

# THE IMPACT OF PARTNER VIOLENCE & CUSTODY RIGHTS ON WOMEN & CHILDREN

## An explainer

### Background

Empirical research has shown that the number of parental responsibility issues, such as custody and visitation rights, has increased among cases associated with intimate partner violence.

While child abuse is a clear and widely used factor in determining custody arrangements, the dangers of shared custody and visitation provisions, when violence is committed against the other parent and not the child, are far from being resolved in the EU.

In addition to this, gender bias against women in such contexts is prevalent, as women subjected to intimate partner violence are at higher risk of negative custody and visitation outcomes.

In some Member States, intimate partner violence against women is often neglected and the default rule of shared custody or parental authority appears to prevail in cases of child custody, access, contact and visitation arrangements and decisions. There are insufficient measures in place to ensure the safety of mothers, who are victims of domestic violence, and their children, when decisions are made on child custody and visitation rights in all EU state parties of the Istanbul Convention reviewed to date.

## VIOLENCE, EVEN AFTER THE SEPARATION

### 41 children

have been murdered in Spain  
by their fathers or their mothers' partners  
in the last eight years.

Italy  
February 2009

A man killed his 8-year-old son during a "controlled visit". The mother had reported her former partner several times and asked to stop visiting her son, but the judges did not follow.

Germany,  
December 2010

A 43-year old man killed his 8-year-old son and then himself. For some time, the 43-year-old man and his 41-year-old wife had been living separately and had been arguing about custody of their son.

### 263 orphans

after the murder of their mother by a partner  
or ex-partner, since 2013

Spain  
June 2016

A Spanish court has jailed a woman for five years for going into hiding with her two sons rather than hand them to the father, whom she accused of abuse. Juana Rivas has also been stripped of custody rights for six years,

Spain,  
June 2021

A man killed his 1-year and 6-year-old daughters and then himself.

Germany,  
June 2021

A 37-year-old man kills his four children, aged five to twelve because his wife wants to separate from him.

## What our MEPs say



**Elena Kountoura**  
(Syriza, Greece)

*"The protection of women and children from violence and the best interests of the child must be paramount and should always take precedence over other criteria, when establishing the arrangements for custody allocation, access and visitation rights."*

## Separations and domestic violence on the rise...

In many member states, the lockdown and social distancing measures during the Covid-19 pandemic have been associated with an exponential increase in the prevalence and intensity of cases of intimate partner violence, psychological violence and coercive control and cyber violence. A 60 % increase in emergency calls was also reported by victims of domestic violence during the pandemic.

In spite of the prevalence of the phenomenon, intimate partner violence against women remains under-reported in the EU by the victims, their families, friends, acquaintances and neighbours, for various reasons, especially during the COVID-19 pandemic. There is a significant lack of comprehensive, comparable and gender-disaggregated data, making it difficult to fully assess the impact of the crisis.

Precarious work and poor wages make women prisoners of the system and their violent partner (or: "precarity and violence are often partners in crime"?)

Adequate income and economic independence are crucial factors in enabling women to break free from abusive and violent relationships. Economic support for victims plays an important role in achieving financial independence from the violent partner. The majority of women become poorer during separation and divorce proceedings. Many women refrain from claiming their fair share and due rights for fear of losing custody. The economic barriers that may cause a woman not to report the violence she has suffered must be removed.

## The view of the Left

Failing to address intimate partner violence in custody rights and visitation decisions is a violation by neglect of the human rights to life, to a life without violence, and to the healthy development of women and children.

Children and women must be duly heard and priority must be given to their protection and compensation measures.

Legal protective measures must be fully applied to protect women and children from violence and should not be limited or restricted by parental rights.

Decisions on shared custody should be postponed until intimate partner violence has been adequately investigated and a risk assessment conducted. We stress that the withdrawal of the custody and visitation rights of the violent partner and awarding exclusive custody to the mother victim of violence, can represent the only way to prevent further violence and secondary victimisation.

Custody and separation cases should be adjudicated by specialized courts and judges, with the support of expert scientists, such as psychologists and child psychologists. Adequate access to special services must be granted, and the protection of women and children, that are victims of domestic violence, should be ensured in all Member States, by increasing state resources, structures and effective measures. The theory of the so-called parental alienation syndrome has no scientific basis. It is pseudoscience and should not be recognized.