



### **The Legal and Welfare State of Germany and its Blind Spot: Femicides**

As of July 2020, the Federal Republic of Germany, with 83.2 million inhabitants, or 18.6% of the total EU population, is not only the most populous member State of the European Union (1), but, beyond this alliance, also one of the most financially powerful nations worldwide. Nevertheless, Violence against Women is ubiquitous in Germany and is based on a structure that is historically rooted and thus deeply interwoven in society: gender equality was not recorded in the German constitution until 1957 (2) and Women have only been allowed to enter into paid employment without their husband's consent since 1977 (3). Marital rape has only been punishable since 1997 (4) and even in the 21st century, German Women receive on average about 21% less salary (5) than their male counterparts.

On February 01, 2018, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the so-called Istanbul Convention, entered into force in a legally binding way for the Federal Republic of Germany. Since then, at least 428 Girls and Women have had to pay for structural, traditional, male Violence with their lives.

The official figures of the police crime statistics (6) do not record the pregnancies of those killed, nor the motivation of the killers. Nor do they record cases in which the attacked succumbed to their injuries after the investigation was completed (final point of evaluation) or femicides committed by German citizens abroad. It is also worth mentioning that due to their publication, in each case only in November of the following year, the State statistics are already completely outdated at the time of publication.

Since November 2020, evidence-based data on German femicides has been available for the first time with the scientific data analysis of the civil society initiative of the Femicide Observation Center Germany (FOCG). In a European country comparison, the Federal Republic of Germany already occupied the top position for femicide in 2018 (7), and the data analysis of the FOCG demonstrates the steady increase of German femicides into the present.

## RESULTS – Numbers in Total

Status Friday, April 30<sup>th</sup>, 2021

Femicides	2019	Federal State/ Country:	2020	Federal State/ Country:	2021	Federal State/ Country:
<b>In Total:</b>	<b>182</b>		<b>197</b>		<b>57</b>	
<u>by Car as a weapon</u>	3	1 x Saxony-Anhalt 2 x North Rhine- Westphalia	7	4 x Rhineland- Palatinate 1 x Baden- Wuerttemberg 1 x Thuringia 1 x Hessen	3	1 x Bavaria 2 x Schleswig-Holstein
<u>by Germans abroad</u>	2	Switzerland	2	Switzerland	1	Switzerland
	1	Austria	1	Austria		
	2	Spain	1	USA		
	1	Thailand	1	Ukraine		
			1	Tasmania		
<b>Further Course of this Presentation:</b>	<b>173</b>		<b>184</b>		<b>53</b>	

In August 2018, the Federal Government <sup>(8)</sup> designated the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), the Federal Ministry of the Interior (BMI), the Federal Ministry of Justice and Consumer Protection (BMJV), and the Federal Ministry of Health (BMG) as the responsible ministries to implement the Istanbul Convention.

Contrary to this, the Federal Ministry for Women's Affairs fails to fulfill its mandate by omitting a national overall strategy, the provision of at least 14,600 shelters, and an interdepartmental recognition and definition of the term femicide. The "Round Table" <sup>(9)</sup> initiated by Minister Franziska Giffey at the end of 2018 as a promise of a solution has also been meeting for over 2.5 years without any results. Although the topic of "equality" was announced for 2020 as a priority topic of the ministry <sup>(10)</sup> as well as that of the German EU Council Presidency <sup>(11)</sup>, there have been no efforts to promote Violence prevention, for example, through the impetus for a uniform European 24/7 help hotline, the number of which could have been multiplied via banknotes and/or stamp printing.

While France managed to reduce the national femicide rate by 1/3 in the course of 2019 to 2020 <sup>(12)</sup>, in the course of the pandemic on the occasion of the presentation of the police crime statistics on partnership Violence in November 2020, for the third year in a row, Minister Giffey limits herself to her consequence-free Statement: "The numbers are shocking".

The current Federal Budget Act 2021 <sup>(13)</sup> makes it clear: Women are now outside the jurisdiction of their ministry. On page 2576, it literally reads: "The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) is responsible within the Federal Government for the following policy areas, which stand for essential tasks to shape our society:

1. Family,
2. Elderly people,
3. Equality,
4. Children and youth,
5. Volunteer services,
6. Engagement policy and welfare."

So equality replaces Women. As if equality is the status quo that has already been achieved and just needs to be maintained. Just how far-reaching the real discrimination against Women is is demonstrated by, among other things:

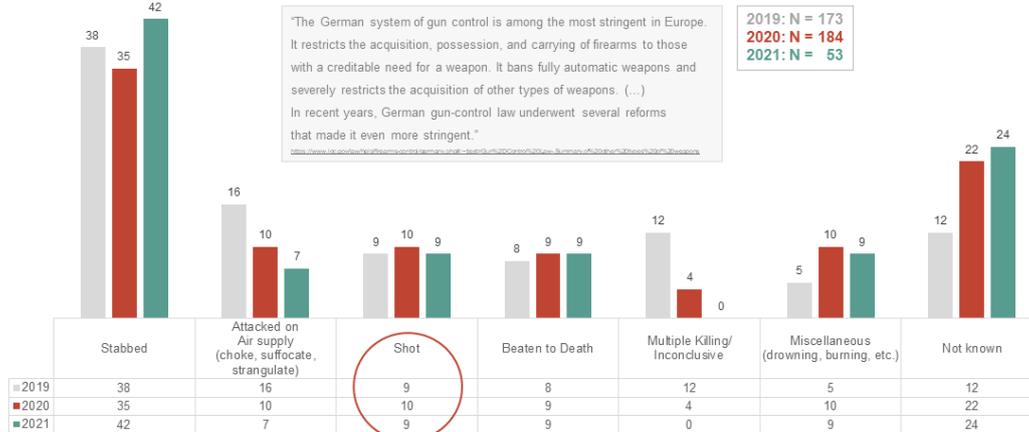
- the German language, based on the generic masculine, which Women only means by
- the lack of a single German university named after a woman
- many popular male role models whose violent past did not influence their professional advancement.

In the German "Equality Strategy", the Istanbul Convention is reduced to a single sentence: "The Istanbul Convention calls for regular statistical surveys in order to be able to highlight the exposure of individuals to Violence and the actual impact of measures to combat Violence." <sup>(14)</sup>. Goals, measures and timelines for realization? Missing.

The Federal Ministry of Justice also shows no awareness of the Istanbul Convention: While German Soldiers in uniform have been allowed to travel by train at State expense since January 2020 <sup>(15)</sup>, women affected by violence in an acute situation must pay not only the travel costs for themselves and their child(ren) incurred during an escape, but also the full or pro rata daily rates in the women's shelter, if necessary costs for moving, changing jobs, schools and/or daycare centers, and legal counseling services. The perpetrators who cause the costs, on the other hand, can at the same time be sure of fully financed State services in the form of public defense and, in the case of imprisonment, therapy, pastoral care, education and training, sports opportunities, reintegration, as well as free board and lodging, without ever having to reckon with a claim for recourse.

## RESULTS – Modus Operandi

Status Friday, April 30<sup>th</sup>, 2021 - Distribution in percent



Although attacks on the air supply are the second most frequent cause of death in German femicides, the criminal law rating "bodily harm" does not depict the direct attack on life. There is no warning education for young, inexperienced Girls and Women about so-called "breath-games," a life-threatening sexual practice. Diametrically opposed to the fact that the British Parliament is discussing the prohibition of the defense "sex accident", this strategy has already led several times to reduced sentences in Germany. Also, the high number of femicides in which Women were shot has not resulted in any legal activities to improve the gun laws.

The Ministry of Justice has also failed to punish media reporting that distorts reality. The media's coverage, which always uses the same stereotypes to the detriment of the victims and uses a tone of "desperate act" to "extended suicide" that parallels the subsequent defense strategy, does not expose the inability of the perpetrators to coordinate and control their own claim to power and control in an adult manner. In the course of the last few years, Federal Minister of Justice Christine Lambrecht could well have worked together with the German Press Council to use the ethical journalism guidelines<sup>(16)</sup> for prevention in such a way that, following the Spanish model, all news broadcasts (TV, radio, online and print) react ad hoc with adequate language after a femicide becomes known. This has not happened, nor has the revision of a vague murder paragraph, or the transfer of stealthing or stalking from the legal status of misdemeanor to the status of felony. Contrary to the practice in other countries, there is no consideration of alcohol, drug or medication abuse as an aggravating argument for punishment; on the contrary, it continues to be applied in a mitigating manner. Even contact regulations in the course of a separation, which harbor a repeated danger of death for mothers (and increasingly also for children), have not been revised to date; instead, there is an ironclad reference to a catalog of measures, the individual points of which all take effect only after the experience of Violence has been endured.

In the meantime, even the justice ministers of the Federal States are sounding the alarm via their resolution on the fall conference in November 2020 on combating Violence against Women (17): "The justice ministers have discussed the various manifestations of and the judicial handling of violent crimes against Girls and Women. They note with concern the persistently high number of these acts. In particular, the consistently high rate of homicides by (ex-) partners over the years is of great concern." Still nothing has happened, instead the realization of the obligation under international law is made impossible by shifting the responsibility reciprocally from the Government to the Federal States (18) and from there back again with reference to "Article 5 - Obligations of States and Due Diligence" of the Istanbul Convention (19).

Even before the outbreak of COVID-19, the situation for Women affected by Violence was precarious. Knowing about the aerosol virus transmission, the Government answered the following question of the party DIE LINKE from February 2021 "How does the Federal Government protect victims of domestic Violence if employees from Women's shelters and Women's counseling centers are not classified as system-relevant and cannot fulfill their work to the full extent due to closed care facilities?" as follows: "In principle, the provision of an adequate support system is the responsibility of the Federal States, which includes any provisions for cases such as the one described in the question." (20).

Article 15 of the Istanbul Convention requires that "Parties shall provide or expand the provision of appropriate education and training on the prevention and detection of such Violence, on gender equality, on the needs and rights of victims, and on ways to prevent secondary victimization, for members of the professions who deal with victims or perpetrators of all acts of Violence falling within the scope of this Convention." There is a lack of comprehensive, targeted training, both in the judiciary, the legislature and the executive. In line with the real figures, these measures are also lacking in education, administration, business and health care.

The German Federal Minister of Health, Jens Spahn, also acts as if the European Protection Against Violence Act is none of his business. This is fatal, because the lack of protection against Violence, which consequently leads to health problems, places an enormous burden on society. Be it because the

- medical care is delayed due to shame
- injuries are often associated with long-lasting healing processes
- experienced Violence is often compensated for by behavior patterns that endanger health
- perpetrators usually do not stop their Violence on their own, but increase it

and also because Violence that is lived out is passed on to the next generation. Economically speaking, this is reason enough to counteract the centrifugal spiral of Violence.

The evercommon denominator of right-wing parties, of "angry white men" (pickup artists, INCELS, etc.) and of the devastating attacks in Winnenden, Munich, Halle and Hanau is Misogyny. Federal Minister of the Interior Horst Seehofer, the supreme ruler of the executive branch, is aware that more and more Femicides are being committed in public spaces and represent a national security risk. It goes without saying that he knows the balance of State failure presented by Holger Münch, the president of the Federal Criminal Police Office, on the occasion of the presentation of the police crime statistics on Violence against Women and intimate partner Violence: "It's a continuous trend since we've been doing this [note: the collection of gender-specific data], since 2015 we've seen increasing numbers every year" (21).

Despite this devastating finding, the current Federal Minister for Women, Franziska Giffey, cut her budget for measures against Violence against Women from €6.1 million in 2019 (22) to €5.0 million in 2020 ff. (23) by 18%. This means that all projects, initiatives and institutions involved in the aid system will become competing individual enterprises, at the latest as soon as State follow-up funding is involved, i.e. synergies will be systematically prevented, sustainable planning will be sacrificed to secure short-term project funding and justified criticism of the responsible ministry will be silenced out of fear for their own existence.

The German Government, it seems, has long since withdrawn from the European agreement on the protection of Women against Violence, just less officially than Turkey. This is currently also reflected in the German endorsement of the #sofagate humiliation of EU President Ursula von der Leyen on the misogynistic stage of an autocrat courting EU membership in the presence of the world public. All signatory States to the Istanbul Convention, "recognizing that Violence against Women is structural in nature as gender-based Violence, and that Violence against Women is one of the crucial social mechanisms by which Women are forced into a subordinate position to men," pledge to condemn all forms of discrimination against Women. Germany, as well as its official representative, Federal Foreign Minister Heiko Maas, on the other hand, continue to look the other way in silence.

The Femicide Observation Center Germany (FOCG) has been performing the Istanbul Convention's requirement of "Article 11 - Data Collection and Research" since January 2019 without being appreciated or even financially supported for it. In the meantime, more than 500 German Femicides, as well as the associated court proceedings and sentence assessments have been documented and scientifically evaluated via more than 100 parameters, according to which individual filtering is possible. The same database also contains a number of cases that happened to be non-fatal. Neither a comparable database nor a comparable analysis is known or established in Germany so far. If the results of the work of the key authorities for the protection of Women within the last years would be convincing, it could be explained that a data-based support offer of the FOCG is unseen and stoically rejected on the local, regional, district, Federal and State level. Consistently, across the instances, it is pointed out that the "Istanbul Convention is understood as a chance...." - awareness that it is a legal obligation to be ensured for the protection of Women against Violence is missing in its entirety.

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