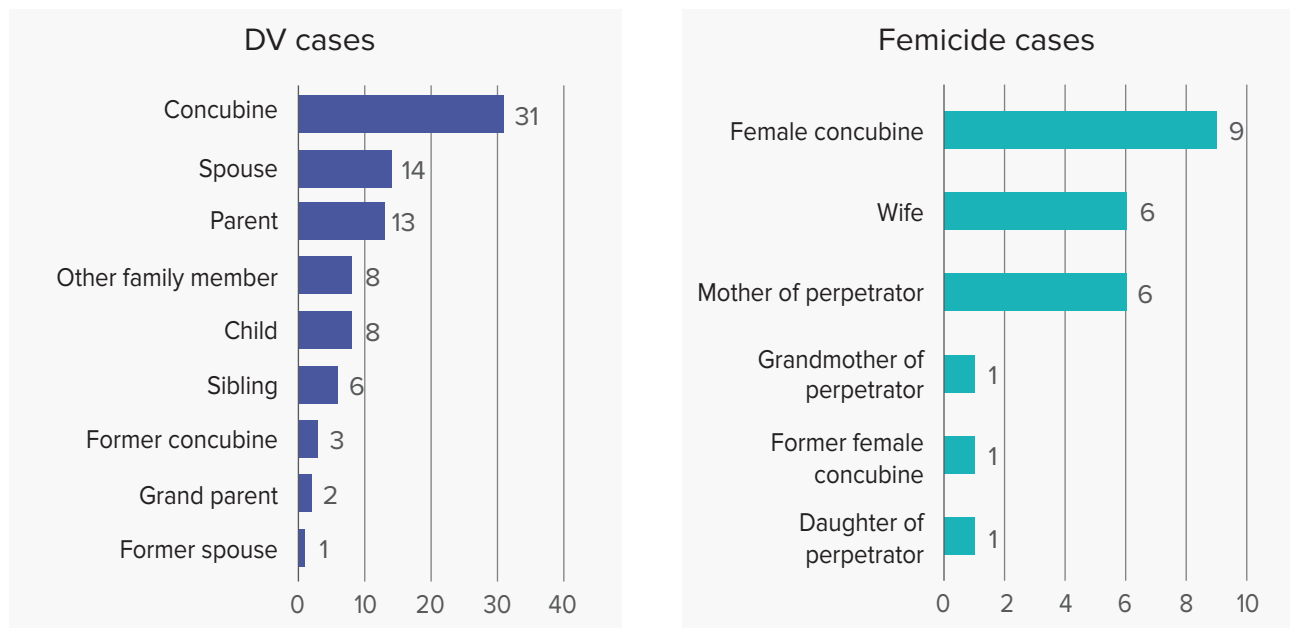
In **76** of the cases, the victim lived with the perpetrator. In the 10 cases where the victim did not live with the perpetrator, they were ex-spouses, former concubines, adult children or grandchildren, adult siblings. (Figure 7).

Figure 7. living with the perpetrator at the time of the crime



In terms of the kinship between the victim and the perpetrator, most DV cases were committed by the male/female concubine and/or spouse, followed by crimes committed by the parent, adult child, sibling. In half of the DV cases, the victim was a concubine or a spouse of the perpetrator. In 13 situations, the victim was the parent of the perpetrator, in 8 situations the victim was the child of the perpetrator, and in other situations the kinship was of siblings, former concubines or spouses, grandparents or other family members<sup>7</sup>. As for the femicide, in 2/3 of the cases, the victim was a concubine or a spouse of the perpetrator, and in ¼ of the situations, the victim was the mother of the perpetrator (Figure 8).

**Figure 8. Kinship between the victim and the perpetrator**



Regarding the length of the relationship between the victim and the perpetrator, in the 49 cases where the victim's relationship with the perpetrator was of current or former spouse or concubine, it was 15 years on average. **There were situations in which the relationship was lasting for several months, and situations in which the relationship was lasting for 40, 42 and even 58 years. In cases of femicide, the length of the relationship between the victim and the perpetrator was over 10 years, in 3 cases it was over 30 years, 40 years and 42 years respectively.** The length of the relationship between the victim and the perpetrator was considered only for cases where the victim was or had been married or cohabited with the perpetrator – 16 cases. Thus, for 6 cases, the length of the relationship between the victim and the perpetrator was over 10 years, in 3 cases it was over 30 years, 40 years and 42 years respectively.

**The presence of children in the family increases the vulnerability of women victims of DV cases.**

In 19 cases out of 49, the victim and the perpetrator have minor children as dependants. In 4 out of the 16 femicide cases, the victim and the perpetrator have minor children as dependants. In the case of one child, the parents were separated and the child was in the custody of the mother.

Most of victim and the perpetrator have minor children as dependants, most of them have one child (8 cases), 2 children (7 cases) and 3 and 4 children (2 cases respectively). In 6 cases, the age of the children was not indicated. In other cases, the age of the children was between 1 and 16, (the average age of the children being 8). There were four children whose parents were separated or divorced. **All children were in the custody of the mother.** From the analysis of the conviction sentences it results that women who had children, tolerated acts of violence in order to preserve their family, but also because they did not have another home or support from someone who could have hosted

<sup>7</sup> Concubine of the mother, concubine of the mother-in-law, brother-in-law, step-son, grandchild, step-father, third-degree kinship



them during the separation from the perpetrator. These findings are also validated by previous studies which show an increasing trend of blackmail by the perpetrator threatening that he would take their children away or will cause her deprivation of parental rights. Because they don't have sufficient legal information on the procedure of establishing the domicile of the child, women put up with acts of violence that can degenerate into femicide or, in some cases, the victim may be determined to commit suicide due to psychological violence<sup>8</sup>.

In 3 of the **femicide** cases examined, the situation of the children was assessed as being at risk after the crime was committed, and therefore a form of protection was established – in 2 cases the children were put in emergency placement with relatives, and in one case the child was placed in a residential institution.

The analysis of the data reveals the passive attitude of the representatives of the guardianship authority in cases where children are at risk caused by DV. Thus, **although the authorities assessed the situation of children as being at risk in 11 cases, only in 4 cases a form of protection was established, in 5 cases no action was taken**, and for 2 cases the reaction of such authorities is unknown. In 2 out of the 4 cases where a form of protection was established, the children were put in emergency placement with relatives, in one case the child was placed in a residential institution and in one other case the form of protection established was not indicated. The failure by the authorities to assess the risk of violence acts against children and to act in order to protect them is reflected in Case study 1.

#### **CASE STUDY 1. Violence against children**

*“Ana cohabits with Nelu. A little girl was born from their relationship, who was only 6 months old at the time of the offence. Neighbors know that there is often violence in their family. When Nelu drinks alcohol he becomes aggressive and uses violence against his concubine, and Ana, in order to defend herself, takes their 6-month-old daughter on her arms.*

*In March 2022, one evening Nelul came home drunk and a conflict broke out between them. Being aggressive, Nelu punched the head of their minor daughter who was on her mother's arms. The child started to cry loudly, and the mother noticed that the little girl had a deformity on her head.*

*When they heard the baby's cry, Ana's mother and the mother-in-law came in and asked Ana to call the ambulance, but she refused. Ana's mother called the ambulance, but Ana refused to be hospitalised, and later, when the police insisted, they went to the district hospital.*

*During the criminal investigation, Ana made statements in favour of her concubine, saying that she instigated him and that he actually did not intend to hit their daughter, but rather her. The perpetrator was not apprehended and no protection measures were applied to the victims. The perpetrator continued to live with the victims until the sentence was pronounced.*

*The court found Nelu guilty of committing the crime provided for in Art. 201/1 para.(3) Criminal Code and sentenced him to 5 (five) years of imprisonment to be enforced in accordance with Art. 72 (3) Criminal Code, in a semi-closed penitentiary. Nelu was granted suspension from the execution of the imprisonment punishment applied against him, according to Art. 90 para.(1) Criminal Code, and a probation period of 5 (five) years was granted.*

**In 12 cases out of those analysed, the DV crime resulting in death or serious harm to bodily integrity occurred in the presence of minor children** (from early age (0-3 years) to 14 years), **and in 8 out of the 12 cases, the child was the actual victim**. In the section reporting the actions taken with regard to the children, the actions taken regarding the perpetrator were actually mentioned, such as issuance of the emergency restraining order (ERO).

Although according to Article 26 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, the party states are obliged to recognise

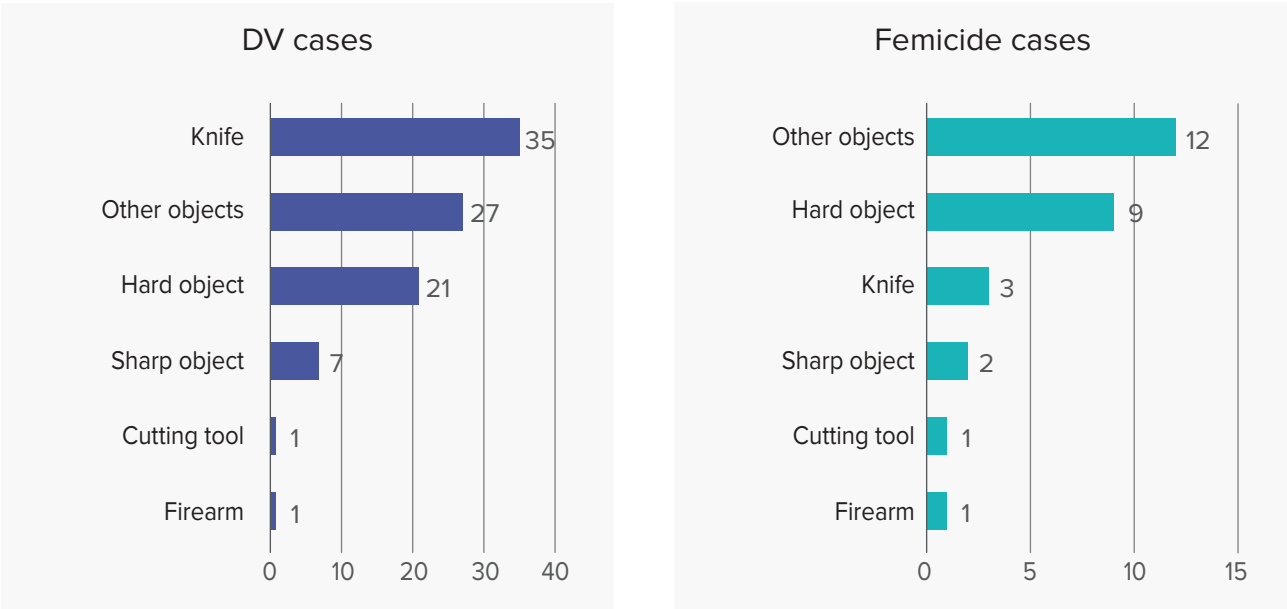
<sup>8</sup> Women's Law Centre (2021) National Analytical Study on Femicide, Țurcan-Donțu A., Cheian Andrei D., file:///C:/Users/Admin/Downloads/National Femicide Case Analysis Study%20(6).pdf

children who have witnessed domestic violence as victims of violence, in the analysed cases this was not done. In the mentioned cases, children witnesses of domestic violence crimes were heard only as witnesses.

The analysis of the data shows that there was no case in which female victims or perpetrators were pregnant at the time of the DV incident. Also, there was no case in which the victim or the perpetrator initiated a divorce/separation before the incident<sup>9</sup>, But there was a case in which the female victim left the perpetrator and was subsequently persecuted and threatened for several days, after which the perpetrator came to the new location of the victim and stabbed her several times with the knife in the street.

**The methods and the means used by the perpetrators vary, but hitting/mistreatment and the use of sharp objects, such as knife, axe, etc. are the most common** (Figure 9). The knife was most frequently used (35 cases) as an object of crime, followed by the use of a hard object (21 cases). In cases of femicide, blunt objects are most commonly used (9 cases). It should be noted that in the process of data collection, “other objects” were indicated, which were not included in the sheet, usually punches, kicks, rope, etc.

**Figure 9. Means/methods of the crime**

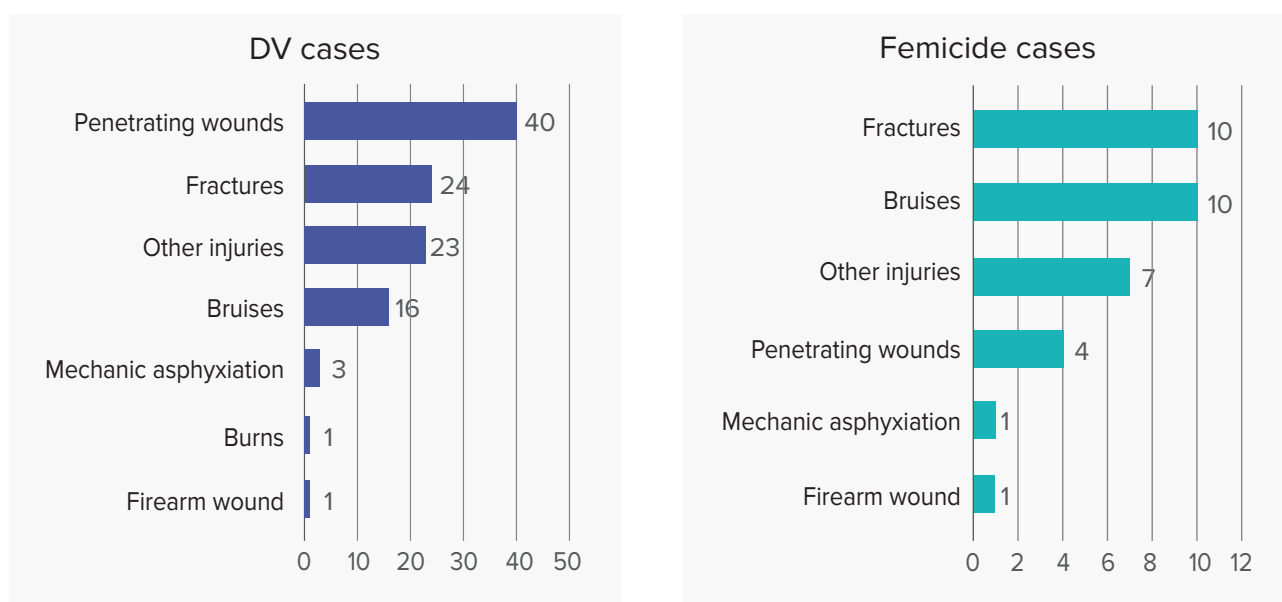


As a result of the DV crime, almost half of the victims suffered penetrating wound injuries (40 victims), 24 victims – fracture, 16 victims – bruises. In the case of femicide, the injuries suffered by the victims were most often fractures or bruises (10 cases each), penetrating wound (4 cases), or other injuries (Figure 10). In the case of 23 victims, other injuries were reported.



<sup>9</sup> Thirty-five cases were examined in which the victim and the perpetrator were in a marriage or cohabitation relationship

**Figure 10. Descrierea leziunilor**



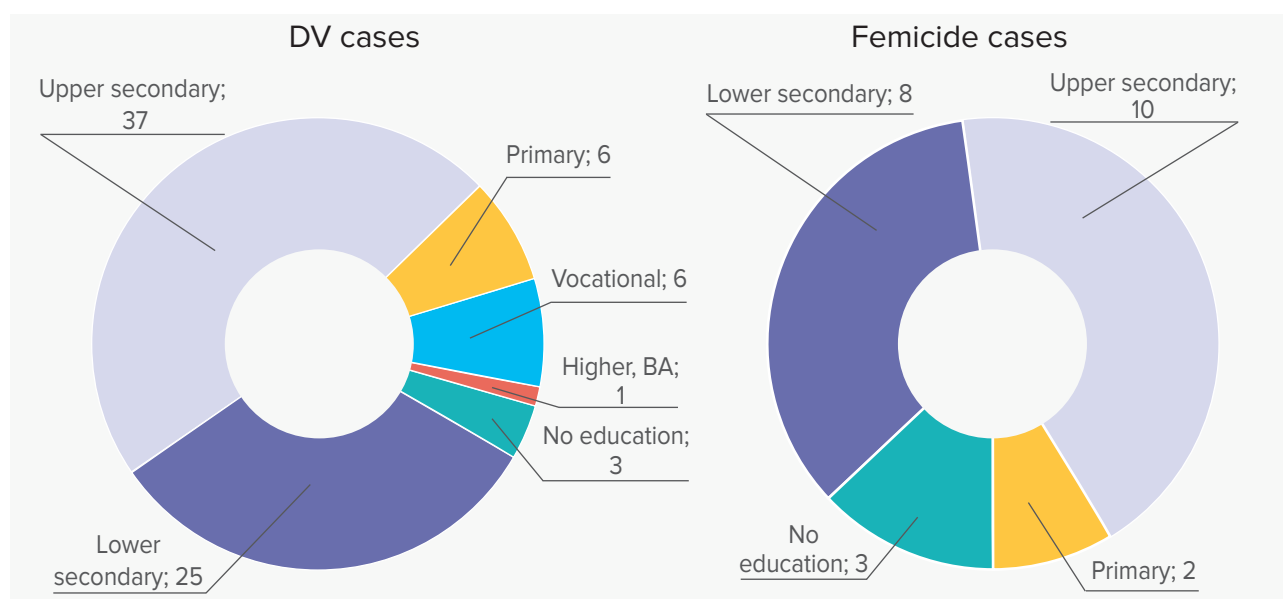
## 2.3. Profile of victims

Domestic violence is not about age, ethnicity, social status and can occur at different stages of the relationship. The analysis of data collected by the Commission shows that **8 out of 78 victims of VF are children (9% of the total), including one out of 24 victims of femicide is a child. The mean and median birth year of femicide victims is 1972 (general for all VVF is 1979).**

Regarding the ethnicity of the victim of DV resulting in death or serious harm to bodily integrity, the data collected show that 82 victims are Moldovan, 2 are Russian, and 2 other victims hold the citizenship of other states (Russian Federation and Lebanon). In cases of femicide, 22 victims are Moldovan, and other 2 victims hold the citizenship of other states (Russian Federation and Lebanon).

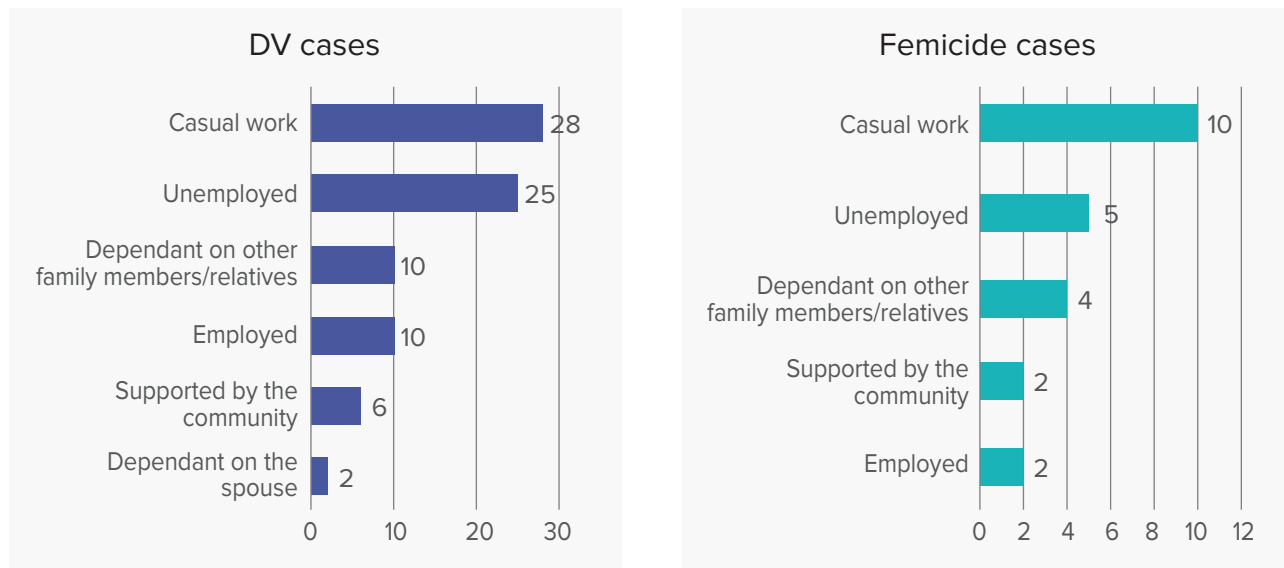
Thirty-seven out of the 78 victims over the age of 18 have upper secondary education, 25 have lower secondary education. The same trend is valid for the femicide cases, in which almost half of the 23 victims over the age of 18 have upper secondary education, and 8 have lower secondary education. (Figure 11).

**Figure 11. Education level of victims**



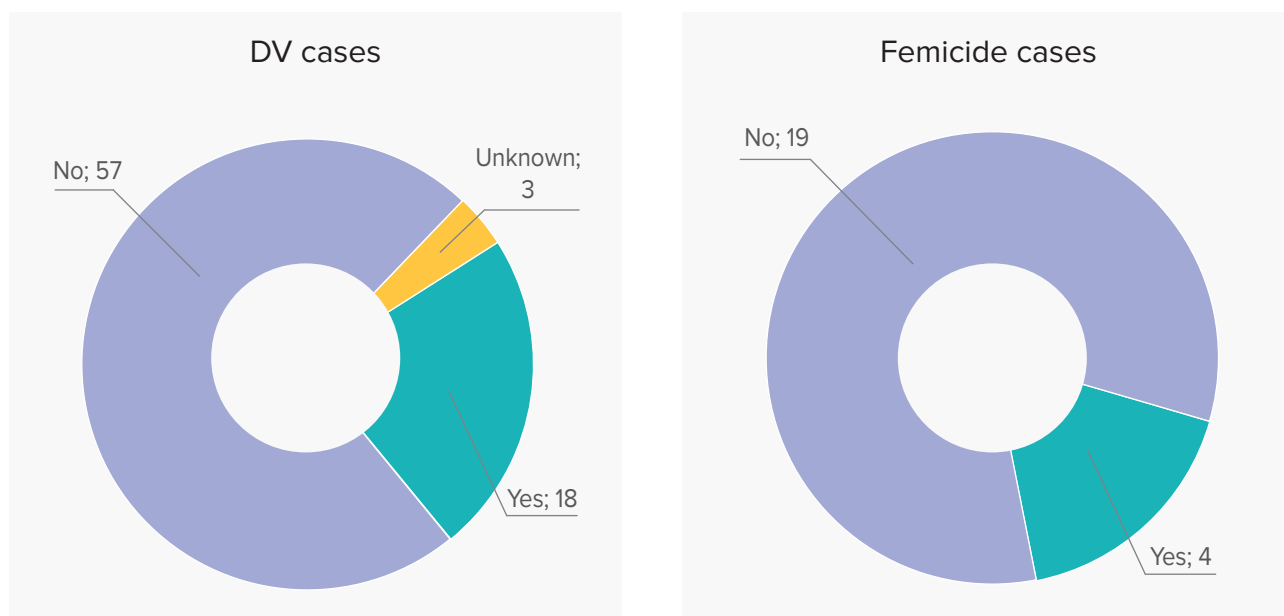
The analysis identified that the majority of victims earn their living from casual work or are unemployed. **Only every tenth victim is employed.** (2 out of 23 victims adults are employed) The poverty and the financial dependency of the victim on the perpetrator represents a high-risk factor in cases of femicide. The analysis found that most victims of femicide earn their living from casual work or are unemployed. (Figure 12).

**Figure 12. Sources of income**



In the DV cases analysed, less than  $\frac{1}{4}$  of the victims (adults) have dependants, and in the cases of femicide 4 out of 19 victims (adults) have dependants (Figure 13).

**Figure 13. Victims having dependants**



Eight out of the **78 adult victims, 8 have criminal records, 3 had been subject to probation earlier, and 1 victim owned a firearm illegally.** This situation was identified in cases where there was a reversal of roles between the victim and the perpetrator. In other words, women became perpetrators after having previously been in the role of victims, but because they were not sufficiently protected in

times of crisis, they responded to the acts of violence and their self-defence resulted in a death. Failure by the state to protect women victims of DV, who, after being repeatedly attacked by the abuser used violence, which resulted in death, is reflected in Case Study 2.

### **CASE STUDY 2. A victim of DV killed the perpetrator who had previously been convicted for DV**

**Elisaveta** has been cohabiting with Petru for 7 years and they have two children. The morning of January 1, 2022, at approximately 7:00 a.m. she woke up because Petru was knocking at the window. She doesn't know how he got in, because the gate was closed. She saw him drunk and she didn't open because she was afraid. She asked him to leave her alone and go away. He was shouting something, threatened that he would get in anyway. The minor daughter woke up and asked if her father was drunk and if he would beat her. She calmed the child, then looked out the window and saw that Petru was gone. At about 7:00 p.m. the neighbour came with gifts for her children and a bottle of champagne. She let him in and **shut the door again**. He sat down at the table while she was cooking pancakes. They were discussing about how they were living and what they were doing. At approximately 9:00 p.m., someone knocked on the window again, she looked and saw her former concubine Petru. He heard that she was with someone in the house and began to shout, threatening to kill her and the other person. She asked him to go away and leave her alone. She does not know how Petru entered the house, but she saw him when he was already behind her, next to the kitchen table. Suddenly he started shouting and she asked him to leave because he was drunk. Elisaveta remembers chasing him away. He grabbed her by the hair and shoved her on the bed, threatening to rape her right there, even though he understood there was a guest in the house. Petru put her on the bed, she was on her back, Petru was holding her with one knee, and with one hand he was trying to take her trousers off. She tried to free herself and run. She pushed him, then she doesn't remember how she took the knife and stabbed him. She immediately called the police and the ambulance.

Within the examination of the case, it was found that Elisaveta had been registered with the law enforcement bodies since 2017 as a victim of domestic violence committed by Petru. Petru was registered with the same authorities as a perpetrator.

By the decision of the X Court of December 6, 2017, Petru was found guilty and sanctioned for committing the crime provided for in Art. 318/1 Contravention Code, violation of the restraining order issued to protect the victim of domestic violence, Elisaveta.

By the sentence of the X Court, Petru was convicted for committing the crime provided for in Art. 201/1 para. (1) letter a) Criminal Code, using violence against the family member Elisaveta.

By the decision of the X Court of July 3, 2018, Petru was found guilty and was sanctioned for committing the crime provided for in Art. 318/1 Contravention Code, violation of the restraining order issued to protect the victim of domestic violence, Elisaveta.

By the sentence of the X Court of March 4, 2020, Petru was convicted for committing the crime provided for in Art. 320/1 Criminal Code, violation of the protection order issued in respect of the victim of domestic violence, Elisaveta.

By the decision of the X Court of December 8, 2021, Petru was found guilty and sanctioned for committing the crime provided for in Art. 318/1 Contravention Code, violation of the restraining order issued to protect the victim of domestic violence, Elisaveta.

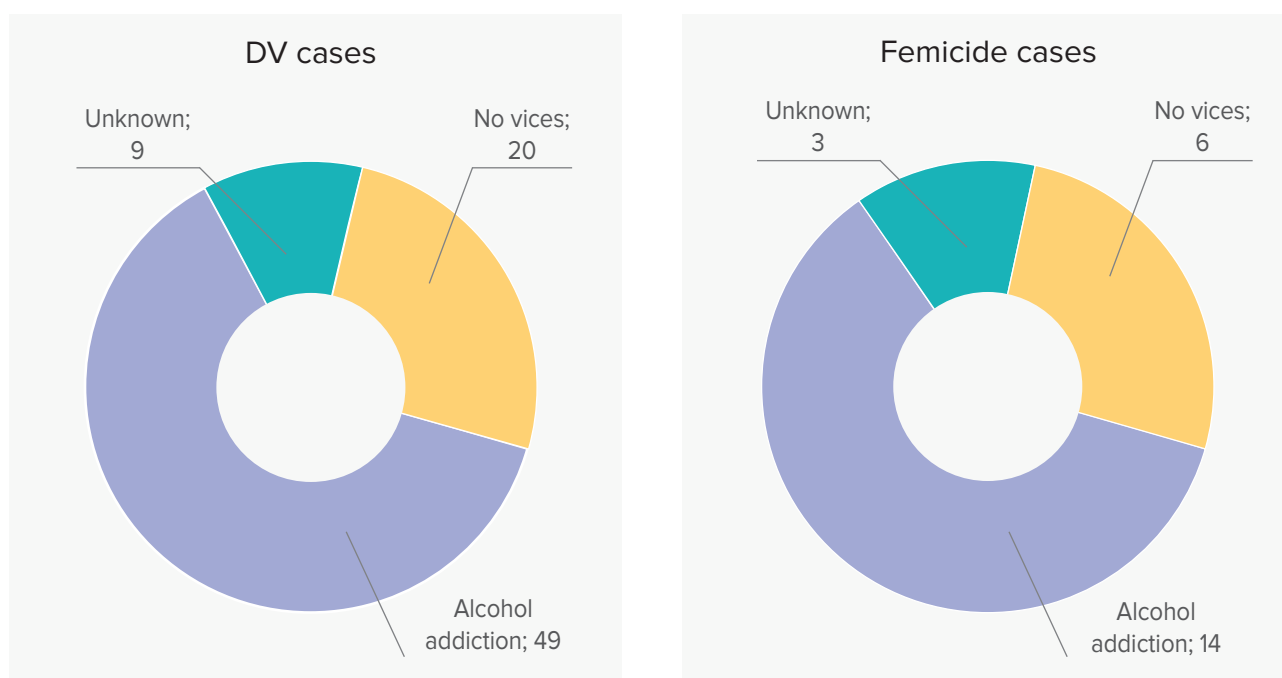
Consequently, the court found Elisaveta guilty of committing the offence provided for in Art. 145 para. (2) letter e1) Criminal Code and was sentenced to 12 (twelve) years of imprisonment. The sentence had to be served in a closed-type penitentiary for women.

In the case of femicide, none of the 23 adult victims had a criminal record, had previously been subject to probation or owned firearms.

**Twenty** out of the **78 adult victims have no vices**, 49 are alcohol addicted, and 9 victims are not known to have any vices (Figure 14). One victim was registered with a psychiatrist, and for 11 victims this aspect is unknown. Sixty-two of the victims were not registered with a narcologist. In the case of other 16 victims it was unknown whether they were registered.

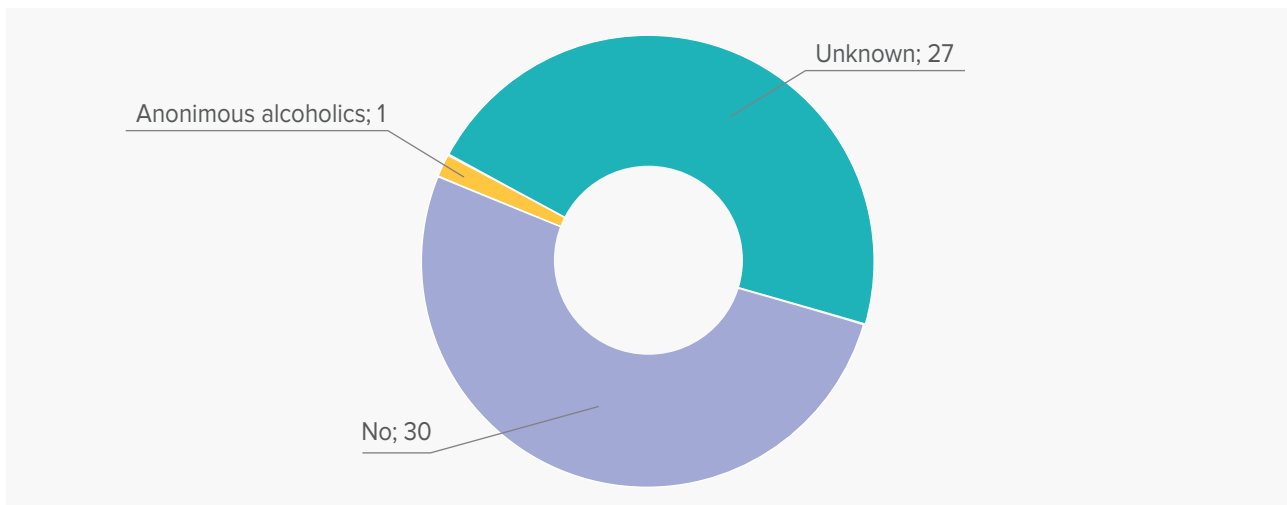
At the same time, 1/4 of the femicide victims had no vices, in the case of 3 victims the presence of vices is unknown, and 14 victims were addicted to alcohol. Eighteen victims were not registered with a psychiatrist and in case of 5 victims police officers indicated that they did not know whether the victim was registered with a psychiatrist. Therefore, we can conclude that **even though more than half of the victims were alcohol addicted according to the data recorded in the form, they were not registered with the specialist doctors.**

**Figure 14. Presence of vices among victims**



Moreover, none out of the **49 alcohol-addicted victims** and 9 victims about which this fact is unknown (in total 58 victims with alleged vices) **received counselling, treatment or other assistance for substance abuse** (Figure 15).

**Figure 15. Benefited from counselling, treatment or other assistance for substance abuse (58 adult victims)**



The analysis reveals that 3 adult victims abandoned their families, for 5 victims this fact is unknown, and other 70 victims did not abandon their families.<sup>10</sup> All 3 victims who abandoned their families are from rural areas, born in 1945, 1951, and 1989 respectively. Two of them are alcohol addicted.

In the case of femicide, one adult victim abandoned the family. The victim is from rural area, born in 1945, is addicted to alcohol and died as a result of violence by her son. The data collected does not indicate whether she was previously a victim of DV.

In terms of the affiliation to a religious group, the analysis of the data shows that 54 adult victims have not been members of a religious group or other community organization, and in the case of other 24 victims this fact is unknown.

In the case of 3 victims (including children) it was noted that they had been subjected to acts of violence previously by persons other than the perpetrator, but only for one situation the form of violence was indicated – „physical violence”, in 2 other cases the form of violence is unknown. **None of the 3 victims subjected to acts of violence earlier by a person other than the perpetrator benefited from psychological counselling.**

These data suggest that there is limited access to services designed for the victims of DV, as well as a low rate of referral by specialists. Stereotypes and gender bias about the role of women and men in the family represent a bottleneck to accessing specialized services, along with the shortage of such services at local level, especially in localities far from large cities.

## 2.4. Profile of the perpetrators

**The age of the perpetrators ranges between 21 and 74 years.** Most of the perpetrators are younger than the victims. The youngest perpetrator was born in 2001 and the oldest was born in 1948 (compared to 1936 for the victims). The mean birthyear of the perpetrators is 1980 (for victims – 1979), the median is 1984 (for victims – 1979), and the mode is 1987 (for victims – 1964). Therefore, we can conclude that most of the perpetrators are younger than the victims (48 perpetrators out of 86).

In femicide cases, the youngest perpetrator was born in 1997 and the oldest was born in 1948. The mean birthyear of the perpetrators is 1978, and the median – 1983. Eleven perpetrators are younger than the victims, 1 perpetrator was born in the same year as the victim, and other 12 perpetrators are older than the victim.

<sup>10</sup> The collected data made it possible to know the situation for 78 of the 86 victims. In the case of 8 victims, the information given is missing in the collected forms.

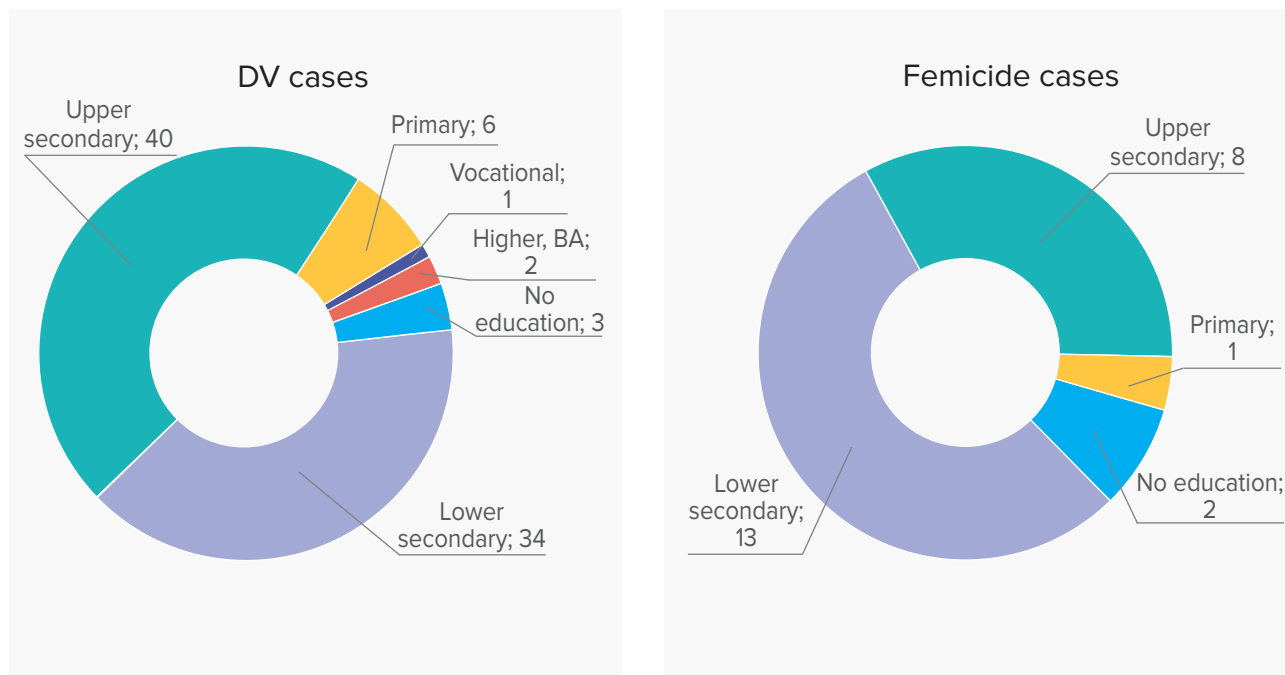


Regarding the perpetrator's residence, the results of the research show that **75 of the perpetrators live in the same locality where the DV act occurred**, and 11 live in another locality. In cases of femicide, 21 of the perpetrators live in the same locality where the DV act occurred, and 3 live in another locality.

In terms of their ethnicity, 82 perpetrators are Moldovan, 2 are Ukrainian, and 2 other perpetrators hold the citizenship of other states (Russian Federation and Lebanon).

Most of the perpetrators have upper secondary or lower secondary education, but there are also perpetrators without any education or with just primary education (Figure 16).

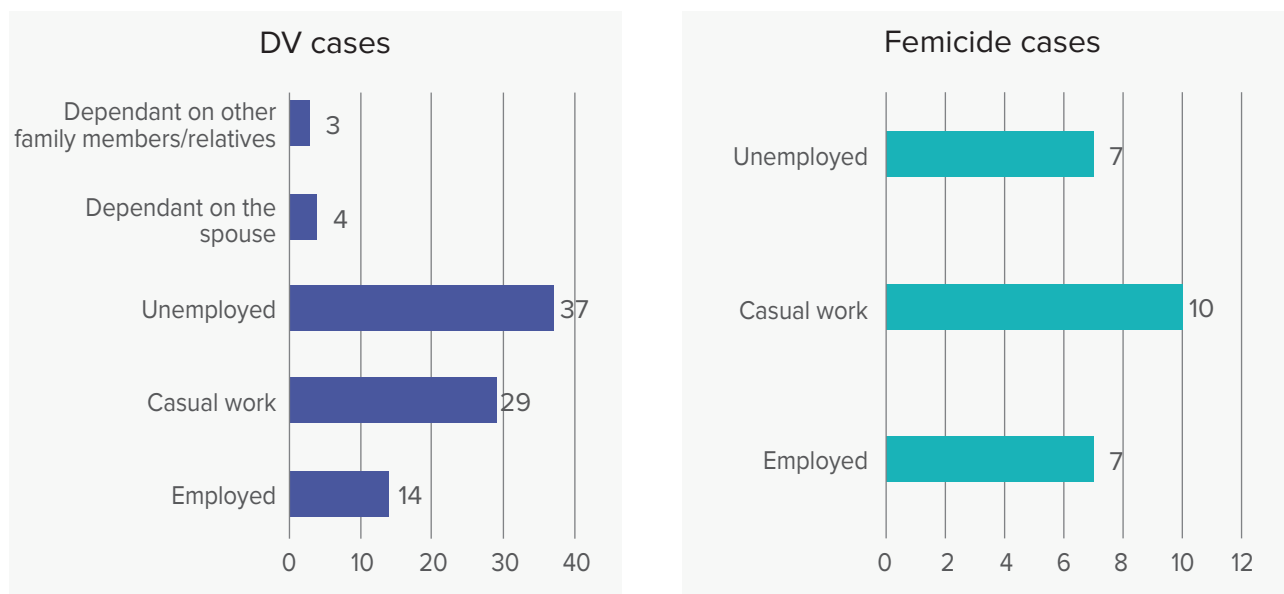
**Figure 16. Education level of perpetrators**



**Most of the perpetrators earn their living from casual work or are unemployed** (Figure 17). Compared to victims, the share of employed perpetrators is slightly higher. But at the same time, **the number of the unemployed among the perpetrators is higher than among the victims**.

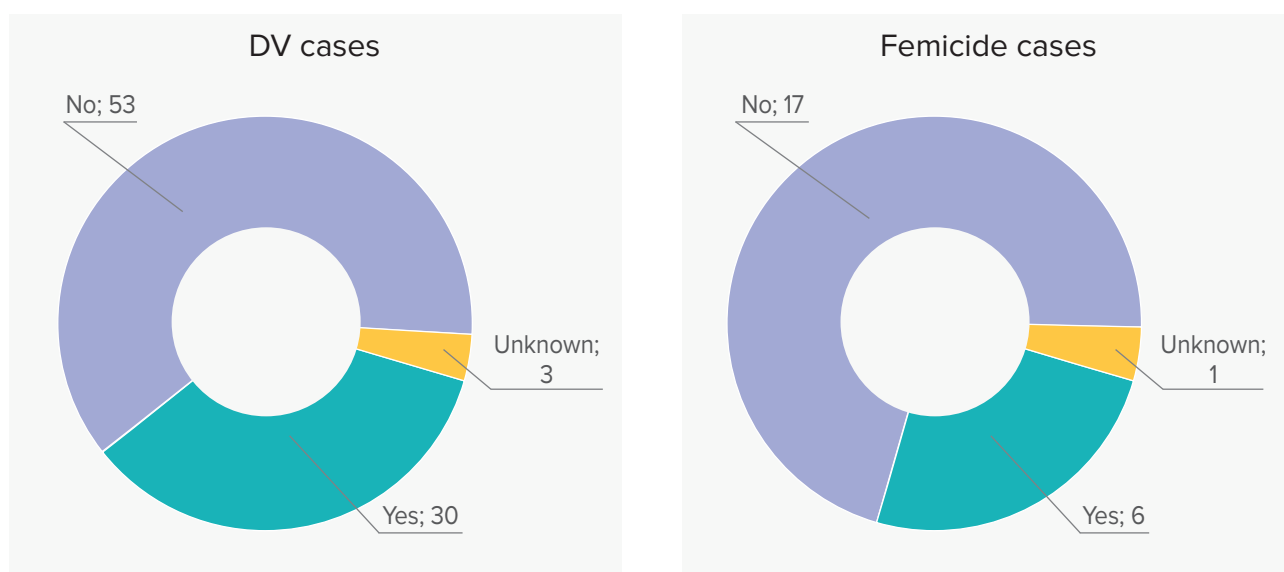


**Figure 17. Sources of income**



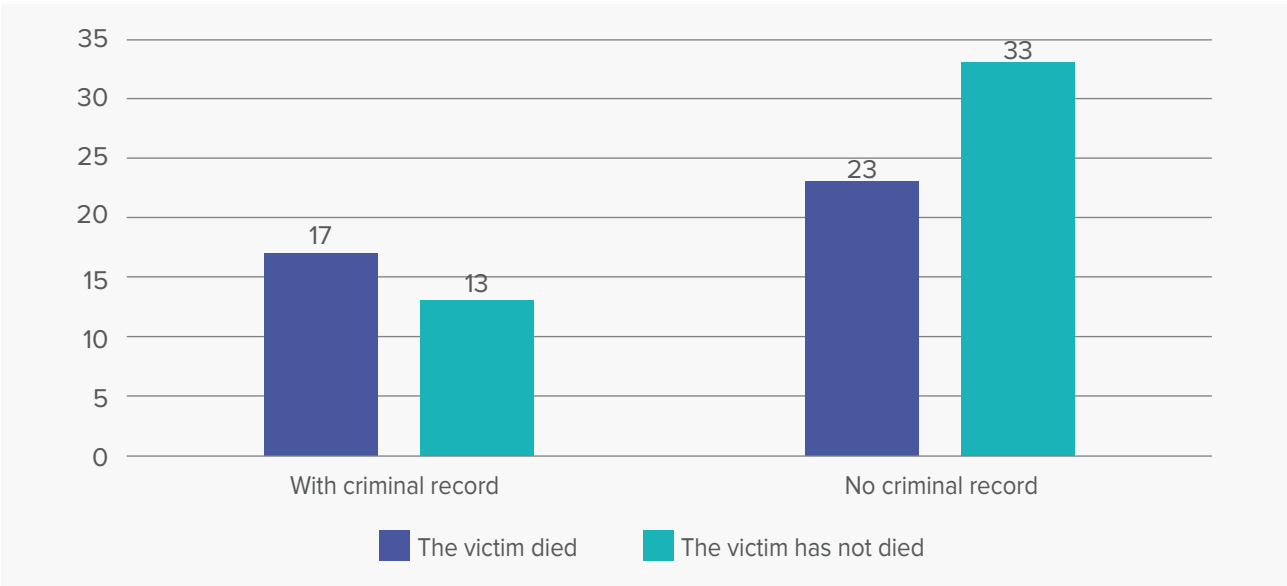
The share of perpetrators having dependants is higher – 30 perpetrators, as compared to 18 victims (Figure 18). In femicide cases, 6 out of 24 perpetrators have dependants.

**Figure 18. Perpetrators having dependants**



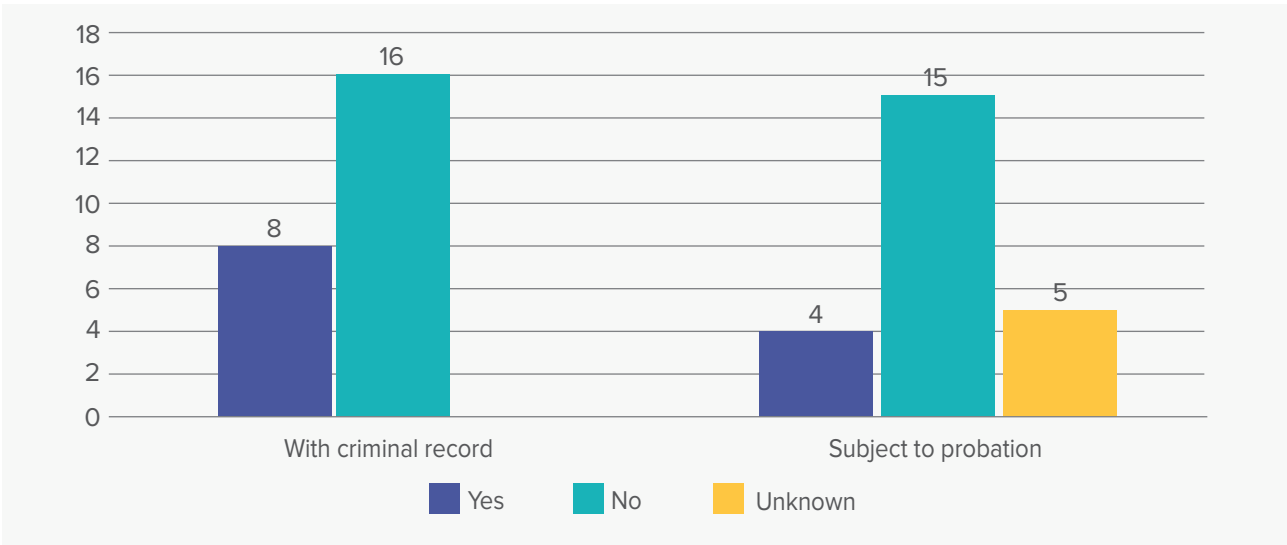
It is worrying that **30 perpetrators have criminal records** (compared to 8 victims with criminal records). **These 30 perpetrators with a criminal record committed 17 of the victims' deaths out of a total number of 40 deaths** (Figure 19). Eight out of the 78 perpetrators were previously subject to probation, 52 – were not, and for 26 this fact is unknown. One of the perpetrators owned a firearm illegally.

**Figure 19. Correlation between perpetrators' criminal record and the death of the victim as a result of the violence**



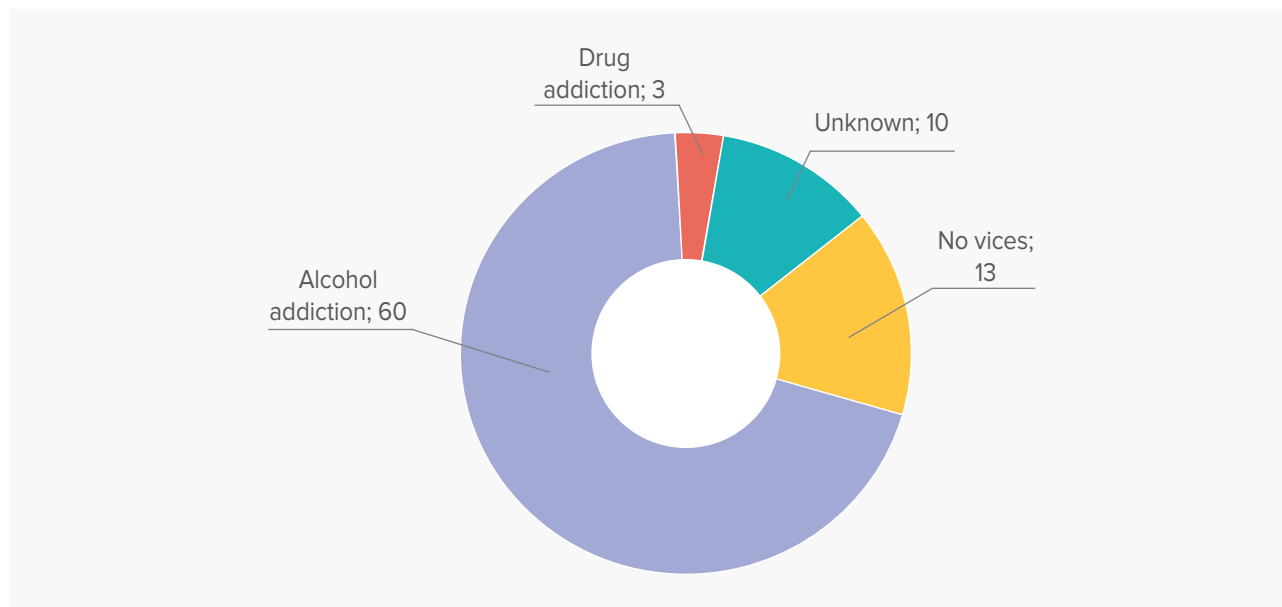
In the femicide cases, more than 1/3 of the perpetrators have a criminal record, and 1/6 have been subject to probation. (Figure 20). These data show that the punishments applied to domestic abusers do not discourage them from committing acts of domestic violence and in many cases, they relapse into committing fatal crimes. Domestic abusers enjoy impunity or punishments which fail in changing their behaviour. It is therefore necessary, based on the criminogenic needs and the identified risks, to get perpetrators attend specialized programs while in detention as well as after release, in order to reduce the respective crimes and behaviours.

**Figure 20. Criminal record and participation in probation among perpetrators in cases of femicide**



**Alcohol addiction is an issue for more than half of the perpetrators.** The share of perpetrators with vices is higher compared to the victims: 60 have alcohol addiction, 3 have drug-addiction and only for 13 abusers this fact is unknown (Figure 21). Three perpetrators were registered with the psychiatrist, and in the case of 5 perpetrators this is unknown. Seven perpetrators were registered with the narcologist, and in the case of other 6 perpetrators this information is unknown. Therefore, we can conclude **that although over 2/3 of the perpetrators had some vices according to the data recorded in the form, they were not registered with the specialist doctors.**

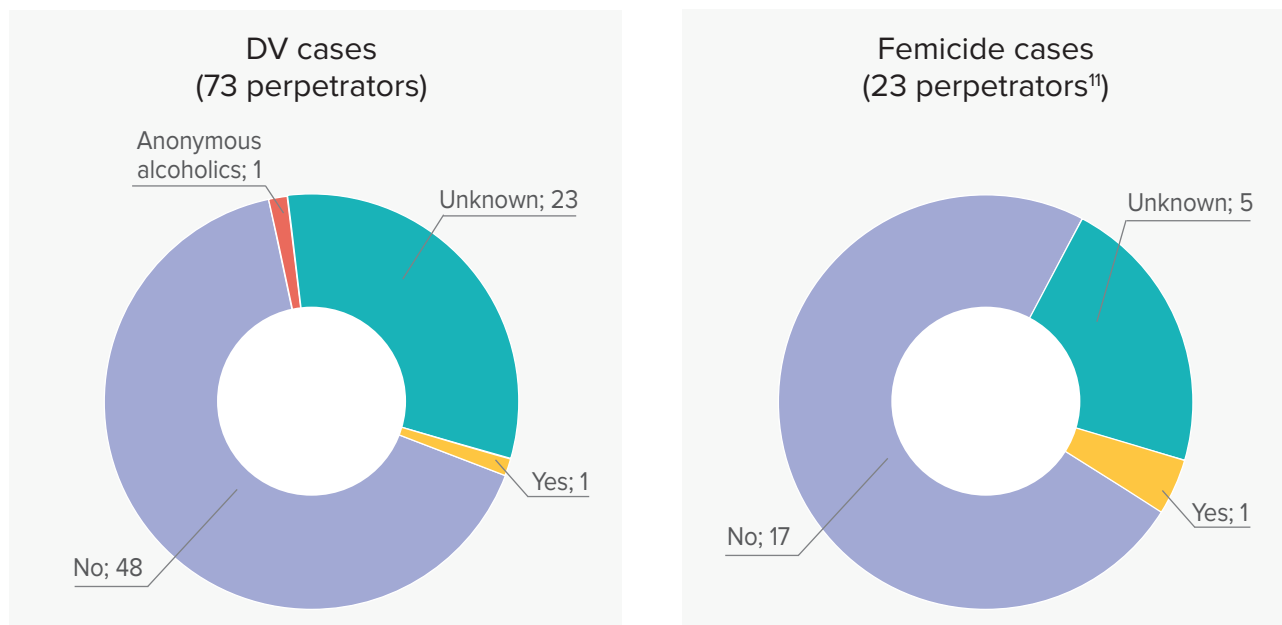
**Figure 21. Presence of vices among perpetrators**



**The results of the research show that the rate of alcohol addicted perpetrators is high in femicide cases as well, and the inaccessibility of alcohol detoxification services for alcohol-addicted perpetrators poses an increased risk for femicide.** Only for one perpetrator it is indicated that he has no vices, and in the case of another perpetrator – this is unknown. Other 22 perpetrators are addicted to alcohol. However, none of the perpetrators was registered with the psychiatrist or the narcologist. Therefore, we can conclude that **although almost all perpetrators were alcohol-addicted according to the data, they were not registered with the specialist doctors.**

Moreover, **only one out of the 73 perpetrators with vices (or unknown) benefited from counselling, treatment or other assistance for substance abuse** (Figure 21). And in cases of femicide, a single perpetrator received counselling, treatment or other assistance for substance abuse (Figure 22).

**Figure 22. Perpetrators benefitting from counselling, treatment or other assistance for substance abuse**



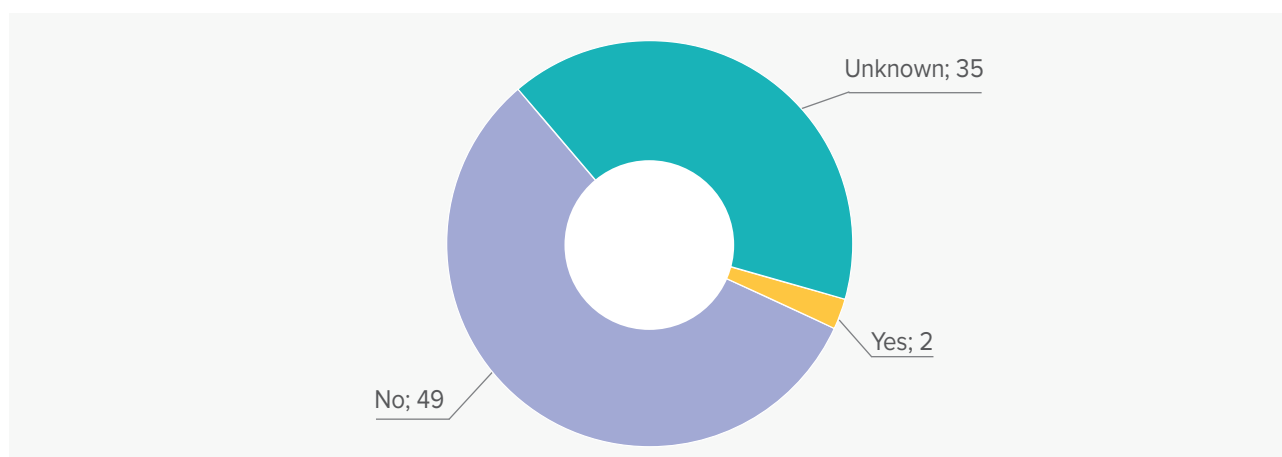
Three perpetrators had suicide attempts, 60 had not, and in the case of 13 perpetrators it is not known.

One perpetrator abandoned his family (from rural area, birthyear 1983, with alcohol-addiction), in the case of 23 perpetrators this information is unknown, and 62 other perpetrators did not abandon their family.

With regard to the membership to a religious group, the data analysis shows that 54 perpetrators were not members of a religious group or other community organization, while for 32 perpetrators this information is unknown.

For 2 perpetrators it was mentioned that they had been previously subjected to violence by persons other than the victim (1 case of abuse by the male concubine in 2021 and a documented case of rape). In the case of 35 perpetrators, it is unknown whether they were previously subjected to violence by persons other than the victim (Figure 23). None of the two perpetrators previously subjected to violence by a person other than the victim, received psychological counselling.

**Figure 23. Perpetrators previously subjected to violence by persons other than the victim**



<sup>11</sup> Perpetrators without vices.

## 2.5. Authorities involved in the examination of cases

Cases of DV and femicide are not one-off events. The analysis of such cases reveals that they do not occur as a result of an isolated incident or a single risk factor. Usually there is a number of indicators that signal the risk, but these are ignored by victims, relatives and close friends of the victim, and members of the community.<sup>12</sup>

One of the risk factors associated with femicide in the Republic of Moldova is the **presence of long-term physical violence associated with other forms of violence, including threats of murder**. Victims of violence do not ask the public order, law enforcement or social protection bodies for help, trying to hide the violence.

Victims are ashamed to ask for help, especially if they have been living with the perpetrator for a long time and violence has been regarded as normality (Case Study 3). Sometimes women also conceal certain vices of their husband and even start abusing alcohol themselves. They do not understand, nor can they imagine, that these actions, in aggravating circumstances, endanger their own lives.

### CASE STUDY 3. Concealment of long-standing violence

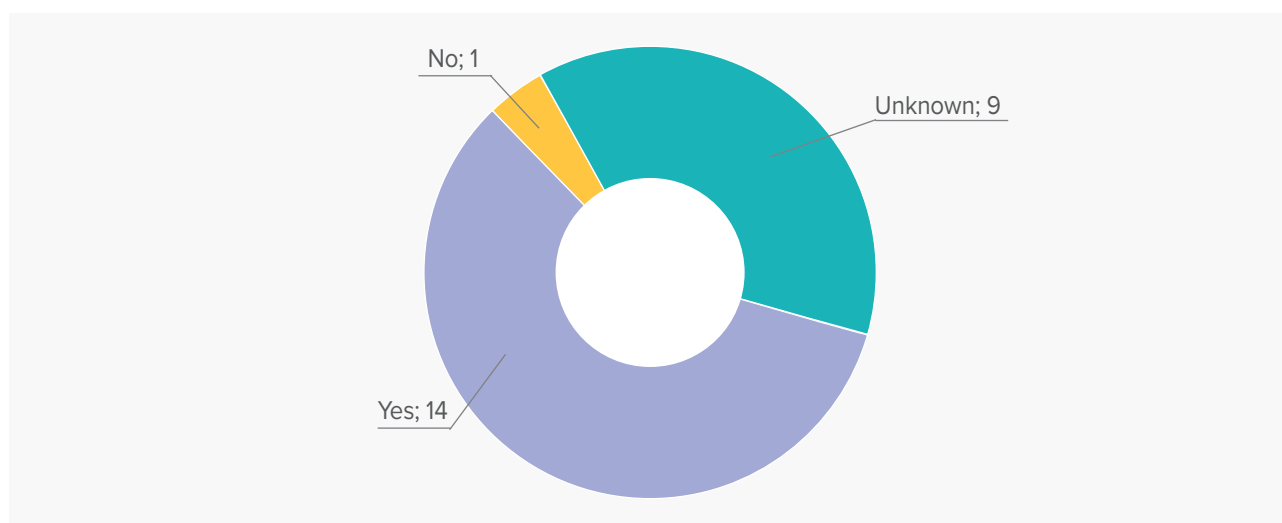
*Ioana has been cohabiting with Gelu for about 10 years. The villagers and the neighbours who testified during the case examination, stated that Ioana and Gelu argued frequently. From their household neighbours could always hear shouting. From time to time, villagers could see Ioana through the village with bruises on her face and scratches on her body, and she was justifying it by saying she fell down. When asked if Gelu assaulted her physically, she did not admit it but rather joked about it, saying that if he hit her, it meant he loved her. But when Ioana had some alcohol, she complained and admitted she had been physically assaulted by her concubine. Although people knew about the acts of domestic violence, none in the community reported this to the authorities or referred the case to social assistance service. On July 14, 2022, around 1:00 a.m., Gelu went to a neighbour whom he asked to visit them because his concubine Ioana was not reacting to anything. Being asked by the neighbour what happened, Gelu said that they had come home and Ioana went to bed and did not wake up. The neighbour went immediately to their home where she found Ioana lying in bed. She noticed a fresh bruise on Ioana's face, under her eye, as well as scratches on her hands and feet. When she saw that Ioana was not reacting to words, the neighbour called 112. Being asked what happened, Gelu said that Ioana had consumed alcoholic drinks and being drunk she fell down. About 10 days later, he found out that Ioana died in hospital.*

*The court admitted Gelu guilty of committing the offence provided for in Art.201/1 para. (4) Criminal Code, and sentenced him to 8 (eight) years of imprisonment with execution of the sentence in a closed-type penitentiary.*

The data collected by the Commission shows that 14 out of 24 victims of femicide had been subject to domestic violence previously, in 9 other cases police officers noted that this fact is unknown. (Figure 24)

<sup>12</sup> CDF (2021) *Studiu național de analiză a cazurilor de femicid*, Țurcan-Donțu A., Cheianu Andrei D., p.29.

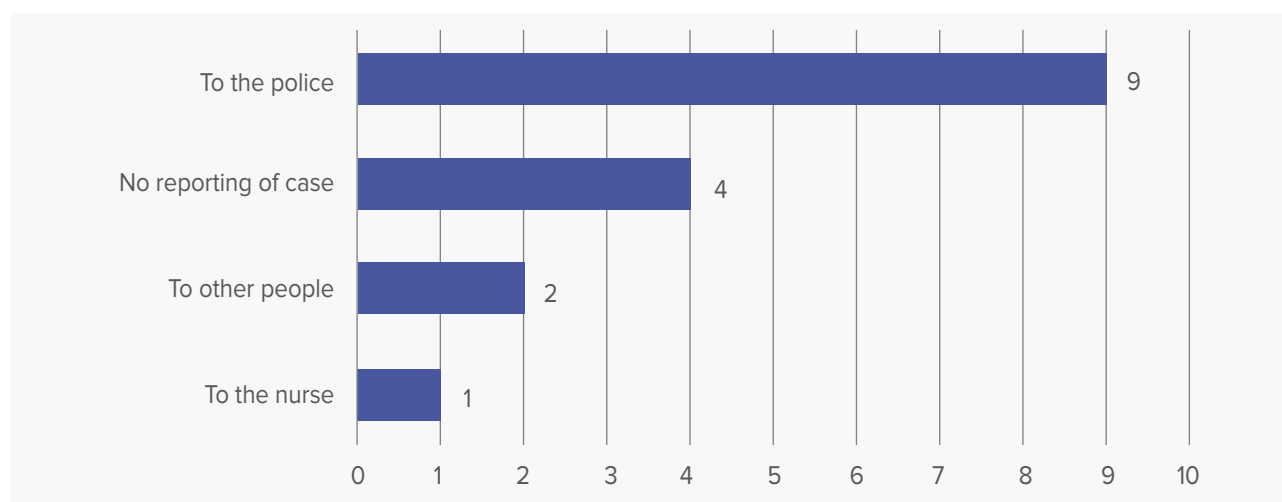
**Figure 24. The victim was previously subject to domestic violence**



Four cases out of the 14, in which the victim was previously subject to violence, have not been reported and in the other 10 cases the situation was reported to several actors. Most often domestic violence cases were reported to the police (Figure 25).

Most victims only reported once about a domestic violence case. **However, in one case, the previous situations of domestic violence were reported 6 times and in other 2 cases such situations were reported 3 times.**

**Figure 25. Reporting of previous domestic violence cases by the victim**



**Only in one out of the 14 femicide cases in which the victim had been previously subject to domestic violence, the multidisciplinary team in that community was aware about the situation.** Police officers mentioned the following about the actions taken by the multidisciplinary team: (i) the individual family assistance plan was prepared, which included the home monitoring visits, (ii) an order was issued for monitoring the children at risk, (iii) an agreement was concluded for cooperation with the family, including the assessment of the living conditions, with recommendations for recovery and provision of support (food, etc.).

**In five out of the 10 cases in which the victim had been subjected to violence previously and which were reported to the authorities, protective measures were applied.**

In the cases analysed by the Commission, **at the time the femicide was committed, protection measures were applied only for 2 victims and no electronic monitoring was enforced.** In both cases, the emergency restraining order (ERO) was applied from 5 to 10 days. In both cases the perpetrator failed to comply with the restrictions set by the ERO and committed the crime which resulted in the death of the victim. Although the National Probation Inspectorate mentions in its data that the introduction of electronic monitoring has led to a decrease in the number of violations of protection orders, such **failure to comply with the protection orders by perpetrators still represents a lethality risk factor for the victims.**

The lack of interventions and protection of the victim might lead to situations when the victim is accused of murder (Case study 4). Such a case was examined by the Commission and it shows that the gaps in providing protection to the victim, as well the fact that too mild punishments are applied against the perpetrator, led to situations when the female victim of domestic violence murdered her abuser.

#### **CASE STUDY 4. Too mild punishments applied against the perpetrator led to situations when the female victim of domestic violence murder her abuser**

*Victoria and Pavel lived together for about 3 years. They were not married, they were co-habiting. Pavel was frequently beating Victoria, that is, he applied physical force against her. She sought for help with the law enforcement authorities, but the punishments applied failed to discipline Pavel.*

*Victoria was accused of having stabbed her cohabitant with a kitchen knife in the left side of the chest following a spontaneous conflict, on January 13, 2022, at about 4:00 p.m., while being in their common home with Pavel, with whom according to Art.133/1 Criminal Code they are family members. According to the forensic report, the victim was inflicted body injuries such as penetrating wound with injury to the pericardium, the upper lobe of the left lung, haemorrhage in the adjacent soft tissues, by a sharp cutting object, which qualify as serious life-threatening bodily injuries, which resulted in Pavel's death on January 31, 2022.*

*In the court hearing, Victoria stated that on the day the crime happened, her concubine asked for spirits and intended to smoke in the kitchen and she told him he shouldn't do that. Then Pavel slapped her with his left hand on the eyes and on the lips and grabbed her by the hair. She had her hands on the table where there was a kitchen knife. She grabbed it and was holding it in front. Pavel, being drunk, was staggering and the knife penetrated into his heart area. Then he went out of the kitchen, made a step towards the door, went to the bathroom, returned and then fell to the floor on his back. Victoria shouted to call her neighbour who came and handed in the phone to Victoria. Victoria called the ambulance. The ambulance and the police arrived to the scene. She asked them to save him as he was still alive. She stated she hadn't stabbed him deliberately. She hadn't intended to kill him.*

*Victoria also reported that there were frequent quarrels in their family. Pavel was very aggressive. He was beating her and was consuming alcohol. She reported this to the police 7 times but he would always get off with just unpaid community work as a punishment.*

*By its Decision of 01.04.2022, the central office of the Cahul Court admitted Victoria's guilt in committing the crime provided for in Art. 201/1, para. (4) Criminal Code and sentenced her to 8 (eight) years of imprisonment to be served in a closed-type penitentiary for women.*

The research revealed that there are certain similarities across all the cases of femicide. Many cases happened in similar circumstances, having been caused by similar factors. Thus, these data underline that femicide cases can be prevented through timely and responsible response by the authorities. The authorities should act by assessing the lethality risk and by facilitating the enforcement of protection measures for the victim.

Failure by the state institutions to ensure security is well described in Case study 5. In some of the analysed situations, it was found that, although the victims asked for support from the state authorities, in just few cases support was provided in the form of emergency restraining order and protection order. And even when such support was provided, this was not sufficient for preventing femicide cases.

#### CASE STUDY 5. Inconsistent action by the authorities in protecting the victim

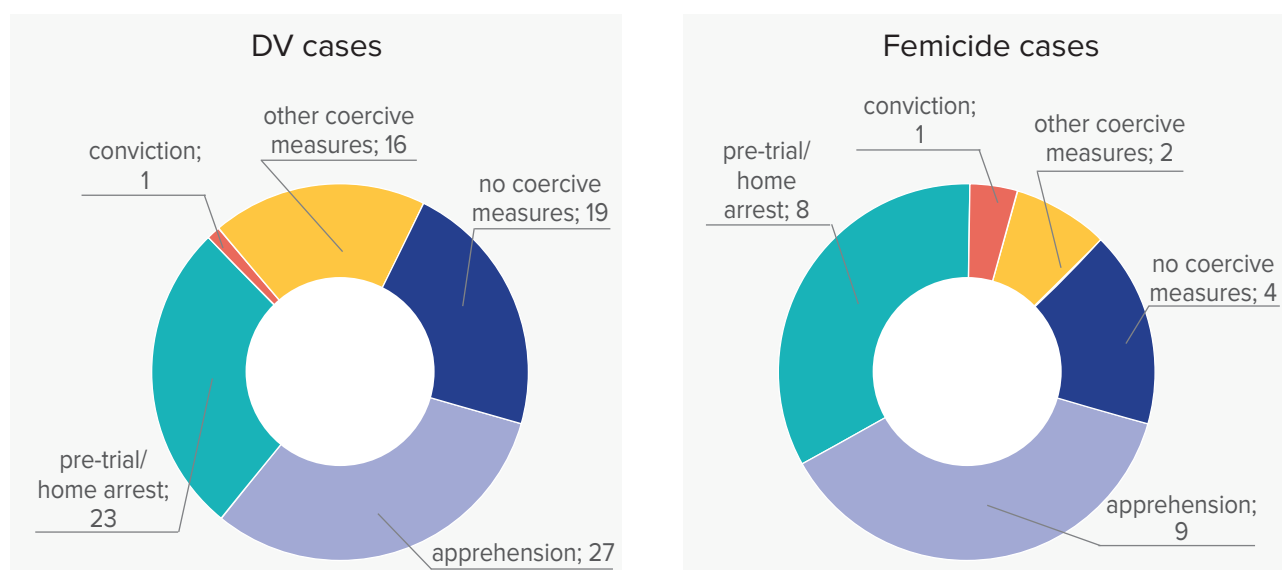
*“Claudia was living with her adult son. In order to protect herself from the violent acts of her son, Claudia filed a complaint with the police and asked for protection. The police issued an ERO to protect Claudia. Her son did not comply with the order. After the ERO expired, the perpetrator returned home and one day later, holding an illegal weapon of an unknown model, he shot towards his mother causing her bodily injuries which led to her death.”*

## 2.6. Prevention measures and punishments enforced

Most of the perpetrators in DV cases were placed in pre-trial detention at the stage of criminal investigation and case examination in court. (Figure 26). **In 1/3 of the cases, the perpetrator was apprehended, in other about 1/3 of the cases he/she was put in pre-trial/home arrest. In 16 cases the obligation not to leave the locality was applied.** In 19 cases no coercive measures were applied (Figure 26). In the cases of femicide most perpetrators were also placed in pre-trial detention at the stage of criminal investigation and case examination in court, but in 1/6 of the cases no coercive measures were applied against the perpetrator (in 2 cases this was due to the fact that the perpetrator committed suicide after he had committed the crime) (Figure 26).

Among the reasons for not applying coercive measures were: (i) the presence of minor children, (ii) death of the perpetrator, (iii) the risk was assessed as low for applying coercive measures, (iiii) the perpetrator was hospitalised, etc.

**Figure 26. Coercive measures applied against the perpetrator**





In 4 cases that led to the death of the victim, no coercive measures were applied. These were some particular cases which did not imply any risks that would call for coercive measures, such as drowning of the child while he was taking a bath with his mother, one case that happened before 2022, etc. (Table 3).

**Table 3. Coercive measures applied against the perpetrator**

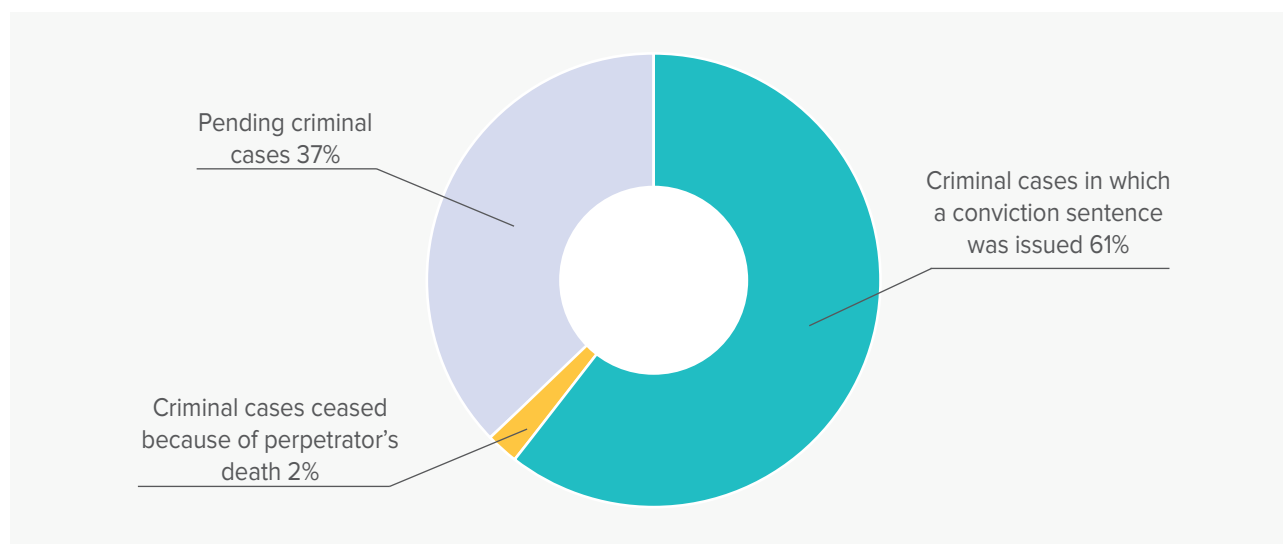
	Death of the victim	Serious injury of the victim
Apprehension	18	9
Pre-trial/home arrest	15	8
Conviction	1	0
Other coercive measures	2	14
No coercive measures	4	15
<b>Total</b>	<b>40</b>	<b>46</b>



# JUDICIAL PRACTICE IN CRIMINAL CASES EXAMINED BY THE COMMISSION IN 2022

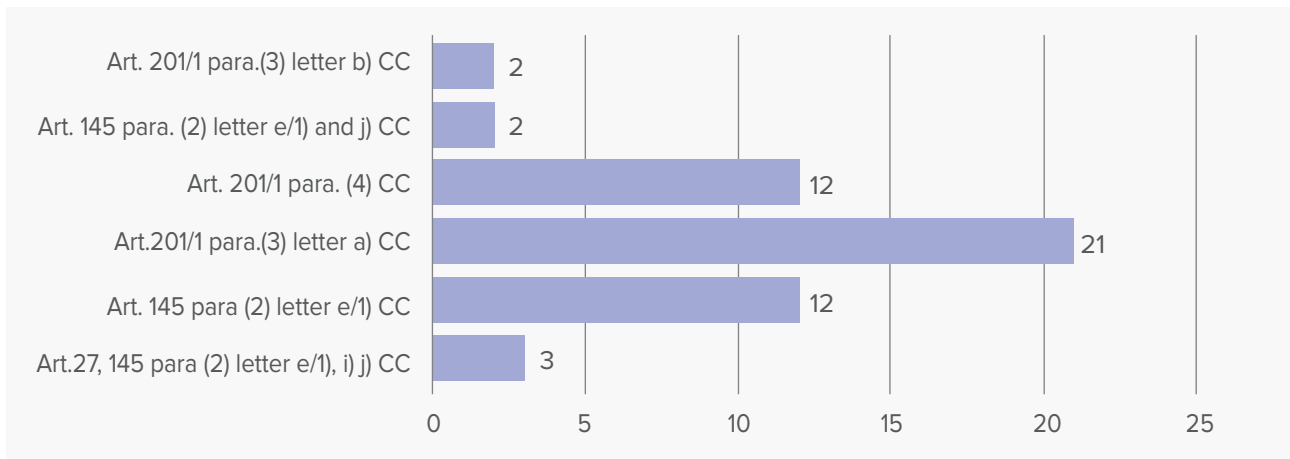
The analysis of the sentences reveals that in **51** of the **86 criminal cases** examined by the Commission, a conviction sentence was issued by the end of year 2022, in **2** of the cases termination orders were issued because of perpetrator's death, and **32** of the cases are still pending. (Figure 27).

**Figure 27. Status of the criminal cases examined by the Commission**



The analysis of the **52 criminal cases** based on the decisions published on the courts' database shows that the biggest number of cases **21** in which sentences were pronounced were classified based on Art. 201/1 para. 3 letter a) Criminal Code, followed by the cases classified based on Art. 201/1 para. 4 Criminal Code and Art. 145 para. 2 letter e1) Criminal Code. (Figure 28).

**Figure 28. Classification of crimes in the 52 sentences, persons**



During the criminal investigation and the examination in court, 2 out of the **86 criminal cases analysed were reclassified**. Worrisomely, in a case examined the court ordered the termination of the criminal proceeding started pursuant to Art. 27, 145 para. (2) letter e1) Criminal Code, and imposing liability for contravention (Case study 6). This precedent is dangerous as it might increase the risk for the victim to be repeatedly subjected to violence and it decreases the victim's trust in the judiciary because the punishment against the perpetrator is not deterrent.

#### **CASE STUDY 6. Termination of criminal proceedings started pursuant to Art. 27, 145 para. (2) letter e1) Criminal Code and imposing liability for contravention**

Grigore was cohabiting with Maria, with whom, according to Art.133/1 letter a) Criminal Code, they were family members. Petru was indicted for the fact that on May 24, 2022, at approximately 10:00 p.m., in her home, he punched Maria multiple times on the head, then strangled her until she lost consciousness. He acted deliberately, with the purpose of taking her life, for reasons of revenge, because Maria had asked him to leave the home and live separately. According to the forensic report, he caused her bruising of the neck and lower lip using a hard blunt object, possibly following compression with the fingers. However, since the minor daughter of the victim, Varvara, born in 2007, intervened to stop those actions, he wasn't able to carry his intention through.

Grigore's actions were classified by the criminal investigation bodies pursuant to Art.27, 145 para. (2) letter e1) Criminal Code, according to the following classifying indicators: attempted murder, i.e. deliberate smurder committed against a family member, which, for reasons independent of the perpetrator's will did not produce the expected effect.

In the court hearing, Grigore did not admit his guilt for the incriminated acts and stated that on May 24, 2022 he went out with Maria in the shed. It was evening, around 4:00 p.m. They started shelling corn. He took the phone to play some music in it. Maria reproached asking whether he was working or playing on the phone. Grigore answered back using a bad word and she got upset. In the evening, at around 9:00 p.m. they went up to the apartment. Maria was not talking to him. Becoming annoyed, Petru approached her and asked why she did not want to talk and she answered she got upset because he had raised his voice at her. Being angry, Grigore grabbed her by the hair and that moment the girl entered the room and asked him to leave the house. Maria was sitting on the bed. He grabbed her by the hair with his left hand and pushed her by the neck with his right hand. That moment the girl entered and asked them to

calm down and told him to get out of the house. In the court hearing, Grigore admitted that he had grabbed the computer cable but said he had not intended to strangle her.

In the court hearing, Maria asked the judge to not apply a harsh punishment on Grigore as they were already on good terms. Their minor daughter who was a witness changed her statements and said she had seen her mother and the husband going to their room and at one point she heard them talking on raised tones. The minor daughter Varvara went to see what was happening and saw Grigore grabbing her mother by the hair and neck and pushing her into bed. Then Varvara asked Grigore to calm down. On the floor there was a computer cable which he grabbed in order to stop her mother from calling her grandmother. Varvara, frightened, stood in front of her mother and asked Grigore to go out, to calm down, and in about 5 minutes he left.

In its sentence of 19.10.2022 the Court ordered the termination of the criminal proceeding started pursuant to Art. 27, 145 para. (2) letter e) Criminal Code and imposing liability for contravention. Thus, Grigore was found guilty of committing the contravention provided for in Art. 78/1 Contravention Code and, based on this article, the sanction applied against him was 15 (fifteen days) arrest for contravention. Based on Art. 88 para. (5) Criminal Procedure Code, Grigore was released from serving the sentence and the sentence shall be considered as served.

While the sentence was appealed to the Court of Appeal, Grigore committed another domestic violence act which was again classified based on Art.78/1 Contravention Code. And on 23.02.23 a protection order was issued for Maria.

**The analysis of the sentences shows that when investigating femicide cases, the criminal investigation body overlooks the history of gender-based and domestic violence to which the victim was subjected.** Or, femicide is often the culmination of the systematic and cyclic violence which women experience before being murdered.

**The most frequent motivations behind the crimes were verbal conflicts and jealousy.** The analysis of the sentences reveals that most of the perpetrators justify their violent actions by the fact that the victim instigated them. In order to obtain a milder form of punishment, most of the lawyers of the defendants build their defending strategy by invoking that the victim instigated the abuser by initiating verbal conflicts or that the perpetrator tried to discipline the victim because she consumed alcohol. This is indicative of bias and stereotypes which represent obstacles to prosecuting the perpetrators for domestic violence acts. It should also be noted that in **none of the femicide cases examined did the criminal investigation body and the court find the gender-related motivation. This is indicative of insufficient knowledge about the specifics of the femicide cases.**

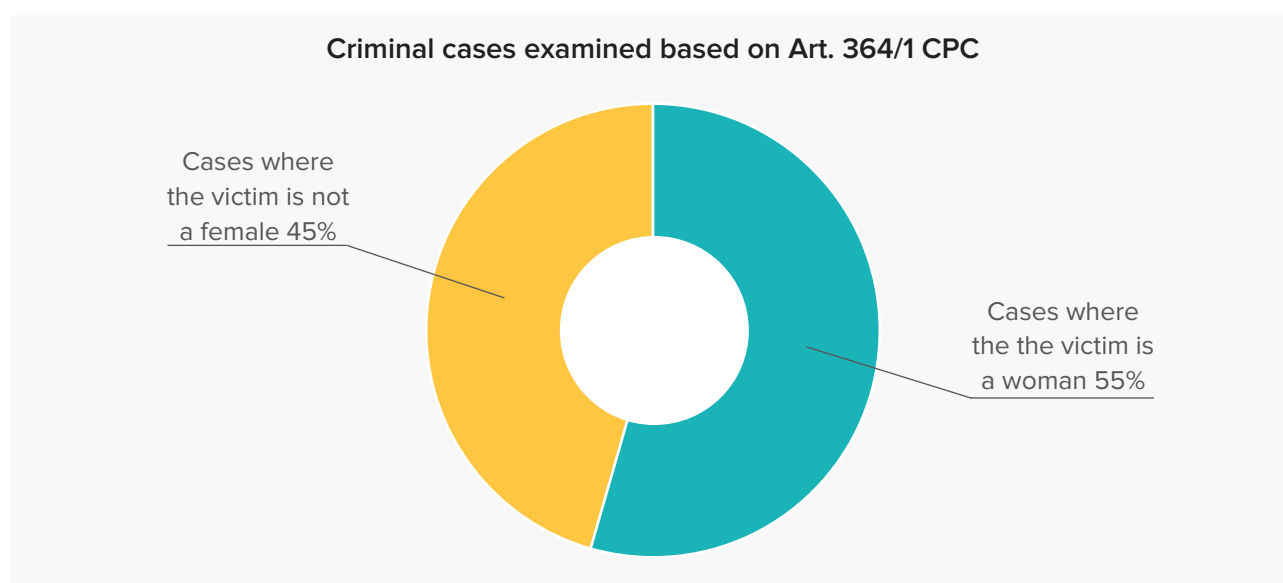
The analysis of the criminal cases reveals that among the motivations identified for femicide were family disagreements, inability to solve the conflicts peacefully, hatred, envy, poverty, revenge, jealousy, alcohol or drug consumption, poor living and cultural standards in the country, failure to accept the fact that a person has the right to personal life or that she/he can make mistakes, the habit to use force in order to achieve a goal, believing that family problems and domestic violence should be kept in secret, lack of social and/or legal protection for victims, the status of victim which generates extremely low self-esteem, etc.

Although most of the above-mentioned motivations are based on gender bias, in **none of the 24 femicide cases analysed the courts asked questions to identify whether the crime was committed based on gender bias.** When femicide cases are investigated, similarly to other crimes motivated by hatred, it is particularly important to identify the reason. Murdering someone because she is a female may indicate a gender-based motivation. The perpetrator may perceive a woman as belonging to the man and want to take revenge on her. Therefore, it is mandatory to prove or to exclude within the criminal investigation and the case examination in court the existence of such gender-related motivation. These aspects may be clarified by addressing clarification questions to the witnesses,

the successors of the injured party, etc. Within the analysis, no cases were identified in which the prosecutor or the court addressed questions to clarify whether the fact that the victim was a woman and the gender bias represented a motivation for the crime. **Failure to ask clarification questions should therefore be considered a significant shortcoming in the examination of femicide cases, which prevents the determination of the gender-based motivation.**

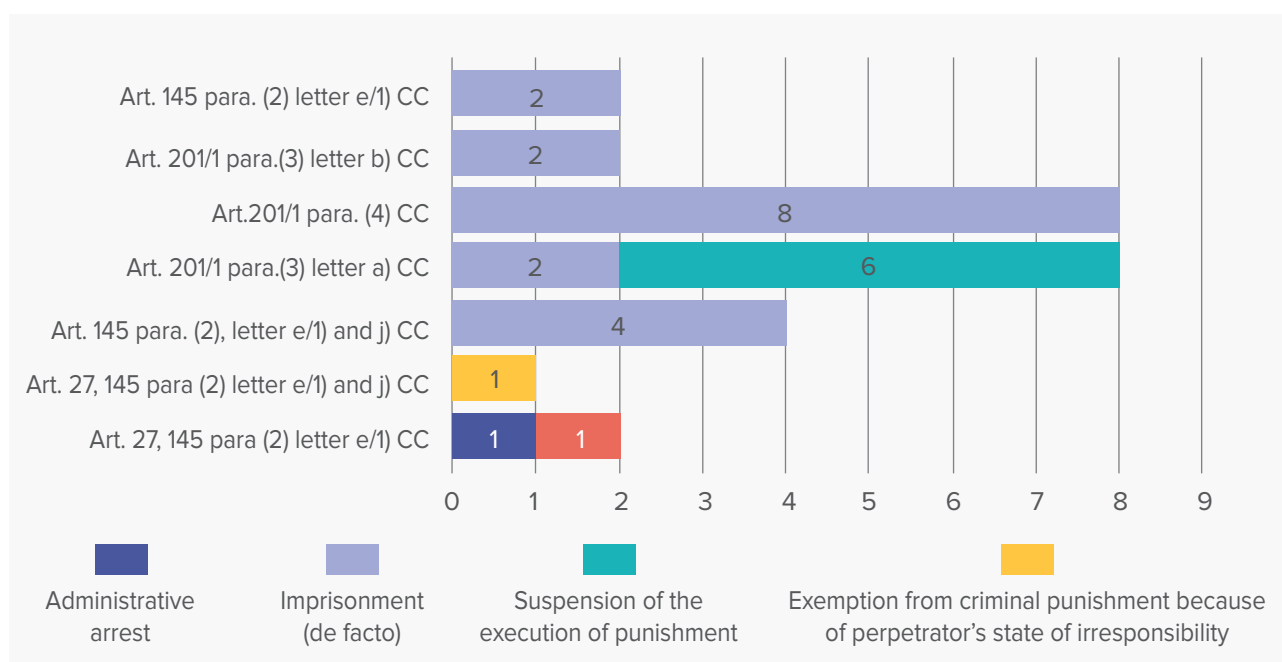
**Twenty** out of the **52 cases** analysed were examined in a simplified proceeding, with application of the provisions of Art.364/1 pt.(8) Criminal Procedure Code, and 3 cases were examined in a procedure for applying medical coercive measures. In 11 cases analysed by the Commission in which the victim was a woman out of 22 cases and in 9 of other cases in which the victim was a man, the proceeding for examination of the criminal case was a simplified one (Figure 29). In 22 cases the general proceeding was applied.

**Figure 29. Type of proceeding in which the criminal case was examined, individuals**



The analysis of the sentences shows that the punishments applied to perpetrators in cases of femicide vary (Figure 30). In **19 cases**, the perpetrators were sentenced to imprisonment for a period of 6 to 15 years, in **6 cases the execution of the imprisonment sentence against the perpetrator was conditionally suspended and a probation period from 2 to 5 years was established**, and in one case medical coercive measures were applied against the perpetrator. **Conditional suspension was applied in 6 out of the 8 cases analysed in which the act was classified based on Art.201/1 para. 3 letter a CC.** The court applied noncustodial punishments against abusers who had earlier perpetrated domestic violence acts repeatedly and committed abuse against their family members. The analysis of the sentences does not show that the court verified whether the causes that had led to domestic violence were eliminated, before applying the conditional suspension of the execution of punishment. The cases examined by the Commission show that in order for the court to convict a systematic perpetrator **with conditional suspension**, it is sufficient to decide that the incriminated offence is less serious (when establishing the imprisonment sentence for maximum 5 years) and that the accused admits his/her guilt and asks for the case to be examined pursuant to Art.364/1 para (8) CPC, without taking into account the risk of repeated violence acts.

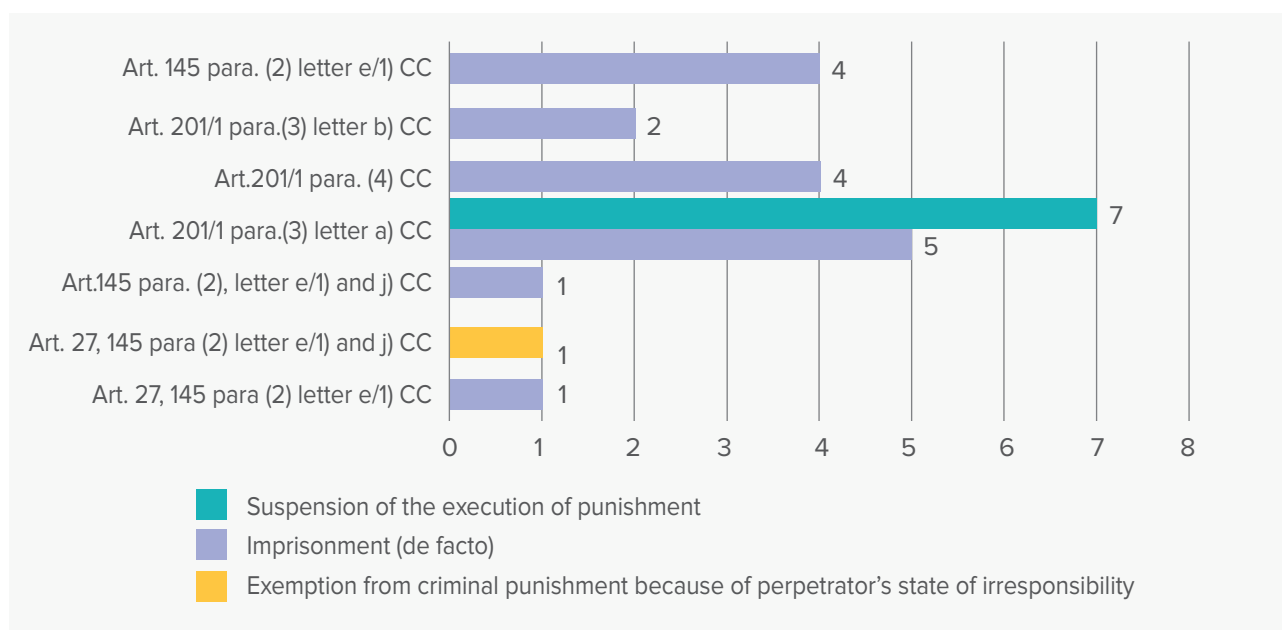
**Figure 30. Punishments against perpetrators in femicide cases**



The data of the report show that actual imprisonment sentences against perpetrators who committed the crimes provided for in Art.201/1 para.3 letter a) CC were only applied when there was a cumulation of crimes or a cumulation of sentences. Worryingly, **in none of the cases in which the perpetrator was convicted with conditional suspension of the execution of punishment he obliged to participate in a special treatment or counselling program in order to reduce violent behaviour and/or undergo treatment in case of alcohol or drug addiction.** A single case was identified in which the court admitted the guilt and convicted the perpetrator for committing the crime provided for in Art. 145 para. (2) letter e1), j) Criminal Code and, according to the provisions of Art. 364/1 para.(8) Criminal Procedure Code established an imprisonment sentence for 13 (thirteen) years, in a closed-type penitentiary for men. While he was serving his sentence, the perpetrator was subjected to forced medical treatment for alcohol addiction, based on Art.103 Criminal Code. Although the simplified proceeding entails the reduction of the punishment provided for by the criminal law, a judicial practice should be encouraged to oblige perpetrators to undergo a special treatment or counselling program to reduce their violent behaviour and/or undergo treatment in case of alcohol or drug abuse, in cases when the execution of the sentence is conditionally suspended in domestic violence cases.

In cases other than femicide, there has been an increased number of actual imprisonment sentences for crimes classified pursuant to on Art.201/1 para.3 letter a) Criminal Code. For other categories of crimes, the findings are similar to those in femicide cases. (Figure 31).

**Figure 31. Punishment against perpetrators**



The punishments against the perpetrators are too mild compared to the level of damage produced by their acts. In most of the cases examined by the Commission it was identified that defendants chose to undergo the simplified proceeding pursuant to Art. 346/1 Criminal Procedure Code, which, in practice, entails reduction of the punishment provided for by the criminal law. Such simplified proceeding favours only the defendant, who benefits from a substantial reduction of the punishment set by the criminal law, without offering anything in exchange.

The analysis reveals that **in none of the examined cases, the successor of the injured party was represented by a lawyer** providing free legal aid or by a private lawyer. A possible explanation is that successors of victims are not aware of their right to assistance from a lawyer providing free legal aid, not to mention the possibility of hiring a private lawyer, which for them seems an unattainable service. This practice affects the successor of the injured party in exercising their procedural rights. In this regard, we want to mention that, in none of the analysed cases the successor of the injured party filed a civil complaint, this situation was also attested in the CDF Study conducted in 2020<sup>13</sup>.

<sup>13</sup> WLC(2021) National study of analysis of cases of femicide, Țurcan-Donțu A., Cheianu Andrei D.



# CHALLENGES IN THE INTERVENTION IN CASES OF DOMESTIC VIOLENCE RESULTING IN DEATH OR SERIOUS HARM TO BODILY INTEGRITY IN 2022

## 4.1. Risk factors

The following risk factors were identified as being associated with DV and femicide in Moldova, the same factors were identified in the 2020 study<sup>14</sup>:

- Keeping silent about the acts of violence, no desire to speak about or report domestic violence, and concealing this from close relatives;
- Persistence of violence over time, including the presence of various forms of violence (physical, psychological, economic);
- Enforcement of punishments which do not deter perpetrators from committing violence;
- Vices of the perpetrator but also of the victim, such as alcohol abuse;
- Mental health issues;
- Financial dependence of the victim (elderly, unemployed) on the perpetrator, etc.

Some cases studies are detailed below to bring out the peculiarities of femicide cases and the factors that contributed to the perpetration of such crimes. The purpose of these cases studies is to help specialists understand the factors and improve the response.

One of the risk factors associated with femicide in Moldova is the **presence of long-term physical violence associated with other forms of violence, including threat with murder**. Victims are ashamed to ask for help, particularly if they lived with the perpetrator for a long period of time and have common children. Sometimes women hide certain vices of their spouse/concubine. They cannot even imagine that these actions, in aggravating circumstances, are life-threatening for them. In many cases, notwithstanding the fact that victims are subject to domestic violence, the perpetrator is the one who provides for the family, so filing a complaint or asking for the application of protection measures means the family would lose the source of income.

In other cases, women give up contacting law enforcement bodies because they have previously reported the case and the perpetrator received a mild punishment or was not punished at all because they failed to collect evidence.

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<sup>14</sup> Ibid.



Previous studies show that many times, the acts of psychological violence, expressed through isolation, intimidation in order to impose the will or personal control over the victim (which is attributed to psychological violence) are erroneously qualified and investigated by the representatives of law enforcement bodies through the prism of the Contraventional code as insult or family violence. This practice is vicious, for the reason that a repeated commission of family violence offenses indicates the systematic nature, characteristic of the aggressor's violent behavior, expressed through physical and psychological violence and which is to be examined through the prism of the provisions of art. 201/1 para. (1) lit. b) Criminal Code, not under art. 78/1 Contraventional Code.

The findings mentioned above show that the mechanism of periodic verification by prosecutors of the Register of other information regarding crimes and incidents (R-2) within each Police Inspectorate, carried out on the basis of art. 5 lit. d of the Law on the Prosecutor's Office and art 52.(1) point 4 CPP does not always lead to the removal of errors in the classification of acts of domestic violence based on the rules of the Contraventional Code, when they are to be classified based on the criminal rules.<sup>15</sup>

The application of too mild punishments deters victims from contacting law enforcement bodies and encourages the violent behaviour of the perpetrator.

The failure by the state institutions to ensure security of the victim is well described in Case study 7. In some analysed situations, it was found that, although the victims sought support from state institutions, in few cases were they offered support in the form of emergency restraining order. Moreover, even where they were provided such support, it was not enough to prevent the femicide. This case also emphasises that the punishments applied to perpetrators are "mild", while minor children are left without mother.

#### **CASE STUDY 7. Long-standing violence. Punishments against the perpetrator have not deterred the violent behaviour**

*Margareta was quiet and good-natured, being raised only by her father, because her mother died when she was a young child. Relatives says that Margareta had not attempted to commit suicide earlier neither did they notice any scars on her arms revealing a suicide attempt. In 2012, Margareta married Dumitru. From their marriage four children were born whom they cared for and gave a good education. Margareta was not employed. She was taking care of her children and husband. Their daughter aged 9 said her mother was calm, while her father was very aggressive, particularly when he had no cigarettes. One day, the father, having no cigarettes, choked her mother. They called the police several times but the latter did not take any action about it. During their cohabitation, Dumitru was imposed liability for his violent actions, as follows: on 15.06.2020 he was imposed liability for contravention pursuant to Art. 69 para. 1) Contravention Code; on 15.06.2021 he was imposed liability for contravention according to Art. 69 para. (1) Contravention Code; on 20.07.2021 a contravention case was started based on Art. 78/1 Contravention Code – domestic violence, which on 22.07.2022 was terminated. On 25.04.2022, following the examination of the complaint filed by Margareta (the victim), he was imposed liability for contravention according to Art. 69 para (1) Contravention Code. Although earlier he was sanctioned, Dumitru continued his criminal acts. Thus, on 15.05.2022, being intoxicated with alcohol, he started a conflict with his wife in front of their minor children, in order to impose his superiority over another family member. He deliberately committed physical violence by applying to his wife Margareta multiple punches and kicks on*

<sup>15</sup> CDF (2021) Evaluation of the response of the criminal justice system to cases of family violence, the districts of Soroca, Criuleni, Cimișlia, Comrat, Țurcan-Donțu A., Vilcu N.

different parts of the body, causing to her, according to the forensic medical report, average bodily injuries. Following this case, and ERO was issued against Dumitru. On the same day, Dumitru violated the ERO and went to their common home. Margareta, being in unbearable unrest as a result of her husband's systematic aggressive behaviour expressed by persecution, demeaning, systematic humiliation, initiating quarrels and causing bodily injuries, went into physical suffering which determined her to commit suicide. Following Ioana's death, the court found Dumitru guilty of committing the crime provided for by Art.201/1 para. (3) letter b) Criminal Code and based on the same article he was sentenced to 6 (six) years of imprisonment in a semi-closed penitentiary.

This case-study shows the practice in which some domestic abusers are imposed liability for contravention after having committed insult or domestic violence many times. This practice is wrong and it does not deter the perpetrator from committing violence. Recurrent perpetration of domestic violence contraventions is indicative of the systematic violent behaviour of the perpetrator expressed by physical and psychological violence. Therefore, law enforcement bodies should examine such cases pursuant to the provisions of Art.201/1 Criminal Code and impose criminal liability on the perpetrators.

**Alcohol use and abuse by the perpetrator** represents another risk factor for DV and femicide. Some perpetrators consume alcohol together with the victim. The research data confirm that alcohol consumption increases from august to the end of autumn, and so does the risk for DV and femicide.

Some femicide cases are particularly cruel, as is the situation described in Case study 8.

#### **CASE STUDY 8. Jealousy and alcohol consumption**

Ileana and Gheorghe were cohabiting for 7 years. Neighbours say that Gheorghe was often consuming alcohol and was beating Ileana, while Ileana was concealing the bruises behind sunglasses. However, Ileana never reported this to the police.

On April 25, 2022, being at home with Ileana, after having had alcohol together, Gheorghe hit her 73 times with the fists and hands all over her body out of jealousy, while she was unable to defend herself because she was in an advanced state of intoxication. Using a kitchen knife, he also stabbed her to the forehead.

As a result of these Mona died.

The court found Gheorghe guilty of committing the crimes provided for by Art. 145 para. (2) letter e), e1), j) Criminal Code, and sentenced him to 12 (twelve) years of imprisonment.

Another risk factor is the presence of mental health issues with the subjects of DV. Such issues are associated with the shortage of counselling services within the community mental health centres, designed for such subjects in accordance with their rehabilitation needs.

In addition, there is a shortage of complex and long-term social services. Victims of domestic violence often find themselves alone in fighting the perpetrators. The legal and social protection system often prove inefficient.

The data of the research also show that authorities pay attention to the cases of domestic violence where minor children are involved, but not always the guardianship authorities apply a form of protection to the children at risk. The presence of children determines mothers to seek help more frequently. In many cases of femicide, it was found that violence was being concealed for various reasons and the families were not registered with the authorities. The Commission also found that there were certain signs based on which specialists could have done something about it to prevent the crime.

## 4.2. Issues identified as a result of risk analysis by the Commission

The Activity of the Commission is based on the analysis of four categories of cases:

- Category I – cases in which earlier domestic violence situations were identified;
- Category II – the suspect was registered with the narcologist/psychiatrist;
- Category III – there are minor children in the family;
- Category IV – elderly victim;
- Category V – minor victim.

Following a more detailed analysis of the cases selected in each of these 5 groups, the Secretariat of the Commission **identified the following systemic gaps which favoured the perpetration of the crime resulting in victims' death or serious bodily or health harm:**

- Within the examination of the previous cases, no protective measures were applied to the victim of domestic violence, neither at the stage of criminal investigation nor at the stage of case examination in court;
- Within the examination of the previous cases, the victim was not referred to rehabilitation programs, specialised services, psychological assistance, neither at the stage of criminal investigation nor at the stage of case examination in court. Thus, the victim was not aware of the danger she was subjected to;
- Delay in the examination of previous domestic violence cases. As a result, the perpetrator sees the lack of reaction by the state and continues his criminal acts, which causes escalation of the situation;
- Inefficient intervention by the social assistance system, the multi-disciplinary teams, particularly in families where there are children and bedridden elderly;
- Insufficient involvement of social workers and family doctors in identifying cases of domestic violence at an early stage;
- Lack of verification, control, and intervention activities in families where there are children and bedridden elderly;
- Lack of data exchange between the social assistance services in the case of elderly people living in a place different from the place of their domicile;
- Lack of stricter control of the individuals registered with the narcologist and the psychiatrist;
- Lack of a mechanism for control and early identification of depressive conditions and other psychiatric and psychological conditions;
- Lack of specialised services for victims accessible at regional level;
- Lack of specialised services for all categories of victims, which would meet their needs;
- The complexity of the treatment procedure for alcohol users, as well as the lack of efficient and simplified mechanisms for intervention in cases of individuals addicted to alcohol or drugs or individuals registered with the narcologist/psychiatrist (currently this procedure is complicated and thus inefficient);
- Non-reporting about domestic violence cases to the regional social assistance bodies, resulting in the failure by the social workers to attend to the needs of the victims;
- Lack of programs designed for persons convicted for domestic violence, aimed at reducing the risk of recidivism and reintegrating the convict in the society<sup>16</sup>.

<sup>16</sup> Most domestic abusers, run the risk of recidivism after being released from detention simply because they return to the place of residence where the victim also lives, they have no stable occupation and have disorganized lifestyle.

**In addition to these, a number of circumstances were identified, which contributed to an increased risk for escalation of the situation and causing the death or serious harm to the victim:**

- Continuous physical, sexual, and psychologic violence persisting in the family;
- Failure by the victim to report the initial acts of domestic violence from different reasons, both related to stereotypes and bias about the roles of women and men, the patriarchal culture existing in the community, and the lack of trust in the law enforcement and the judicial system;
- Drug or alcohol addiction<sup>17</sup>. Conflicts arising because of alcohol abuse and failure to control one's behaviour/actions/decisions because of alcohol abuse;
- Vulnerability of the victim because of alcohol abuse, age and health condition.

**The analysis of the cases reveals some systemic problems and faulty practices, as follows:**

- The uneven classification of acts committed in similar circumstances, based on different articles, particularly Art.145 para.(2) letter e<sup>1</sup> and Art.201<sup>1</sup> para. (4) Criminal Code. Moreover, in a case of murder of the perpetrator's concubine, after which the perpetrator committed suicide, 2 orders were issued for rejecting the criminal investigation and dismissing the criminal case. One of the orders was on the grounds that the acts did not meet the elements of a crime and the other one – on grounds that the death of the perpetrator occurred.
- Failure to apply self-defence in the context of continuous domestic violence to which the victim is subject, in which the perpetrator causes her either serious bodily or health harm or death;
- No practice of establishing the state of heat of passion;
- Delayed psychiatric and psychologic examination because of the shortage of experts in this field;
- Delayed forensic medical examinations because of the shortage of forensic doctors;
- Issues with the conduct of psychological assessments and expert analysis because of the shortage of experts and the lack of representation throughout the country.

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<sup>17</sup> It should be noted that alcohol consumption is one of the most important risk factors given the fact that it triggers violent behavior. It has been found that before perpetrating the crime resulting in serious bodily harm/death of the victim, there have been multiple violence acts triggered by the alcohol consumption in the respective families.

# CONCLUSIONS

## Data analysis based on the form

- There is a higher risk of domestic violence crimes resulting in death or serious harm to bodily integrity of the victims in the rural area, while the incidence of femicide is higher in the urban area.
- The most frequent place where DV crimes resulting in death or serious harm to bodily integrity were committed during the analysed period is the common home of the victim and the perpetrator. Thus, common home remains the most dangerous place for women subject to domestic violence.
- DV cases prevail during the spring-summer time. Therefore, ¼ out of the 86 DV cases were committed in May and August. One fifth out of the 24 femicide cases were committed in August. **In the rural area, femicide cases happened most frequently during the winter-spring time**, while in the urban area – during the summer-autumn period.
- **The biggest number of DV cases were perpetrated by the concubine and the spouse**, followed by acts perpetrated by parents, adult child, sibling, grandchild. In half of the DV cases, the victim is a concubine or a spouse of the perpetrator.
- The average length of the relationship between the victim and the perpetrator is 15 years. In cases of femicide it is over 10 years, and in 3 cases it is over 30 years, 40 years and 42 years respectively.
- **The presence of children in the families increases the vulnerability of the female victims of DV.** In **19 out of 49 cases**, the victim and the perpetrator have minor children as dependants. **At the time the crime was committed, all children were in the custody of the mother.**
- The representatives of the guardianship authorities are passive in cases of children at risk caused by DV. Thus, **although the authorities have assessed in 11 cases the situation of children as being at risk, only in 4 cases a protection form was established, and in 5 cases nothing was done.**
- In 12 cases, the DV crime resulting in death or serious harm to bodily integrity was perpetrated in the presence of minor children, and in **8 out of the 12 cases** the child was a victim.
- Although based on Article 26 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, the state parties are obliged to acknowledge children who have witnessed domestic violence as victims of violence, in 4 out of the 12 reported cases this has not been done.
- **The methods and means used by the perpetrators are diverse. However, the predominant ones are the hitting/mistreatment and the use of sharp objects:** knife, axe, etc.
- Most of the victims earn their living from casual work or are unemployed. **Every tenth victim is employed.**
- **Most of the perpetrators earn their living from casual work or are unemployed.** Compared to the victims, the share of employed perpetrators is slightly higher. At the same time, **the number of the unemployed among the perpetrators is higher than among the victims.**
- Compared to the victims, the share of the perpetrators who have dependants is bigger – 30 perpetrators as compared to 18 victims. In the cases of femicide, 6 out of 24 perpetrators have dependants.
- **Thirty perpetrators** out of the 78 **have a criminal record** (compared to 8 victims). **These 30 perpetrators with a criminal record committed 17 out of the total number of 40 deaths of victims.**
- **More than half of the perpetrators have alcohol addiction.** Compared to the victims, the share of perpetrators who have vices is higher: 60 have alcohol addiction, 3 have drug addiction, and for 13 perpetrators the situation is unknown. Although according to the data recorded in the form, more than half of the victims had alcohol addiction, they were not registered with the specialist doctors.

- The share of alcoholic perpetrators is high in the cases of femicide too. The lack of rehab services for the alcohol-addicted perpetrators represents a high risk of femicide. **Although almost all the perpetrators had alcohol addiction, they were not registered with the specialist doctors.**
- The presence of long-term physical violence associated with other forms of violence, represents a risk factor for femicide.
- **The lack of timely intervention by the responsible authorities represents a high risk factor for DV and femicide.** Four out of the 14 cases in which it was known that the victim had been earlier subject to violence were not reported, while in the other 10 cases the situation was reported to several stakeholders, but most frequently to the police. Most often the victims reported a situation of domestic violence once. **However, there is a case in which previous situations of domestic violence were reported 6 times, and other 2 cases when such situations were reported 3 times.**
- Only in 1 out of the total number of 14 cases of femicide in which the victim was subjected earlier to domestic violence, the multidisciplinary team from that community was aware of the situation.
- **Protection measures were applied in 5 out of the total number of 10 cases in which it was known that the victim had been earlier subjected to violence and which were reported to the authorities.**
- In the cases analysed by the Commission, **by the time the femicide crime was committed, protection measures were applied only for 2 victims, with no enforcement of electronic monitoring.** In both cases, the measure applied was ERO from 5 to 10 days. In both cases the perpetrator did not comply with the restriction imposed by the ERO and committed the crime which resulted in the death of the victim.
- Failure by the perpetrators to observe the protection measures represents a lethality risk factor for the victim.
- Most of the perpetrators in cases of DV were placed in pre-trial detention at the stage of criminal investigation and case examination in court. **In 1/3 of the cases, the perpetrator was apprehended, and in other about 1/3 of the cases he/she was put into pre-trial/home arrest.** In 16 cases the obligation not to leave the locality was applied.

## Analysis of sentences

- **The analysis of sentences shows that when investigating femicide, the criminal investigation body overlooks the history of gender-based and domestic violence to which the victim was subjected.** Or, femicide is often the culmination of the systematic and cyclic violence which women experience before being murdered.
- The most frequent reason for the perpetration of the crime is the verbal conflicts and jealousy.
- In none of the femicide cases examined did the criminal investigation body and the court find the gender-related motivation. This reveals insufficient knowledge about the specifics of the femicide cases.
- **In none of the 27 femicide cases analysed did the courts ask questions to identify whether the committed crime was based on gender bias.** Failure to ask clarification questions should therefore be considered a significant gap in the examination of femicide cases, which prevents from finding the gender-related motivation.
- Most perpetrators justify their violent actions by the fact that the victim instigated them. In order to obtain a milder form of punishment, most of the lawyers of the defendants build their defending strategy invoking the fact that the victim instigated the abuser by initiating verbal conflicts or that the perpetrator tried to discipline the victim because she consumed alcohol. This reveals the presence of bias and stereotypes which represent obstacles to prosecuting the perpetrators for domestic violence acts.



- The imprisonment sentence varies from 6 to 15 years. In **6 cases the execution of the imprisonment sentence against the perpetrator was conditionally suspended and a probation period from 2 to 5 years was established**, and in one case medical coercive measures were applied against the perpetrator
- **Conditional suspension was applied in 6 out of the 8 cases analysed in which the act was classified based on Art.201/1 para.3 letter a CC.**
- The courts applied noncustodial punishments against abusers who had earlier perpetrated domestic violence acts and committed abuse against their family members repeatedly. In addition, the analysis of the sentences does not show that the court verified whether the causes that had led to domestic violence were eliminated, before applying the conditional suspension of the execution of punishment.
- In none of the cases in which the perpetrator was convicted with conditional suspension of the execution of punishment was he obliged to participate in a special treatment or counselling program in order to reduce violent behaviour and/or undergo treatment in case of alcohol or drug addiction.
- In none of the analysed criminal cases the successor of the injured party was represented by a lawyer, neither did he/she file a civil complaint.

# RECOMMENDATIONS

**Based on the findings of the Report and the obstacles identified in the response to cases of violence by the Members of the Commission during the meetings of 2022 and during the meeting of validation of the Report on March 29, 2023, it is recommended:**

## ■ General Prosecutor's Office

1. Conduct research into the cases in which self-defence and/or perpetration of the crime in heat of passion were invoked by the victims of DV who committed crimes. The research should cover several years and try to identify whether the extremely low application of this mitigating factor is determined by the gaps in the regulatory framework or by the gaps in the practical application.
2. Develop an internal ordinance, which should recommend to the criminal investigation body to also identify the gender-related motivation when it investigates DV crimes and to pay due attention to the history of gender-based and domestic violence experienced by the victim.
3. Amend and promote recommendations to encourage prosecutors to solicit, in case of conditional suspension of the execution of punishment for DV, the participation of the perpetrator in special counselling programs to reduce the violent behaviour or in treatment in case of alcohol or drug addiction.
4. Conduct systematic analysis of the judicial practice in order to uniformise the practice of the classification of crimes, by making a clear delimitation between the crimes provided for in Art.201/1 para.(4) and those provided for in Art.145 para. 2 letter e)1 Criminal Code.
5. Revise and monitor the procedure of periodic verification by prosecutors of the Record on crimes and incidents (R-2) in every Police Inspectorate in order to ensure timely, full and objective verification of the materials recorded in R -2 regarding domestic violence.

## ■ Ministry of Interior

1. Filling in of the mechanism for continuous evaluation of risks for the life and health of the victim (lethality risks) by all specialists dealing with the examination of the case. Ensure the enforcement of protection measures (Emergency restraining order, and Protection order) with a view to better responding to the growing risks.
2. Amend Order No.360 by including the obligation of the police to make a petition to the court soliciting the enforcement of the protection order for the victim and her children or other dependants in case a lethality risk is found (similarly to the case when the victim is in impossibility condition).
3. Develop internal procedures to ensure that if the child is found to be at risk, the risk should be evaluated for all the adult individuals as well.
4. Develop internal procedures to ensure referral to social services. Or, after the first incident is recorded, a multidisciplinary team should be convened to conduct a complex evaluation of the case and if alcohol consumption is identified as a problem in the family, then a request should be sent to the bodies having the mandate to oblige individuals with alcohol abuse problems to undergo a rehabilitation program (as an alternative to detention);
5. Develop and approve operational procedures to ensure efficient and timely investigation of all domestic violence cases within the criminal and contravention proceedings, and respond to the needs of the victims with multiple vulnerabilities (elderly women from ethnic or religious groups, persons with disabilities, persons lagging in development, persons with hearing/sight/mobility impairments, mental health issues, etc.)



6. Revise and monitor the procedure for periodic verification by the administration of the Police Inspectorates and other subdivisions with overseeing mandate, of the Record of on crimes and incidents (R-1 and R-2) in all Police Inspectorates, in order to ensure timely, full and objective verification of the materials on domestic violence recorded.
7. Monitor the observance of the Guidelines on single recordkeeping of crimes, criminal cases and individuals who committed crimes, approved by joint Order of the General Prosecutor's Office, Ministry of Interior, General Director of the Customs Service, Director of the National Anticorruption Centre No.121/254/286-O/95 of 18.07.2008, in order to consolidate the practice of registering the domestic violence crimes only after they have been confirmed within the examination of the materials in Record No. 2.
8. Conduct unplanned and selective verifications in some Police Inspectorates to check whether the recordkeeping of notifications and information regarding DV crimes and incidents (Records No. 1 and No.2) is performed.
9. Develop orders, ordinances and recommendations on taking the necessary actions for timely documentation of domestic violence cases and train the staff members on the matters identified as challenging, including from the perspective of the findings of the analysis and monitoring by the Commission.

#### ■ Ministry of Labour and Social Protection

1. Ensure the enforcement of the intersectoral intervention mechanism in cases of DV, which was approved through Joint Order No.48/298/610/162/5 of 22.06.2022 with a view to ensuring the application of the protection measures for DV, including referral to the regional offices of National Legal Aid Council.
2. Amend and complement the Government Decision No. 314 of 23.05.2021 for approval of the Framework Regulation on the Organisation and Operation of the "Personal Assistant" Social Service and the Minimal Quality Standards, as well as the regulatory framework governing the care services provided for both adults and children, by including tools for assessing the risk of perpetration of violence acts when a personal assistant is appointed.
3. Strengthen the knowledge and skills of social workers and representatives of the guardianship authorities on timely response in cases of high risk (lethality/femicide).

#### ■ Ministry of Health

1. Secure the enforcement of Order of the Ministry of Health, Labor and Social Protection „Regarding the approval of the Instruction regarding the intervention of medical and sanitary institutions in cases of family violence" No.1167 to ensure referral of DV cases by the healthcare professionals when a high risk is identified.
2. Conduct a feasibility study for a mechanism to apply compulsory treatment of the subjects of domestic violence for alcohol and/or drug addiction.
3. Start the amendment of Law No.713/2001 (articles 13, 14, 15, 16) and other regulatory documents to simplify the mechanism of compulsory treatment of alcohol and/or drug addiction of the subjects of violence.
4. Revise the regulatory framework to ensure access of the victims of violence to healthcare, taking into account the seriousness of the bodily harm incurred, the traumas and the consequences of the experiences suffered.
5. Strengthen the knowledge and skills of the family doctors on timely response in cases with high risk of lethality/femicide, and identify opportunities to train the healthcare professionals who come in contact with the victims when intervening in cases of domestic violence.

## ■ Ministry of Justice

1. Consider the amendment of the Criminal Procedure Code and the Law No.8/2008 on Probation in order set the obligation for a pre-sentence report to be solicited in cases of DV.
2. Revise the regulatory framework to ensure harshening of the punishments for domestic violence, enhancing the sanctioning mechanism for deterring perpetrators from committing violence, and examining domestic violence cases as a matter of priority.
3. Revise the regulatory framework with a view to reducing the timelines for examination of appeals when protection orders are issued. Given the fact that such appeals are examine with delays, they are not efficient when the term of the protection order has almost expired.
4. Revise Art. 90 para. (6) of the Criminal Code, with a view to expanding the range of obligations for individuals who have been exempted from criminal punishment, such as the obligation *not to consume alcohol, drugs or other narcotic and psychotropic substances for a specific period, and the obligation to undergo specific control measures such as detoxification or treatment*.
5. Revise Art.90 para. (6) Criminal Code by substituting the phrase “*may require that the convict*” with the phrase “*shall require*”, in order to ensure the compulsoriness of such measures for effective reintegration of the subjects of probation in the society.
6. Include in the Enforcement Code the category of domestic abusers against whom protection orders were issued pursuant to Art.278<sup>7</sup> of the Civil Procedure Code.
7. Make additions to pt. 3 of the Regulation on Electronic Monitoring of Persons approved by Government Decision No.1322/2016 to include electronic monitoring based on prosecutor’s order, through which a preventive measure is applied to individuals implying certain obligations or restrictions.

## ■ National Legal Aid Council

1. Prepare a list of lawyers specialised in providing assistance to victims of DV, including to those at high risk and ensure the training of lawyers to provide qualitative assistance to the victims.

## ■ National Probation Inspectorate

1. Implement rehabilitation programs for individuals monitored by the probation service and/or released from detention at the end of the term, with a focus on the consumption/addiction to alcohol, drugs and other narcotic and psychotropic substances.
2. Implement programs to ensure professionalisation of perpetrators (i.e. training, requalification courses etc.) by initiating and developing a joint program to help perpetrators find jobs demanded on the market and provide support in employment (legal assistance, etc.).

## ■ National Administration of Penitentiaries

1. Develop correctional programs for the inmates convicted for domestic violence and implement actions aimed at developing the skills of the penitentiary staff in performing interventions to meet the needs of the inmates (victims and perpetrators).

## ■ Supreme Court of Justice

1. Uniformise the judicial practice on criminal cases that are examined by the Commission. This should be described in a Decision of the Supreme Court of Justice.

## ■ National Institute of Justice

1. Establish a new course (for initial and continuous education) on the criminal investigation and court examination of femicide cases. The continuous education courses on femicide should be attended by prosecutors, judges and criminal investigation officers.

■ **Commission in charge of monitoring and analysing domestic violence cases resulting in victims' death or severe harm to bodily integrity**

1. Strengthen the Methodology for analysis of domestic violence cases resulting in victim's death or serious harm to bodily integrity.
2. Align the data collection tools used by the Commission to the International Classification of Crime for Statistical Purposes (ICCS) which was approved as a standard for statistical data collection at international level.
3. Measure femicide committed by the intimate partners or the family members in 2023 according to ICCS.



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AL FEMEILOR

CHISINAU 2023