



**GENERAL COUNCIL
OF THE JUDICIARY**

**ANALYSIS OF THE JUDGEMENTS PASSED
BY THE JURY TRIBUNALS AND BY THE
PROVINCIAL COURTS DURING THE YEAR 2007,
RELATED TO HOMICIDES AND/OR MURDERS
CONSUMATED AMONG THE MEMBERS OF THE
COUPLE OR EX-COUPLE.**

***GROUP OF EXPERTS ON DOMESTIC AND GENDER VIOLENCE OF THE GENERAL
COUNCIL OF THE JUDICIARY
(JULY-2009)***

ANALYSIS OF THE JUDGEMENTS PASSED BY THE JURY TRIBUNALS AND BY THE PROVINCIAL COURTS DURING THE YEAR 2007, RELATED TO HOMICIDES AND/OR MURDERS CONSUMED AMONG THE MEMBERS OF THE COUPLE OR EX-COUPLE. CONCLUSIONS.

Along the year 2.008 we produced two studies that analyzed the judgments passed by the Jury Tribunals in the whole of Spain, in cases related to homicide and/or murder among members of the couple or ex-couple. The first one of them was related to the judgments passed between 2.001 and 2.005. The second one to the judgments passed by the above mentioned Tribunals in 2.006.

They were the response to an initiative of the President of the Observatory against the Domestic and Gender Violence to get to know, from a legal, medical-legal and sociological perspective, some circumstances that concurred within the most savage manifestation of the violence against women: that which ends with the result of death and which always culminates an earlier situation of violence, more or less hidden or, sometimes, the least, previously exteriorized. We also wanted to know if, as it was generally believed, the homicides and/or murders within the sphere of the couple or ex-couple, basically represented gender violence, that is to say, if they were criminal actions executed, mostly, by men against women.

In order to find out the above, we originally considered the totality of the judgments passed by the Jury Tribunals and we intended to get to know exactly, beyond the stereotypes that, by their own definition, are far from reality, the set of circumstances that surround the violent death within this specific scope.

The conclusions achieved in both studies basically certified their gender violence nature, and allowed for the deactivation of certain myths that were installed within society, like those that stated that the mortal aggressions were conditioned, in a big way, by the intake of alcoholic drinks or drugs or by the mental alteration. All of this, was based on facts that had been declared proved, after the oral

proceedings had been held, and after the related evidence had been practiced, surrounded by all the legal guarantees.

Along the first study, the need to give it continuity was acknowledged and an agreement was reached to produce further studies in a yearly basis, with the aim to know, firsthand, an aspect, certainly not lacking importance, concerning the most savage manifestations of this violence –those proved within a fully guaranteed oral trial- and to confirm if the conclusions reached on the different studies that were made remained unchanged during a certain period of time or, on the contrary, they evolved.

Additionally and during the second study, the need to extend the studies that were to be taken up in the future, also, to the judgments passed by the Provincial Courts in the cases of homicides and/or murders consummated within the same scope of the couple or ex-couple, was evaluated. These bodies were the ones that tried these actions when an accusation was formulated together with other connected offenses.

In order to carry on the present study, we have, again, relied on the collaboration of all the Presidencies within the Provincial Courts, which have proceeded to submit the totality of the Judgments passed by the Jury Tribunal and by the Provincial Court in their territories, within the new selected period, related to homicides and murders due to gender and domestic violence, focused on the actions committed among the members of a couple or ex-couple that have been the object of a trial by either of them.

Again, the study has been carried out by the judges that are, at present, incorporated to the Group of Experts in Domestic and Gender Violence within the General Council of the Judiciary, after two of the members in it have been appointed members of the new General Council of the Judiciary elected in September 2.008 –Mrs. Pilar Alambra Pérez, Mr. Vicente Magro Servet, Mrs. M^aJesús Millán de las Heras, Mrs. María Tardón Olmos, Mrs. Isabel Tena Franco and Mrs. Francisca Verdejo Torralba-, as well as by the judges and lawyers of the Council, Mr. Joaquín Delgado Martín, Head of the Central Service, and Mrs. Paloma Marín López, Head of the Section of the Observatory of the Council, who has also coordinated it. Again, we have also relied on the participation of Mr. Miguel Lorente Acosta, in his capacity as forensic doctor and acknowledged expert and

scholar on gender violence, who has submitted the forensic medical analysis of the actions and circumstances that go with them.

With this study, we have tried to give a continuation to the previous ones, maintaining the aspects taken up by the latter. Specifically, in this one, we have, additionally, differentiated, within the forensic medical analysis of the actions and circumstances that are connected to the performance of these criminal actions, those related to gender violence (actions performed by men against women) from the ones related to domestic violence cases (actions perpetrated by women against men who were their partners or ex-partners). And this has been carried out in this way because, within the judgments passed in 2.007, notwithstanding that the biggest number belong to the first case, there is a bigger presence of the second type, with the particularities that will be shown later.

Additionally, we have intended to analyze, exceeding the scope of study of the ones analyzed earlier, as previously stated, the totality of judgments passed in the case of homicides and/or murders consummated within the scope of the couple or ex-couple, as long as it has been possible to make an accusation against a person who is alive, that is, excluding the cases where the mortal aggression has been followed by the perpetrator's suicide, which determines the filing of the case while in the instruction phase, or the cases where the presumed perpetrator's death has taken place before the judgment has been issued, in which event the actions are filed, too. Therefore, the present study concerns the 35 Judgments, passed within this scope in 2.007 by the Jury Tribunals and by the Provincial Courts, containing the following actions:

- Statement –convicting sentence or acquittal- of the resolutions
- Composition of men and women as members of the Jury Tribunal, when this has been the judging body
- Qualification of the actions by the Tribunal
- Sex, age range and nationality of the accused person and those of the victim

- Means employed in the execution of these criminal actions
- Killing mechanisms employed
- Date, place and time of commission of the actions
- Sentences passed, both the principal and the accessory ones
- Main circumstances that are able to modify the criminal responsibility and that were considered within the judgment
- Personal relationship between the parties and statement on whether they were living together or not
- Existence or non-existence of previous reports or previous aggressions or threats
- Existence of protective orders or other precautionary or protective measures previously adopted
- Existence and ages of children and, in its case, their condition as direct witnesses to the judged actions
- Existence of other direct witnesses
- Liberty deprivation precautionary measures agreed during the instruction of the case and for the duration of the same
- Court appearance of the private or public prosecution
- Number of judgments that are concerned with the existence of more than one victim or the sentence related to other offenses
- Determination of the civil responsibility derived from the offense
- Number of judgments passed in 2.007 in this matter by the Autonomous Regions

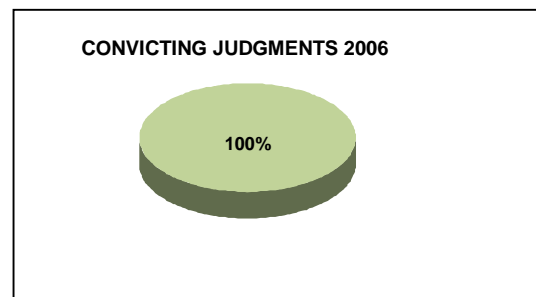
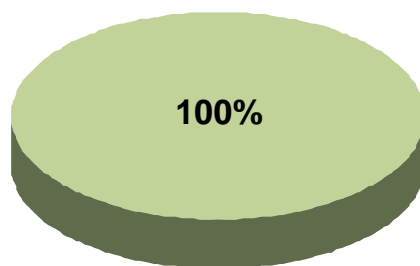
- Positioning of the Jury in the matter of pardons, if there are any granted, and ruling made by the judgment in this question
- Behavior of the attacking person after the actions

On the other hand, the conclusions reached by the present study are compared to those related to the resolutions passed in 2.006. As stated in the last study, since every one of them were focused on the date the judgments were passed and not on the date the actions took place, that comparison cannot be made equivalent to the evolution of the information offered.

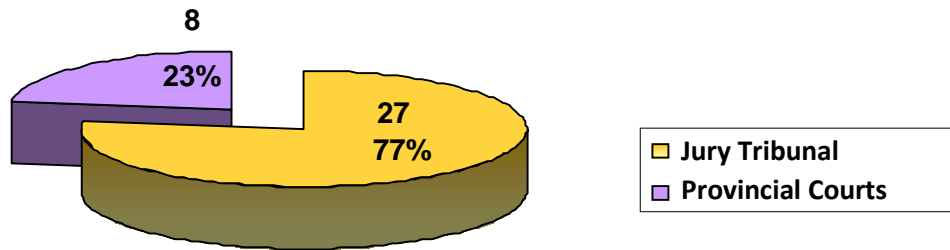
The lot of the resolutions studied has made possible to reach to the following **CONCLUSIONS**.

1st.- **The totality of the judgments studied are convicting ones.** This means that, in all the cases with the result of death where there has been an accusation made, the execution of the criminal actions has been considered proved, as well as the participation in them of the person/s accused.

CONVICTING JUDGMENTS PASSED BY THE JURY TRIBUNALS AND PROVINCIAL COURTS IN 2007

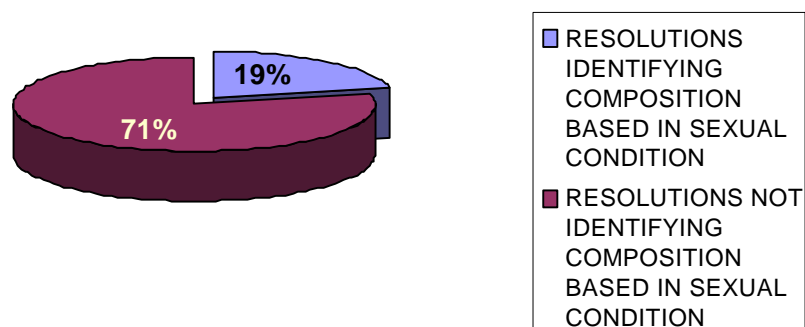


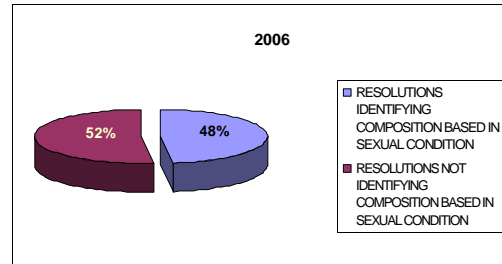
2nd.- Of the 35 studied judgments, 27 (77%) have been passed by the Jury Tribunals and 8 (23%) by the Provincial Courts.



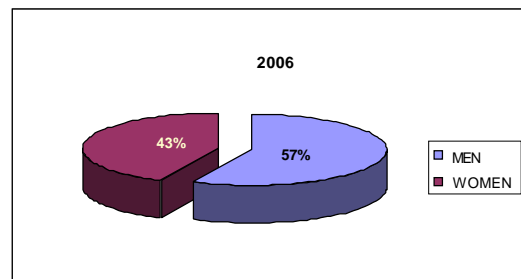
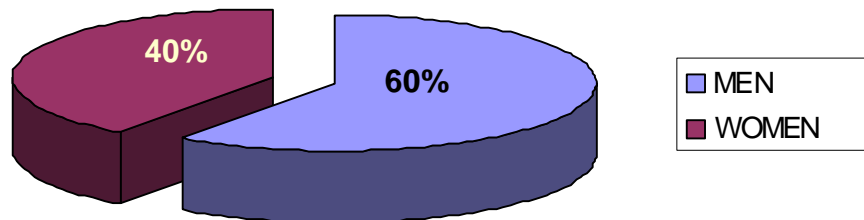
3rd.- Of the 27 judgments passed by the Jury Tribunals, that are object of study, only 5 -19%- mention the name of the citizens that are part of the Jury Tribunal that judges the actions under their consideration . On the judgments where this information is available, the conclusion reached, which is identical to the one reached in previous studies, is that there is a balanced presence of men and women within the composition of the Tribunal (9 citizens): in this case, 27 are male, 60% of the total persons that may be identified by their sexual condition, and 18 are female, 40% of them.

REFLECTION ON THE JUDGMENT OF THE SEXUAL CONDITION OF THE JURY MEMBERS





PARTICIPATION OF WOMEN AND MEN IN THE COMPOSITION OF THE JURY TRIBUNAL

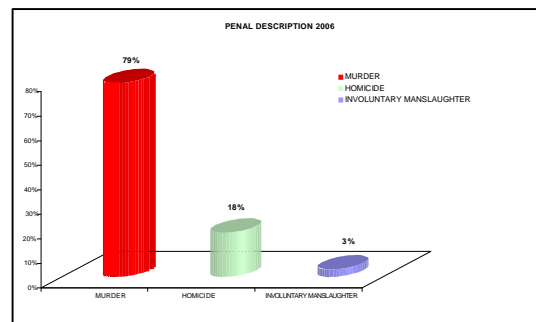
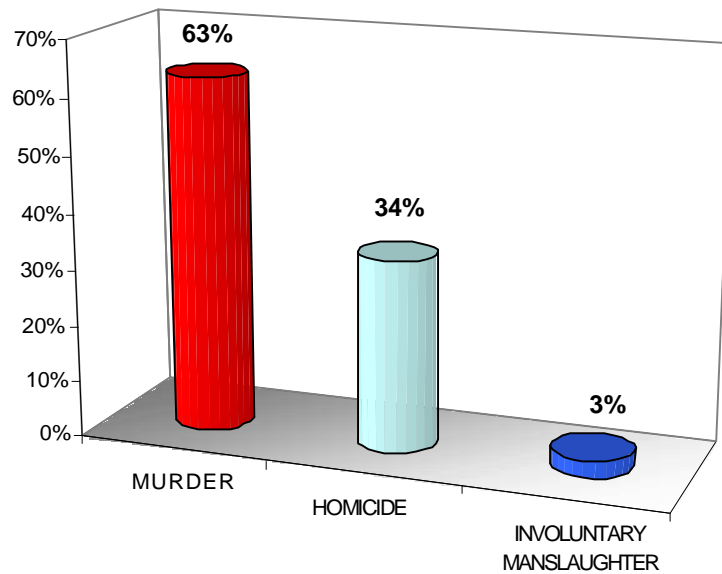


4th.- Most of the judgments analyzed, 22 of them, equivalent to **63%**, describe the action as **murder**, which implies that in these cases it has been proved that the killing has been effected with premeditation (which requires the employment of some means, manners and forms that directly tend to secure the result, with no risk for the perpetrator coming from the defense of the attacked person during its execution), or showing no mercy (which concurs when the suffering of the victim is increased in an inhuman and deliberate way, causing him/her some unnecessary additional pain to obtain the result of his/her death) or in order to obtain monetary compensation,

reward or promise; which are the three cases that determine that death should be treated as murder and not as a basic type of homicide.

In **34%** of the cases, -12 judgments- the action has been described as **homicide** and in **3%** -1 judgment- as **involuntary manslaughter**.

PENAL DESCRIPTION



When comparing this information with the one provided in the judgments passed in 2006 by the Jury Tribunals, the new figures mean a reduction of 16 points in the description of the actions as murder and the correlative increase of 16 points in the description of the actions as homicide, while the percentage of involuntary manslaughter remains unchanged. Therefore, they are near the percentages of the first study on the judgments passed by the Jury Courts, between the years 2.001-2.005, which revealed that 64,06%

of the judgments that were studied had described the actions as murder, while 33,98% of them had described them as homicide.

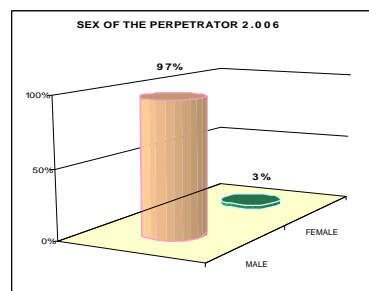
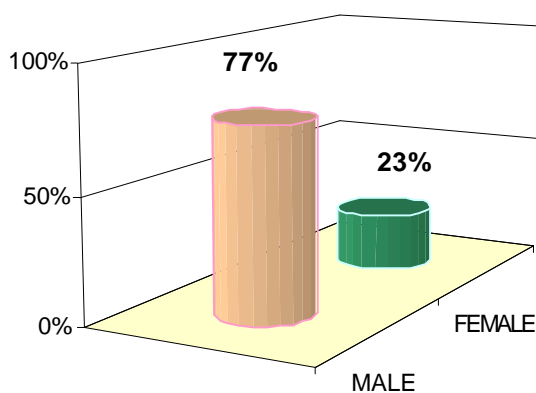
Even though most of the cases described as murders within the judgment, show an increase of cases where the actions judged reveal a greater seriousness, the latter does not enable us to get to specific conclusions, since this study, like the previous ones, considers trial dates and not the actual dates when the actions took place and, in any case, both descriptions refer to extremely serious actions, related to causing voluntary death to a person.

5th.- The **perpetrator** of the homicides and/or murders **is, within the greater number of cases, male**. Thus, **on 77%** of the examined cases -27 out of the 35 judgments-, the perpetrator is male, in contrast to **23%** of the cases -8 judgments- where the perpetrator -either, on her own or helped by somebody else, normally the male individual within her new sentimental relationship- is a **woman**.

This means a reduction in twenty points, concerning the previous study, on the condition of a male authorship and the related increase of the same percentage on the female authorship.

In spite of the bigger percentage of women perpetrating this type of actions –that is considered within a certainly small sample, as regards absolute figures- this information points out, once again, to the fact that, **basically, the homicides and murders perpetrated within the couple or ex-couple scope are considered criminal actions related to gender violence**.

SEX OF THE PERPETRATOR

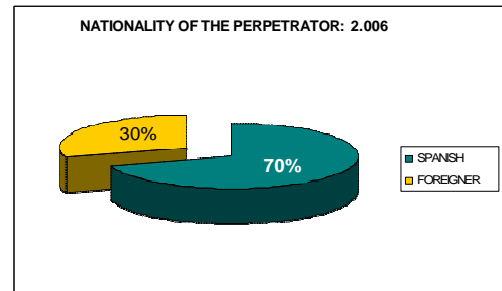
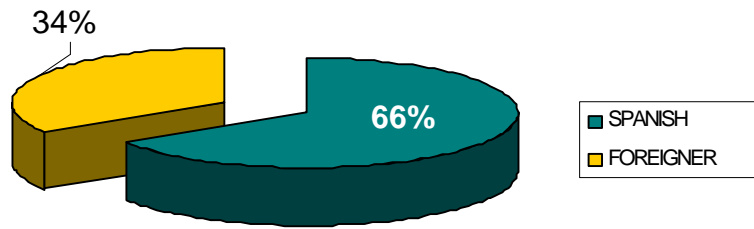


6th- Concerning the **nationality of the perpetrator**, he/she is **Spanish** in most cases, which happens in 23 judgments, that mean **66%** of the case. Within the reminder, **34%** of the cases -12 judgments- the perpetrator is a **foreigner**.

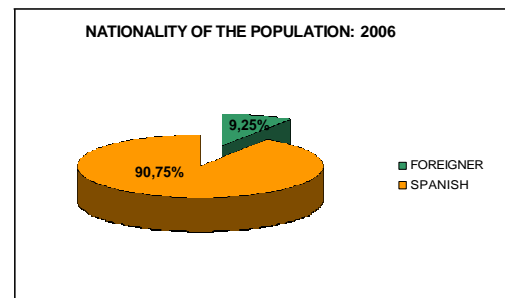
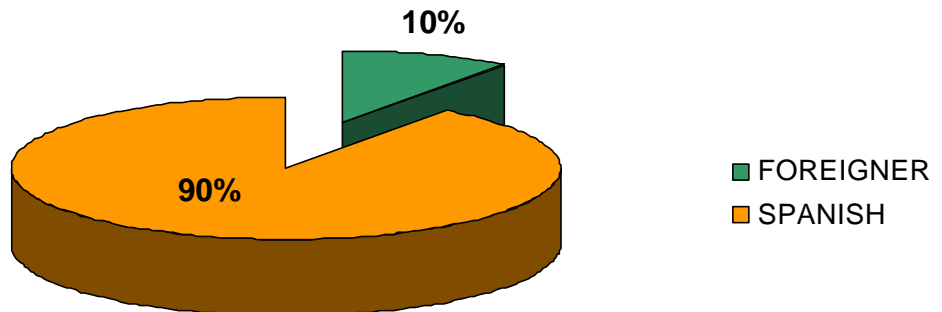
These percentages, as regards their evaluation, must be considered taking into account the Spanish and foreign population rate (according to the information obtained from the Statistics National Institute, referred to 2007, the Spanish population reached 45.200.737 people, out of which, 4.519.554 were foreigners, 10% of them) and their related demographic features.

The information concerning the nationality of the perpetrator within the present study shows a **reduction of four points in the percentage of Spanish perpetrators, with its related percentage of increase on foreign perpetrators.**

NATIONALITY OF THE PERPETRATOR



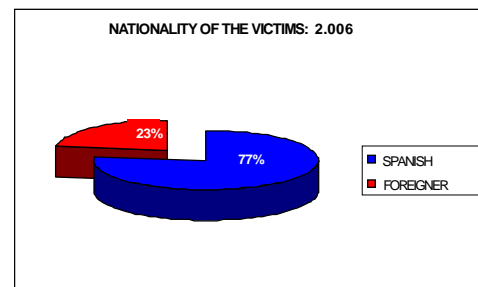
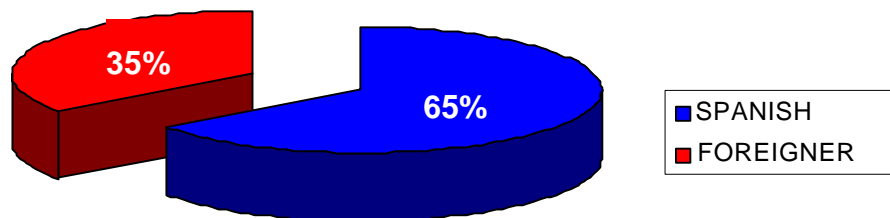
NATIONALITY OF THE POPULATION: 2007



7th.- Concerning the **nationality of the victims**, this information is stated within 31 of the 35 analyzed judgments, that means, in 89% of them. Among the resolutions that include this information, **65%** of the victims are **Spanish**, while in **35%** of the cases, the victims are **foreigners**.

With this, we may notice, a **reduction of twelve points in the percentage of Spanish victims, while the percentage increase is the same for foreign victims**. Nevertheless, we must bear in mind that, as mentioned within earlier studies and within other sections of the present one, this information is related to the dates when the judgments were passed and, naturally, this percentage does not coincide with the one related to the nationality of the women murdered within this scope along 2007. On the other hand, it refers to a piece of information that is not mentioned by the totality of the rulings.

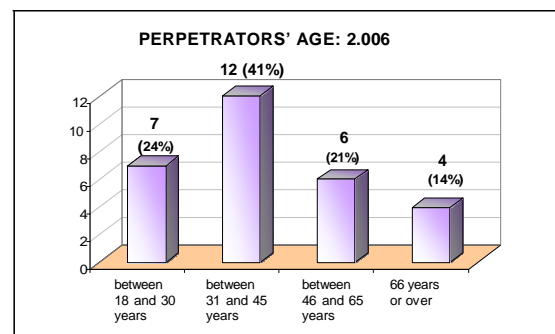
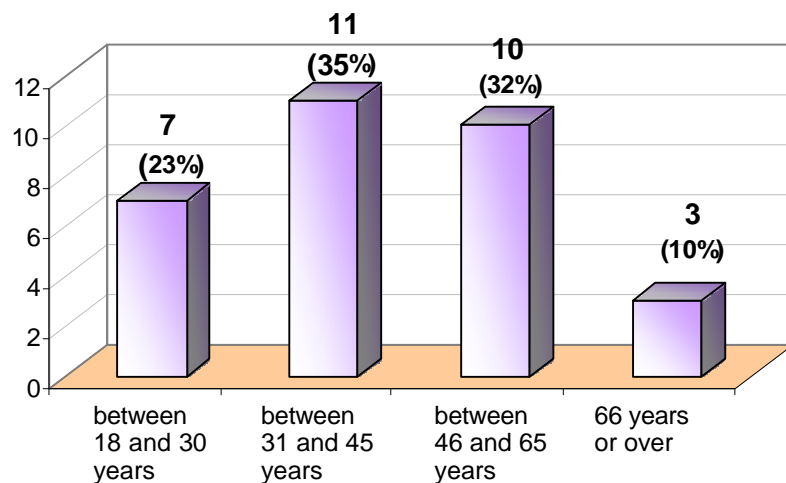
NATIONALITY OF THE VICTIMS



8th.- The **age** range of the perpetrators is wide but we may notice, that within the 31 judgments that mention this piece of information, the age range **between 31 and 45** years stands out –

which also happened within the judgments passed in 2.006-, amounting to 11 cases, which represent 35% of the judgments that mention this feature. This age range is very closely followed by the age range between 46 and 65 years, amounting to 10 cases, which represent 32% of the judgments and the one between 18 and 30 years, amounting to 7 cases, which represent 23% of the judgments. In 3 occasions -10%-, the perpetrator is over 66 years of age.

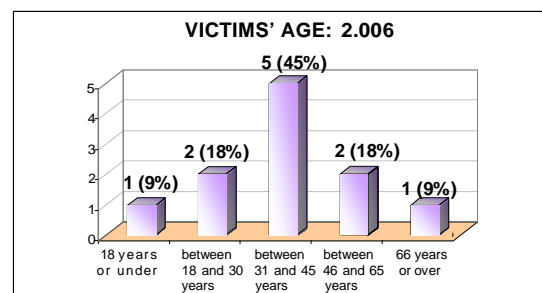
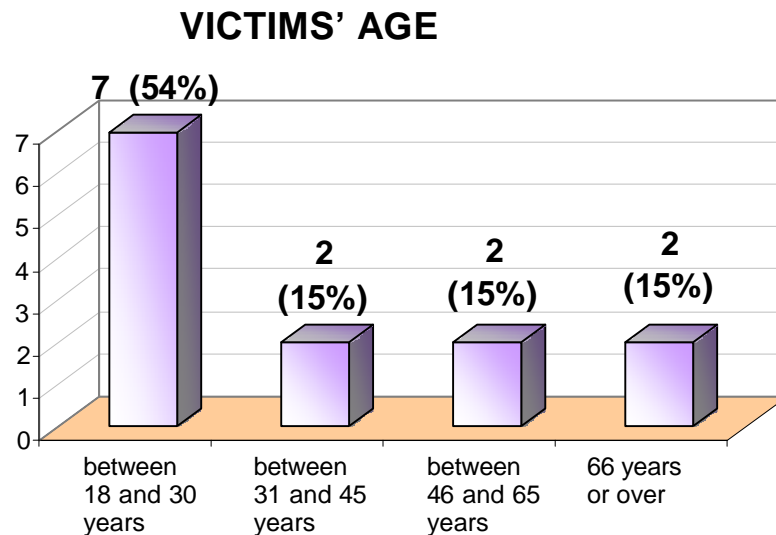
PERPETRATORS' AGE



Concerning the **victims' age**, only 13 of the 35 judgments mention this feature and the **age range between 18 and 30 years represent the main group**, this takes place in 7 of the cases that offer this information, which represent 54% of the total. In two other cases for each of the reminder age groups, which represent 15% each, the victim belonged to the age range between 31 and 45 years, 46 to 65 years and 66 years or more.

This seems to show, while making allowance for the caution related to the reduced number of rulings that contain this piece of

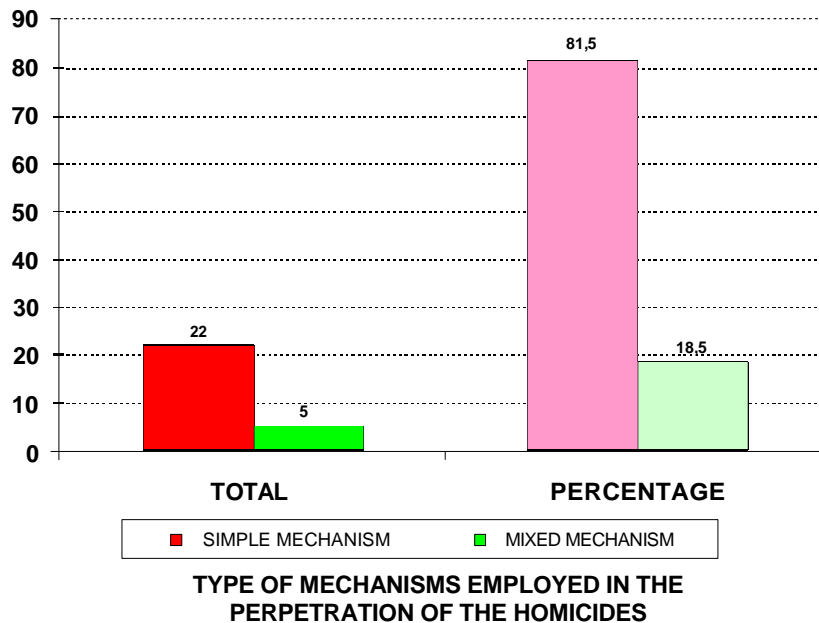
information, a **reduction on the age range of the mortal victims**, expressing an **increase on the criminal actions resulting in death at an earlier age**, although considering them from the perspective of the date these actions were judged.



9th.- Concerning the **killing mechanisms used in the cases of gender violence**, the methods employed by the aggressors to kill their partners or ex-partners can be framed, as in previous studies, within two categories, depending on the number of mechanisms used: simple, when only one is used, and mixed, when more than one mechanism is employed.

The homicides committed with the use of a simple mechanism represent 81,5% of the cases and those carried on with mixed mechanisms represent 18,5% of them. This circumstance means a **reduction on the homicides committed with the use of a mixed**

mechanism of 8,8 points, although this piece of information must be taken in an orientative and global way as regards to previous studies, not exclusively as an evolved character, since the studies make reference, as already mentioned, to the date the judgments were passed and not to a specific time related to judged actions.

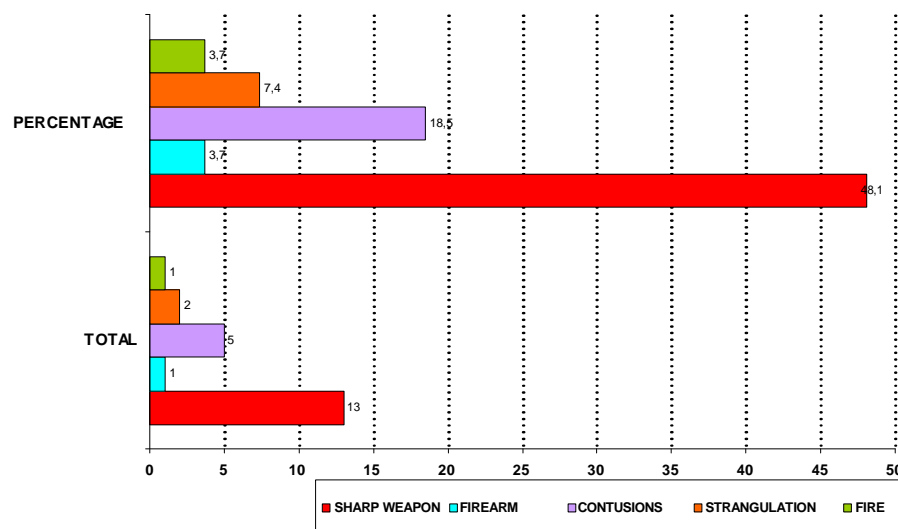


10th.- Concerning the features of the simple mechanisms used in the cases of gender violence, the most employed ones have been sharp weapons (48,1%, which means a reduction of 0,4 on the judgments passed the previous year), bruising traumatism mainly aimed at the crane encephalic region (18,5%, with an increase of 9,4 points), strangulation by hand (7,4%, which rises 1,3 points), and firearms (3,7%, which means a rise of 0,6%, too).

Again, sharp weapons are the most commonly used instruments, with a percentage that is virtually similar to the one obtained in the previous study. On the other hand, the traumatism have increased in more than 100%, reflecting a different scenario from the one envisaged in the judgments passed the previous year. That new situation is also evident in the number mechanisms used to perpetrate the homicide, which, again, have been reduced as regards the different types. Within the last study they had been reduced from 9 to

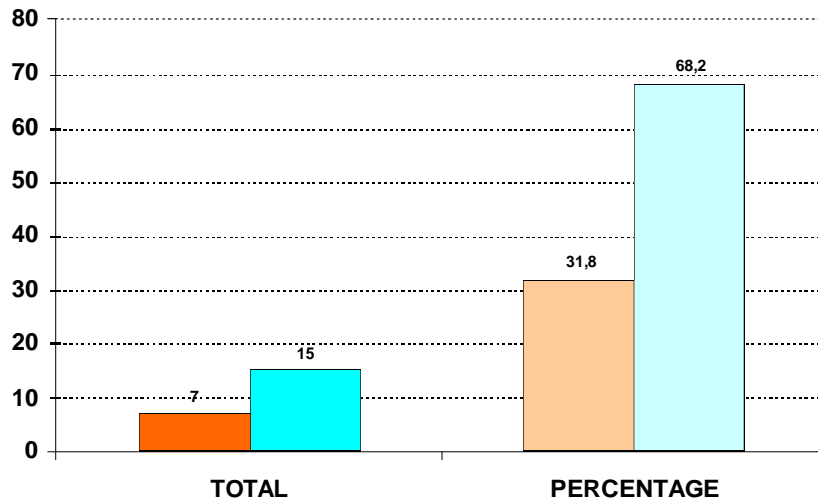
6 types and in this one, they have come down to 5. The frequency has changed, too. Within the following table, the ones that have increased as regards the judgments of 2006 are shown in green color, while the mechanisms that increased in percentage in 2006 as regards the first study are shown in pink.

	JUDGEMENTS 2001-2005 JURY TRIBUNALS	JUDGMENTS 2006 JURY TRIBUNALS	JUDGMENTS 2007 JURY TRIBUNALS AND PROVINCIAL COURTS
Sharp weapon	36.2	48.5	48.1
Firearm	5.4	3.1	3.7
Traumatism	14.1	9.1	18.5
Strangulation with a string	4.7	3.1	-
Manual strangulation	5.4	6.1	7.4
Running over	1.4	3.1	-
Fire	-	-	3.7



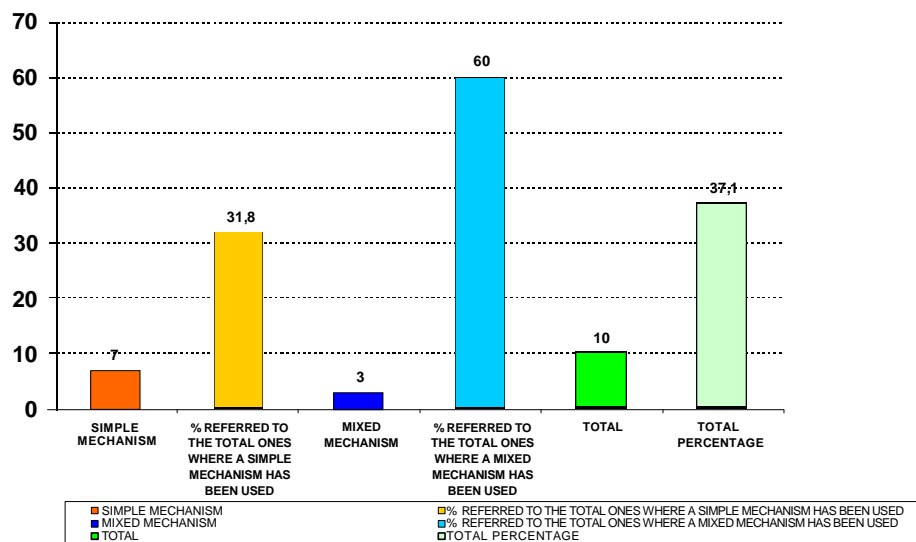
SIMPLE MECHANISMS EMPLOYED IN MURDER CASES

11th.- Concerning the **direct use of the perpetrator's hands to kill the women**, they represent an **important percentage** of the mechanisms employed concerning, **both, the simple and the mixed types**. As regards the simple mechanisms, they represent 31,8% of the homicides, and, the mixed types represent 60% of them. This means that in total (simple and mixed types) **the hands have been used directly in 37,1% of the cases of gender violence**.



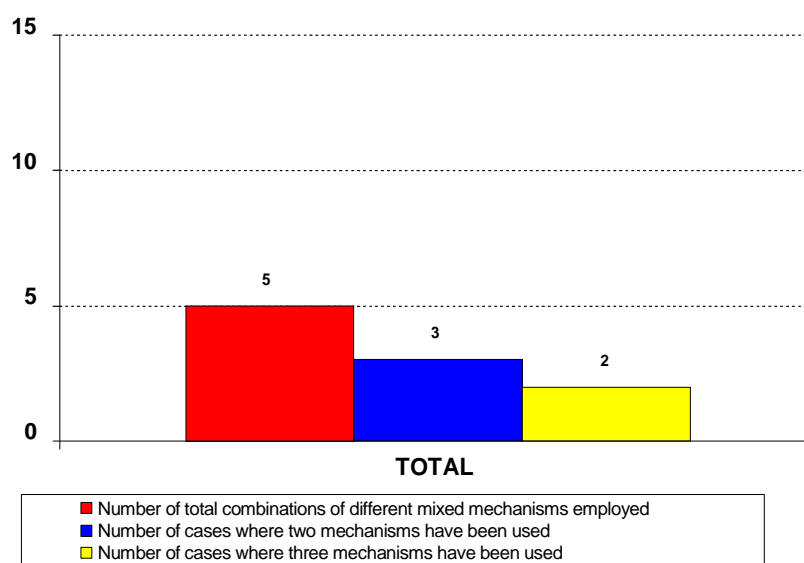
USE OF WEAPONS OR INSTRUMENTS TO PERPETRATE THE HOMICIDES BY SIMPLE MECHANISM
 (Total number of homicides perpetrated with the help of a simple mechanism: 22)

This situation means an increase in the direct use of hands of 6,8 points, concerning the simple mechanisms, and of 26,7 points concerning the mixed mechanisms, information which reveals a global increase of 9,8 points in the use of the hands.



HOMICIDES PERPETRATED WITH MIXED AND SIMPLE MECHANISM WHERE ONLY THE HANDS HAVE BEEN DIRECTLY USED

12th.- Concerning the **mixed mechanisms used to kill women**, the study of those employed in perpetrating homicides shows that a total of 5 combinations of different simple mechanisms have been used, in 3 of them two simple mechanisms are used and in 2 of them the attackers have used a combination with three simple procedures.



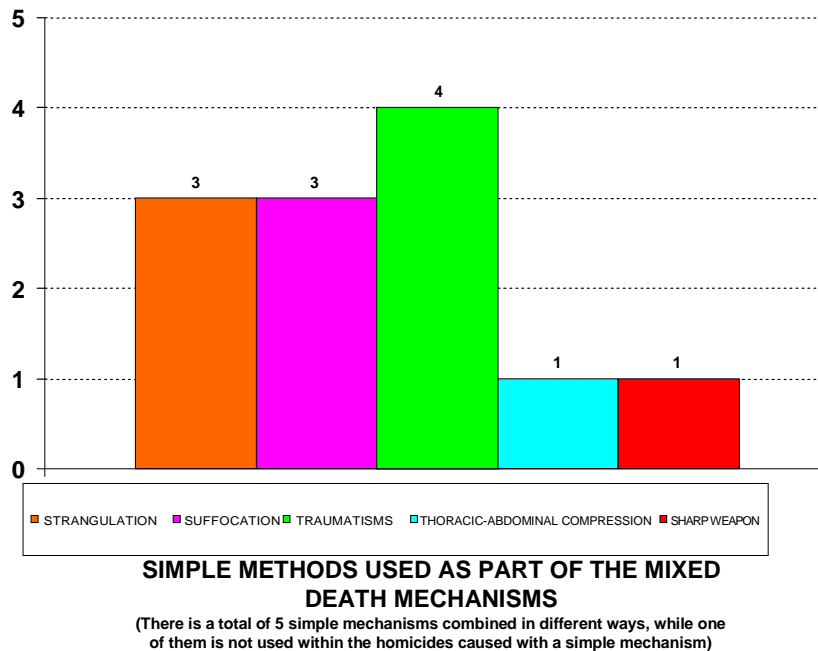
NUMBER OF MIXED MECHANISMS USED IN THE PERPETRATION OF HOMICIDES
 (Total number of homicides perpetrated with the use of a mixed mechanism: 5)

None of the mixed mechanisms used has been repeated. Moreover, each one of the different combinations used has only been used in one occasion.

The simple mechanism that has been used more often as part of the combinations that make up the mixed method is the one related to the aggression with traumatism (33,3%), followed by the strangulation and the suffocation (25%).

This situation continues to reflect the **option to resort to the traumatism directed to the crane encephalic region as a means to attack the victim in a first moment, to, later, continue with the aggression until he/she is killed using some other method.** These circumstances favor the use of methods that are adjusted to the context in which the aggression takes place. Within the mixed

methods, there is a new simple mechanism not used in plain attacks, specifically, within this study, the thoracic-abdominal compression.



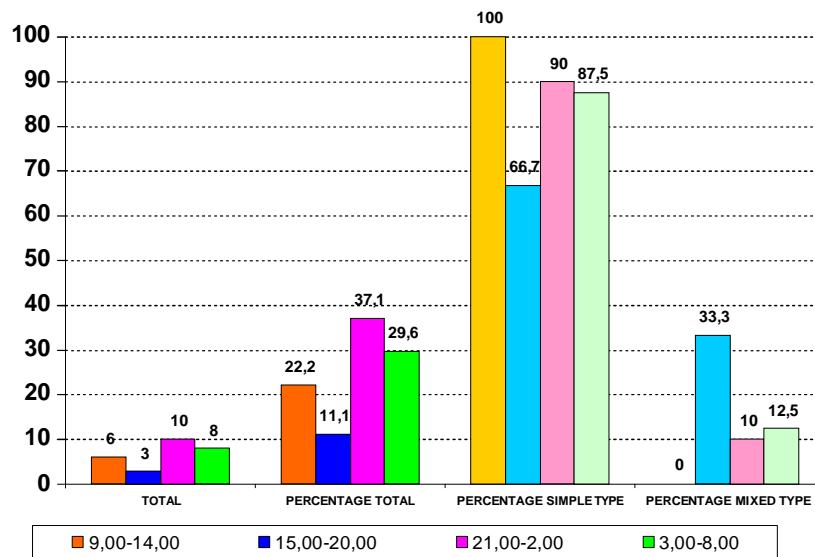
The analysis focused on the homicides caused with a sharp weapon as the most used instrument, including both, the cases where a simple mechanism is used and those where the mixed mechanism is employed, provides a piece of information of great interest when considering the evaluation of the behaviors developed in these crimes.

The **sharp weapons** have been used in 13 simple attacks and in 1 mixed one, that is to say, in 14 cases, which represent **52% of the total**. Concerning the **number of stab** wounds inflicted, according to the “Proven Facts” in the judgments, they amount to an approximate total of **179**. This figure means that the **average number of stab wounds inflicted for each case where sharp weapons have been used, amounts to 12,8; this circumstance means that this average has been reduced in 15 points as regards the previous study**. Nevertheless, there are two types of criminal actions: a group of them where there is only 1 case where the victim was stabbed on his/her left hemi thorax, right at the heart region, and another group, where the average sharp-cutting wounds is more elevated.

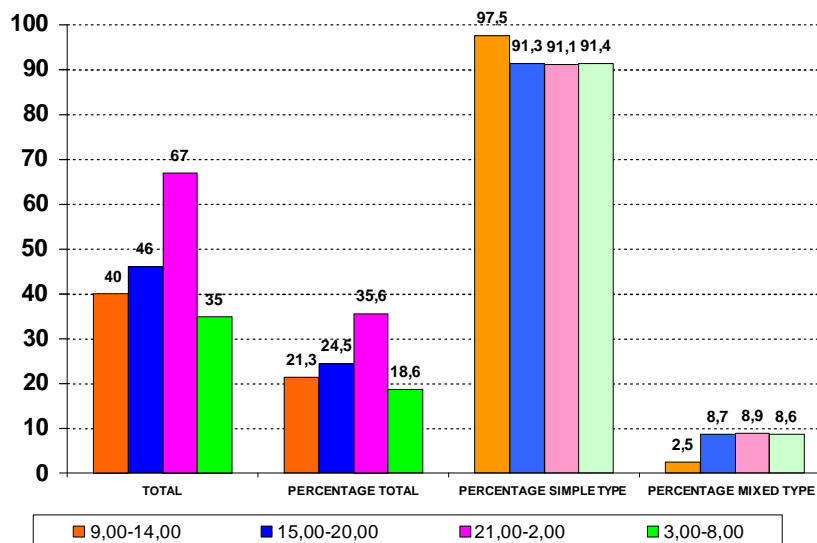
The result of this third study concerning the homicide methods used shows a different result, especially due to the **increase in the direct use of the hands as part of the homicide method**. Nevertheless, this situation **does not mean that there has been a reduction of the level of violence, although there has been a change in the way it actually takes place**. The global information shows that **the homicide behaviors are filled with rage and violence, as inferred from such facts as the important rise in the number of cases of traumatism (increased in 103,3%, as regards the study of judgments of 2006), which require a proximity, and a close and stable contact with the victim, as well as from the increase of cases of strangulation by hand and the direct use of the hands to kill, concerning both, the simple and the mixed mechanisms**.

This information seems to reveal the existence of an **inverted relationship between the death mechanism by means of a sharp weapon and the direct use of the hands**, so that, when the first method increases, the second comes down, reversing the situation when the latter increases.

13th.- Concerning **the time when the acts of violence that cause the death of women occur**, the analysis of the times at which the homicides take place, shows a more irregular result, within the judgments passed, with a **concentration of the homicides within the night time, specifically from 21.00 to 8.00**. Nevertheless and as may be noticed on the second graphic table on times, referred to the lot of the criminal actions resulting in death that are the object of the three studies made up to date, the general situation is not modified in a substantial way.



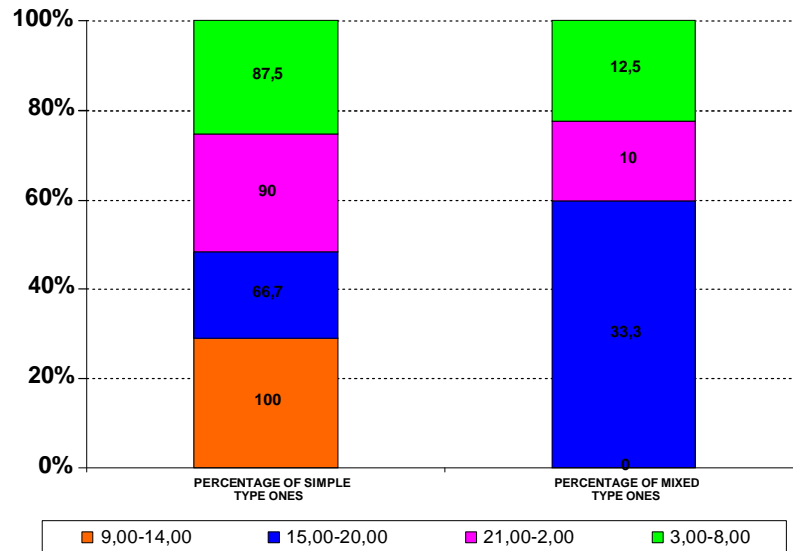
TIMES AT WHICH HOMICIDES ARE PERPETRATED
(27 cases)



TIMES AT WHICH HOMICIDES ARE PERPETRATED
Judgments 2001 - 2007
(188 cases with information available in the judgment)

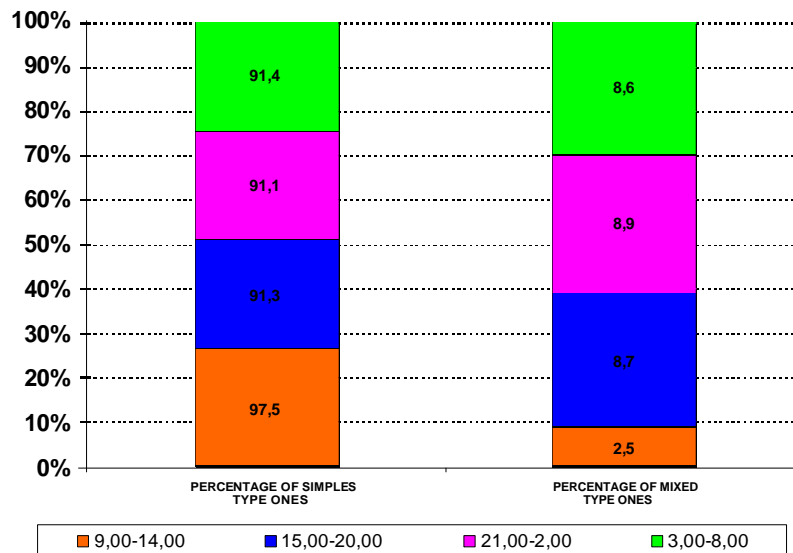
The increase within the night time takes place together with an additional increase related to the cases produced by mixed methods which, when comparing the present information with the study carried up on the 2006 judgments, represent an average of 8,1% to 11,2%,

although the time range when the cases related to mixed methods take place more often is between 15.00 and 20.00.



COMPARISON OF TIMES FOR SIMPLE AND MIXED TYPE HOMICIDES

(27 cases)

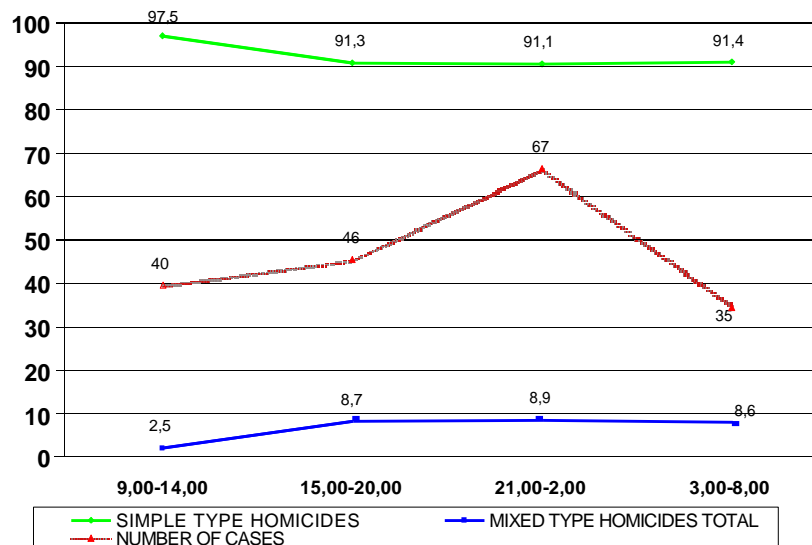


COMPARISON OF TIMES FOR SIMPLE AND MIXED TYPE HOMICIDES

Judgments 2001 - 2007

(188 cases with information available in the judgment)

When comparing the evolution of the cases within the years analyzed for the three studies, with the number of homicides and murders committed, we may notice how the increase in the number of cases is progressive up to the nighttime barrier, and that this concurs with an increase within the mixed method type, and its consistent reduction within the simple type ones.



TIME COMPARISONS FOR SIMPLE AND MIXED TYPE HOMICIDES
(188 cases with information available in the judgment)

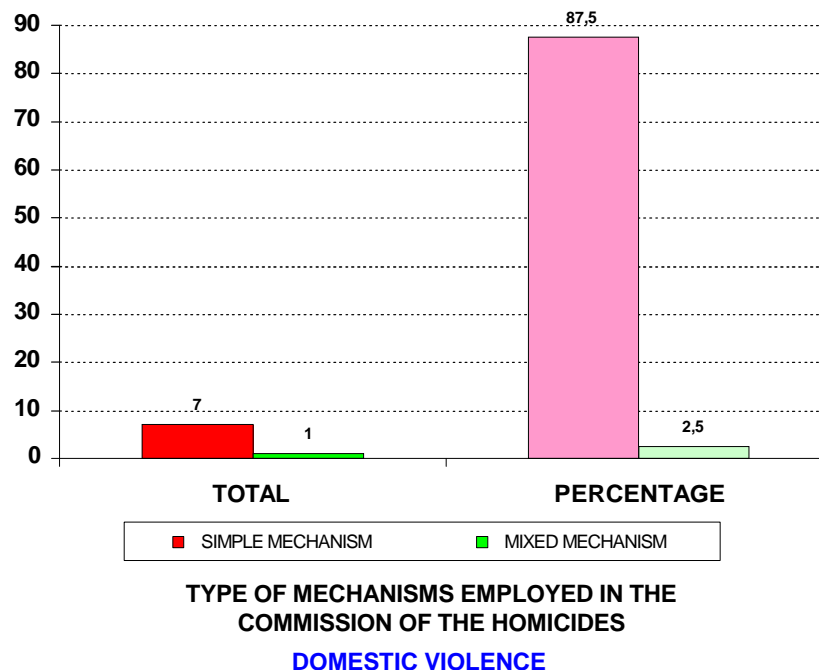
The situation reflected within the judgments passed in 2.007, again, represents a **high level of violence the expression of which is increasing, as part of a process that is evolving and gaining intensity as time goes on, which, together with other factors, helps its shaping as an especially violent form during the last hours of the day and through methods in which the rage is shown in high levels of violence by the use of mixed type mechanisms and the ways of using the homicide instruments with great intensity and virulence.**

The progressive increase of information as the number of judgments studied increases makes it possible to discern different patterns within the ways the homicides or murders against women are committed, which should be analyzed in accordance with the new information that becomes available.

14th.- On the other hand, the deaths produced within the domestic violence scope present other profiles.

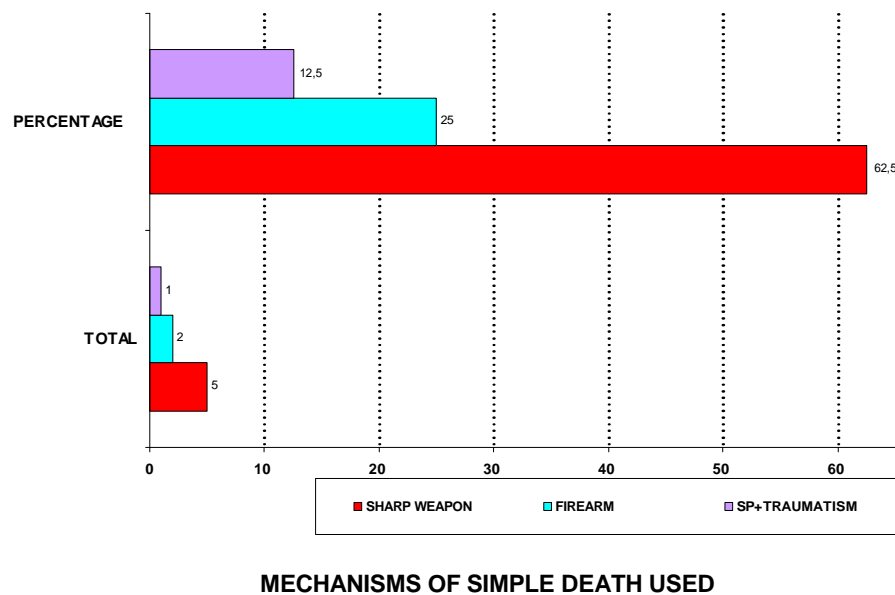
Thus, concerning the 8 homicides and/or murders due to domestic violence, in 6 of them the actual perpetrator of the homicide has been a woman and the victim, a man with whom she shared or had shared a sentimental relationship. For the other 2 cases, the convicted individuals have been a man and a woman, of which the earlier has been the actual perpetrator and the woman has been his accomplice to killing a man with whom she had or had had a couple relationship.

15th.- Concerning the death mechanisms used within the cases of domestic violence, seven of the eight cases were perpetrated with a simple mechanism, which means 87,5% of the total, as compared to the 12,5% that represent the homicide carried on by means of a mixed method.



The mechanisms employed to cause death are reduced to 3. For the cases of homicide caused with a simple mechanism, only two mechanisms are present, the use of a sharp weapon in 5 cases (62,5%) and the use of a firearm in 2 cases (25%). For the mixed mechanisms there is only one case where the combined action of

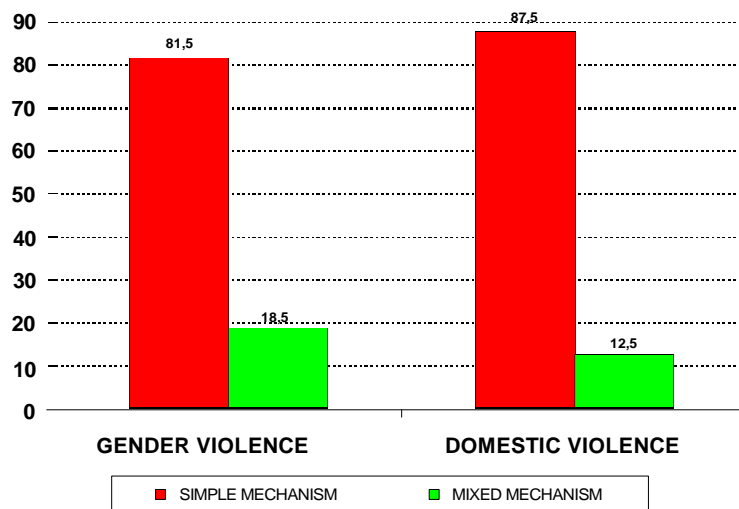
traumatism, intended for the crane-encephalic region in this case, and the sharp weapon used to slit the victim's throat, were employed.



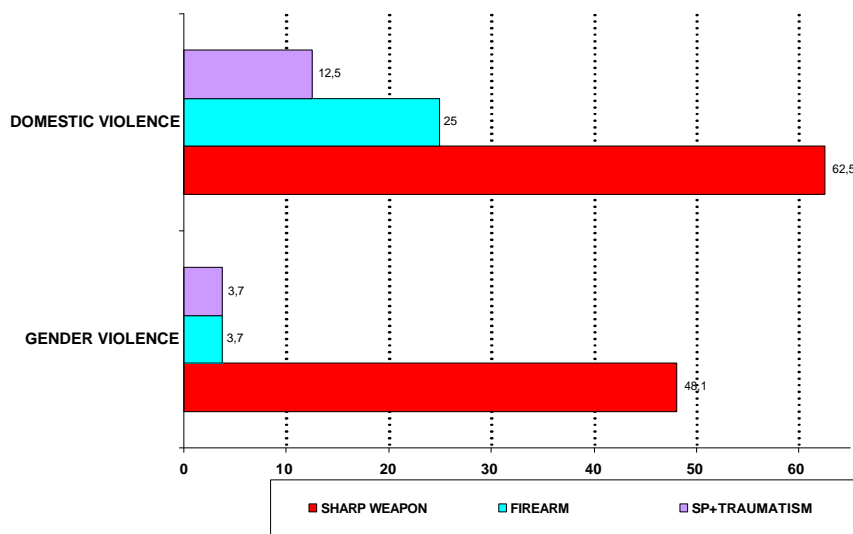
DOMESTIC VIOLENCE

Comparing the cases of domestic violence with those of gender violence, always considering the limitations due to the reduced number of the first group, shows that, within the domestic violence homicides, the following features stand out:

- Fewer mechanisms
- Slightly higher percentage of homicides by simple mechanism (6 points)
- The homicides perpetrated with a sharp weapon represent 14,4 points more than those carried on employing the same mechanism within the cases of gender violence.
- The homicides perpetrated with a firearm appear 21,3 points over this type of homicides within the group of gender violence.
- There is no case where the direct use of the perpetrator's hands has been the cause of the homicide.



TYPE OF MECHANISMS EMPLOYED TO COMMIT THE HOMICIDES
DOMESTIC VIOLENCE against GENDER VIOLENCE



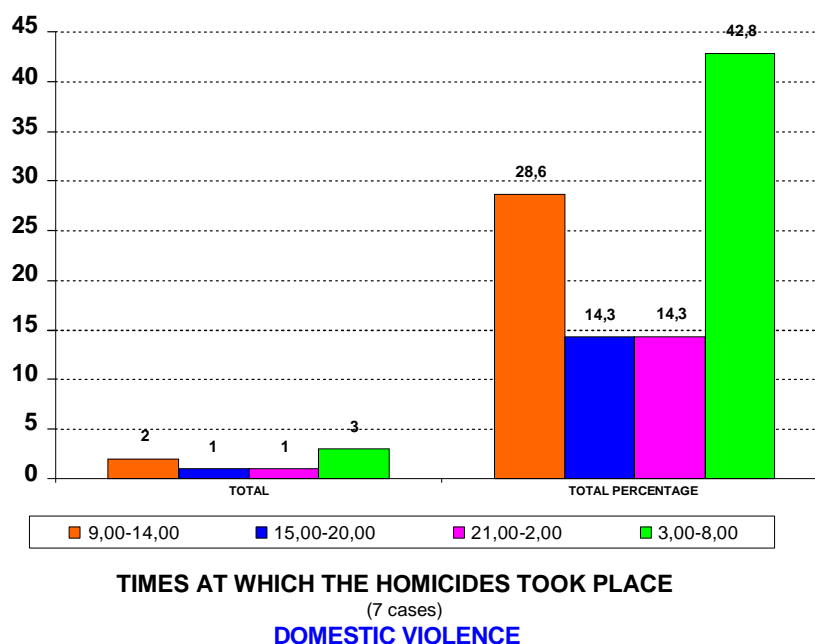
TYPE OF SIMPLE MECHANISMS USED TO CAUSE DEATH
DOMESTIC VIOLENCE against GENDER VIOLENCE

This approximation shows that, **in the cases of domestic violence**, given the circumstances in which they take place, the homicide is perpetrated using **methods** that, a priori, lead us to think that they are able to produce death in a straightforward manner (opting for the use of weapons) and **that require less effort to succeed**. All of this comes together with what could be considered as a **“lesser degree of violence” in the actual homicide**, which is noticed both, on the

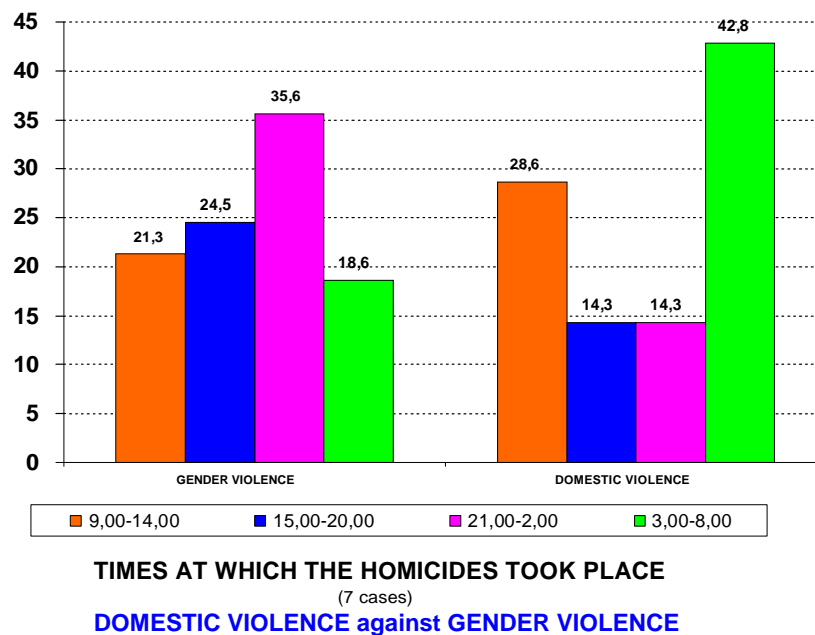
type of mechanism used and in the way it is perpetrated; and thus, for example, **the average number of stabs in the cases where sharp weapons are used** (5 simple types and the mixed type) **is 1,75** and, **if the analysis is limited to the cases where the actual perpetrator is the woman, only one stab is given in every one of them.**

Together with these homicides there are two that appear with a higher degree of violence, one of them has been carried out using a firearm and 4 shots have been fired, the other one is a mixed type and a crane-encephalic traumatism and a later slitting of the throat takes place.

16th.- Concerning the **times when the homicides within the domestic violence scope take place**, the analysis of the times in the seven cases that contain a reference to the time at which the events took place show that they **are concentrated around the beginning of the day and during the early hours of the morning.**



The comparison with the cases of gender violence, always considering the limitation in the number of cases, shows a different profile, since the homicides due to gender violence mostly take place around the middle of the day.



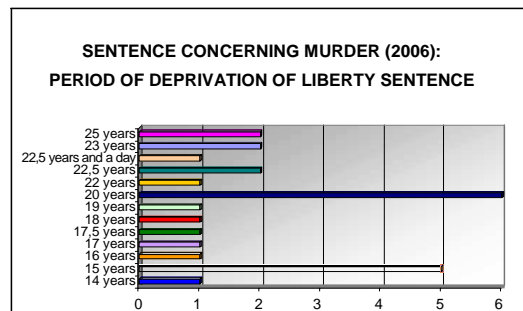
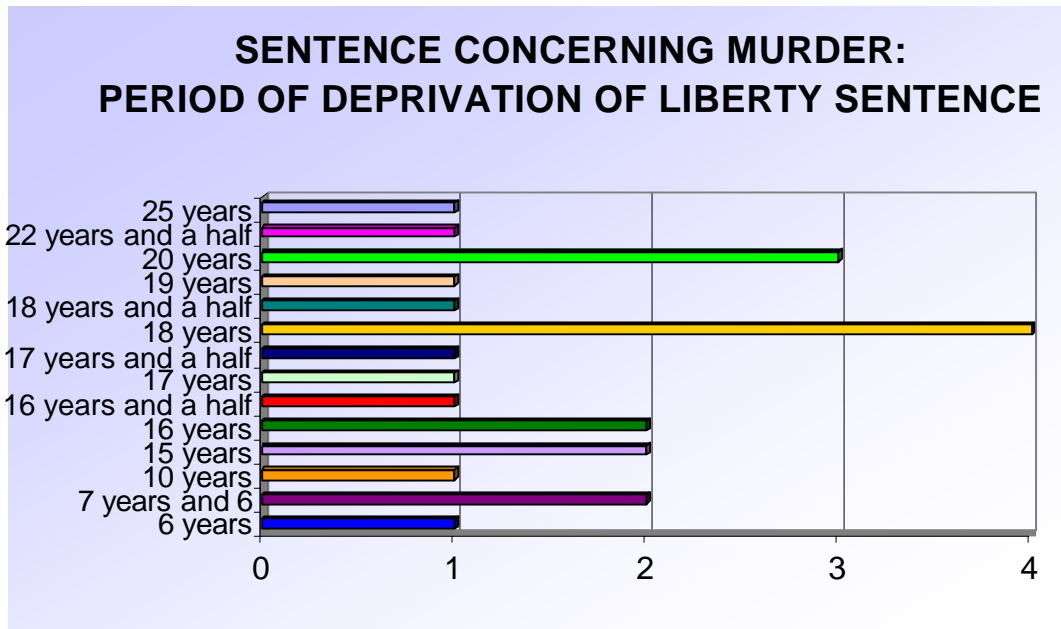
17th.- Concerning the **sentences** imposed within the totality of the judgments analyzed, **the main sentence imposed within all cases is the prison sentence**, which is the only one of this type considered for these events within the Penal Code.

The length of the sentence of deprivation of liberty in the case of homicide extends to ten to fifteen years; for the case of murder, it extends to fifteen to twenty years of a prison sentence, when there is a concurrence of only one of the circumstances that qualify it as such –premeditation, cruelty or price, reward or promise incentive-, and to twenty-five years when there is a concurrence of two or more circumstances that allow to qualify the events as murder, individualizing the particular sentence imposed in each case, on the basis of the consideration about the possible existence of the circumstances that could modify the criminal responsibilities (extenuating, aggravating, exempting, or incomplete exempting) and about the remaining circumstances that concur in the execution of the actions.

For the case that is the object of the study, the sentence concerning the **deprivation of liberty** passed on the 22 cases where a convicting sentence has been granted for an offense of **murder**, has

fluctuated between 25 years (1 case) and 6 years (1 case). The remaining sentences concerning the deprivation of liberty have consisted of 7 years and 6 months (2 cases), 10 years (1 case), 15 years (2 cases), 16 years (2 cases), 16 years and six months (1 case), 17 years (1 case), 17 years and six months (1 case), 18 years (4 cases), 18 years and six months (1 case), 19 years (1 case), 20 years of prison (3 cases) and 22 years and six months (1 case).

The total number of sentences concerning the deprivation of liberty imposed in the 22 judgments passing sentence for the offense of murder amount to 361 years, which means an **average of nearly 16 years and a half prison sentence for this offense.**

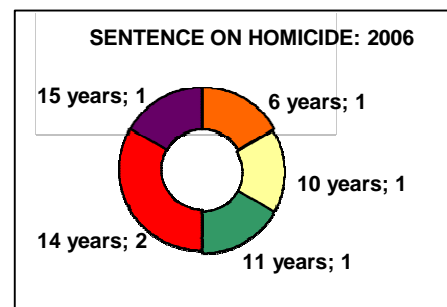
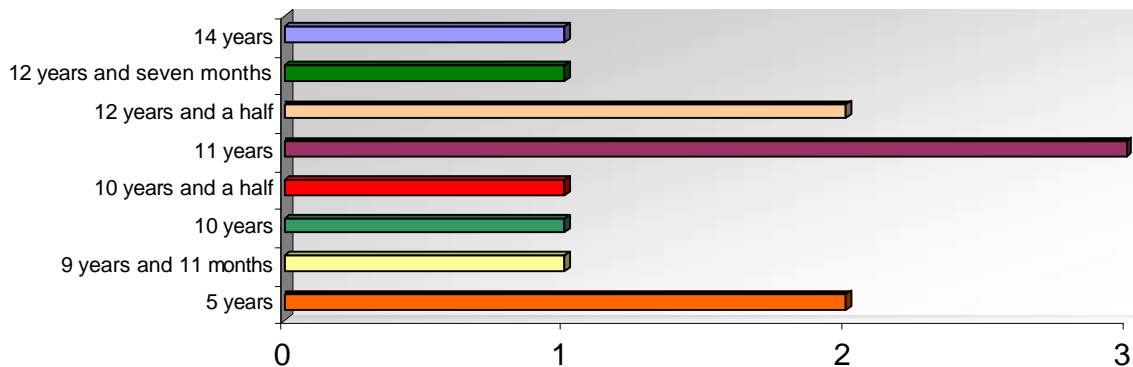


Concerning the 12 cases considered as homicide in the judgment, the sentences related to the deprivation of liberty have fluctuated between 14 years of deprivation of liberty, in one case only, up to

5 years of deprivation of liberty, for two cases, while the intermediate sentences amount to 9 years and 11 months (1 case), 10 years (1 case), 10 years and six months (1 case), 11 years (3 cases), 12 years and six months (2 cases) and 12 years and seven months (1 case).

The total number of years concerning sentences of deprivation of liberty passed in the 12 judgments that condemn the crime of homicide rises to 125 years; this implies an **average sentence for this crime of more than 10 years of a prison sentence.**

SENTENCE ON HOMICIDE: PERIOD OF DEPRIVATION OF LIBERTY PUNISHMENT



For the only case described as involuntary manslaughter within the sentence, the punishment granted has been of three years and three months of deprivation of liberty.

The above mentioned information reveals that the average period of deprivation of liberty granted for these actions –in any of its forms-, and stated within the judgments passed by the Jury Tribunals and by the Provincial Courts in these cases, in 2.007, amounts to 14 years.

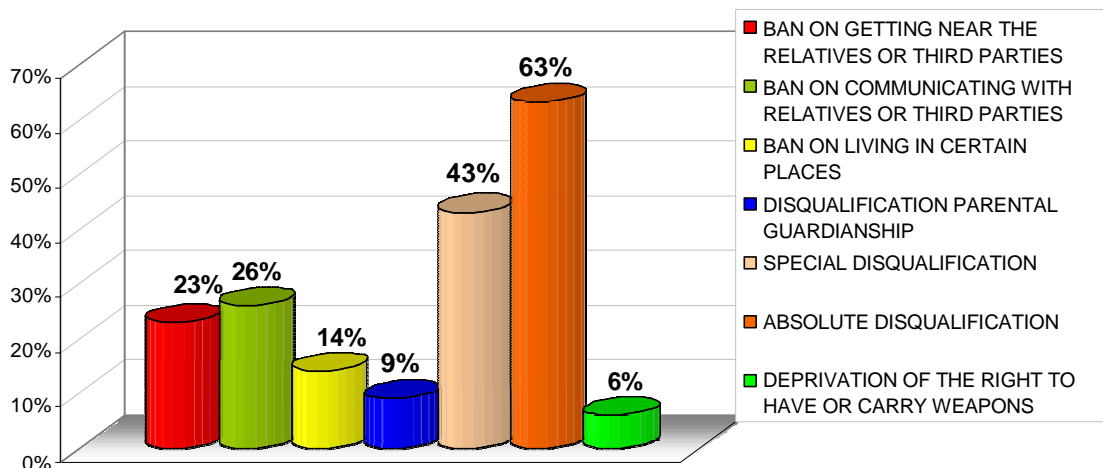
Moreover and within the studied period, we may notice the scarce imposition of accessory sentences, other than the general one concerning an absolute disqualification, imposed within 22 of the studied judgments, which means 63% of the cases.

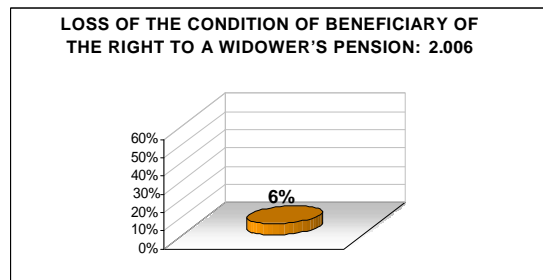
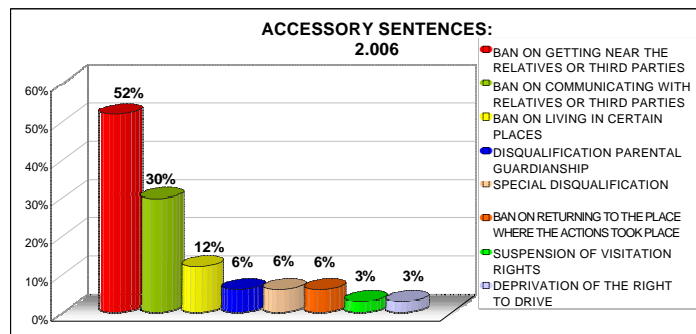
Thus, in 9 cases (26%) the ban on communicating with any relations of the mortal victims or with third parties has been imposed and in 8 cases (23%) a ban on getting near the relations or third parties. In 5 cases (14%) a deprivation of the right to live or go to certain places has been imposed. In 2 cases (6%) the accessory sentence of deprivation of the right to have or carry weapons has been imposed.

Moreover, in 15 sentences (43%) the special disqualification sentence has been imposed. Out of them, 11 (73%) refer to the right to hold public office and 3 (20% of the total that impose this accessory sentence and nearly 10% of the total number of judgments studied) to the right to exercise parental guardianship. One of the above mentioned judgments does not make any mention to any case.

None of the judgments studied imposes the sentence related to the loss of the condition of beneficiary of the widower's pension, which is determined by the Comprehensive Law, although 19 of the total judgments have been related to actions that took place during 2.005 and 7 further ones have been related to actions that took place in 2.006.

ACCESSORY SENTENCES

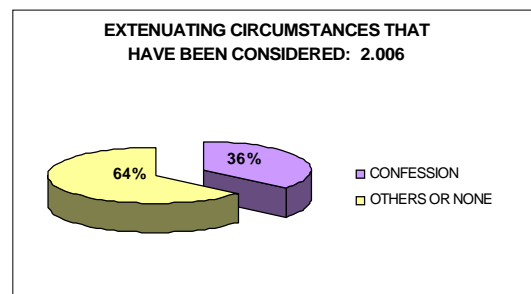
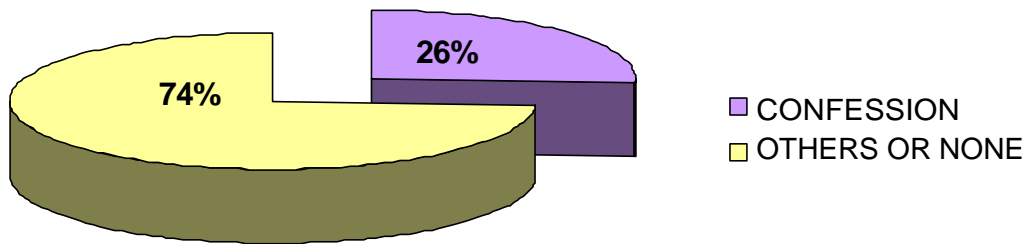




18th.- In addition to the concurrence, in all the cases of sentences related to the crime of murder, of the aggravating circumstances of **premeditation** and/or **cruelty**, which are the ones that concur in most cases of murder among the members of the couple or ex-couple, the appreciation and evaluation of some of the **circumstances amending the criminal responsibility**, carried on by the analyzed judgments, continues to be of importance:

a) The **extenuating circumstance of confession**, originated with the aim to grant a more favorable treatment to the person that facilitates the investigation of the offense, and of a remarkably objective character, within the present text, is applied to all cases where, at a particular time or in a permanent basis, the author has admitted to having performed the actions. It has been considered in 9 of the 35 judgments studied -in one of the cases as an analogical extenuating circumstance- which means **26%** of them. This means a **reduction of 10 points** on the percentage discovered within the judgments issued in 2.006, which only considered the ones passed by the Jury Tribunals. In this occasion, also, it has appeared as the **main extenuating circumstance for the criminal responsibility considered in the judgment**.

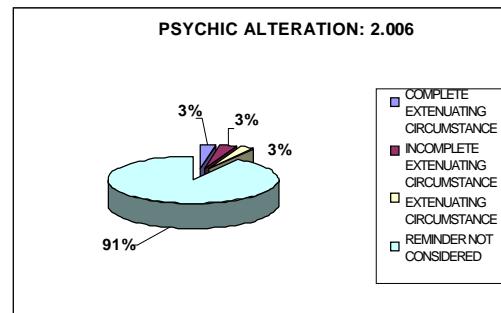
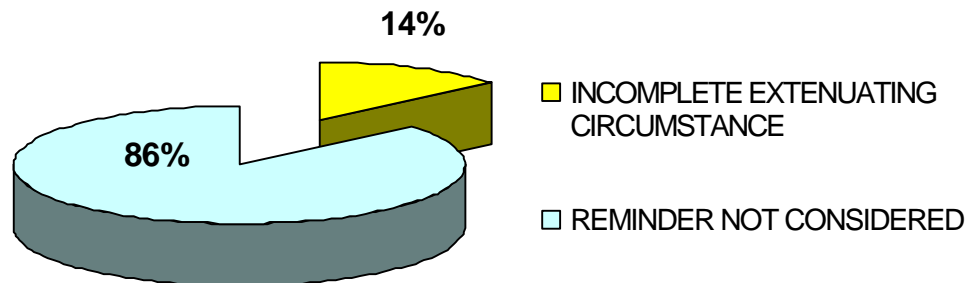
EXTENUATING CIRCUMSTANCES THAT HAVE BEEN CONSIDERED



b) The circumstance of **psychic alteration** has not been considered as an **extenuating circumstance** in any of the cases, nor has it been considered as an exempting circumstance, but it has been considered as an **incomplete exempting circumstance** in five cases (**14%** of the studied judgments).

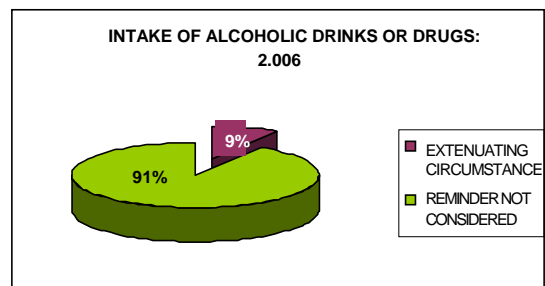
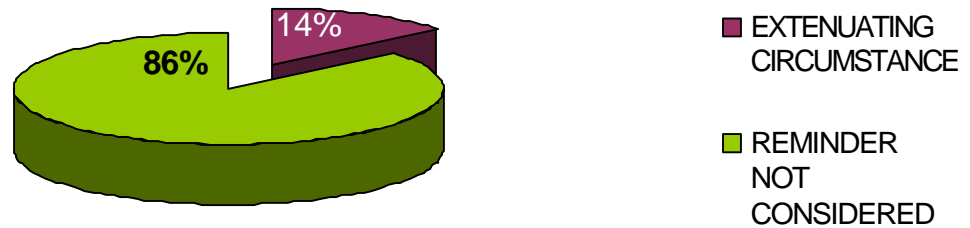
This percentage means a **small increase** of the cases where this circumstance has a projection within the legal resolution, compared to the earlier study, although the projection is maintained in a percentage similar to the first one.

PSYCHIC ALTERATION



c) Concerning the **extenuating circumstance** that considers that the perpetrator has committed his offense as a consequence of his **intake of alcoholic drinks or drugs**, it has been acknowledged in 5 cases (**14%**) within the judgments passed in 2.007, in one of them as an analogical extenuating circumstance of drunkenness; but it has not been considered as a complete or incomplete extenuating circumstance in any of them. The scarce incidence of this circumstance noticed in the previous study is thus maintained; in it, this circumstance was considered as an extenuating one in a somewhat smaller percentage, specifically in 9% of the judgments studied.

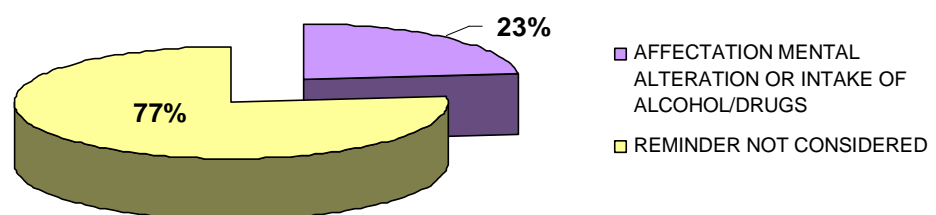
INTAKE OF ALCOHOLIC DRINKS OR DRUGS

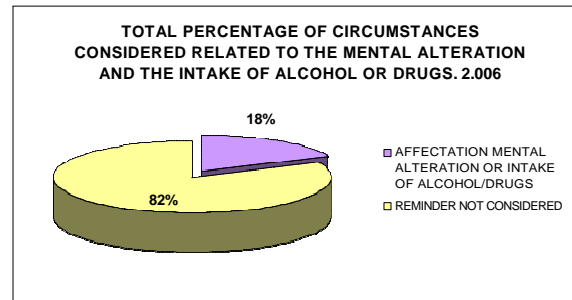


Only two of the judgments that have been object of the study have jointly considered the concurrence of circumstances amending the criminal responsibility that are linked to the mental alteration and the addiction to alcohol or drugs.

This means that in 23% of the cases, there has been a concurrence of one or the other while in 77% of the cases its influence has not been noticed in the execution of the actions.

TOTAL PERCENTAGE OF CIRCUMSTANCES CONSIDERED RELATED TO THE MENTAL ALTERATION AND THE INTAKE OF ALCOHOL OR DRUGS

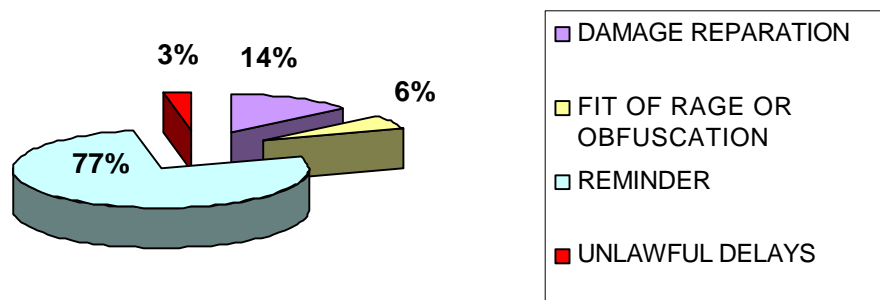




The earlier Sections b) and c) continue to show that within most of the cases of criminal violence resulting in death, within the scope of the couple or ex-couple, the actions have been perpetrated with no connection to the dependence or influence of alcohol or drugs or with no connection of the perpetrator to a mental alteration or illness.

d) As for the remaining extenuating circumstances considered in the judgments that are the object of the analysis, in 5 of the 35 judgments, which consist of **14%** of the cases, the circumstance of **damage reparation** has been considered (in one case as a very admissible one), and in 2 cases (**6%**) the **fit of rage or obfuscation** have been considered. In one judgment only -**3%** of the cases- the **unlawful delay** has been considered as an analogical circumstance, in a case where the trial took place six years and eight months after the actions were perpetrated.

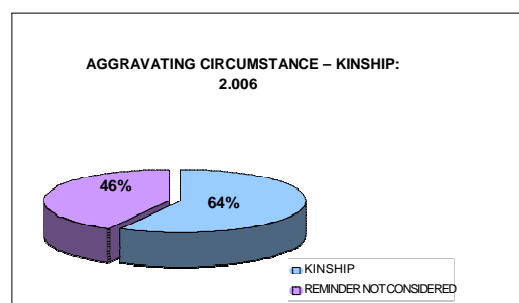
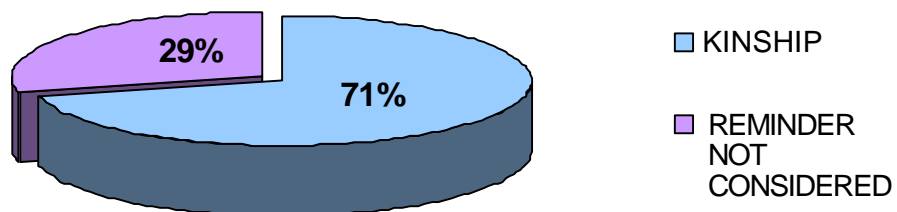
OTHER EXTENUATING CIRCUMSTANCES



f) Concerning the **aggravating circumstances**, without accounting for the ones that allow for the qualification of the actions as murder, **only two have been considered** among the ones described within the Penal Code.

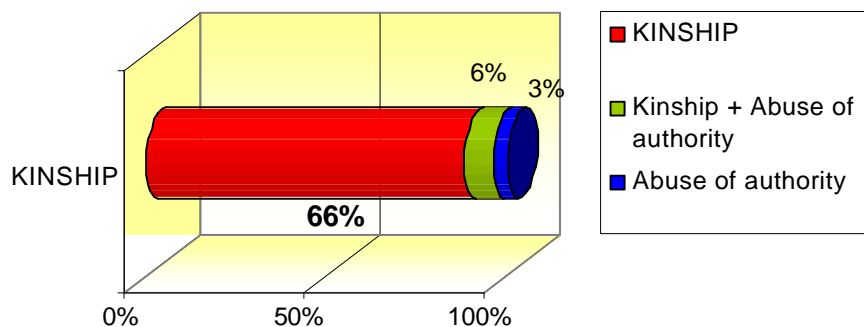
The one related to **kinship** has been applied as an aggravating circumstance in all of the cases where its concurrence has been evaluated, prior request of the Attorney General or the remaining prosecution. This has taken place in 25 of the 35 judgments -which amount to **71% of the cases**- concerning a situation where a marital bond exists or where the couple lives together or enjoys an affective relationship. This means an **increase of 7 points** in the consideration of this aggravating circumstance as regards the previous study which, also revealed an increase of 13 points as regards the first one carried out, in relation to the judgments passed between 2.001 and 2.005 by the Jury Tribunals.

AGGRAVATING CIRCUMSTANCE – KINSHIP



The second one considered relates to the **abuse of superiority**, which, specifically, has taken place in 3 judgments (**8% of the cases**). In two of them, this aggravating circumstance concurred with that of kinship.

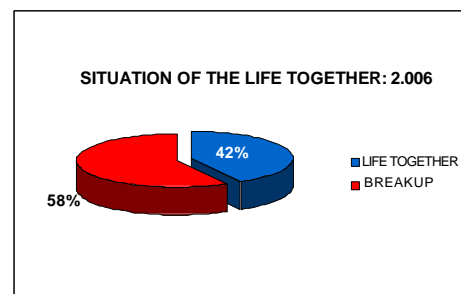
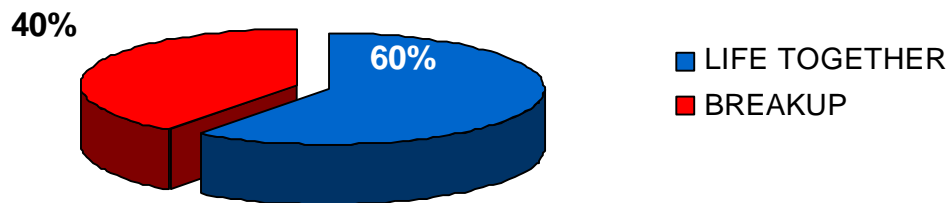
AGGRAVATING CIRCUMSTANCES



19th.- A rather similar situation to that of the judgments passed in 2006 is maintained on the percentage of the cases related to the continuation of situations of a couple living together (both in marriages and in de facto partnerships) within the examined cases of homicide and murder. Specifically, **the living together relationship was maintained in 60% of the cases** (21 judgments), that is, 18% more cases than within the previous study, against **40% of cases** (14 judgments) where the couple **did not live together or they had stopped living together**. Therefore, there is a high percentage of cases where the criminal actions take place once the sentimental breakup has actually taken place.

This information confirms again the fact that the warning or communication about the wish to separate by the woman, or the actual breakup, represents a specific risk factor, as regards its consideration as a detonator of the aggressor's brutal reaction. Thus, it continues to reveal that, more than the specific conflicts originated within the relationship of a life together, it is the actual model of the established relationship, asymmetric in its power relations, that gives way to these criminal results.

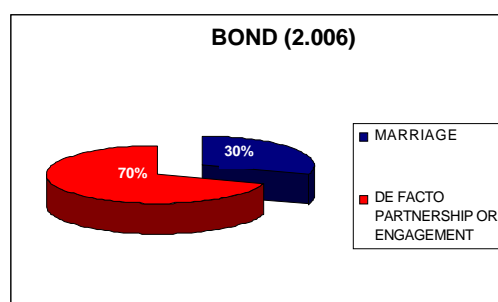
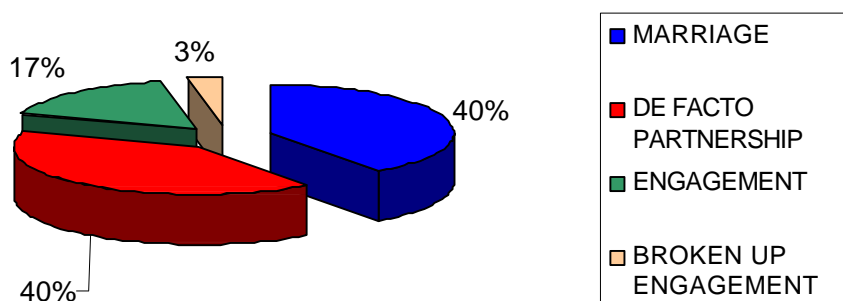
SITUATION OF THE LIFE TOGETHER



Therefore, this situation is still demanding the need to work in creating the social awareness about models of egalitarian relationship between men and women and giving women the specific competence to detect behaviors that are contrary to those that allow them to keep ahead of the criminal action, displaying the effectiveness of the protection and sanction measures established.

20th.- In 40% of the cases -14 cases- there was a marital bond, in an identical proportion to those cases where the affective relationship was a de facto partnership. In 17% of the cases (6), the relationship was an engagement, while in 3% of the cases (1), the engagement had finished. This means an increase of 10 points as regards the cases where there was a marital relationship within the earlier study, and the equivalent reduction of 10 points for the cases where the homicide or murder was committed within the scope of a different type of relationship.

BOND

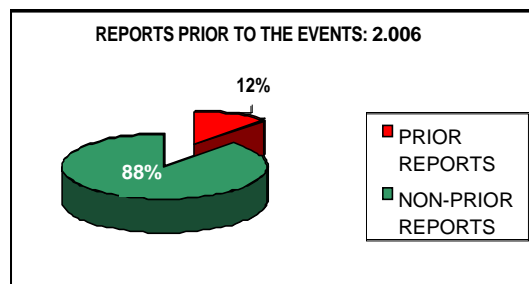
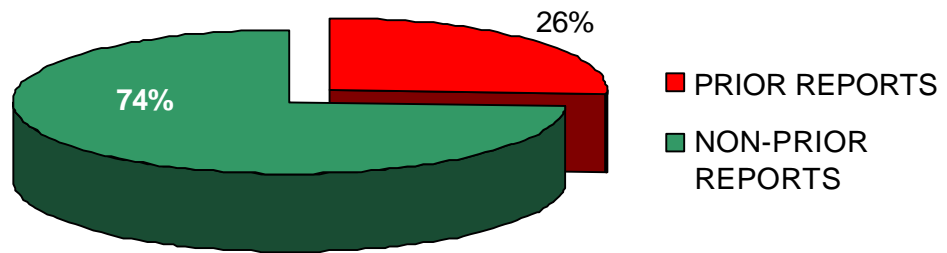


21st.- Concerning the existence of reports made previous to the events, they appear in 9 of the 35 judgments analyzed, which amounts to 26% of them. The same number of reports inform about previous aggressions or threats. Only 3 judgments (9% of cases, similar to the number considered in the previous study) inform about having adopted preliminary precautionary measures. Out of these, at least in one case, these measures were not observed by either member of the couple.

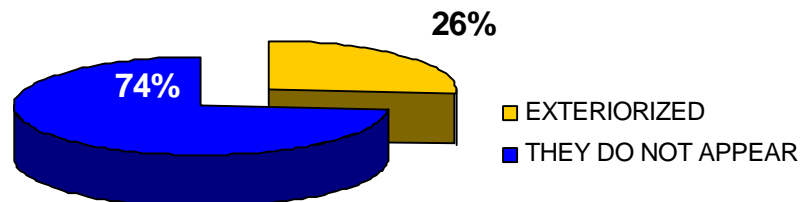
Although an increase of 14 points can be noticed as regards the existence of previous reports –and of 8 points as regards the cases where the judgment considers the existence of previous aggressions or threats-, as compared to the earlier study, the examination of the judgments passed in 2.007 **continues to back the conclusions of the earlier studies concerning the fact that, within most of the cases with the result of death, the women did not perceive in advance the intensity of the risk they were subjected to or, while perceiving it, they did not report it, in spite of the evidence about death never being the first manifestation of violence within the**

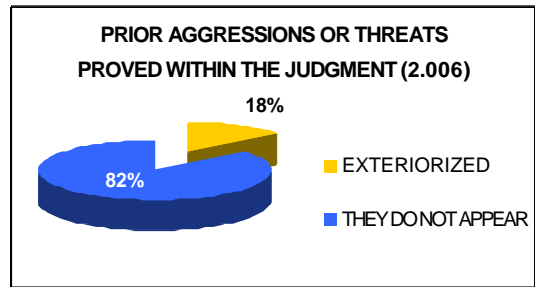
scope of a supposedly affective relationship. It also reveals the need to implement the totality of the measures legally considered to evaluate the situation of risk of the victims of gender violence, and very especially by means of the relevant reports from the experts.

REPORTS PRIOR TO THE EVENTS

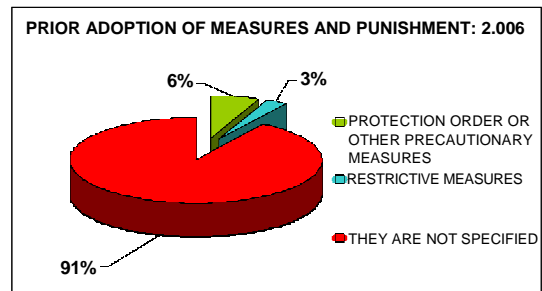
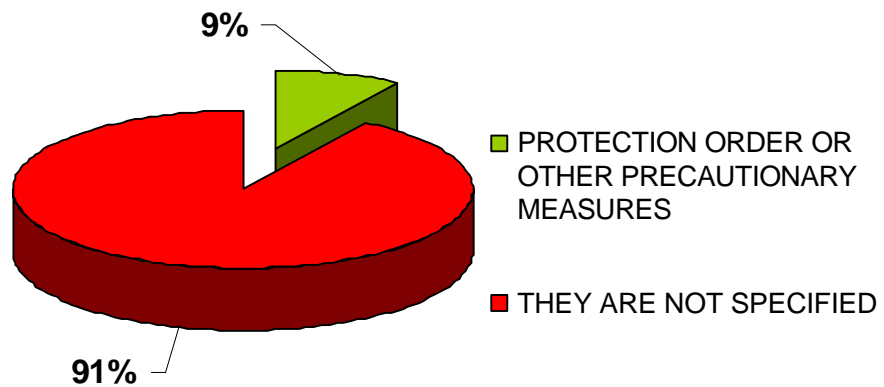


PRIOR AGGRESSIONS OR THREATS PROVED WITHIN THE JUDGMENT





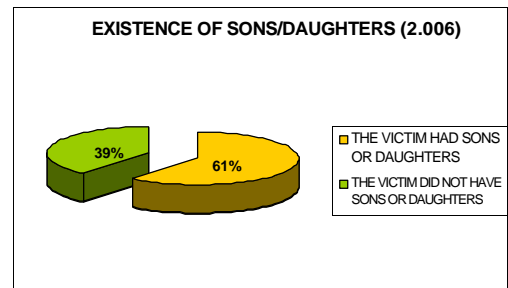
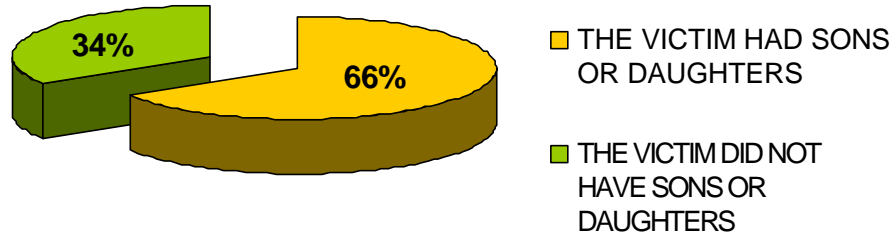
PRIOR ADOPTION OF MEASURES AND PUNISHMENT



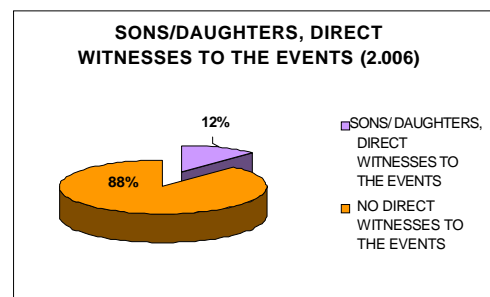
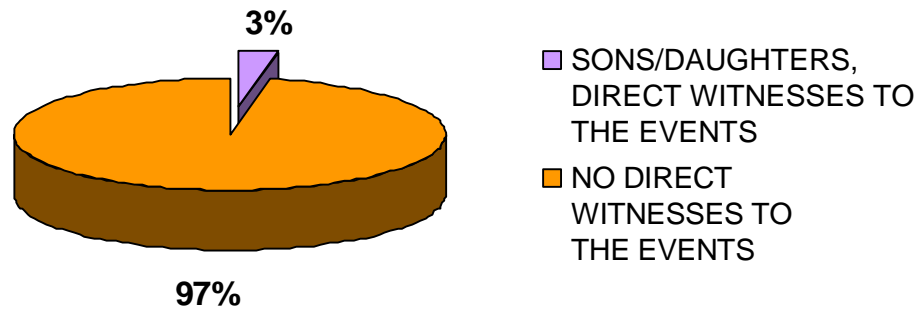
22nd. In **66%** of the cases -23 judgments-, **the victim had sons and daughters.**

Additionally, in one case (3%), **the sons or daughters were present** at the moment the mortal event took place.

EXISTENCE OF SONS/DAUGHTERS

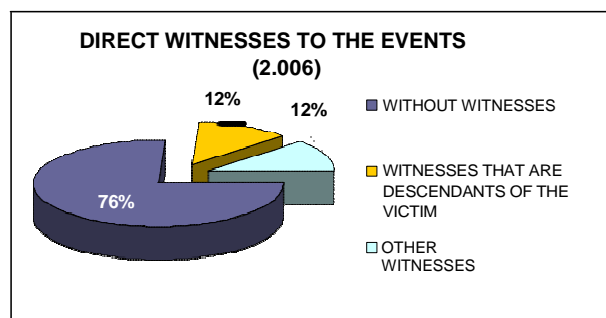
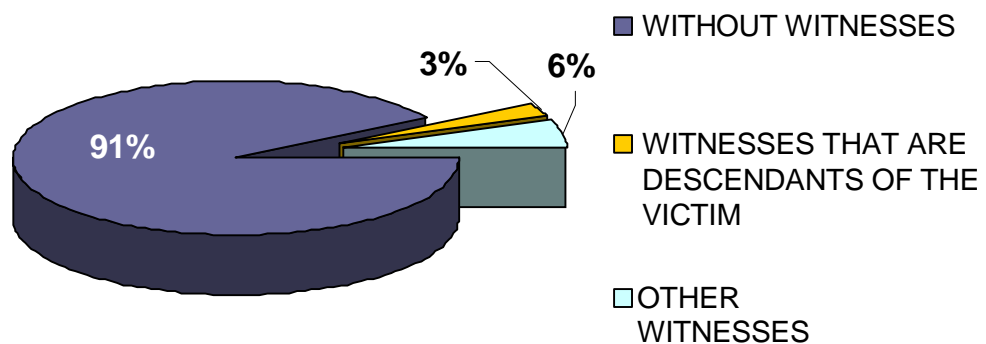


SONS/DAUGHTERS, DIRECT WITNESSES TO THE EVENTS



23rd.- In **3** of the 35 cases examined -9%-, **there were direct witnesses to the events.** In **1** of them they have been the **descendants –sons or daughters-** of the victim. In none of them were they the parents or grandparents of the victim. In **2** further cases, there have been **direct witnesses that are different from the above mentioned ones:** in one case, a person that had been invited to dinner and, in another, a workmate. This continues to reinforce the opinion that, in most cases, the violence against women –both, during its initial stages and during its most savage manifestation- takes place within the private scope, and the idea that the perpetrator of these crimes looks for situations that exclude the possibility of third parties intervening to provide help to the victim.

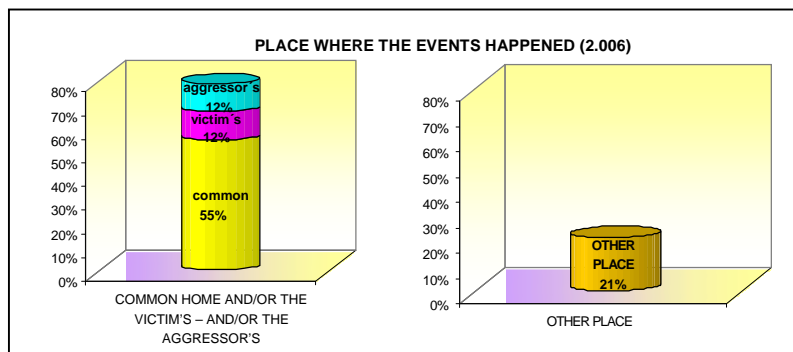
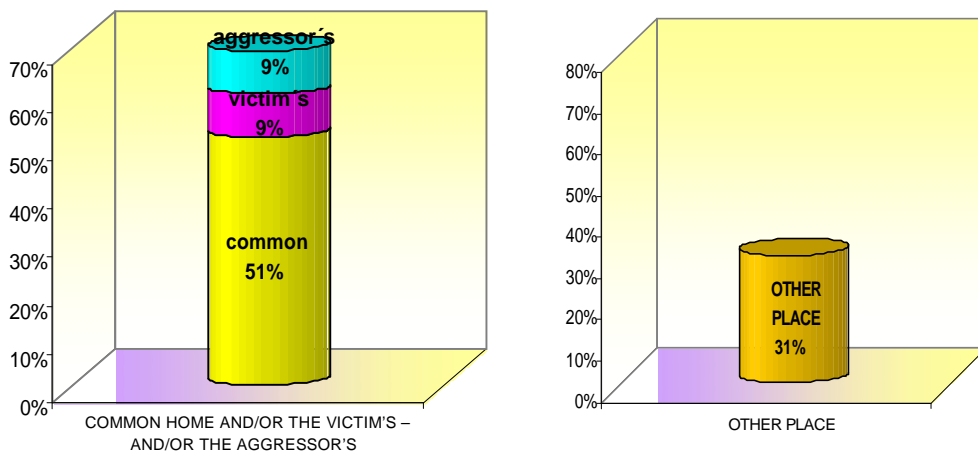
DIRECT WITNESSES TO THE EVENTS



24th.- The common home, the victim's or the aggressor's continues to represent the main scenario where the aggression takes place and which ends up with the homicide or murder of the victim. This happens so in **69%** of the cases -24 judgments-, against **31%** of cases -11 judgments- where the events take place outside the same

Specifically, the **common home** is the place where the mortal aggression takes place in 18 cases, 51% of the cases, which means a 4% less than the ones related to the studies of judgments passed in 2.006. On the other hand, both, the home of the victim and the home of the aggressor -3 cases each- are the places where the aggression takes place in 9% of the cases.

PLACE WHERE THE EVENTS HAPPENED



The reduction in 10 points of the judgments passed in 2.007 concerning the fact that the place where the events happened does not coincide with the home –common, aggressor’s or victim’s- does not imply that the perpetrator is not looking for impunity when committing the criminal action.

Thus, out of the 11 remaining cases, in three of them the events take place in a public park; in three further ones, they take place in open

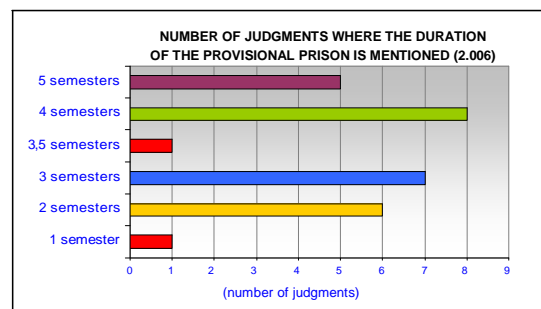
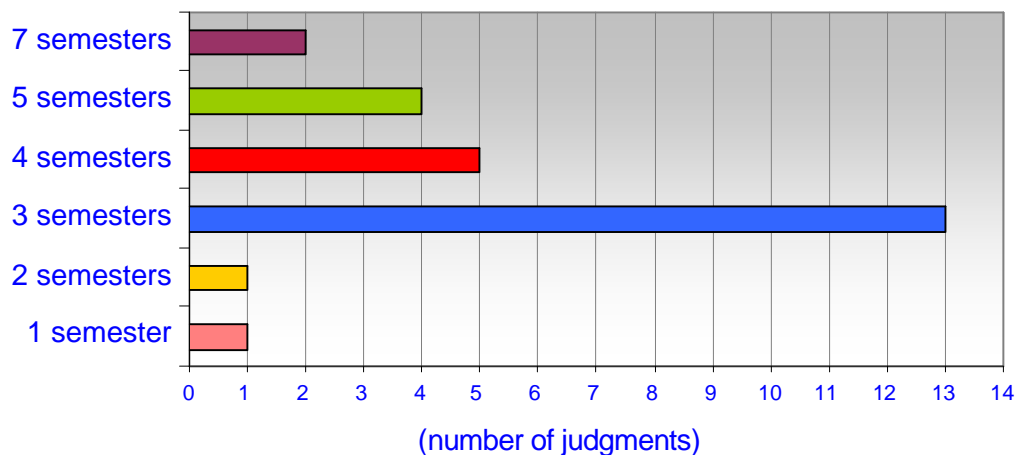
ground: in one case, on the mountain, off the forest lane; in a second case, somewhere near a train track, although not in the province where they have their homes and, in a third case, inside a vehicle, in a country road. In two cases, the events take place in a hotel room. The remaining cases reflect, as the crime scenario, a boat, in one case; a garden in another case and, in the last case, a garage in the building where the victim lived.

25th - In all of the cases where the judgment reflects the legal decision on the personal situation of the alleged author of the crime, after the actions were performed, **he was given a provisional prison order**. This happens in 31 of the 35 judgments, meaning 89% of the cases that represent the object of this study.

In 26 of them, the duration of this precautionary measure is inferred. **Its average duration is nearly two years.**

The specific duration of the provisional prison, in the 26 judgments that mention it, is shown in the following table:

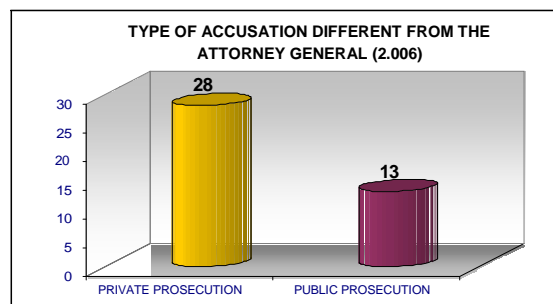
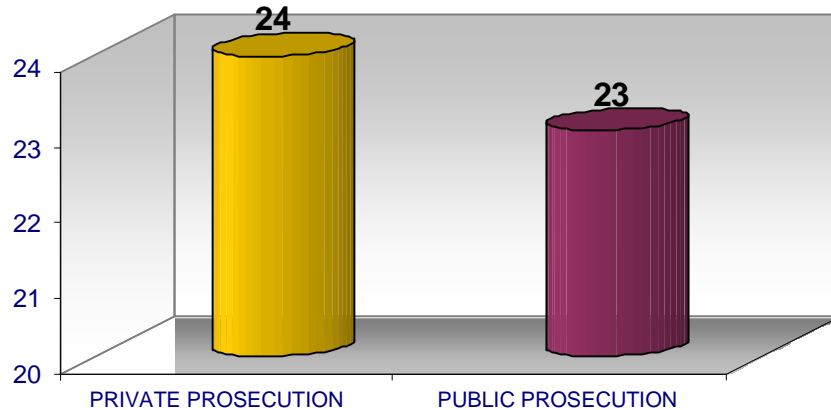
NUMBER OF JUDGMENTS WHERE THE DURATION OF THE PROVISIONAL PRISON IS MENTIONED



26th.- Out of the total number of cases that have got as far as an oral trial before a Jury Tribunal or before the Provincial Court, within the period of time this study refers to, **in 24 of them** –that is, in 69% of the cases- **the private prosecution** that the parties damaged by the offense are entitled to during the prosecution **has entered an appearance**, this means **16 points fewer than within the last study**.

Whether concurring or not with the private prosecution, **in 23 cases, the public prosecution has intervened**, basically through institutions such as the Special Delegation of the Government, the Autonomous Region or the Public Prosecutor, without any additional specification. This shows a **greater presence** of the public prosecution, which seems to respond to the decision of the governmental powers to appear before the court to persecute these criminal actions.

TYPE OF ACCUSATION DIFFERENT FROM THE ATTORNEY GENERAL



27th.- Within this study there are no cases with more than one mortal victim during the execution of the actions.

28th.- Most of the judgments -24 of the 35 examined ones- are condemning one infraction only, homicide or murder. For the remaining eleven judgments, the convicting sentence applies also to other offenses.

In one of them, the sentence is also related to four more offenses: that of illegal possession of weapons, of regular violence and two more of mistreatment.

In a further judgment, the sentence is related to three other offenses: the one related to regular mistreatment, that of threats and the one related to the violation of the precautionary measure.

In three judgments, the sentence is related to two more infractions: in one of them, it is due to offenses related to the violation of a sentence and to regular mistreatment; in another one, it is related to a continued offense of robbery by force and to an infraction of theft, and, in the third case, it is related to offenses of mistreatment and regular mistreatment.

Finally, in six judgments, the sentence is also related to another offense, in all cases different between them: that related to bad treatment, to infraction of precautionary measure, to illegal possession of weapons, to injuries, to sexual aggression and to obstructing the Justice.

Moreover, a **tendency can be observed to attract to the competence of the Jury Tribunals the knowledge of the offenses of consummated homicide and murder when they concur with other connected offenses**, inverting the earlier one which placed it basically with the Provincial Courts, in these cases.

29th.- Most of the judgments show a **decision in the matter of civil responsibility**, in particular **34 of the 35 judgments**, 97% or the total, that are object of study, do so.

As is already known, its determination calls for a prior request of the part, as well as the recognition of the condition of damaged by the offense, in order to be considered. Precisely, one of the referred judgments that consider this question alludes to this matter but in order to exclude the compensation requested by the Attorney General, amounting to 2.000 euro for each one of the brothers of the deceased

victim, the argument offered by the ruling for this rejection states that neither of them was present at the proceedings, nor was any evidence practiced and the relation that connected the mortal victim with them was not known.

The amount of compensation fixed for each damaged party in each one of the 33 judgments that acknowledge it is, obviously, not homogeneous; fluctuations exist on the basis of, among other considerations, the grade of kinship or the specific circumstances of the people who suffered the damage (living together with the person who was murdered, or not; underage situation of the people who suffered the damaging action; children's double family ties, or not; existing affective relationship...).

Thus, and concerning the sons and daughters of the victim, the amount to be paid to each son or daughter fluctuates from 300.000 euro, in one case only, to 17.000 euro, in another case.

Other amounts set in the judgment to be paid to each of the sons and/or daughters are: 240.000 euro, 225.000 euro, 212.832,69 euro, 200.000 euro, 180.000 euro, 175.000 euro, 150.000 euro, 141.700,71 euro, 120.000 euro, 95.0088,53 euro, 95.000 euro, 80.000 euro, 79.000 euro, 50.000 euro, 42.000 euro, 49.000 euro, 44.281,48 euro, 40.000 euro, 30.000 euro, 20.000 euro and 17.712,58 euro.

The total amount of compensation set for the sons or daughters amounts to 5.077.686,40 euro, plus the amount which, in the case of a resolution, is set in the execution of the judgment.

Concerning the amount related to the civil responsibility set for the fathers/mothers of the victim, the sentences also fluctuate, considering the particular personal, affective or dependence ties, of each one of them with the victim.

Thus, considering the one set for the mothers, when she is the only parental referent the judgment refers to, the amounts fluctuate between 180.000 euro and 8.856,29 euro, also amounting to 120.202 euro, 100.000 euro, 20.000 euro, 10.000 euro and 9.661,20 euro for other cases.

The only judgment referred to the father only, sets the compensation for him in 85.000 euro.

When, within the remaining cases, the compensation is set for both parents, the amounts set for both of them fluctuate between 400.000 euro and 16.200 euro, also amounting to 200.000 euro, 180.000 euro, 120.000 and 50.000 euro for the other cases.

The total amount of compensation set for the fathers/mothers rises to 1.499.919,40 euro.

Concerning the brothers and sisters, the compensations set fluctuate between 60.000 euro and 10.000 euro for each brother or sister; also amounting to 50.000 euro, 42.000 euro and 40.000 euro per person, for other cases.

The total amount of compensation set for the brothers and/or sisters rises to 252.000 euro.

Three judgments consider the amount related to the civil responsibility in favor of the legal heirs, without mentioning the number or specific people, and amounting to 180.000 euro, for one case, 120.000 for another one and 60.000, for the third case.

The total amount of compensation set for the legal heirs rises to 360.000 euro.

Finally, there is a group of judgments, specifically three, that use a different way to determine who will be the beneficiaries of the compensation. One of them determines that the beneficiaries will be the “victim’s relations”, and the amount of compensation granted, 200.000 euro. The second one decides that the beneficiary will be “a person whose kinship is not recorded” and the amount he will benefit, 8.856,30 euro. The third one determines that the beneficiary will be the State, and it will receive 49.826,40 euro.

The total amount of compensation set within this group of judgments rises to 258.682,70 euro.

The total amount related to civil responsibility set in the 33 judgments that establish it –out of the 35 that are object of

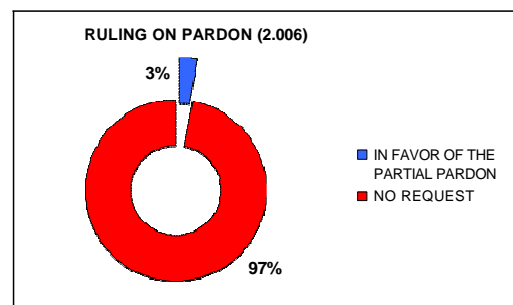
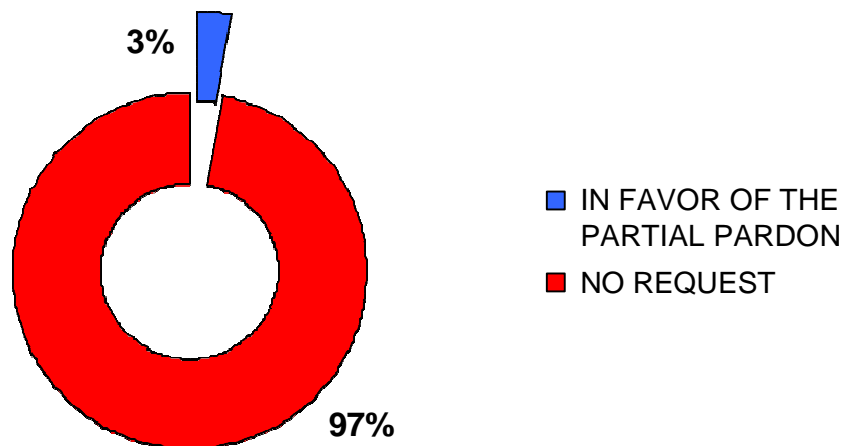
study- rises to 7.448.288,50 euro, plus whatever is decided in the execution of the judgment in one case, according to the ruling in one of them.

Notwithstanding the last consideration, the earlier reveals an average of compensation of 212.808,24 euro per sentence, that is, 61.286,89 euro more than the judgments passed by the Jury Tribunals in 2.006.

30th.- Only in 1 case -3%- of the analyzed judgments, which have all been convicting sentences, **the jurisdictional body –specifically the Jury Tribunal- issued a ruling favoring a partial pardon** for a convicted person. This took place in a case of a conviction sentence issued to a woman, due to the age of the accused -64 years- and the fact that, having served part of the sentence, “proved her reintegration into society”.

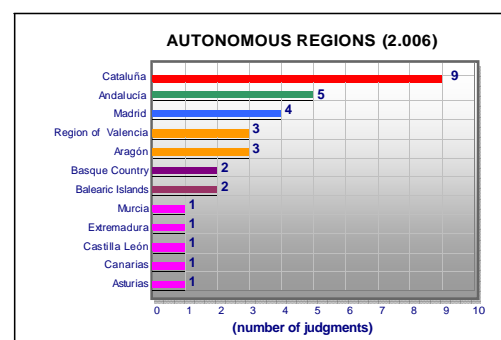
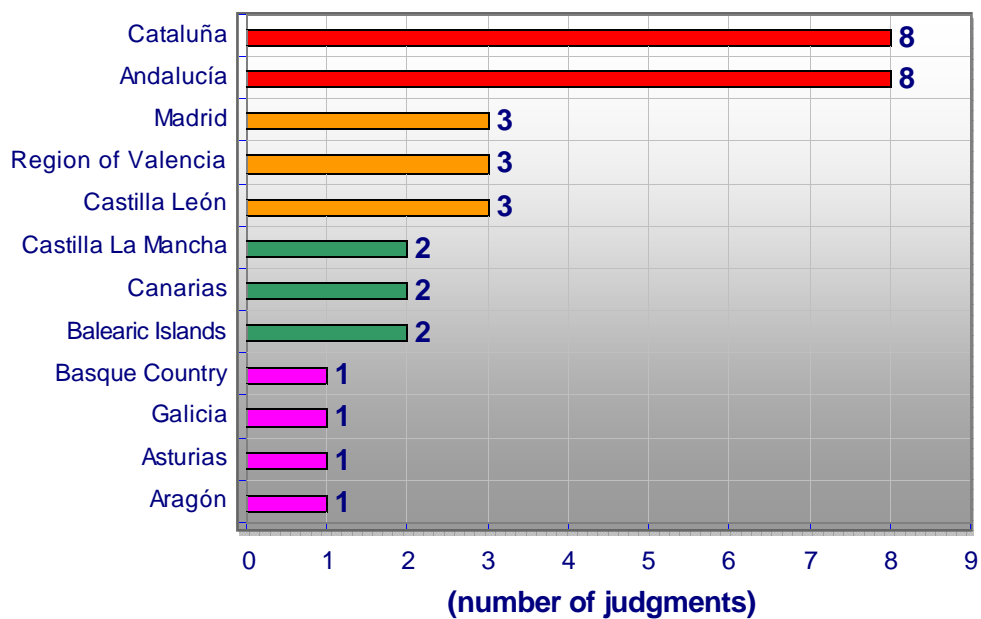
This shows that, in practically all the cases, the Jury Tribunals and the Provincial Courts considered the sentences that they passed rightly proportioned and well balanced.

RULING ON PARDON



31st.- Concerning the Autonomous Regions where the Jury Tribunals or Provincial Courts have judged a greater number of cases, the ones in Andalucía and Cataluña are outstanding, with 8 judgments each, followed by Castilla-León, Madrid and the Region of Valencia, with three judgments each. Baleares, Canarias and Castilla La Mancha have passed 2 judgments each during this period of time and, finally, Aragón, Asturias, Galicia and Basque Country have passed one judgment each.

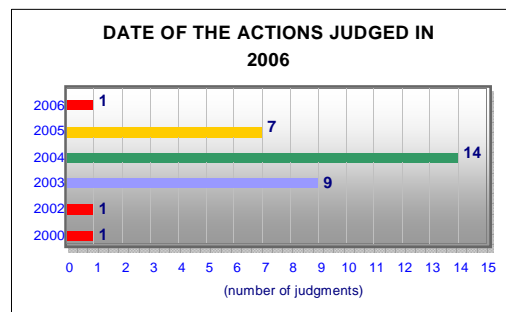
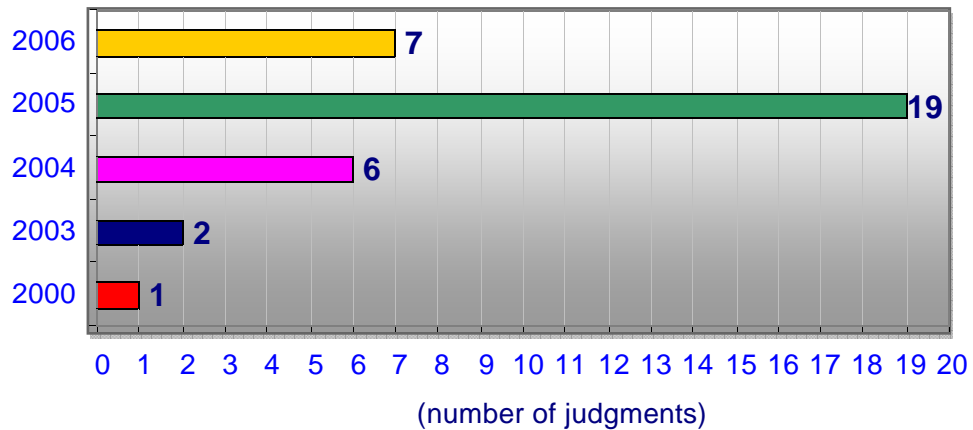
AUTONOMOUS REGIONS



32th.- Concerning the **date of the actions** that were judged along 2007, **most of the cases analyzed happened in the year 2.005, 19** of them, which is coherent with the average length of the precautionary measure of provisional prison examined earlier. The annual range that, following the earlier mentioned case, offers the greatest number of cases judged within that period is 2.006, with 7

cases, followed by 2.004, with 6 cases. Two sentences are related to actions that took place in 2.003 and in one sentence, the analogical extenuating circumstance of unlawful delays occurred in 2.000 was considered.

DATE OF THE ACTIONS JUDGED IN 2007



33rd.- Concerning the behavior of the accused after the actions took place, most of the 30 judgments that refer to it show that **the perpetrator ran away or denied that he had carried on the actions**. This happens **in 20 of them, nearly 67%** of the cases that refer to this information. In two of them, after a first reaction to take flight or deny the events, the perpetrator acknowledged the events at a later stage.

The perpetrator turned himself in voluntarily in 8 of the cases, nearly 27% of the cases, which means a percentage reduction of 12 points as regards the last study effected; this action is traditionally explained as an element of claim of responsibility and of reinforcement of the position of domination of the perpetrator.

Only in two cases – nearly 7% of the cases, two points less than in the previous study- an attempt of suicide is mentioned in the judgment passed.

BEHAVIOUR OF THE ACCUSED AFTER THE EVENTS

