

# **FEDERAL STATISTICS OF VICTIM-OFFENDER-MEDIATION IN GERMANY**

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## **Abstract**

The article describes the federal statistics on Victim-Offender-Mediation (VOM) cases in Germany. The statistics exist from 1993 and contain information on more than 30,000 VOM-cases, victims and offenders. The article describes the history of the statistics, philosophy, aims, and methodology with detailed information about the kind of information collected. The structure of the data and the technical realization of data collection and analysis procedures are also discussed. Additional paragraphs introduce the reader to the relationships between the organisers of the statistics and the practitioners, the dissemination of the results, and the costs of the statistics. Finally the relevance for developments at a European level is considered.

**Key Words:** Victim Offender Mediation (VOM) in Germany, Evaluation of Victim Offender Mediation (VOM), Victim Offender Mediation statistics, Evaluative research, Restorative Justice in Germany, Evaluation of Restorative Justice programmes

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## **Introduction**

The article describes the Federal Statistics of Victim-Offender-Mediation (VOM) in Germany (Taeter-Opfer-Ausgleich-Statistik). With these statistics we can answer questions like: who are the victims that are ready to take part in a mediation session with the offender; who are the offenders that are offered mediation instead of a criminal sanction; are VOM cases successful with violent offences; what is the type of settlements and compensations victims and offenders agree on? Data from more than 30,000 cases have been collected and analysed within this scheme. Some results can be found in Hartmann/Kerner (2002)<sup>1</sup>. This essay deals with the history, the philosophy, some methodological and technical aspects of this statistics and ends with suggestions for a European Joint Data Recording System.

## History

### Forming the Idea

The practical implementation of Victim-Offender-Mediation (VOM) in Germany commenced in the year 1985. The first projects were evaluated over a period of about four years. In 1990 the evaluated model phase came to an end in almost all projects. The results of the evaluations were consistent in many aspects but there were also clear differences (see the reports of Kuhn (1989), Schreckling (1990), and Hartmann (1995)). Unfortunately the data collected for the evaluation of the model projects were too different to analyse them in comparison to each other, giving rise to the idea of a standardised and comparable evaluation.

### Forming the “VOM Research-Group in Germany”

The idea became more practical during a workshop on VOM in Il Ciocco, Italy, in 1991 when some participants met in a pizzeria in Pisa. Back in Germany these researchers were able to convince the chairs at the institutes where they were working of the value of the planned project, starting the ongoing scholarly collaborative efforts of the VOM Research Group in Germany [=Forschungsgruppe Taeter-Opfer-Ausgleich]. Core members of this group are, in alphabetical order: Britta Bannenberg, University of Bielefeld; Dieter Doelling, University of Heidelberg; Arthur Hartmann, University of Applied Sciences in Public Administration Bremen; Wolfgang Heinz, University of Konstanz; Hans-Juergen Kerner, University of Tuebingen; Dieter Roessner, University of Marburg; Elmar G. M. Weitekamp, University of Tuebingen). Data collection and analysis of the Federal VOM statistics has been done for several years almost completely at the Institute of Criminology of the University of Tuebingen (e-mail: hans-juergen.kerner@uni-tuebingen.de).

The project also had the support of the then newly formed Service Bureau of VOM (e-mail: info@toa-servicebuero.de), because its manager then M. Wandrey sat at the table in Pisa. The starting year was 1993 with 43 projects taking part. All German VOM-projects were and still are invited to join.

### Funding by “Volkswagen Stiftung” and The “Federal Ministry of Justice”

The research group was able to win the support and necessary funding of the “Volkswagen Stiftung” (The Volkswagen Foundation). This ended after three years when the project came into a critical phase and was mostly kept alive by the support of the intern revenues (aversa) of the institutes of criminology in Heidelberg and Tuebingen. The funding for an expert opinion by the Federal Ministry of Justice then gave new support and the Federal Ministry of Justice now finances the minimum costs of the VOM statistics.

## Philosophy

### Combining the Interests

Because there was and is no direct governmental requirement behind this project the VOM practitioners had and have to be individually convinced to join in. This is only possible if the practitioners see a direct advantage in exchange for the additional work of completing questionnaires for every case. Taking part in the VOM statistics therefore is somewhat like a contract. Every project that sends their data gets back an analysis of their own data and a summary analysis of all participating projects. Every project can use the individual analysis for its reporting obligations to its financiers, to the public and media etc. and in combination with the summary report, the project can evaluate its own work. Data on individual projects are not published by the research group which publishes data analyses without mentioning individual projects. Due to this philosophy it was possible to combine research interests, governmental interest and the interests of the practitioners, and broad statistics could be operated on a completely voluntary basis for now more than ten years.

### Forming a Meaningful Database

The statistics are drawn from individual VOM-cases. If a project takes part, it has to document all its cases - whether successful or not - on a standardised questionnaire that contains about 60 items for every case, regarding: (a) the case and its progress, (b) details of the victim(s) involved, and (c) details of the offender(s) involved. As the participation is voluntary, and since a number of institutions refrain from joining, the VOM-statistics cannot be considered representative of all VOM-projects in Germany in a strict sense. In substance, however, from all the evidence available, including reports published by non-joining projects, the indications are that the VOM-Statistic gives at least a valuable, if not strictly valid and reliable, picture of the VOM-scenery in Germany, mainly because projects from every German region, from every size and from every form of organisation are taking part. In the years 1993 until 1999, the numbers of involved projects varied between 43 and 72.

### Balanced Amount of Information

As participation is voluntary the questionnaire has to be operable in the daily work of the practitioners. Therefore the data to be collected have to be restricted and the interests of researchers and practitioners balanced. The questionnaire is open for revision but in practice the revising process is demanding because, on the one hand, it requires a consensus of the participating projects and, on the other, the technical machinery of collecting and analysing data and reporting the results has to be adjusted.

## Aims

There are 5 clear aims of the VOM statistics:

- To document the development of VOM in Germany on a year-by-year basis in a comparable form.
- To supply practitioners with an individual analysis of their work and a summary of all participating projects, giving them an opportunity to reflect and advance their own work.
- To provide VOM projects with a basis for their reporting duties.
- To provide researchers with standardised data about VOM in Germany that can differentiate mainstream effects and effects of individual projects and give a longitudinal perspective on the development of VOM.
- To provide criminal justice officials and the media with necessary data for their work and reports. The work of the many projects should then become visible on a national scale.

## Methodology

### Standardised Questionnaire

Most of the information is collected by a standardised questionnaire that is filled in by the mediators. The questionnaire has four parts:

- Information about the project
- General remarks on the case
- Victim sheet
- Offender sheet

The information about the project is taken once a year. For every single case there is one sheet for general remarks, for every victim one victim sheet, and for every offender one offender sheet has to be completed. There is no restriction on the number of victims and offenders in the data collection and the number of victims or offenders taking part in a VOM case requires a corresponding number of victim or offender sheets added to the questionnaire. The data on victims and offenders are complete even in cases with several victims or offenders and the system could accommodate restorative justice procedures with more participants like family or group conferencing (FCG). This also means that the process of analyzing data is much more demanding than much evaluative research.

### Information about the Projects

As well as the address and a contact person, information is collected on the specialisation of the mediators (specialised in practicing RJ, or this is just one task beside other responsibilities like juvenile court aid) and the target group (juvenile or adult offenders). These items have turned out to be most important for discussions in Germany.

## General Remarks on the Case

In this part of the questionnaire data are collected on four topics:

- How much time was needed for the different steps of the procedure from offence registration to the end of the prosecution. This information is valuable in discussing the question of whether procedures are prolonged by VOM.
- Who has taken the initiative to use VOM.
- Was the case suitable for VOM and accepted by the VOM-project.
- Were the agreed obligations fulfilled in general.

The reverse side of the general remarks sheet is reserved for a description of the case in a free narrative way. This option is mainly used for cases with special unusual aspects and is a valuable source for the interpretation of the quantitative results. Over the years an extensive collection of qualitative case descriptions has emerged but, so far, time and money are lacking for a systematic analysis.

## Victim Sheet

Some general personal and social data on the victim are collected like age, gender and nationality. The form also asks about the offence and the mediation process: whether the victim agreed to take part in VOM or not; the financial cost to the victim; and what kind of injuries and damages the victim has suffered.

## Offender Sheet

General personal and social data are recorded about the offender, together with:

- the kind of criminal offence,
- the readiness of the offender to take part in VOM
- the type of mediation, e.g. with a personal meeting or not
- the results of the mediation progress (agreement)
- the content of the agreement (services, payments etc.)
- the result of the criminal procedure

Links to individual victim sheets are made in relation to offences and agreements so that offences or agreements can be analysed on the basis of the victims of particular offenders or of specific cases and projects.

## Structure of Information

The structure of information is elaborate because one case may be connected to an unlimited number of victims and offenders. To avoid duplication in the questionnaire, information from the offender's sheet is connected to the particular victim by a reference number<sup>2</sup>. This structure provides the opportunity for analysing data not only on the basis of offenders but also in relation to judicial cases, projects and victims in a valid way. This is important for variables like the readiness of the victim to take part in a VOM-procedure

and to meet her/his offender, and for correlations of these variables with victim data such as age, gender or nationality, the kind of offence, injuries or damages the victim has suffered. Some variables like “success” of the VOM-procedure are of great interest not only for the mediators but also for cooperating institutions like the courts, funding organisations or policy makers. The success-rate is therefore a ‘political’ question for the projects.

The way that “success” should be defined, is under discussion, raising questions about the necessary elements of a successful VOM procedure: meeting of victim and offender, agreement of any kind of restitution or compensation, full financial restitution, fulfilment of the agreement by the offender, dismissal of the criminal procedure by the court or the prosecutor’s office etc. Even among the VOM projects there are different views about the definition of “success”. The way in which the VOM-statistics try to overcome such problems is to avoid definitions of constructs like “success” as variables and to describe the procedure and the results instead. This provides the opportunity for analysing different definitions of “success” and figuring out their results. In this way success can be analysed as a combination of the readiness of victim and offender to take part in a VOM-procedure, meeting in a mediation session and agreeing on any kind of restitution. But also the cases in which the victim does not want to spend her/his time in a mediation session, yet accepts a financial restitution as a full compensation for her/his injuries, can be included to the successful cases as well as cases in which the victim did not want to become involved any longer because the offender had already privately met the victim and the victim had accepted his or her excuse. In practice many other arrangements are possible and can be analysed.

## Technical Implementation

### Data Collection

Standard data input programmes were not suitable for these data and therefore special software was written for the data collection. The input of data into an electronic form has consumed the biggest part of the budgets of time and money. A software solution that allowed the projects to collect the data directly in an electronic form without using a paper questionnaire became essential when the number of questionnaires rose to several thousand a year. With funding from the Federal Ministry of Justice, a software package designed for VOM was written that allows not only data collection for the VOM statistics but also for the management of the whole VOM project. However this advantage is partly a disadvantage because the software does not fit the organisational demands of all projects. Although the software is free to the projects and the only condition is the obligation to take part in the VOM statistics collection, it is so far not generally in use.

### Data Analysis

The development of the VOM statistics required data input, analysis, and reporting of several thousand questionnaires and up to 72 projects a year. The process of analysing and reporting this volume of data and reports is structured by a series of SPSS and EXCEL macros that set out the necessary steps for analysis in a semi-automated process and templates are used for the production of reports. However, troubleshooting and working behind schedule are still well known problems among the staff of VOM statistics.

### Going to the Field

The development of the VOM-statistics was not continuous. Periods of rising acceptance among the projects were followed by complaints and objections. To keep the VOM statistics running requires regular contact with the projects and their needs. The results of the statistics are reported in publications and presented in conferences. It has turned out to be critical that the reports are produced in a form that the projects can use for their own reporting obligations. But it was and is not always possible to finish the reports in the first quarter of the following year with a very limited and changing staff of students.

### Analyses and Reporting

The VOM-statistics are the main source of quantitative data on VOM in Germany. The published results have been cited in many publications, theses and political debates. The reported positive results of cases with violent offences led to something like a “chain-reaction” among prosecutors and other criminal justice officers with the result that about 60% of the cases sent to the VOM projects are cases with violent offences. At present two forms of reports are produced. There are the mentioned reports for the projects, which are “grey literature” and a yearly report for the Federal Ministry of Justice, which is published and available from the homepage of the ministry (<http://www.bmj.bund.de/toa>). Some reports have also been published as or in books (e.g. Hartmann & Stroezel 1998).

### Costs

Due to periods without third party funding, cost minimisation has been mandatory. Data input has been supported by a specialised computer programme and should in future be dealt with almost completely by the practitioners themselves and the analysis process has been rationalised, making it possible that the whole VOM statistics process requires only students for the data input and one half-time researcher as a ‘job starter’. Additionally, some members of the research group are working on the production of bigger reports.

### European Link

Within the cooperating and unifying Europe, the joint and mutual development of policies in the field of criminal justice has assumed increased importance. Reliable figures are one of the prerequisites for formulating and evaluating programmes and policies and making results and problems visible to a broader public. Within the European Commission funded COST Action on “Restorative Justice Developments in Europe”, a working group has been formed to summarize the existing data recording systems on VOM

and Restorative Justice in Europe. A first questionnaire has been disseminated to find out the persons who are dealing with data recording in the field of RJ/VOM. A second questionnaire followed, which collected short descriptions of the recording systems that are in use or planned in different countries or regions. After analyzing the collected data, a workshop with a number of experts took place in Bremen/Germany in December 2005 and the possibility of a “European Joint Data Recording System” discussed. From the different presentations it soon became obvious that the core elements of the data reporting schemes are rather similar in spite of the different social welfare systems and jurisdictions. It turned out that Restorative Justice (RJ) and Victim Offender Mediation (VOM) seem to have a rationality of their own that have shaped recording systems from different places independently but in a comparable way.

Realistically a European data recording system will not be introduced by a governmental order or European regulation. The practitioners in the different countries need to find a way to make their existing data compatible or to develop a compatible way of data recording. The aim of the mentioned initiative is to initiate and support these efforts. The advantages of this seem to be evident: with a joint data recording system, the development of RJ/VOM, its successes and problems, could become much more visible on the European stage.

## End Notes

1. Hartmann/Kerner (2002). Victim-Offender-Mediation in Germany – An Overview. e-journal European Research Group on Crime, Ethics and Social Philosophy (ERCES) vol. 2/2004 <http://www.erces.com/journal/Journal.htm>
2. In this respect technically spoken m : n relationships are possible.

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## Appendix: Questionnaire

Information for the set-up of victim-offender-mediation (VOM)

Name of the institution:

Address:

Tel:

Person to contact for inquiries:

Function of the set-up:

VOM only function

VOM one of the main functions

VOM side-function

offender target group:

juveniles/adolescents

adults

juveniles/adolescents and adults

The employment of the staff is

integrated, i.e. in addition to the carrying out VOM in the same case, other tasks are performed for the offender or the victim (e.g. welfare worker for the offender or victim)

partly specialized, i.e. VOM is only a part of the professional activity, but the employee undertakes for the offender or the victim either mediation in a VOM setting or another function.

specialized, i.e. the employment is exclusively carried out for the VOM.

Our project will participate again in the VOM-statistics next year:

yes

no

The statistic sheets relate to:

quarterly evaluationquarter nr.

yearly evaluation year

Number of the enclosed statistic-sheets:

**VOM-statistics: general details of a case**

Note:  means, that only one answer per question can be checked off, ( ) means that more than one answer can be checked off;

Please use one sheet per case

1. Case-number: ..... year the case was received:..... .....
2. Person in charge: ..... .....
3. Date of the crime: ..... / ..... / ..... - ..... / ..... / .....
4. Date of entry in the VOM-project: ..... / ..... / .....  
(in case of more than one crime from-to)
5. Date of first contact with
6. Date on which case was handed back to the  
office of offender or victim: ..... / ..... / .....  
the district attorney or court: ..... / ..... / ..... (e.g. first contact by telephone, letter, etc.)
7. In which phase of the legal proceedings was VOM initiated?  
 during preliminary proceedings, before indictment  
 after the main trial because of the sentence  
 after indictment, before main trial  other time:  
 during main trial  unclear
8. Who initiated the VOM:  
 offender  judge  
 victim  juvenile court aid  
 police  court aid for adults  
 defence attorney  parole officer  
 prosecutor  other: .....
9. Is the case suitable for VOM?  
 yes  no

Note: 'no' means, that the case is given back unfinished, because a criterion is not fulfilled. Please name the criterion. Completing the questionnaire further is unnecessary.

Criterion:.....

**Attention:** this question is not meant for cases in which the victim or the offender refuses VOM. For such cases, the questions 29 (victim-sheet) or 52 (offender-sheet) are intended.

10. Number of third persons involved in the VOM:  
(attorneys, parents, friends etc.) .....

please name the persons: .....

11. Did the offender and the victim bring charges against each other?

yes  no

12. Fulfillment of the agreed obligations:

completely  not at all  
 partly  no obligations agreed upon  
 obligations are being fulfilled  unknown

13. Has there been further work with the offender or the victim after the case has been handed back?

yes  no

14. Short description of the offence / special characteristics of the case

This question is meant for extraordinary cases, which cannot be fully covered by the questionnaire, e.g. unusual charges, like attempted murder, or a complicated VOM, e.g. cases in which either party first consented to a VOM and afterwards drew back the consent, etc. In questions 29 and 53 only enter how matters stood at case conclusion, e.g. a refusal.

**VOM-statistics: victim-sheet**

(Please fill out one sheet per victim)

20. Case-number: ..... / ..... (see question 1)

21. Number of victim: ..... .....

22. Type of victim:  natural person  institution

23. Year of birth: (estimate if necessary) .....

24. Gender:  male  female

25. Nationality:  German  not German

26. Is the victim legally represented?

yes  no  unknown

**27. Financial demands and agreements:**

demand by the victim at the beginning: \$ .....  
 agreement: \$ .....

**28. Injuries / damages:**

- simple injury (no treatment necessary)
- medium injury (fast healing injury with ambulant treatment)
- serious injury (long healing process with medical treatment/in-patient treatment)
- injury with lasting bodily damage
- psychological damage
- material damage

**29. Result of contacting the victim:**

- victim consents to VOM  victim does not consent to VOM
- victim unobtainable  not attempted because offender did not consent to VOM (see qu. 52)

**VOM-statistics: offender-sheet**

(Please fill out one sheet for each offender)

**40. Case number:** ..... / ..... (see question 1)

**41. Number of offender:** .....

**42. Which crime is the offender accused of?**

	Statute	denotation	accomplished/ attempted (see question 21)	number of victim(s)
1.	§ ..... .....	.....	<input type="checkbox"/> <input type="checkbox"/>	(.....)
2.	§ ..... .....	.....	<input type="checkbox"/> <input type="checkbox"/>	(.....)
3.	§ ..... .....	.....	<input type="checkbox"/> <input type="checkbox"/>	(.....)
4.	§ ..... .....	.....	<input type="checkbox"/> <input type="checkbox"/>	(.....)
5.	§ ..... .....	.....	<input type="checkbox"/> <input type="checkbox"/>	(.....)

note: if you know the exact paragraph, you do not have to fill out "denotation". If you do not know the exact paragraph, please fill out "denotation" and add a short note which offence is meant in question 14 (if necessary).

**43. Does offender accept the offence he/she is accused of?**

- completely  essentially  partly
- no  unknown

**44. Is the offender legally represented?**

- yes  no  unknown

**45. Year of birth:** ..... .....

**46. Gender:**  male  female

**47. Age at the time of committing the offence:**

- juvenile  adolescent  grown up  minor

**48. Nationality:**  German  not German

**49. Has the offender committed crimes before?**

- yes (how many?): .....  no  unknown

**50. Has a VOM been undertaken with the offender before?**

- yes  no  unknown

**51. Offender and victim knew each other at time of offence:**

(Important: if there is more than one victim, please insert the victim-number, see question 21) (.....) well (.....) briefly (.....) not at all

**52. Result of contacting the offender:**

- offender consents to VOM  offender does not consent to VOM
- offender unobtainable
- not attempted because victim did not consent (see question 29)

**53. Was there a personal meeting of offender and victim?**

(important: if there is more than one victim, please insert the victim-number; see question 21)

**if yes:**

- (.....) private meeting before VOM (.....) private meeting during VOM
- (.....) mediation session with mediator present
- (.....) mediation session without mediator

**if no:**

- (.....) offender and victim reject VOM
- (.....) offender rejects VOM
- (.....) victim does not want meeting (.....) other.....

**54. Result:** (Important: if there is more than one victim please name the victim-number; see question 21)

- (.....) offender or victim rejects VOM (see question 29 and 52)
- (.....) withdrawal or breaking off by one of the parties
- (.....) offender and victim cannot come to an agreement;
- (.....) offender and victim agree partly, but one of the parties reserves for

him/herself to take legal measures

(.....) offender and victim came to a full and concluding agreement

**55. Kind of services agreed upon from offender for victim:**

(more than one answer is possible)

( ) none ( ) compensation for pain and suffering: €.....

( ) apology ( ) work done for the victim

( ) present ( ) activities together with the victim

( ) giving back the stolen goods ( ) compensation: €.....

( ) other

**56. Was money taken from a fund for victims?**

[ ] no

[ ] yes: € .....

If yes in which form: ( ) interest-free loan

( ) offender does charitable work ( ) other

**57. How did the procedure end?**

[ ] stay of procedure due to district attorney [ ] judgement

[ ] stay of procedure initiated by judge (without main trial)

[ ] other: .....

[ ] stay of procedure initiated by judge (with main trial)

[ ] unknown

**58. Has section 46a StGB (criminal code) been applied:**

[ ] yes

[ ] no

**59. Legal basis of stay of procedure: (§§, law) .....**

**60. Was the VOM considered by the Justice:**

[ ] VOM only disposal [ ] other sanction if VOM is not successful

[ ] VOM with additional sanction [ ] unknown