



# Final Activity Report

**Council  
of Europe  
Task Force  
to Combat  
Violence  
against  
Women,  
including  
Domestic  
Violence  
(EG-TFV)**

**Gender Equality and Anti-Trafficking Division**  
Directorate General of Human Rights  
and Legal Affairs



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**Gender Equality and Anti-Trafficking Division  
Directorate General of Human Rights and Legal Affairs  
Strasbourg, September 2008**

Gender Equality and Anti-Trafficking Division  
Directorate General of Human Rights and Legal Affairs  
Council of Europe  
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# The Council of Europe Task Force to Combat Violence against Women, including Domestic Violence

The Council of Europe *Task Force to Combat Violence against Women, including Domestic Violence* (EG-TFV), was set up following a decision taken at the Third Summit of Heads of State and Government of the Council of Europe held in Warsaw on 16 and 17 May 2005. The Action Plan adopted at the Summit defines future action by the Council of Europe and envisages activities to combat violence against women, including domestic violence. Section II.4 of the Plan states:

“The Council of Europe will take measures to combat violence against women, including domestic violence. It will set up a task force to evaluate progress at national level and establish instruments for quantifying developments at pan-European level with a view to drawing up proposals for action. A pan-European campaign to combat violence against women, including domestic violence, will be prepared and conducted in close cooperation with other European and national actors, including NGOs.”

Accordingly, eight international experts in the field of preventing and combating violence against women were appointed to the Task Force by the Secretary General of the Council of Europe. The Steering Committee

for Equality between Women and Men (CDEG) proposed six members of the Task Force, while the Parliamentary Assembly and the Congress of Regional and Local Authorities of the Council of Europe proposed one member each. The appointments were made in consultation with the Committee of Ministers' Thematic Co-ordinator on Equality between Women and Men (TC-EG) and the Council of Europe Commissioner for Human Rights.

The members of the Task Force were: Ms Ayşe Feride Acar (Turkey), Ms Dagmara Baraniewska (Poland), Ms Helena Ewalds (Finland), Ms Hilary Fisher (United Kingdom), Vice-Chair until April 2007, Chair from May 2007, Mr Chris Green (United Kingdom), Mr Manuel Lisboa (Portugal), Ms Rosa Logar (Austria) and Ms Dubravka Šimonović (Croatia), Chair until April 2007, Vice-Chair from May 2007.

As outlined by the Committee of Ministers in connection with follow-up to the Action Plan adopted at the Third Summit of the Council of Europe, the Task Force was expected:

- to evaluate the effectiveness of measures adopted at national and international level to prevent and combat violence against women;

- to make proposals for revising these measures or adopting new measures;
  - to develop a method to help member states to adopt practical policies for combating violence against women;
  - to assess the results of the monitoring framework based on indicators prepared by the CDEG in 2004, which aims to evaluate progress in the implementation of the *Recommendation Rec (2002) 5 on the protection of women against violence*;
  - to identify further possible roles of men in the context of family violence, not just as perpetrators of violence, but as victims of family violence, as well as their role in both preventing violence within the family and protecting victims of such violence;
  - to prepare a blueprint for the Council of Europe Campaign and to identify the main subjects to be highlighted during the Campaign as well as the activities to be conducted in the course of the Campaign.
- The Task Force held its first meeting in Strasbourg from 21 to 23 February 2006 during which it identified as its first priority the preparation of a *Blueprint of the Council of Europe Cam-*

*campaign to Combat Violence against Women, including Domestic Violence.* This Blueprint was finalised at its second meeting, from 25 to 27 April 2006, and approved by the Committee of Ministers at its 969th meeting, on 21 June 2006. The *Campaign to Combat Violence against Women, including Domestic Violence* (2006-2008), was subsequently launched at a high-level launching conference in Madrid on 27 November 2006. It came to an end with the closing conference in Strasbourg on 10 and 11 June 2008.

This report is the result of the work of the Task Force during its seven meetings and online consultations of its members on measures and action taken by Council of Europe

member states to prevent and combat violence against women, including domestic violence.

Members of the Task Force participated in the six seminars on different aspects of violence against women and the two Focal Point meetings organised by the Council of Europe as part of the Campaign. Information from these seminars is included in the report.

The aim of the Task Force was to identify measures that had proved effective at national and international level in preventing and combating violence against women, including domestic violence, and to make recommendations on their use in the Council of Europe member states at large. To this end, it has reviewed

new policies and practices in this field and has identified measures taken in several member states in terms of legislation, support services and data collection, in order to discern general trends in preventing and combating violence against women. It makes recommendations in all these fields and identifies priority areas for future action by all member states as well as the Council of Europe. Furthermore, it has taken into account the Council of Europe's previous work in addressing men's involvement in combating violence against women and has addressed the issue of men's multiple roles in this field.

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# 1. Introduction

## 1.1. Violence against women - definition and extent of the problem

Women of all ages continue to be subjected to many different forms of violence at the hands of men. In all Council of Europe member states, family members, colleagues and complete strangers employ violence to maintain male dominance over women. Despite growing public attention and government pledges to eradicate this century-old scourge, violence against women remains widespread in Europe.

Violence against women is the result of an imbalance of power between women and men. It is not individually experienced abuse: it needs to be understood as a means of enforcing the subordination of women. Throughout history, power relations between women and men have been unequal, resulting in male dominance over, and widespread structural discrimination against, women. To varying degrees, patriarchal cultural and sexual norms, discriminatory divisions of power and labour and the financial dependence of women persist in society – in Europe and beyond. Violence against women is not only a result of these factors: it also reinforces them.

Women in Europe are slapped, kicked, beaten, locked up, sexually and psychologically harassed, genitally mutilated, raped, forced to prostitute themselves and killed by men in their immediate social environment, but also by government offi-

cial. As girls, they are sexually abused in the family or at school, discriminated against in their choices of schooling or vocational training, genitally mutilated or married against their will. As women, they are financially, psychologically and sexually abused by their partners and stalked or raped by former partners or strangers. In old age, they are again financially, psychologically and sexually abused by relatives or staff of homes for the elderly and deprived of independent choices.

The different manifestations of violence against women exist across all strata of society in all Council of Europe member states. While certain factors such as ethnicity, religion, economic status, class, sexual orientation and disability shape the various forms of violence suffered, violence against women is not confined to any particular culture, country or religion. It is its universal character that makes it an endemic form of discrimination against women.

An overview of prevalence studies in Europe suggests that across the various countries, one-fifth to one-quarter of all women have experienced physical violence at least once during their adult lives and more than one-tenth have suffered sexual violence involving the use of force. Figures for all forms of violence, including stalking, are as high as 45%. About 12%-15% of all women

have been in a relationship of domestic abuse after the age of 16, and many more continue to suffer physical and sexual violence once they are separated from the perpetrator.<sup>1</sup>

In addition to the traumatising physical and psychological consequences for victims, violence against women impacts directly on society, economically and socially. Analyses of the costs of violence against women reveal that it reduces the capacity of victims to contribute productively to the family, the economy and public life, and drains the resources of the social services, the justice system, health care agencies and employers. To take a broader view, it lowers the overall educational attainment, mobility and potential of a significant proportion of the population, affecting all those involved (women victims, children who witness violence and perpetrators). The costs of violence are felt in a very broad range of areas and sectors and may be direct or indirect. While they are, at times, difficult to assess, the first studies in this field show they are extremely high.<sup>2</sup>

The Council of Europe has, in *Recommendation Rec (2002) 5 of the Committee of Ministers to member states on the protection of women against violence*, defined violence against women as including all forms of gender-based violence, whether perpetrated by family members, stran-

1. *Stocktaking study on the measures and actions taken in Council of Europe member States to combat violence against women*, Council of Europe, Strasbourg, 2006, CDEG (2006) 3, p.8.

2. *Idem*, p.8.

gers within the community, state officials or in armed conflict. These extend, *inter alia*, to violence in the family or domestic unit, rape between spouses or other partners, female genital mutilation, forced marriages and other traditional practices harmful to women, but also trafficking in women for the purpose of sexual exploitation and violations of the human rights of women in situations of armed conflict. In line with this definition, violence against women is to be understood as “any act of gender-based violence, which results in, or is likely to result in,

physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life”.<sup>3</sup>

This report focuses on violence against women occurring in the family or domestic unit and certain forms of violence against women in the community, in line with the mandate of the Task Force.<sup>4</sup> Issues covered include domestic violence, sexual violence and rape, crimes committed in the name of honour, forced marriage and female genital

mutilation, which come under the definition of violence against women set out in *Recommendation Rec (2002) 5*.<sup>5</sup>

Action to combat trafficking in women and girls forms part of the Council of Europe's extensive work on combating trafficking in human beings, which has led to the adoption and entry into force of the Council of Europe *Convention on Action against Trafficking in Human Beings* and lies outside the scope of the Task Force's mandate.

## 1.2. Violence against women as a human rights violation

Violence against women perpetrated by individual men has long been considered a private issue. International human rights law was originally designed to protect individuals from abuse of power by the state, not to protect women from violence by individual men.

A strong women's movement and the feminist critique of existing human rights standards led to the adoption of international standards and treaties which address the concerns of women. Focusing on the elimination of gender discrimination, they set out guarantees for equality between the sexes in public and private life. The *United Nations Convention on the Elimination of all Forms of Discrimination against Women* (CEDAW)<sup>6</sup> was a milestone in changing the human rights discourse. Not only does it require states parties to guarantee equality between women and men in all aspects of political life, it also includes the obligation to transform cultural, moral and social norms that sustain patriarchal attitudes and gender stereotypes.

Violence against women was not originally considered to come within

the remit of CEDAW. However, the *United Nations Committee on the Elimination of Discrimination against Women* – the treaty body monitoring its implementation – established that discrimination prohibited by CEDAW included gender-based violence, meaning violence that is directed against a woman because she is a woman or affects women disproportionately. It thus determined that gender-based violence could breach specific provisions of the Convention even if they did not specifically mention violence against women. More importantly, it established that states could be responsible for private acts, if they failed to act with due diligence to prevent violations of rights or to investigate or punish acts of violence, and for providing compensation. While the concept of due diligence was not new, its application to violence against women was. With its emergence in many regional and international legally binding instruments and non-binding texts since 1993, it has become internationally accepted. The *United Nations Special Rapporteur on Violence against Women, its Causes and Consequences*

has elaborated on the due diligence standard to provide governments with guidance on what it entails in relation to preventing and combating violence against women. In addition, the *United Nations Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* has further emphasised that domestic (intimate partner) violence against women and female genital mutilation, while conducted in the private sphere, can amount to torture if states fail to act with due diligence.<sup>7</sup>

Recognition of violence against women as a human rights violation forms a cornerstone of the Council of Europe's approach to combating this scourge. *Recommendation Rec (2002) 5 on the protection of women against violence* places states under an obligation to exercise due diligence to prevent, investigate and punish all acts of violence, whether those acts are perpetrated by the state or by private individuals, and provide protection to victims. The Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*, encouraged member states to recognise violence against women as a

3. Extract from the definition of violence against women in Council of Europe *Recommendation Rec (2002) 5 of the Committee of Ministers to member states on the protection of women against violence*, adopted by the Committee of Ministers on 30 April 2002, Appendix, para.1, hereinafter *Recommendation Rec (2002) 5*.

4. It does not, however, cover violence against women in the workplace.

5. See *Recommendation Rec (2002) 5*, Appendix, para 1 a and b, which reads: “... (Violence against women) includes, but is not limited to, the following:  
a. violence occurring in the family or domestic unit, including, *inter alia*, physical and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of honour, female genital and sexual mutilation and other traditional practices harmful to women, such as forced marriages;  
b. violence occurring within the general community, including, *inter alia*, rape, sexual abuse, sexual harassment (...).”

6. *United Nations Convention on the Elimination of All Forms of Discrimination against Women*, adopted and opened for signature by General Assembly Resolution 34/180 of 18 December 1979, entry into force 3 September 1981, hereinafter CEDAW.

7. Report of the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, “Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development”, A/HRC/7/3, 2008.

human rights violation that needs to be responded to accordingly. The questions addressed in this report are thus based on the recognition that violence against women may constitute a human rights violation if states fail to take all reasonable measures to prevent, investigate and punish all forms of violence against women.

The emergence of violence against women as a human rights violation has caused the issue to receive much more attention, both internationally and nationally, than would otherwise have been the case. It has moved into the public eye and is increasingly recognised as the scourge it is. The current challenge, however, is to prevent

violence against women, ensure that all incidents of violence are investigated and prosecuted and that women are sufficiently protected from all acts of gender-based violence.

### **1.3. Comprehensive approach to preventing and combating violence against women**

Academic research, opinions of practitioners and examples of good practices researched for this report have revealed that a comprehensive approach to preventing and combating all forms of violence against women is essential in any attempt to address the issue properly. Dealing with violence against women through the criminal justice system alone will yield as few results, as will investment in support infrastructure, without substantial legislative changes.

Preventing violence against women, prosecuting and punishing perpetrators and compensating victims for the pain and distress they suffered but also protecting them from further harm are part and parcel of any strategy to combat violence against women. This means that member states need to take a wide variety of measures in many different fields, as part of a comprehensive, co-ordinated, multi-sectorial, long-term strategy for combating all forms of violence against women. It is vital to place the needs of women and respect for their choices at the heart of such measures. The aim of a comprehensive approach to combating violence against women must be an effective, co-ordinated intervention system focused on the needs of the victims.

Such a strategy needs to encompass measures aimed at protecting women from further abuse, services which offer advice, counselling and comprehensive help, and effective legal remedies, criminal and civil, for all forms of violence against women. These measures are indispensable and need to be readily available to all women victims of violence. Time and again, gaps in co-ordination or loopholes in protection and safety measures have led to failure to protect

women, which could have been prevented and from which lessons need to be learnt.

The important role which women's NGOs play in raising awareness, bringing about social change and providing services for women victims of gender-based violence needs to be recognised in any attempt to set up a comprehensive policy. Active co-operation between statutory agencies and NGOs needs to be established. In many Council of Europe member states, women's NGOs have a long history of providing women-to-women support services and successfully advocating change. It is essential to tap into their extensive experience, involving them in strategy development and decision-making processes wherever possible and providing a legal and financial framework to guarantee their independence and the delivery of sustainable services.

The root causes of gender-based violence as well as prevailing attitudes and behaviour need to be addressed and challenged through education, awareness-raising and training. Without significant changes in cultural, social and moral attitudes in society, men will continue to resort to violence to control women's agency. At the same time, the justice system, both criminal and civil, needs to allow for effective measures that provide real protection from, and criminal justice for, all acts of violence against women. A sense of trust in the justice system needs to be instilled in women who face abuse, and they must be provided with information about their rights, so that they can seek help. This can be achieved only through an extensive overhaul of the system and training for the professionals who are part of it. Legal

measures need to be accompanied by specialised services that empower women victims and help them make informed and empowered choices. These services need to be adequately staffed, equipped, trained and accessible, which means they need to be adequately funded. Furthermore, it is necessary to enforce the social and economic rights of women, including the right to work, the right to financial aid, the right to affordable housing and the right of migrant and refugee women to an independent residence permit so that victims of violence can live independently and do not have to rely on their husbands or families.

Such a comprehensive approach cannot be guaranteed unless the specificities of violence against women have been understood and analysed. The collection of data on all forms of violence against women and the effect of measures to combat it is essential for the purposes of informing strategy and policy development. A thorough understanding of the needs of women who face gender-based violence must be supported by political will at the highest level, translated into the allocation of resources that allow for a holistic and multi-disciplinary approach, if efforts to combat violence against women are to be successful. This requires sustained funding from states' national budgets, and not just a specialised fund. National budgets need to be assessed from a gender perspective as they impact differently on women and men – a reflection of their different social and economic position. The development of gender-budgeting tools in the field of combating violence against women is essential to enable states to measure the cost-effectiveness of their work and

identify how and to what extent resources are being allocated to tackle violence against women. To ensure that states' due diligence responsibilities are shouldered, any decentralised funding to local and regional authorities must be subject to comprehensive inspection and reporting.<sup>8</sup>

A national action plan encompassing action to be taken in different fields to combat violence against women can be an effective tool for ensuring the development of a comprehensive and co-ordinated strategy and policy, provided it is implemented effectively and given the necessary resources. While effective and innovative policies have been put into practice in member states without the existence of a national action plan, the absence of a comprehensive plan of this kind is often a reflection of the lack of an effective and co-

ordinated policy on violence against women. The majority of member states still do not have a comprehensive, co-ordinated policy addressing all forms of violence against women. The existence and effective implementation of such a policy is, however, a core issue and a means of adopting practical policies for combating violence against women. Such a policy should be introduced in all member states.

National action plans should include a wide range of measures to effectively combat violence against women. For example, a standard national action plan should, at minimum:

- address all forms of violence against women;
- include concrete goals and indicators for the achievement of these goals;

- specify the comprehensive measures and action required to achieve the stated goals;
- identify the agencies responsible for co-ordinating and those responsible for implementing the national action plan;
- involve NGOs, especially experienced women's NGOs, in the framing and implementation of the national action plan;
- allocate adequate, secure funding to the effective support and protection of women victims of violence and the implementation of the national action plan;
- include a time-frame;
- be approved by government and parliament, be distributed to all relevant institutions and be accessible to the public;
- be regularly monitored, evaluated and revised.

## 1.4. Scope of the report

For two years, the Council of Europe *Task Force to Combat Violence against Women, including Domestic Violence*, has followed national and international developments in preventing and combating violence against women. It has looked into many existing policies and practices and has taken note of changes in national law and policy over the course of the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*. In accordance with its mandate, this report contains detailed information, assessments and recommendations on measures to prevent and combat violence against women. It is based on information provided by member states in connection with the monitoring of implementation of Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence* or received directly from governments as part of the Campaign reporting process. It is also based on academic writing and research as well as NGO reports. While many different sources of information available in a Council of Europe official language have been

considered, the measures assessed and examples given in the report are not intended to be exhaustive. In seeking to illustrate the different measures member states have taken in their approach to tackling violence against women, they do not reflect every example of good or innovative practice currently undertaken, or list all the member states that may be using a particular practice. Rather, they reflect trends in the development of national laws and policies to prevent and combat violence against women and have been chosen according to their level of applicability, their interest and the availability of information in one of the official languages of the Council of Europe.

The Council of Europe *Task Force to Combat Violence against Women, including Domestic Violence*, noted during its work that there was a wealth of research, legislation and other measures concerning domestic violence and rape/sexual assault, which was considered for the purpose of this report. As the Council of Europe Campaign has predominantly focused on domestic violence, even more information on national meas-

ures and action in this field surfaced. This prompted a more detailed analysis of measures taken to combat domestic violence in comparison with those designed to combat other forms of violence. This does not, however, imply that other manifestations of violence against women were not considered important, but reveals the need to enhance understanding of other forms of violence against women and to engage in more qualitative and quantitative research in these areas. Similarly, it does not restrict the scope of recommendations which the Task Force addresses to the Council of Europe and its member states.

The report starts in Chapter 2 with an overview of the different activities carried out in the context of the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*.

The first part of Chapter 3 sets the stage for the report by explaining the different legal obligations to combat violence against women to which member states of the Council of Europe have subscribed. It also sets out legally binding commitments that

8. *Protecting women against violence: Analytical Study of the Results of the Second Round of Monitoring the Implementation of Recommendation Rec (2002) 5*, Council of Europe, Strasbourg, 2008, CDEG (2008) 2rev, p. 7.

other regional international organisations have entered into in this field.

The second part of Chapter 3 discusses national measures to prevent and combat violence against women in respect of legislation, support services for victims, data collection and awareness-raising, education and training. It presents certain trends in

law and policy and highlights particularly interesting examples.

Chapter 4 describes the multiple roles of men in the protection of women against violence and sets out strategies for including men in efforts to prevent and combat such violence.

Chapter 5 contains a set of recommendations for future action by the

Council of Europe as well as its member states in the areas of legislation, support services for victims, data collection and education and training. It spells out the measures member states need to implement at national level if they are to be effective in preventing and combating violence against women.

## 2. The Council of Europe Campaign to Combat Violence against Women, including Domestic Violence

The decision to launch the *Campaign to Combat Violence against Women, including Domestic Violence*,<sup>9</sup> dates back to the 3rd Summit of the Council of Europe (Warsaw, 16-17 May 2005). Reaffirming their commitment to eradicating violence against women, the Heads of State and Government of the Council of Europe decided in their Action Plan to address the issue of violence against women by carrying out a Europe-wide campaign, devised and closely monitored by the Council of Europe *Task Force to Combat Violence against Women, including Domestic Violence*.

The Campaign was launched at a high-level conference in Madrid on 27 November 2006. This conference, organised by the Gender Equality and Anti-Trafficking Division in co-operation with the Spanish authorities, was designed to ensure the high-level participation of all Council of Europe member states in order to rally the political will to conduct the Campaign at the highest possible level. It was attended by around 400 participants from 41 member states of the Council of Europe, including several ministers responsible for gender equality, the Spanish Prime Minister, the Secretary General of the Council of Europe, the Chair of the Commit-

tee of Ministers of the Council of Europe and the President of the Parliamentary Assembly, as well as the President of the Chamber of the Congress of Local and Regional Authorities, the Council of Europe Commissioner for Human Rights and the United Nations Special Rapporteur on Violence against Women. Representatives from Council of Europe observer states, other international governmental organisations and NGOs also participated in the event.

Once the Task Force had established the Campaign Blueprint,<sup>10</sup> the Committee of Ministers of the Council of Europe approved the document in June 2006. It served as a roadmap for implementation of the Campaign and set out the aims of the Campaign, its objectives and messages, but also its target groups and main players. Recognising the importance of involving different levels of decision-makers in the effort to combat violence against women, the Blueprint envisaged the active involvement of all the Council of Europe entities as well as the different levels of decision-makers within member states.

On the basis of the catalogue of action envisaged in Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence*, and to ensure an effective cam-

paign, the Task Force decided to focus the Campaign on one significant form of violence: violence against women occurring in the family or domestic unit (domestic violence).

*The broad aims of the Campaign were:*

- to raise awareness across the Council of Europe member states of the fact that violence against women is a human rights violation and encourage every citizen to challenge it;
- to urge states to demonstrate political will by providing adequate resources to deliver concrete results in ending violence against women;
- to promote the implementation of effective measures for preventing and combating violence against women, through legislation and national action plans for the implementation of *Recommendation Rec (2002) 5*, and regularly to monitor the progress achieved.

*The specific objectives of the Campaign were to urge member states to make significant progress in the following four areas:*

- legal and policy measures;
- support and protection for victims;
- data collection;
- awareness-raising.

9. *Campaign Outline Paper*, Council of Europe, Strasbourg, 2008, EG-VAW-FP (2008)2 rev.

10. *Blueprint of the Council of Europe Campaign to Combat Violence against Women, including Domestic Violence*, Council of Europe, Strasbourg, 2006, EG-TFV(2006) 8 rev 5.

*The messages of the Campaign were as follows:*

- Combating domestic violence calls for joint public action;
- Domestic violence is a human rights violation;
- Domestic violence seriously injures women and damages the whole of society, including future generations;
- Domestic violence requires men's active participation in combating violence against women.

#### *Duration of the Campaign*

Prepared early in 2006, the Campaign was launched in Madrid on 27 November 2006 and ended at a high-

level closing conference in Strasbourg on 10 and 11 June 2008.

#### *Slogan of the Campaign*

The slogan of the Council of Europe Campaign was: STOP DOMESTIC VIOLENCE AGAINST WOMEN. The French version of the slogan was: STOP À LA VIOLENCE DOMESTIQUE FAITE AUX FEMMES.

Within the Council of Europe, the Campaign was subsequently carried out through the Directorate General of Human Rights and Legal Affairs (whose Gender Equality and Anti-Trafficking Division was the Campaign management and co-ordination department), the Parliamentary Assembly of the Council of Europe and the Congress of Local and

Regional Authorities of the Council of Europe. The Directorate of Communication supported Campaign activities with information and press work. At national level, the Campaign was implemented by national and local governments as well as national parliaments. Council of Europe Information and Field Offices supported both the Council of Europe and member states in conducting the Campaign. All worked in close co-operation with relevant NGOs.

The following section describes the variety of activities and measures taken to conduct the Campaign and provides an initial assessment of the outcome.

## **2.1. Overview of activities carried out by the different Campaign players/ implementing partners**

### *Implementing partners*

Since the launch of the Campaign on 27 November 2006 at a high-level conference in Madrid, the multitude of players involved in implementing it have engaged in a variety of activities, turning words into action.

Member states of the Council of Europe were invited to appoint a high-level official and focal point to liaise with the Council of Europe on all matters related to the Campaign, but also to initiate and spearhead activities at national level. The Blueprint envisaged that member states would run national campaigns modelled on the Council of Europe initiative, and high-level officials and focal points were invited in particular to initiate such campaigns. During the course of the Campaign, 46 member

states appointed high-level officials and/or focal points.

Similarly, national parliaments were invited to appoint a contact parliamentarian to ensure the involvement of every parliament in the Campaign, initiate legislative changes and make use of all the parliamentary mechanisms available to promote efforts to eliminate violence against women. In all, national parliaments in 45 member states appointed contact parliamentarians, as did three parliaments with observer status with the Parliamentary Assembly, as well as the European Parliament and the Nordic Council.

The Council of Europe has carried out its own activities, in the form, for example, of seminars and confer-

ences and in-depth studies, to expand the knowledge base of member states in respect of different approaches to combating violence against women. It has also, through its Secretariat, supported initiatives developed by focal points and contact parliamentarians, by providing campaign material for effective communication, campaigning and awareness-raising.

This section provides an overview of the different types of activities undertaken during the Campaign. In view of the enormous wealth of activities, this overview is not exhaustive, as it is not possible to list all the activities carried out in all member states. More detailed information is available in the Campaign Outline Paper.<sup>11</sup>

### *Council of Europe*

#### *Communication and publicity material*

To provide detailed information about the Campaign and the various Campaign activities at intergovernmental, parliamentary and local and regional level, a special campaign website was set up at [www.coe.int/stopviolence](http://www.coe.int/stopviolence).

With the aim of ensuring high visibility of the Campaign, the Council of

Europe developed publicity material featuring the Campaign slogan "Stop domestic violence against women". This material included posters, flyers, leaflets, white ribbons, stickers, postcards, note pads, pens, calendars and beer mats. It also devised a public-service TV spot announcing the campaign and a radio spot. The

different entities within the Council of Europe servicing the different Campaign dimensions were involved in translating Campaign material into national languages and disseminating it as widely as possible. The Campaign poster has been translated into 26 different languages and displayed in more than half the Council of

11. Supra note 9.

Europe member states. Many of the other Campaign materials were reproduced in a number of countries.

The TV spot, driving home the message that, contrary to common belief, it is in the home that women are at their most vulnerable, was broadcast in more than 26 member states, on public and private TV channels, including several reaching a wide public, such as CNN and Euronews. Furthermore, the TV spot

#### *Seminars and conferences*

To further the knowledge base in respect of current developments and good practice in preventing and combating violence against women, five intergovernmental regional seminars were organised on the four core areas of the Campaign.

*Regional Seminar on Legal Measures to Combat Violence against Women, including Domestic Violence, The Hague, Netherlands, 21-22 February 2007.* The first regional seminar took place in The Hague on 21 and 22 February 2007. It provided a forum enabling around 40 government and NGO representatives from Austria, Belgium, France, Germany, Ireland, the Netherlands, Spain and the United Kingdom to exchange information on current developments in the field of law through the presentation of innovative legal measures.

Keynote speakers and national experts shared their experiences of matters such as protection and non-molestation orders, specialist domestic violence courts and aggravating circumstances in the criminalisation of domestic violence. The discussion centred on the different forms protection and non-molestation orders took in the participating member states, but also on the added benefit of specialist domestic violence courts. In addition, a large part of the seminar was devoted to ways and means of guaranteeing adequate implementation of legal instruments – an issue of high importance if legal measures are to succeed.

*Regional Seminar on Men's Active Participation in Combating Domestic Violence, Zagreb, Croatia, 9-10 May 2007.* The second regional seminar was held in Zagreb, Croatia, on 9 and 10 May 2007. Devoted to the issue of men's active participation in combat-

ing domestic violence, it highlighted one of the main messages of the Campaign. It focused not only on men as perpetrators of violence, but also on their role as active agents of change in both preventing violence in the family and protecting the victims of this violence. As violence against women is rooted in the patriarchal culture and unequal power relationship between women and men, it is supported by discriminatory traditions and attitudes as well as gender stereotypes reflecting male dominance.

- a gold award in the German section of the Integrated Television and Video Awards (ITVA), Deutschland Gold Award 2007.

ing domestic violence, it highlighted one of the main messages of the Campaign. It focused not only on men as perpetrators of violence, but also on their role as active agents of change in both preventing violence in the family and protecting the victims of this violence. As violence against women is rooted in the patriarchal culture and unequal power relationship between women and men, it is supported by discriminatory traditions and attitudes as well as gender stereotypes reflecting male dominance.

Around 70 government and NGO representatives from Austria, Croatia, Ireland, the Netherlands, Norway, Spain and the United Kingdom, as well as representatives from the United Nations, discussed the importance of making male perpetrators responsible for their actions, not only through criminal sanctions but also through counselling designed to promote behavioural change and prevent recidivism. The participants agreed that there was much men could and should do to combat violence against women. By virtue of the fact that men formed the vast majority of perpetrators of domestic violence, they were also best placed to combat it. They could speak out against violence and encourage other men to do the same. Men could play an active role simply by acting as role models for non-violent behaviour. Men's roles as fathers, caretakers and guardians were crucial. Men could act as "agents of change" and promote positive roles which men could take on in order to challenge prevailing gender stereotypes and discriminatory cultural norms.

*Regional Seminar on Data Collection as a Prerequisite for Effective Policies to*

- a gold award at the World Media Festival in the category 'Public Relations: Human Relations and Values'
- third prize at the US International Film and Video Festival in West Hollywood, California, in the category 'Political, Government, World Relations' – C-Certificate for creative excellence.

*Combat Violence against Women, including Domestic Violence, Lisbon, Portugal, 5 July 2007.* The third regional seminar organised within the framework of the Campaign was held in Lisbon, Portugal, on 5 July 2007. Around 170 government and NGO representatives from Austria, Armenia, Cyprus, Georgia, Italy, Malta, Portugal, San Marino, Slovakia and Ukraine discussed the role of data in informing and shaping effective policies to combat violence against women.

Keynote speeches explained the type of data that could be collected: surveys of violence against women, population-based data or administrative data from organisations, institutions and agencies that provided services for victims of such violence. Even though more and more Council of Europe member states were carrying out population-based surveys, they were neither comparable across countries nor necessarily carried out on a regular basis to allow for comparison over time. This meant that while important work was being done to assess the scale of victimisation, harmonised standards were lacking.

Service-based administrative data, on the other hand, were rarely collected – despite the benefits of information technology. Government agencies such as the police, the judiciary, the public health sector and child or social welfare services did not have administrative data systems that went beyond their internal recording needs. As a consequence, violence against women became invisible because it was difficult to keep track of cases, even across the criminal justice system. Similarly, it was difficult to assess whether any improvements in reporting and pros-



education had occurred. Furthermore, the effectiveness of multi-agency strategies to improve intervention was undermined by the failure to provide a minimum of feedback about interlocking procedures when other agencies took over.

*Regional Seminar on Protection and Specialised Support by the Police, Health Care Professionals and Social Workers for Victims of Domestic Violence, Skopje, "the former Yugoslav Republic of Macedonia", 11-12 September 2007.* Around 90 government and NGO representatives from Albania, Bulgaria, Croatia, Serbia, Slovenia, "the former Yugoslav Republic of Macedonia" and Turkey participated in the fourth regional seminar and discussed the reaction of the police, health care professionals and social workers to domestic violence. Participants focused on the responses of these professions to the needs of victims of domestic violence as well as effective co-operation between these service providers and non-governmental organisations. Keynote speeches and presentations of national experiences identified the roles that these professions played in preventing domestic violence and protecting and supporting its victims. In addition, a large part of the seminar was devoted to ways and means of increasing not only co-operation among these professional groups but also co-operation with other service providers, public authorities and non-governmental organisations. Participants agreed that in order to guarantee the victim's safety and empowerment it was of utmost importance that the different service providers should share a common understanding of domestic violence and adopt co-ordinated approaches to dealing with the victims, their children and perpetrators.

*Regional Seminar on Support and Protection for Victims of Domestic Violence: Services Needed, Espoo, Finland, 8-9 October 2007.* The fifth and last regional seminar organised in the context of the Campaign was held on 8 and 9 October 2007 in Espoo, Finland. Around 100 govern-

ment and NGO representatives from Denmark, Estonia, Finland, Iceland, Norway, Latvia, Lithuania, the Russian Federation and Sweden shared information on and discussed the issue of support services for women victims of domestic violence.

Keynote speeches and presentations of national experiences focused on the organisation of, and prerequisites for, support services. In addition, a large part of the seminar was devoted to the types of support services currently provided by the member states and to identifying areas requiring further action in this respect. In their discussions, the participants singled out certain key elements that should be considered as starting points in developing an effective service sector for victims of violence. The first step in organising such services should be to agree on a common understanding of violence against women and adopt and implement a national action plan to combat violence against women. Secondly, training for professionals and authorities involved at all levels in combating violence and guidelines and handbooks for handling cases of violence against women were essential. The collection of gender-disaggregated data and the sharing of such data among service providers and between authorities were considered equally important in the organisation of the service sector. Furthermore, it was pointed out that the continuity of victim services should be ensured by long-term government funding.

To provide a forum where all those appointed to promote the Campaign at national level could exchange information, set up networks and cooperate, a *Conference of National Focal Points* and a *Joint Conference of National Focal Points and Contact Parliamentarians* were organised in Strasbourg on 4 and 5 June 2007 respectively. Through reports on national experience and keynote speeches on effective measures in the field of the law, protection and support for victims, data collection and awareness-raising, conference participants were

provided with an overview of current and new measures to combat violence against women. Similarly, opportunities for co-operation among different players were presented and discussed, as a means of enhancing the success of the Campaign. During the conference, many government focal points and contact parliamentarians from the same country met for the first time. Establishing personal contact was in many cases the first step towards improving co-operation in connection with action to combat violence against women.

The *Conference on Support Services for Women Victims of Violence*, held in Strasbourg on 6 and 7 December 2007, highlighted the advantages of minimum standards for support services for women victims of violence. On the basis of a presentation of draft minimum standards, 90 non-governmental and government representatives from 38 Council of Europe member states discussed the benefits of defining minimum standards, what they should encompass and how they should be applied.

With a view to presenting final reports on national action taken within the framework of the Campaign, national focal points were invited to a final *Meeting of National Focal Points* in Strasbourg on 21 and 22 April 2008. At this meeting, the focal points presented national reports on action to prevent and combat violence against women.<sup>12</sup> Apart from enabling participants to learn about many valuable contributions to the Campaign at national level, the conference made it possible to share information about good practices and effective measures at national level to combat violence against women.

The main features of the discussions at the above seminars, along with speeches and presentations, were recorded in seminar and conference proceedings.<sup>13</sup>

The Parliamentary Assembly organised three co-ordination meetings for contact parliamentarians and five meetings of the regional groupings of contact parliamentarians, at

12. These are contained in Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence – Compilation of National Reports on action to prevent and combat violence against women*, Council of Europe, Strasbourg, 2008, EG-VAW-FP(2008)1 rev.

13. These are available at [www.coe.int/equality](http://www.coe.int/equality) and [www.coe.int/stopviolence/intergov](http://www.coe.int/stopviolence/intergov).

which participants devised strategies for involving their national parliaments in efforts to prevent and combat violence against women. The exchange of ideas for legislative work supported contact parliamentarians in their efforts to implement the Campaign at national level. Contact parliamentarians were also invited to contribute to the work of the regional groupings set up by the Parliamentary Assembly. This provided an opportunity to discuss the types of activities to be carried out at national level, how to involve parliament in combating violence against women and how to ensure implementation of the seven key legislative measures identified in Parliamentary Assembly Resolution 1582 (2007) *“Parliaments united in combating domestic violence against women”: mid-term assessment of the campaign*. Parliamentarians acknowledged the importance of raising awareness of violence against women through hearings and parliamentary debates. At the same time, they emphasised the importance of initiating legislative change.

The Assembly also organised the *Final Conference of the Parliamentary Dimension of the Campaign* in Vienna in April 2008, at which parliamentarians adopted the Vienna Declaration.<sup>14</sup>

### Studies

One of the four objectives of the Campaign was significant progress in the provision of support and advocacy services for women victims of violence. However, the knowledge base of such services consisted largely of individual practices suitable for local contexts and often developed on the basis of available funding rather than strategy. Very little work had focused on identifying minimum standards and principles in the provision of such services which governments should respect in order to meet their international obligation to exercise due diligence in preventing, investigating and punishing acts of violence and providing protection to

At this conference, parliamentarians reaffirmed the commitment of national parliaments to prevent and combat violence against women, including domestic violence, and invited parliaments to continue the work of adopting and/or monitoring the implementation of laws to combat domestic violence against women. Furthermore, they invited the Parliamentary Assembly and national parliaments to continue networking with parliamentarians from the 47 member states involved in activities to combat violence against women and to further involve men in this action. Lastly, they invited the Council of Europe to draw up a *European Framework Convention to combat violence against women, including domestic violence* and to involve parliamentarians and NGOs in the drafting process. It was specified that this instrument should take account of the specific aspects linked to equality between women and men and be designed to protect victims, punish perpetrators and prevent this human rights violation.

Reiterating its call for a legally binding instrument in this field, the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly considered, in its

assessment of the results of the Campaign and the outlook for the future, it insufficient to address the issue of the protection of women against violence in a recommendation. The Committee therefore advocates for a legally binding international instrument in this field, encompassing a gender dimension and covering the most severe and widespread forms of violence against women: domestic violence, sexual assault (including rape and marital rape) and harassment, forced marriages, crimes committed in the name of honour and female genital mutilation. To ensure its effective implementation, an independent monitoring mechanism should be established.<sup>15</sup>

In the course of the Campaign, many Council of Europe Information and Field Offices contributed to it by organising seminars, round tables, workshops, action days, press conferences and theatre performances to raise awareness of violence against women (for example in Azerbaijan, Lithuania, Moldova, Poland, Romania, Slovakia, and Ukraine). Many other offices made Campaign material available in national languages by translating it and finding adequate channels for disseminating it.

victims. To fill this gap, the Council of Europe decided to explore the issue of minimum standards in the field of support services for women victims of domestic violence and sexual assault/rape. The results of this project, including proposed minimum standards, were compiled by means of consultation involving government and NGO experts and are published in *“Combating violence against women: minimum standards for support services”*.<sup>16</sup>

Inspired by another objective of the Campaign, that of improving the systematic collection of data that are comparable over time and from country to country, the Council of Europe

has studied the question of collecting administrative data on violence against women. Based on country visits and replies to questionnaires, the study analysed to what extent member states are currently collecting administrative data. To support governments in their efforts to avail themselves of existing or easily collectable data, the study on *“Administrative data collection on domestic violence in Council of Europe member States”* contains guidelines on how to set up administrative data systems that go beyond the internal recording needs of statutory agencies such as the police, the judiciary and public health and social welfare services.<sup>17</sup>

14. Vienna Declaration, *Parliaments: act now to stop domestic violence*, adopted by the participants in the Final Conference of the Parliamentary Dimension of the Council of Europe Campaign to Combat Violence against Women, including Domestic Violence, organised jointly by the Parliamentary Assembly of the Council of Europe (PACE) and the Austrian Parliament in Vienna, Austria, on 30 April 2008, AS/Ega/(2008) 3 rev2, aegadocinf03\_2008 rev2.

15. *Parliaments united in combating domestic violence against women: the results of the Council of Europe Campaign and the outlook for the future*, Introductory Memorandum, Committee on Equal Opportunities for Women and Men, Parliamentary Assembly, AS/Ega (2008)27, 23 June 2008, aegadoc27\_2008.

16. *Combating violence against women: minimum standards for support services*, Council of Europe, 2008, Strasbourg, EG-VAW-CONF(2007) Study rev.

17. *Administrative data collection on domestic violence in Council of Europe member States*, Council of Europe, Strasbourg, 2008, EG-VAW-DC(2008)Study.

## Exhibitions

One of the intergovernmental Campaign activities was an exhibition of national campaign posters designed to combat violence against women, which showed how Europe was addressing the issue. The exhibition was set up in Strasbourg in September 2006 for the Council of Europe Open Day and again to mark the International Day for the Elimination of Violence against Women in 2007.

## National governments

Many Council of Europe member states have recognised violence against women as a public policy concern and have not only introduced legal and policy measures to protect women from abuse, but have also taken many initiatives to raise public awareness. Others have only recently started to address the issue systematically, while a third group of member states is still in the process of raising awareness among decision-makers and the general public of the fact that violence against women is not a private matter. Despite these differing circumstances, the Council of Europe's call for action to combat violence against women in the context of the Campaign was heeded by a large number of member states.

National focal points and/or high-level officials appointed by 46 governments took the lead in conducting the Campaign at national governmental level. By attending Council of Europe conferences and seminars and initiating activities at national level, they acted as an important link between the international and national levels

## National parliaments/contact parliamentarians

The Parliamentary Assembly of the Council of Europe has strongly supported the launch of a pan-European campaign to combat violence against women and has been instrumental in implementing the parliamentary dimension of the Campaign through a network of contact parliamentarians.

Comprised of 55 parliamentarians, elected by 48 parliaments, including parliaments with observer status with the Assembly, this network of dedicated parliamentarians mobilised their respective parliaments to organ-

ise awareness-raising activities and initiate legal reform to prevent and combat violence against women.

Around 40 national parliaments have actively contributed to the Campaign by carrying out more than 200 activities. These include the adoption of solemn declarations, raising awareness among parliamentarians and the general public, dissemination of campaign material in national languages, setting up networks of male parliamentarians against violence against women, organising seminars, conferences and parliamentary hearings

and were instrumental in spearheading national campaign action.

In choosing the type of activity that best fitted the current situation in terms of combating violence against women, some governments conducted awareness-raising campaigns with the help of the Council of Europe Campaign poster and material. Others assessed and overhauled their internal set-up for framing policy in this field to improve the response to such violence. Yet others sought to exchange views with other member states and offered to host one of the regional seminars organised by the Council of Europe so that participants could learn from the experiences of others. A number of governments planned or carried out long-term national campaigns modelled on the Council of Europe Campaign Blueprint, using the Campaign slogan, poster and TV spot in their national languages. Many others ran national campaigns of shorter duration around the 16 Days of Activism against gender-based violence. Many innovative ways of spreading the messages of the Campaign that went

far beyond the use of existing publicity material were explored, for example mobile phone text-messaging, interactive websites, art competitions, the staging of topical plays and fund-raising activities such as a walkathon against domestic violence.

In an effort to unite different public entities and players in combating violence against women, many governments seized the opportunity provided by the Campaign to engage in joint activities with other national, regional and local players. Governmental focal points and/or high-level officials actively co-operated with contact parliamentarians appointed by national parliaments, often supported by Council of Europe Field and Information Offices, to organise public-awareness events.

In many cases, the Council of Europe Campaign was considered an adequate framework in which to put into practice existing government intentions to take action to prevent and combat violence against women. More detailed information on activities in member states and their results is provided below.

but also passing laws and initiating legal reforms concerning domestic violence.

These activities were co-ordinated and supported by the Parliamentary Assembly, which organised three co-ordination meetings for contact parliamentarians, prepared Campaign material (handbook for parliamentarians, white ribbons, etc.) and provided information about the parliamentary dimension of the Campaign through a website, newsletters and information stands during Parliamentary Assembly sessions. Furthermore,

it initiated pan-European parliamentary activities to mark International Women's Day and the International Day for the Elimination of Violence against Women, and to co-ordinate the work of the five regional groups of contact parliamentarians.

Assessing the Campaign half-way through, the Parliamentary Assembly identified seven key legislative meas-

ures that national parliaments of member states were invited to adopt.<sup>18</sup> Ranging from legislative changes such as making domestic violence against women, including marital rape, a criminal offence to setting up sufficient numbers of safe shelters and providing sufficient budgetary resources, these key measures set the standard against which to

measure the success of parliamentary initiatives. In replies to a questionnaire, 40 parliaments reported on progress in these areas. An assessment of measures taken is contained in a report by the Assembly Rapporteur on the results of the parliamentary dimension of the Campaign and the outlook for the future.<sup>19</sup>

## Local and regional authorities

The Congress of Local and Regional Authorities of the Council of Europe has taken a strong stand against violence against women and invited local and regional authorities across Europe to become actively involved in the Campaign by taking measures to combat violence against women at their respective levels. During the 2007 Spring Session, the Chamber of Local Authorities of the Congress organised a debate on violence against women, and high-level representatives of the Congress participated in various events throughout the Campaign, including the screening of films on violence against women.

Confronted with the consequences of violence against women on a daily basis, many municipalities heeded the Congress's call for action and actively participated in the Campaign. Furthermore, they expressed a willingness to make the fight against violence against women a political priority. Supported through a website featuring good practice examples and

other important resources as well as Campaign material, many cities and regions in Europe carried out activities as part of the Campaign.

To mark International Women's Day on 8 May 2007, awareness-raising weeks were organised under the patronage of the Congress. Under this scheme, a number of cities across Europe conducted poster campaigns, displaying the Campaign poster on the streets, on buses, in bus stations, in public buildings and in some cases on municipal websites. Local and regional authorities were encouraged to organise public debates and take further action to prevent and combat violence against women.

The local and regional dimension of the Campaign benefited from the strength of the municipalities and regions – the closeness to the citizen. Using its network of contacts, its members – locally and regionally elected representatives – united behind a targeted message which they spread in their own fora and through their own means.

Furthermore, the involvement of national bodies in local and regional activities created important synergy between different levels of responsibilities. This has significantly raised the impact of the Campaign by fostering co-operation between different sectors (education, sport, art, transport, social protection). The local and regional dimension of the Campaign provided a forum for concerted action and allowed valuable partnerships to be forged between local and regional authorities, specialised bodies and civil society, including the private sector. It also made it possible to reach out to young people through school, sport and artistic events.

To ensure follow-up to the Campaign, the Congress Committee on Social Cohesion has been asked to draft a report on possible action by local and regional authorities to prevent and combat domestic violence, and to prepare a recommendation and resolution, which will be submitted to the Congress for adoption at its 17th session, in March 2009.

## 2.2. Assessment of the Council of Europe Campaign

The Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence* (2006-2008), was one of the most successful and high-profile campaigns of the Council of Europe. It benefited from widespread national and international support. The structure of the Campaign, which involved – for the first time – governments, parliaments and local and regional authorities, has enhanced the reach and promi-

nence of the Campaign. After its launch in Madrid on 27 November 2006 at a high-level conference, 46 governments appointed national focal points and/or high-level officials to conduct the Campaign at national level and liaise with the Council of Europe on all relevant issues. Similarly, 48 parliaments, including parliaments with observer status with the Parliamentary Assembly of the Council of Europe,

appointed contact parliamentarians to ensure implementation of the Campaign at national level. Furthermore, other international intergovernmental organisations such as the United Nations, the OSCE and the Nordic Council of Ministers, but also international NGOs (Amnesty International, La Strada International and Women Against Violence Europe (WAVE)), joined the Campaign.

18. Parliamentary Assembly Resolution 1582(2007) and Recommendation 1817 (2007) on "Parliaments united in combating domestic violence against women": mid-term assessment of the Campaign.

19. Report by the Committee on Equal Opportunities for Women and Men on "Combating violence against women: towards a Council of Europe convention", Parliamentary Assembly Doc.11702

## 2.2.1. Results of the Campaign at international level

First and foremost among the results of the Campaign is the recognition by the different players that violence against women is a human rights violation, not a private matter. Member states therefore have a due diligence obligation to prevent violence against women, protect victims and punish perpetrators. This shift is a positive step in eradicating violence against women.

Secondly, the Campaign has helped to place violence against women at the top of the political agenda of the Council of Europe member states. The commitment of Heads of State and Government of Council of Europe member states that prompted their decision to carry out a Council of Europe Campaign against violence against women was visible in many countries throughout the Campaign. It was apparent at the launch of the Campaign, which took place in Spain at the invitation of the Spanish Prime Minister, Mr Zapatero, who pledged to contribute to the eradication of violence against women. It was also reflected in the participation of many ministers responsible for gender equality in the launch and the closing conference of the Campaign. Furthermore, the Secretary General and Deputy Secretary General of the Council of Europe, the President of the Parliamentary Assembly, the President of the Chamber of Local Authorities of the Congress of Local and Regional Authorities and the Council of Europe Commissioner for Human Rights supported the Campaign in every possible way. Many contact parliamentarians raised public awareness of violence against women and ensured that it stayed on the political agenda. This support and commitment helped to create the political momentum for change, which needs to be kept up and used to ensure that new and existing measures to combat violence against women are implemented.

Thirdly, the Campaign and its closing conference have shown that joint public action by all national and international players is needed to

combat violence against women. The Campaign infrastructure, with its government-appointed focal points and high-level officials, contact parliamentarians appointed by national parliaments and actively involved local and regional authorities, proved successful in raising awareness of violence against women. For two years, members of these different entities engaged, individually and jointly, in a wide variety of activities to implement the Campaign. Instead of just inviting national governments to take appropriate measures, the *Blueprint of the Campaign to Combat Violence against Women, including Domestic Violence*, ensured that responsibility for implementing the Campaign was spread among different levels of power. Parliamentarians were thus encouraged to initiate parliamentary measures in the form of parliamentary hearings, draft laws, working groups and much more. Furthermore, they were in the unique position of being able to scrutinise the government's efforts to implement the Campaign and combat violence against women. Local and regional governments, which are responsible for setting up local infrastructure to support and protect victims of gender-based violence, were also involved in the Campaign. Through national ministries responsible for gender equality issues, national governments devised and/or initiated new policy measures, designed new national plans of action addressing violence against women and thus set guiding principles for the elimination of violence against women at national level.

Both the three-tiered Campaign set-up and the high-level support the Campaign enjoyed expanded the scope of the Campaign to include other important stakeholders, such as NGOs and other bodies providing services to women victims of gender-based violence. It supplied these stakeholders with a tool with which to assess the Campaign activities of government and parliamentary players and call for more specific improvements/measures. The Campaign

thus successfully promoted even stronger involvement on the part of NGOs.

Fourthly, promotion of the implementation of measures set out in *Council of Europe Recommendation Rec (2002) 5 on the protection of women against violence* through the Campaign has yielded substantial results. Significant progress was made in respect of the following seven key indicators, which were chosen as a means of assessing the impact of the Campaign:

- Any and every act of violence against women is considered a criminal offence.
- Violence perpetrated by a partner or former partner is punished more severely than violence among strangers (e.g. gender-based violence as such or the abuse of power is considered an aggravating circumstance).
- Victims are enabled to seek justice in a humane manner (e.g. through specialised courts dealing with domestic violence, specialised units within the police, the public prosecutor's office or the judiciary).
- There is a national emergency helpline available round the clock, free of charge, for victims of domestic violence.
- Sufficient numbers of safe shelters for victims of domestic violence have been set up.
- Administrative data on victims of domestic violence are collected.
- It is recognised that domestic violence is not a private matter but a human rights violation to be addressed by all state organs and every individual.

In the course of the Campaign, the *Council of Europe Task Force to Combat Violence against Women, including Domestic Violence*, assessed measures and action taken at national level to combat violence against women, including domestic violence. On this basis, it has developed recommendations for future Council of Europe action, but also national measures, in this field.<sup>20</sup> These are an important outcome of the Campaign, in that

20. For details see Chapter 5 of this report.

they point the way forward. The international recommendations build on the existing political momentum to address violence against women at national and international level. The Task Force has therefore recom-

mended drafting a Council of Europe human rights convention to prevent and combat violence against women, appointing a European Special Rapporteur on violence against women as well as an observatory (femicide

watch) to collect data on murders of women by their husbands, ex-husbands, intimate partners and relatives.

### 2.2.2. Results of the Campaign at national level

Council of Europe member states contributed significantly to the success of the Campaign by actively implementing it at national level. The 46 government-appointed national focal points and/or high-level officials initiated, managed and implemented a wide variety of national campaign activities. As a

network of government representatives, they gave the Campaign a high profile, often in creative and resourceful ways, despite its short duration. The large number of appointments showed that violence against women is a topic of political concern in Council of Europe member states. The *National Reports*

*on action to prevent and combat violence against women*, submitted by government focal points from 43 member states, provide detailed information on developments in preventing and combating violence against women which took place during the Campaign.<sup>21</sup>

#### *National campaigns*

The invitation by the Council of Europe to run public awareness campaigns during or as a follow-up to the Campaign was taken up by 26 member states. An additional 13 member states had, prior to the launch of the Campaign, started long-term campaigns and therefore reported on ongoing national campaign activities. Only four member states did not run any campaign activities during the time-frame of the Campaign because they had either recently carried out national campaigns or were planning to do so in the near future or had decided to implement the Campaign by reviewing their policies for combating violence against women instead of campaigning on the topic.

Most national campaigns were awareness campaigns targeting the general public and victims of domestic violence. Using national language versions of the Council of Europe Campaign poster, TV and/or radio spots and additional material, national campaigns sought to foster awareness of the fact that domestic violence needs to be stopped. Many member states also targeted professionals by including training and awareness-raising initiatives for members of the police forces in their national campaign activities. In many cases, the campaign advertised newly or recently established national or

regional helplines. National campaigns varied in scope and duration and many were carried out around the International Day for the Elimination of Violence against Women (25 November).

Numerous means, many of them imaginative, were used to spread the message: campaign posters were displayed in public places, on public transport, in schools and elsewhere, the radio and TV spots were widely broadcast, a special radio jingle was devised in Croatia and Bosnia and Herzegovina (Republika Srpska), campaign buses displaying campaign posters toured several cities in Lithuania, mobile phone users in Albania received the message "Violence kills unless you speak up! React by saying No to domestic violence", special websites were set up in Belgium, Hungary and many other countries, art competitions for children were organised on the theme of domestic violence in Malta and Montenegro, photo and other exhibitions were held, articles highlighting the plight of women victims of domestic violence were published in Estonian daily newspapers, multidisciplinary professional round tables, seminars and conferences were organised at local, regional and national level, activities to raise funds for shelters, such as the Maltese walkathon, were organised, films dealing with the

issue of violence against women were screened in many member states, often followed by public debates, the press was specifically targeted to increase media interest in the issue and advertisements explaining the nature of domestic violence were placed in newspapers.

It is important to note that in several member states, Council of Europe Information Offices supported national campaigns by translating campaign material and organising joint activities with national players.

Feedback received by several member states revealed that the Council of Europe Campaign had proved essential in providing a framework in which to pursue changes in policies and practices for preventing and combating violence against women. The readiness with which the different entities at national level implemented the Campaign shows the high level of support it received. Nonetheless, further advance planning of the Campaign and a longer time-frame for the Campaign would have allowed the Council of Europe to provide more assistance and would have improved planning at national and international level. This could have led to the allocation of increased financial and human resources to national campaigns, but also the Council of Europe Campaign.

21. Supra note 12. The following countries provided information: Albania, Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, Poland, Portugal, San Marino, Serbia, Slovenia, Sweden and Turkey.

Furthermore, the results of the Campaign as well as those of the intergovernmental work on gender equality in general would have been significantly enhanced if male members of parliaments, governments

and regional and local authorities had taken more responsibility for the issue of gender equality in general and violence against women in particular. Participation of men in Campaign activities was limited, which

shows that issues of gender equality, particularly that of violence against women, are still perceived as women's issues, and are therefore liable to be marginalised in political decision-making.

## *Developments in policies and practices*

Following the call for enhanced implementation of measures set out in *Recommendation Rec (2002) 5* during the Campaign, substantial improvements have been made in the area of the seven key measures chosen as a means of assessing the impact of the Campaign. Information received from 36 governmental focal points on these indicators points to a range of substantial improvements in the field of legislation – initiated before and/or during the launch of the Campaign.<sup>22</sup> The importance of studying how victims of domestic violence make use of the justice system and available services, to better respond to their needs, was also recognised during the Campaign. Essential support services such as shelters and round-the-clock helplines are, however, still insufficiently available – despite efforts to meet demand by some member states during the Campaign.

**Indicator 1:** Any and every act of violence against women is considered a criminal offence.

The final reports on national campaign action show that any and every act of violence against women is a criminal offence in 31 member states. From comments made in the reports it appears that a large number of these states have not introduced specific criminal offences but apply their general criminal law provisions, such as those covering “willful bodily harm” to cases of violence against women. Some have reported recent initiatives to introduce specific criminal offences of domestic violence, the better to recognise the continuous nature of this offence.

**Indicator 2:** Violence perpetrated by a partner or former partner is punished more severely than violence among strangers (e.g. gender-based violence as such or the abuse of

power is considered an aggravating circumstance).

Only 15 of the 36 member states that submitted final reports punish violence perpetrated by a partner or former partner more severely than violence among strangers and thereby recognise the existence of aggravating circumstances. Where these are recognised, difficulties in applying more severe sentences have been reported. These are due to low levels of scrutiny and awareness among the relevant professionals. This means that recognition of the serious nature of intimate partner violence – as reflected in the fact that acts of violence committed against a current or former partner are punished more severely than other forms of violence – is only beginning to surface.

**Indicator 3:** Victims are enabled to seek justice in a humane manner (e.g. through specialised courts dealing with domestic violence, specialised units within the police, the public prosecutor's office or the judiciary).

Roughly half of all member states (25 out of the 36 that replied) have recognised the importance of enabling victims of violence against women to seek justice in a humane manner and have set up specialised courts or specialised units within the police, the public prosecutor's office or the judiciary.

**Indicator 4:** There is a national emergency helpline available round the clock, free of charge, for victims of domestic violence.

Despite substantial improvements, the provision of practical support services for women victims of violence remains limited in most member states. In only half of all member states can women, in cases of domestic violence, seek help by

calling a national helpline available free of charge round the clock.

**Indicator 5:** Sufficient numbers of safe shelters for victims of domestic violence have been set up.

Fewer than a third of all member states offer adequate numbers of safe shelters for victims of domestic violence, and demand therefore seriously outweighs supply in most member states. This means that women in most member states are still turned away from overcrowded shelters or simply live too far away to go to any shelter at all. These results are all the more striking as some member states increased the number of shelter places or introduced local, regional or national helplines during the campaign. It shows that the Campaign created the momentum for improving the provision of services in some member states but that this momentum has yet to reach others.

**Indicator 6:** Administrative data on victims of domestic violence are collected.

The collection of data on victims of domestic violence is scant in most Council of Europe member states. While there is a move towards the collection of population-based data through surveys, the information available from administrative data is rarely tapped into. One of the aims of the Campaign was therefore to enhance efforts in member states to collect administrative data that were sound and comparable across Council of Europe member states. As a result, some member states report that they have taken measures to this end. In all, 32 out of the 36 member states that replied reported the collection of some form of administrative data. Some of them provided extensive information on efforts to collect additional data through surveys. This represents an important step in the attempt to recognise loopholes in

22. Supra note 12.

laws and practices, but also the obstacles faced by victims who seek justice and help.

**Indicator 7:** It is recognised that domestic violence is not a private matter but a human rights violation

to be addressed by all state organs and every individual.

Recognition of domestic violence as a human rights violation requiring a public policy response has improved significantly in member states. There is a strong consensus

that domestic violence is not a private matter. 28 member states reported that domestic violence is considered a human rights violation in their legal system, the aim being to ensure that all national players act accordingly.



## 3. Overview and evaluation of measures to prevent and combat violence against women at national and international level

### 3.1. International measures to prevent and combat violence against women

Council of Europe member states have undertaken to protect and respect the human rights of their citizens under many different human rights treaties and in the framework of various international intergovernmental organisations. Many of these treaties are crucial to the protection of women against violence, as they set out a series of rights, including the right to life, liberty, physical inviolability or personal security, freedom from slavery, equality and non-discrimination.

This section provides an overview of the different human rights obligations essential for the protection of women against violence. In essence, it elaborates on the fact that while Council of Europe member states are bound by an array of human rights obligations, no legally binding inter-

national treaty available to them is specifically dedicated to the protection of women from the many forms of psychological, physical and sexual violence they experience every day. This sets them squarely apart from the member states of the Organisation of American States and the African Union, which are explicitly bound by regional conventions on the elimination of violence against women.

Hence, it is primarily the general obligation to ensure the protection of life, liberty and security of person under the Council of Europe *Convention for the Protection of Human Rights and Fundamental Freedoms* that obliges Council of Europe member states to protect women against violence. They are also required to take measures to protect women from any

type of violence as State Parties to the *United Nations Convention on the Elimination of all Forms of Discrimination against Women*, given that the United Nations Committee on the Elimination of Discrimination against Women considers discrimination to include gender-based violence.

However these treaties were drafted for a purpose other than the elimination of violence against women, and this section shows that action to combat violence against women in Council of Europe member states would significantly benefit from a legally binding convention on the elimination of violence against women, as this would encourage and reinforce a harmonised approach in law, policy and practice to combating violence against women.

#### 3.1.1. Council of Europe

##### *Legal framework*

In signing and ratifying the *Convention for the Protection of Human Rights and Fundamental Freedoms*,<sup>23</sup> all member states of the Council of Europe have agreed to secure a significant range of fundamental rights and

freedoms to everyone within their jurisdiction.<sup>24</sup> These include the right to life (Art. 2), the prohibition of torture (Art. 3), the prohibition of slavery and forced labour (Art. 4), the right to liberty and security (Art. 5),

the right to respect for private and family life (Art. 8) and the prohibition of discrimination (Art. 14). More rights are granted by additional protocols to the Convention.<sup>25</sup> In the context of domestic violence, three of

23. Council of Europe *Convention for the Protection of Human Rights and Fundamental Freedoms* (ETS No. 005), 4 November 1950, ratified by all 47 member states of the Council of Europe, hereinafter European Convention on Human Rights or ECHR.

24. Art. 1 ECHR.

25. Protocols 1 (ETS No. 009), 4 (ETS No. 046), 6 (ETS No. 114), 7 (ETS No. 117), 12 (ETS No. 177) and 13 (ETS No. 187) to the European Convention on Human Rights.

these are worth highlighting as they grant the right to the protection of property (Art. 1, Protocol 1) and the right to equality between spouses (Art. 5, Protocol 7) and include a general non-discrimination clause which affords protection beyond the enjoyment of the Convention rights (Art. 1, Protocol 12). The right to life, liberty and security of person as well as the right to respect for private and family life and the prohibition of torture, slavery and forced labour are of importance in the context of other forms of violence against women, such as rape and sexual violence, but also crimes committed in the name of honour and forced marriages.

Citizens and non-citizens within the jurisdiction of a member state, women and men alike, therefore enjoy protection of the right to life, liberty and security, the right to private and family life, the right to property and the right to equal treatment of spouses.<sup>26</sup> They are furthermore protected from torture, slavery and forced labour, as well as from discrimination.

To prevent discrimination in the sensitive area of marriage, the right to equality between spouses set out in Protocol No.7 to the *European Convention on Human Rights* entails the obligation to ensure equality between spouses in regard to their person or property and their relations with their children. This applies to all rights and responsibilities during marriage, to legal effects related to the conclusion of marriage and in the event of its dissolution. Protocol 12 was drafted to ensure the fundamental principle of equality and non-discrimination on grounds of sex in law beyond the realm of marriage. Ratified by only 17 member states, it has little practical relevance as yet. Nonetheless, it sets the stage for effective protection against discrimination on the grounds of sex by any public authority in the exercise of

their public powers, including in the law-enforcement sector. As regards the protection of women against violence, this means, for example, that the response of the police to threats to the lives, liberty and personal security of women in the context of gender-based violence (domestic violence, rape/sexual assault, forced marriages, female genital mutilation etc.) must be exercised without discrimination. The police are obliged to respond to cases of violence against women in the home or elsewhere as vigorously, frequently and swiftly as they would respond to a threat by a private individual to the life, liberty and personal security of a male citizen. Consequently, any official conduct that reveals attitudes such as the belief that violence against women is a private matter or which does not make use of all available protective measures may constitute discrimination in the enjoyment of rights guaranteed by law.

Taken together, these rights and freedoms make it clear that Council of Europe member states have a responsibility to prevent violence, protect women and punish perpetrators of violence against women. They do not, however, specify what legal and policy measures need to be adopted to achieve full prevention of violence or what types of support and protection services are to be offered to victims of such violence. Thus, despite the obvious importance of framing general obligations to protect fundamental rights and freedoms from abuse by both state officials and private individuals, the European human rights system would be significantly improved if a convention specifically dedicated to the protection of women against violence were added to it. Such a convention could clarify the scope of the right of women to be free from violence as well as the obligation of states parties to give effect to this right, so that women's right to

live free from violence is effectively ensured.

Filling this void, the European Court of Human Rights has taken on the role of delineating the scope of protection for life, liberty and personal integrity by developing a growing body of case-law on the nature of positive state obligations to provide protection from violence against women perpetrated by private individuals.<sup>27</sup> The case of *Kontrova v. Slovakia*, a recent case in line with this case-law, is a landmark in the protection of women against violence.<sup>28</sup> The Court found a violation of the right to life because of a failure on the part of the law-enforcement agencies to react promptly to a well-documented threat by the applicant's husband to kill her and her children. In the view of the Court, the obligation of the police in light of a serious threat in a situation of domestic violence included "duly registering the applicant's criminal complaint, launching a criminal investigation and commencing criminal proceedings against the applicant's husband immediately, keeping a proper record of the emergency calls and advising the next shift of the situation" as well as "taking action in respect of the allegation that the applicant's husband had a shotgun and had made violent threats with it".

In a similar landmark decision concerning the issue of the effectiveness of a criminal investigation into a rape case, the European Court of Human Rights found in *M.C. v. Bulgaria* that the investigation as carried out by the Bulgarian authorities fell short of requirements inherent in the state's positive obligations to establish and apply effectively a criminal law system punishing all forms of rape and sexual violence.<sup>29</sup> It mainly considered the undue focus on lack of proof of the applicant's physical resistance to two rapes as a restrictive approach to the prosecution of rape

26. Merrills, J.G., Robertson, A.H., *Human rights in Europe – A study of the European Convention on Human Rights*, Manchester University Press, Melland Schill Studies, Manchester, 2001, p.25-26.

27. Steiner, H.J., Alston, P., *International Human Rights Law in Context*, Oxford University Press, Oxford, 2000, p. 363; McCann, *Farrell and Savage v. the United Kingdom*, judgment of 5 September 1995, Ser. A, No. 324; *Yasa v. Turkey*, judgment of 2 September 1998, para. 100; *Osman v. the United Kingdom*, judgment of 28 October 1998, para. 115; *Acar and Others v. Turkey*, judgment of 24 May 2005, paras. 72-74; *Ognyanova and Choban v. Bulgaria*, judgment of 23 February 2006, para. 102.

28. *Kontrova v. Slovakia*, judgment of 31 May 2007, concerning the failure of the police to act on threats by the applicant's husband to kill the applicant and their common children. As a result, he shot himself and their children on 31 December 2002.

29. *M.C. v. Bulgaria*, judgment of 4 December 2003, concerning the failure of the authorities to investigate all aspects of two incidents of rape of a 14-year old girl who did not scream, shout or otherwise forcefully resist.

cases. Since many rape victims, particularly minor rape victims, do not resort to levels of resistance which can easily be proven in criminal proceedings, the interpretation of the criminal elements of rape in Bulgaria was considered to limit rape victims' possibility of seeking criminal justice.

While this case-law is an important step forward, waiting for opportunities for the Court to elaborate on the meaning of "protection" from all forms of violence against women is a piecemeal and long-term approach best avoided. Rather, a legally binding convention on the elimination of violence against women which clearly defines the concept of gender-based violence, covers its different forms and contains a comprehensive and holistic catalogue of measures for effectively preventing and combating violence against women would be far more effective and should be prepared.

It could build on the measures and action set out in Council of Europe

*Recommendation Rec (2002) 5 of the Committee of Ministers to member states on the protection of women against violence*. This non-binding legal instrument was the first international instrument to propose a comprehensive and co-ordinated strategy for preventing violence against women and protecting victims, covering all forms of gender-based violence against women. It acknowledges the fact that violence against women is the result of an imbalance of power between women and men and leads to serious discrimination against the female sex, both in society and within the family, and stresses the urgent need to combat this phenomenon. It includes nine key recommendations to member states, which centre on the review of legislation and government policies, the establishment of co-ordinated action plans, promotion of research and higher education programmes concerning violence against women and data collection. At the same time,

it recommends that member states recognise their "obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the state or private persons, and provide protection to victims".<sup>30</sup>

However, as *Recommendation Rec (2002) 5* is not a legally binding instrument, no mechanism to enforce implementation of the recommended measures exists. Consequently, its implementation leaves room for improvement in all Council of Europe member states. While some have taken a range of initiatives to comply with some of the suggested measures, no member state has fully implemented its provisions. Framing some or all of the measures it calls for in the context of a legally binding instrument would give their implementation new impetus. The recommendation therefore provides an excellent basis on which to elaborate a legally binding instrument in this field.

## Mechanisms

Recognition and respect throughout Europe for the equal dignity and right to security of women and men are major objectives of the Council of Europe. The Steering Committee for Equality between Women and Men (CDEG), as an intergovernmental body, is the principal organ responsible for defending, fostering and conducting Council of Europe action to promote equality between women and men. It is directly answerable to the Committee of Ministers, from which it receives its instructions and to which it addresses its reports and proposals. The members of the committee are entrusted with the task of promoting co-operation between member states and stimulating action at national level, as well as within the Council of Europe, to achieve effective equality between women and men. To achieve its aim, the CDEG carries out analyses, studies and evaluations, proposes practical instruments, organises projects, defines strategies and political measures,

and, where necessary, frames appropriate legal and political instruments.

The CDEG has undertaken a series of initiatives to promote the protection of women against violence. On the basis of a decision by the European Ministers responsible for equality between women and men, the CDEG oversaw the development of an Action Plan to Combat Violence against Women. Using political, judicial, administrative, educational, cultural and other means, the Action Plan sought to provide national government departments with a policy framework for combating violence against women.<sup>31</sup> A series of seminars and conferences was organised to shed light on different forms and aspects of violence against women and contribute to the knowledge base on topics such as preventing domestic violence, providing assistance and support to its victims and the diverse roles men may assume, but also issues connected with women's violence against men.

These activities revealed the need for a holistic and concerted approach to combating violence against women, which led to the elaboration of *Recommendation Rec (2002) 5 on the protection of women against violence*. This includes a recommendation to member states to inform the Council of Europe of measures and action taken at national level to monitor implementation of *Recommendation Rec (2002) 5*. To harmonise the reporting of information, the CDEG developed a monitoring framework based on 20 indicators, with the aim of obtaining regular data that provided information about progress towards the protection of women against violence and were comparable over time. The first two rounds of monitoring were concluded in 2006 and 2008.

The results of both rounds have been analysed and published. The first sets of results are contained in *Combating violence against women – Stocktaking study on measures and action taken in Council of Europe member states*.<sup>32</sup> This contains com-

30. Para. I.

31. The Action Plan is contained in: *Summary of the Plan of Action to Combat Violence against Women*, Strasbourg, 1998, EG-S-VL (1998) 1.

32. Supra note 1.

prehensive information on national measures in respect of legislation, services and support for victims, perpetrator re-socialisation, education and professional training as well as the collection of data not previously available. It also contains baseline information against which to compare developments in measures to prevent and combat violence against women.

Additional information received after the cut-off date for the stocktaking study was compiled and analysed in *Protecting women against violence – Analytical study on the effective implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member states*.<sup>33</sup>

The second set of results is analysed in *Analytical Study of the Results of the Second Round of Monitoring the Implementation of Recommendation Rec (2002) 5*.<sup>34</sup> Comparing data submitted by member states with the baseline information received during the first round of monitoring, it draws

conclusions on progress made in the area of support services, legislation, awareness-raising and training in violence against women and the collection of data.

A summary evaluation of the data is planned after completion of the fourth round of monitoring, by which time increased knowledge and experience will probably call for further development of the monitoring framework and, indeed, of *Recommendation Rec (2002) 5* itself, unless the Council of Europe has embarked on the process of preparing a binding convention with an appropriate monitoring mechanism in this field – a far more effective way of obtaining comprehensive responses from member states.

The Council of Europe Commissioner for Human Rights, an independent institution within the Council of Europe mandated to promote awareness of, and respect for, human rights in all member states, actively promotes respect for women's human rights throughout his work. In

his efforts to engage in permanent dialogue with Council of Europe member states and during his official country visits, he inquires into national measures taken to prevent and combat violence against women, mainly domestic violence and trafficking in women and children, but also into levels of participation of women in public life. In a recently expressed viewpoint, he stated that “domestic violence still plagues European societies” despite many initiatives and pledges to take action. While the measures needed to combat domestic violence were widely known, he said, they were still not systematically implemented in Council of Europe member states. He therefore called for a comprehensive, international treaty on violence against women which included legally binding standards for the prevention, protection and prosecution of violence against women and for care for victims.<sup>35</sup>

## Activities

A series of seminars and conferences on different aspects of violence against women<sup>36</sup> led in 1993 to the 3rd Ministerial Conference on Equality between Women and Men, which was devoted to “*Strategies for the elimination of violence against women in society: the media and other means*”. The *Declaration on policies for combating violence against women in a democratic Europe* adopted on that occasion includes an early reference to the existence of the due diligence standard of states in combating violence against women. It notes that the “*responsibility of states [...] may*

*also be engaged with regard to private acts of violence if the state does not take action with sufficient diligence to prevent the violation of rights or investigate acts of violence, to sanction them and provide support for the victims*”.<sup>37</sup>

To study the different forms of violence against women and the different measures taken by member states in response to it, the Council of Europe has, in addition to monitoring implementation of *Recommendation Rec (2002) 5*, prepared various studies and publications. Since 1998, for example, it has periodically compiled information on legislation on vio-

lence against women in Council of Europe member states.<sup>38</sup> It has also studied traditional practices harmful to women and has published a “*Study on forced marriages*”, focusing on the legislation and policies implemented in Council of Europe member states to combat this phenomenon.<sup>39</sup>

The Parliamentary Assembly of the Council of Europe has taken up the issue of eliminating violence against women from a parliamentary perspective, and prepared recommendations and resolutions on a number of different forms of violence against women.

33. *Protecting women against violence – Analytical study on the effective implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member states*, Council of Europe 2007, CDEG (2007)3.

34. *Supra* note 8.

35. *An international or European treaty is needed for the protection of women against violence*, viewpoint of the Commissioner for Human Rights of the Council of Europe, Mr Thomas Hammarberg, issued 7 January 2008.

36. The seminar and conference proceedings are available at [www.coe.int/equality](http://www.coe.int/equality).

37. 3rd Ministerial Conference on Equality between Women and Men, Rome 21 – 22 October 1993, *Declaration on policies for combating violence against women in a democratic Europe*, MEG-3 (93) 22, para.18.

38. *Legislation in the member states of the Council of Europe in the field of violence against women*, Volumes I and II, Council of Europe, Strasbourg, 2007, EG (2007) 1.

39. *Forced marriages in Council of Europe member states – A comparative study of legislation and political initiatives*, Council of Europe, Strasbourg, 2005, CDEG (2005) 1.

### **Parliamentary Assembly resolutions and recommendations**

- Recommendation 1450 (2000) on violence against women in Europe
- Resolution 1247(2001) on female genital mutilation
- Recommendation 1582 (2002) on domestic violence against women
- Resolution 1327 (2003) on so-called "honour crimes"
- Recommendation 1681 (2004) on the Campaign to combat domestic violence against women in Europe
- Recommendation 1723 (2005) on forced marriages and child marriages
- Resolution 1512 (2006) "Parliaments united in combating domestic violence against women"
- Recommendation 1759 (2006) "Parliaments united in combating domestic violence against women"
- Resolution 1582 (2007) "Parliaments united in combating domestic violence against women": mid-term assessment of the campaign
- Recommendation 1817 (2007) "Parliaments united in combating domestic violence against women": mid-term assessment of the campaign<sup>a</sup>
- Recommendation 1777 (2007) on sexual assaults linked to "date-rape drugs"

a. Available at [www.coe.int/stopviolence/](http://www.coe.int/stopviolence/).

Despite the fact that, as non-binding instruments of international law, these recommendations have their limitations, they provide comprehensive guidance for Council of Europe member states on how to proceed in preventing and combating violence against women. Along with

other Council of Europe work, they constitute the standard against which to measure national approaches in Council of Europe member states.

The Council of Europe's high level of awareness of violence against women and the amount of work carried out in this field culminated in

the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*, which was launched in November 2006 and came to an end in June 2008. A complete overview and assessment of the Campaign is to be found in Chapter 2.

## **3.1.2. European Union**

### **Legal framework**

Being designed to achieve economic and political unity among its members, European Community and later European Union legislation has mainly focused on regulating questions relating to trade, open markets, movement of persons and goods and economic and social cohesion.<sup>40</sup> Exclusive powers to engage in extensive human rights law-making have not been conferred on the European Union.

Nonetheless, the European Union has introduced a range of binding and non-binding legal instruments to further gender equality in its member states. Its competency in this field lies primarily in the field of gender mainstreaming as a means of achieving common policies and the eradica-

tion of discrimination between women and men in all areas under its jurisdiction. In introducing a gender perspective into regulations that govern various aspects of life, the European Union's initiatives contribute to achieving real gender equality, thereby empowering women. With a view to remaining within the scope of its express powers,<sup>41</sup> the European Union has focused its work in the area of gender equality on combating sex discrimination in select areas such as employment, occupation, social security and lately also access to goods and services.<sup>42</sup> An important point of reference is Directive 2002/73/EC of the European Parliament and European Council, which amends Council Directive 76/207/

EEC on equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. It prohibits sexual harassment, as a form of sex discrimination. Member states are encouraged to prevent all forms of discrimination on the grounds of sex, in particular harassment, including sexual harassment, in the workplace.

The European Union has not, however, issued a legally binding instrument on the protection of women against gender-based violence. Measures to prevent and combat violence against women therefore remain within the regulatory powers of each member state.<sup>43</sup> The Charter of Fundamental Rights of the European

40. See the activities of the European Community as set out in Article 3, EC Treaty, 2001.

41. See Article 5 of the EC Treaty: "In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community."

42. See Article 2 of the EC Treaty, which provides that the promotion of equality between men and women is a task of the European Community, and Article 3(2), proclaiming that it should aim to eliminate gender inequality, and to promote equality, between men and women in all its activities. For a legal basis for European Union legislation on equal treatment for men and women, see Article 141(3) for matters of employment and occupation, Article 13(1) for matters outside the employment field, and Article 137 for matters of employment and improved living and working conditions. See also Directive 2006/54/EC of the European Parliament and European Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

Union does not provide for the protection of women against violence as it aims to ensure the protection of fundamental rights in the everyday work of the bodies and institutions of the European Union within its existing jurisdiction.<sup>44</sup> Upon its entry into effect, the obligation of member states to respect the set of rights enshrined in the Charter will be limited to activities aimed at implementing Union law.<sup>45</sup>

However, the European Council has recently issued a recommendation on the prevention of injury and the promotion of safety, calling on member states to take measures to prevent injuries, including those caused by intentional violence, particularly domestic violence against women and children.<sup>46</sup> The prevention of this form of violence was recognised as a priority in the prevention of injury and the promotion of safety, and European Union member states are asked to pay particular attention to this issue, including the link between the consumption of alcohol and drugs and the number of intentional injuries, in connection with domestic violence against women and children.

Furthermore, Council framework decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings touches on

many issues which are important for women victims of violence seeking criminal justice. Among these are measures to ensure that victims are treated with due respect for the dignity of the individual, their right to receive information on all aspects of criminal proceedings and their rights and role in them, but also the involvement of specialist services and victim support organisations in criminal proceedings.

Since 1997 the European Parliament has taken up the issue of violence against women in many resolutions and reports. A resolution on the need to establish an EU-wide campaign for “zero tolerance of violence against women” led to an awareness-raising campaign in 1999-2000 conducted by the European Commission. In 2004 the European Parliament adopted a Resolution on the current situation in combating violence against women and any future action (2004/2220(INI)), calling on member states and the European Commission to consider violence against women as a human rights violation and to adopt appropriate legal and policy measures to improve the protection of women against all forms of violence. The resolution also calls on the European Union to address the issue of crimes committed in the name of honour and asks the Commission to

declare a European Year against men's violence against women. More recently, during its July 2008 session, the European Parliament called on the European Commission and the European Council to put in place a clear legal basis for combating all forms of violence against women, including trafficking.

The current lack of such a clear legal basis for developing a common policy to combat violence against women means that member states of the European Union are required to design and implement national approaches individually. To avoid the lengthy processes of designing, testing and re-shaping policies to address violence against women in every European Union member state, women's rights groups have also called for a legal basis for the European Union to engage in law-making activities in this area.<sup>47</sup> This, it is hoped, would result in a coherent and effective approach to combating violence against women, based on a uniform definition which recognises violence against women as a human rights violation.

A convention on the elimination of violence against women, adopted within the framework of the Council of Europe, whose member states include all the member states of the European Union, would fill this gap.

## Mechanisms and activities

Mindful of the limitations of its jurisdiction to design a common legally binding policy in this area, the European Union has been instrumental in raising awareness of violence against women and in financially supporting activities, projects and research at local and European level.

Since 1997, the DAPHNE Initiative, which later became the DAPHNE Programme, has been running to fund and support measures to prevent and combat violence against children, young people and women and protect its victims and groups at risk. Apart from projects run by non-governmental organisations, it

extends to funding local government players. This has ensured a wide variety of projects at local and regional level. The second round, the DAPHNE II Programme, ensured its continuation,<sup>48</sup> and the DAPHNE III Programme (2007-2013) was subsequently adopted to guarantee continuous financial support for projects.<sup>49</sup>

43. Articles 2 and 3 of the Treaty of Nice limit the mandate of the European Union to legislating on equality between men and women in its areas of activity only, none of which includes the protection of human rights and fundamental freedoms. Article 13 of the same treaty merely provides a legal basis for counteracting discrimination based, among others, on sex. (Treaty of Nice, amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, signed on 26 February 2001, Official Journal C 80, 10 March 2001). For an overview of European Union legislation in the field of combating discrimination between women and men, see [http://ec.europa.eu/employment\\_social/gender\\_equality/legislation/legalacts\\_en.html](http://ec.europa.eu/employment_social/gender_equality/legislation/legalacts_en.html).

44. See Article 51 of the *Charter of Fundamental Rights of the European Union*, 2000/C 364/01, proclaimed in 2000.

45. As part of the Treaty establishing a Constitution for Europe, Heads of State or Government and Ministers of Foreign Affairs of the 25 member states of the European Union signed the Charter in Rome on 29 October 2004. The process of ratification in line with national constitutional requirements is still taking place.

46. *Council Recommendation of 31 May 2007 on the prevention of injury and the promotion of safety* (2007/C 164/01).

47. See for example “*Evaluation of the Implementation of the European Commission's Roadmap for Equality between Women and Men 2006-2010 – year one*”, European Women's Lobby, 18 October 2007, p.10, and “*Resolution on the Future Constitutional Framework of the European Union*”, European Women Lawyers' Association, 12 May 2007, para.I.2.

48. Established by a decision of the European Parliament and the Council of 21 April 2004 adopting a programme of Community action (2004-2008) to prevent and combat violence against children, young people and women and to protect victims and groups at risk (2004/803/EC).

In parallel, the European Union conducted a campaign in 1999 and 2000 to raise awareness of violence against women among its citizens, with a particular focus on domestic violence. This was sparked by European Parliament Decision A4-250/1997 calling on member states to introduce specific legislation aimed at protecting victims of gender-based violence in criminal and family law. As part of this campaign, a collection of studies and research projects on attitudes towards violence against women was compiled and published as “Eurobarometer No. 51.0 on Europeans and their views on domestic violence against women”.<sup>50</sup>

With a view to furthering research in the field of domestic violence, the 6th Framework Programme of the European Union provided funds for an interdisciplinary network of researchers on violence against women for the period 2004-2007. This network, the “Co-ordination Action on Human Rights Violations” (CAHRV), consisted of various institutional partners and individual researchers and carried out research into human rights violations in the

context of interpersonal relationships.<sup>51</sup>

In a recent bid to show its commitment to achieving real gender equality, the Commission of the European Union has identified the eradication of gender-based violence as one of six priority areas for action by the European Union. To this end, it committed itself in its *Roadmap for equality between women and men 2006-2010* to speeding up work on a system to provide comparable statistics on crime, victims and criminal justice and monitor progress at European Union level, as well as supporting member states and NGOs in their efforts to eradicate gender-based violence by means of awareness campaigns and the sharing of good practice and research, but also by means of programmes for victims and perpetrators.

Work is consequently under way to set up a coherent framework for all European Union member states for the collection of statistical data on crime, victimisation and criminal justice within the next few years. Violence against women, including domestic violence and trafficking in

human beings, is among the categories of crimes for which indicators are to be developed.<sup>52</sup> It is hoped that this initiative will help generate much-needed data on violence against women, comparable across European Union countries.

It remains to be seen whether the newly-established European Institute for Gender Equality will tackle the issue of violence against women. Endowed as it is with a wide mandate to provide technical support in the area of gender equality by gathering and analysing information, raising awareness and developing tools for gender mainstreaming, it would be essential to cover gender-based violence to fulfil this mandate.<sup>53</sup> Only if women lead lives free from violence are they able to benefit from economic and social gender equality policies. However, the regulation setting up the Institute limits the scope of its work to achieving gender equality in European Community policies and competencies – thereby excluding the eradication of violence against women.

### 3.1.3. Organisation for Security and Co-operation in Europe

#### *Legal framework and political commitments*

Spanning a wide range of security-related concerns, the work of the Organisation for Security and Co-operation in Europe, by virtue of its human dimension, extends to the protection of human rights, including gender equality. The Organisation's decisions are political in nature and taken by consensus, and do not therefore place legally binding obligations on member states. Nonetheless, the body of political commitments declared on various occasions over the past decades is indicative of the change in paradigm that took place

among decision-makers shaping international laws and policies.

While the Helsinki Final Act of 1975 committed its signatories to protecting human rights and fundamental freedoms “deriving from the inherent dignity of the human person”, it singled out only the right to freedom of religion and minority rights. The realisation that women may require special protection from gender-based violence was reflected only in later declarations of political intent, such as that adopted at the Moscow meeting of the Conference

on the Human Dimension of the CSCE in 1991.

Since then, OSCE member states have constantly taken measures to eliminate violence against women, recognising, among other things, that gender equality is a cornerstone of a just and democratic society based on the rule of law.<sup>54</sup> In a similar vein, they have recognised the special needs and roles of women in armed conflict as well as post-conflict situations.<sup>55</sup> Furthermore, the special vulnerability of women in countries in economic transition has been

49. On 20 June 2007 the European Parliament and the Council adopted Decision No. 779/2007/EC establishing, for the period 2007-2013, a specific programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne III programme) as part of the General Programme “Fundamental Rights and Justice”.  
[http://ec.europa.eu/justice\\_home/funding/daphne3/funding\\_daphne3\\_en.htm#part\\_3](http://ec.europa.eu/justice_home/funding/daphne3/funding_daphne3_en.htm#part_3).

50. Eurobarometer No. 51.0 on Europeans and their views on domestic violence against women, presented on 14 July 1999.

51. For an overview of the network's work and publications, see <http://www.cahrv.uni-osnabrueck.de/reddot/index.html>.

52. For more information, see Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee, COM(2006)437 final, 7 August 2006.

53. Regulation (EC) No. 1922/2006 of the European Parliament and the Council of 20 December 2006 on establishing a European Institute for Gender Equality.

54. For an overview, see excerpts from OSCE Documents Regulating Gender Equality, [http://www.osce.org/documents/gen/2005/07/15827\\_en.pdf](http://www.osce.org/documents/gen/2005/07/15827_en.pdf); for example Charter for European Security, Istanbul, 19 November 1999, III. Our Common Response, para.24.

acknowledged.<sup>56</sup> They have also recognised the need to promote gender equality and women's full participation in political life, decision-making, employment and many other areas, thereby expressing their commitment towards achieving comprehensive gender equality.

Given the political nature of these declarations and decisions, the final decision on the initiation of legal and policy measures and the allocation of the necessary resources lies with OSCE participating states. Mechanisms to enhance or monitor implementation are consequently not available.

It remains to be seen whether the Ministerial Council Decision on Preventing and Combating Violence Against Women adopted in December 2005 will result in a more concerted and expeditious effort.<sup>57</sup> This decision reiterates the obligation of states to exercise due diligence to prevent, investigate and punish perpetrators of violence against women and girls and provide protection to

victims.<sup>58</sup> In a comprehensive list of activities, it urges participating states to afford all victims of violence the full protection of the law as well as all other medical and social assistance, train and educate relevant professions, collect comparable data and strengthen the economic independence of women.<sup>59</sup> These activities are in line with the types of activity advocated in the Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence*.

This series of declarations of political intent was followed by the adoption by the Permanent Council of the OSCE of the 2000 Action Plan for Gender Issues, which was intended to ensure that OSCE commitments were taken into account by participating states as well as in the practical work of OSCE institutions and field missions.<sup>60</sup>

## Mechanisms

With the 2000 Action Plan for Gender Issues lacking effective implementation,<sup>61</sup> an enhanced and strengthened Action Plan for the promotion of gender equality was adopted in 2004, containing a two-fold approach: achieving gender equality within the Organisation as well as in participating states.<sup>62</sup> To this end, it sets out goals for the Organisation in the areas of staff management, recruitment and training, including specific training modules on domestic violence.<sup>63</sup> Participating states are recommended to take effective steps to promote gender equality in general and, as a matter of priority, prevent violence against women with the legislative and project-based assistance of the OSCE Secretariat.<sup>64</sup>

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The OSCE, particularly through its Office for Democratic Institutions and Human Rights (ODIHR), carries out a range of activities aimed at supporting member states in their efforts to combat violence against women and achieve gender equality. Activities designed to establish a policy dialogue with governments and civil society, such as training courses for

## Activities

law-enforcement agencies, arrangements for co-operation among NGOs and law-enforcement authorities and assistance with drafting laws on domestic violence show that the ODIHR has included violence against women among its main activities.

OSCE field missions have also played an important role in working to achieve gender equality and prevent violent behaviour towards women. For example, the OSCE Mission in Kosovo developed a "Manual for responding to incidents of domestic violence", designed to help social workers in Kosovo to handle individual cases, apply new legislation, network, co-ordinate services, organise training and reach out to the public.<sup>65</sup>

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### 3.1.4. United Nations

#### Legal framework

Council of Europe member states have signed and ratified a number of

legally binding treaties within the framework of the United Nations.<sup>66</sup>

Deriving mainly from the *International Covenant on Civil and Political*

55. Document of the Moscow meeting of the Conference on the Human Dimension of the CSCE, 10 September – 4 October 1991, para. 40; Final Helsinki Declaration of the Parliamentary Assembly 9 July 1993, para.10; Warsaw Declaration of the OSCE Parliamentary Assembly, 8 July 1997 paras. 160-174.

56. *Towards a Common and Comprehensive Security Model for Europe for the Twenty-First Century*, Stockholm Declaration of the OSCE Parliamentary Assembly 9 July 1996.

57. MC.DEC/15/05 of 6 December 2005.

58. *Ibidem*, preamble.

59. *Ibidem*, paras. 4-7.

60. PC.DEC/353 of 1 June 2000.

61. MC.DEC/14/04 of 7 December 2004, paras.4-8.

62. *Ibidem*, para.2.

63. *Ibidem*, para.11.

64. *Ibidem*, paras.42 and 44.

65. *Responding to Incidents of Domestic Violence – Manual for Social Services Officers*, Department of Human Rights and Rule of Law, OSCE Mission in Kosovo, 2006.

66. In addition to setting standards in international law, the United Nations has, through its various bodies and agencies, carried out a wealth of projects, programmes and activities in the area of preventing and combating violence against women. This section, however, gives priority to the legal framework created under its auspices.



Rights (ICCPR)<sup>67</sup> and the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), these treaties place a set of obligations on member states which is similar to those deriving from the *European Convention on Human Rights*. For example, the ICCPR requires states to respect and secure fundamental rights without distinction of any kind, including the right to life (Art. 6), the prohibition of torture and cruel, inhuman and degrading treatment or punishment (Art. 7), the prohibition of slavery (Art. 8), the right to liberty and security of person (Art. 9), respect for privacy and family (Art. 17 and 23) and equality before the law and equal protection of the law (Art. 26).

Spelling out how these rights ensure the protection of women from violence, the Human Rights Committee – the treaty body watching over the implementation of the ICCPR – has made it clear that ineffective legislation on domestic violence and other types of violence, including rape and sexual violence, and restricted access to safe abortions for women who have become pregnant as a result of rape may violate the right of women not to be subjected to torture, cruel, inhuman and degrading treatment or punishment.<sup>68</sup> It considers a range of additional policies and practices as interference with the equal enjoyment by women of the rights enshrined in the Covenant, including the practice of taking account of a woman's sex life when she avails herself of legal rights and protection against rape but also the practice of extinguishing the rapist's criminal responsibility if he agrees to marry the victim.

Focusing on discrimination against women in all aspects of life, CEDAW prohibits discrimination against women in public and private life, including in all relations between private individuals. Complying with

the convention means taking all appropriate measures to prevent private and public discrimination in order to ensure the full enjoyment of human rights by women.<sup>69</sup> These measures include legislative, administrative, educational and all other measures needed to achieve *de facto* gender equality.

In order to understand how the provisions in question impose a legal obligation to prevent and combat violence against women, including domestic violence, as a violation of women's human rights by private individuals, it is important to trace essential developments in international human rights law thinking.

Traditionally, fundamental rights and freedoms enshrined in both the *European Convention on Human Rights* and the ICCPR have been considered to impose mainly negative obligations on states to refrain from acts of interference with the private sphere of the individual, thereby guaranteeing the individual's liberty, autonomy and privacy.<sup>70</sup> Framed by law-making bodies and parliaments consisting largely of male advocates of an international human rights system, early conventions and treaties predominantly reflected the experiences of human rights violations suffered by men rather than women. While most men experienced violations of their individual rights in connection with their functions in public life, outside the home, women have suffered and continue to experience fundamental violations of their bodily integrity and dignity at the hands of private individuals in the home. This difference in experience was reflected in the fact that the private sphere was left unregulated. This led to an artificial distinction between the public and private spheres of life. Thus international human rights law originally regulated the relationship between the individual and the state, with a strong

emphasis on the public sphere. Consequently, the state was considered responsible only in circumstances where violations of individual rights were attributable to state action and not private acts.

Over the years, this concept has been challenged by feminist legal scholars for its failure to provide protection to women facing atrocities at the hands of private individuals in the home.<sup>71</sup> Criticism centred on the fact that because women experience violations of their fundamental rights and freedoms predominantly in the private sphere,<sup>72</sup> their world is not reflected in a system of human rights provisions whose scope ends at the doorstep. Instead, it leaves them vulnerable to human rights abuses in the private sphere. A human rights protection system of this kind is therefore inefficient.

Scholarly work arguing the case for the expansion of the concept of state responsibility to cover private acts of violence has been accompanied by developments in international case-law and more recent human rights treaties, allowing a broader understanding of the notion of state responsibility under international human rights law to gain momentum.

An important milestone here was the adoption and entry into force of CEDAW in 1979 and 1981 respectively because the scope of the obligations it laid down was expressly intended to go beyond the public sphere. It explicitly requires states to eliminate private conduct detrimental to women and renders the state liable if practices discriminating against private individuals prevail (Article 2 e). In an effort to interpret the Convention, the *Committee for the Elimination of Discrimination against Women* specified in its *General Recommendation No. 19* of 1992 that the definition of discrimination contained in Article 1 of the convention included gender-

67. International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, hereinafter ICCPR.

68. Human Rights Committee, General Comment 28, Equality of rights between men and women (Article 3), UN doc. CCPR/C/21/Rev.1/Add.10 (2000).

69. See Arts. 2 – 5 CEDAW.

70. Ovey, C. and White, R.C.A., *European Convention on Human Rights*, Oxford University Press, Oxford, 2002, p.38.

71. Cook, R., *State Responsibility for Violations of Women's Human Rights*, in Harvard Human Rights Journal, Vol. 7, 1994, pp.130-134.; Sullivan D., *The Public/Private Distinction in International Human Rights Law*, in Peters J., Wolper A. (eds.), *Women's Rights, Human Rights*, New York Routledge, 1995, pp.129-132; Charlesworth, H., Chinkin, C., *The boundaries of international law*, Manchester, University Press, 2000, p.30.

72. Charlesworth, H., Chinkin, C., *The Gender of Jus Cogens*, in *Human Rights Quarterly*, Vol.15 (1993), p.73; Sullivan D., supra note 71, p.127.

based violence, even if this was not explicitly mentioned. In this *General Recommendation*, the CEDAW Committee defines gender-based violence as “violence that is directed against a woman because she is a woman or that affects women disproportionately”.<sup>73</sup> Such violence includes “acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”.<sup>74</sup> In its view, “gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence against women”.<sup>75</sup> Consequently, the committee spells out that “gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of Article 1 of the Convention”.<sup>76</sup> Human rights and fundamental freedoms that may be impaired or nullified because of this type of violence include the right to life, the right not to be subjected to torture, cruel or inhuman or degrading treatment, the right to liberty and security of person, to equal protection under the law and to equality in the family and the right to the highest attainable standard of mental and physical health.

Furthermore, the Committee emphasises that discrimination under the Convention is not restricted to action by or on behalf of governments, calling on states to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise (Art. 2e) and makes it clear that “states may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation”.<sup>77</sup> According to this

concept, a state discharges its human rights obligations only if it diligently undertakes to prevent, investigate, punish and compensate for violations of women's human rights, whether they occur in public or in private.

The CEDAW Committee therefore established that full implementation of CEDAW required states to take positive measures to eliminate all forms of violence against women, including domestic violence, sexual violence and rape. This extends to the need to establish adequate support services for victims of domestic violence, rape, sexual assault and other forms of gender-based violence, but also to overcome sexist attitudes and devise effective legal measures. This concept, known as the “due diligence standard”, comprising the obligation to prevent, investigate, punish and provide compensation for the violation of rights, irrespective of the public or private nature of the perpetrator, has gained momentum in international human rights law and consequently lies at the heart of any attempt to judge compliance with international human rights law.<sup>78</sup>

While the CEDAW Committee was originally mandated only to receive regular reports on progress made by states parties in eradicating discrimination against women, its powers to monitor implementation of the Convention were significantly widened by the entry into force of the Optional Protocol to CEDAW in 2000.

In ratifying the Optional Protocol, states parties accept that the Committee is entitled to receive individual complaints from alleged victims, both individuals and groups of individuals, about violations of women's human rights protected under CEDAW. They also acknowledge the competence of the CEDAW Committee to carry out investigations on their territory concerning grave or systematic violations of women's human rights,

unless the state has, in the process of ratification, expressly ruled out this inquiry procedure by using the “opt-out clause”.<sup>79</sup>

Individuals, but also women's rights groups and NGOs in various countries, have since made use of the possibility of submitting individual complaints to the Committee. Interestingly, they have all originated from Council of Europe member states and have, to a large extent, brought before the Committee the question of the scope of protection the state is required to offer women living in abusive relationships. These cases have given the Committee the chance clearly to delineate the obligation of states parties to CEDAW to exercise due diligence in matters of domestic violence.

Finding a violation of the right to life and physical and mental integrity in two separate cases of women killed by their husbands, who should have or could have been detained or disarmed, the Committee made it very clear that women suffering violence at the hands of their partners had the right to receive full protection from the laws and regulations in place. In *Şahide Goekce v. Austria*,<sup>80</sup> the CEDAW Committee held the police accountable for failing to exercise due diligence to protect Ms Goekce's life by not responding to her emergency call a few hours before she was shot by her husband. Despite an increase in violence over a three-year period and reliable information about the fact that the perpetrator was in illegal possession of a handgun, the police neither disarmed the perpetrator nor responded to the emergency call by Ms Goekce. In the similar case of *Fatma Yildirim v. Austria*,<sup>81</sup> the Committee found a violation of the right to life and physical and mental integrity in the failure to detain the perpetrator despite his known danger.<sup>82</sup> The Committee stated in its decisions

73. General Recommendation No. 19, 11th session, 1992, para.6.

74. Ibidem.

75. Ibidem.

76. Ibidem, para.7.

77. Ibidem, para.9.

78. For a historic overview, see the Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Yakin Ertürk, “*The due diligence standard as a tool for the elimination of violence against women*”, E/CN.4/2006/61, 20 January 2006, paras. 19-29.

79. See Article 10 (1) Optional Protocol to CEDAW.

80. *Şahide Goekce (deceased) v. Austria*, CEDAW Committee, 5/2005.

81. *Fatma Yildirim (deceased) v. Austria*, CEDAW Committee, 6/2005.

82. The state party had considered an arrest warrant against the perpetrator disproportionately invasive. The committee held that it had ultimately placed the right to freedom of movement of the perpetrator above the right to life of Ms Yildirim, who was subsequently stabbed to death.

concerning the two cases that the perpetrator's rights could not take precedence over women's rights to life and to physical and mental integrity.

In the light of these two cases and the earlier case of *A.T. v. Hungary*,<sup>83</sup> the CEDAW Committee firmly established that the obligation to exercise due diligence means that the moment a woman reports violence or threats of such violence, law-enforcement agencies have a duty to respond adequately by initiating criminal investigations and prosecution, respecting at all times the principle that the perpetrator's rights cannot take precedence over the right of the woman to life and physical and mental integrity. Any mechanism available for the protection of women – for example pre-trial detention – needs to be employed to guarantee their safety. Law-enforcement and judicial officers need to cooperate with one another to ensure that all levels of the criminal justice system work together, while at the same time co-operating with NGOs working to protect and support women victims of gender-based violence. To make sure that criminal and civil remedies are applied to the fullest extent possible, states parties should regularly provide training in domestic violence and in CEDAW to judges, lawyers and law-enforcement agencies.

This case-law emerging from the CEDAW Committee highlights the fundamental importance of addressing violence against women from a multi-disciplinary perspective. At the heart of this lies the belief that violence against women can be approached only in a holistic manner, with the involvement of many different players.

Apart from individual complaints, the CEDAW Committee has also used its newly-granted powers to carry out

its first inquiry under the Optional Protocol. In 2003 it started inquiring into the unexplained disappearances, rapes and murders of more than 230 young women and girls in Ciudad Juárez, Mexico. The vast majority of those responsible for these acts of violence against women had not been prosecuted or punished despite the fact that the atrocities had been going on since 1993. An on-site investigation by the Committee revealed serious lapses in the implementation of the Convention resulting from "...systematic violations of women's rights, founded in a culture of violence and discrimination that [was] based on women's alleged inferiority, a situation that [had] resulted in impunity".<sup>84</sup> It issued general and more detailed recommendations on how to address the situation, stressing the need to "...incorporate a gender perspective into all investigations, policies to prevent and combat violence, and programmes to restore the social fabric, bearing in mind the specific characteristics of gender-based violence against women, its causes and consequences, and the specific social responses that the situation [required], with a view to eliminating discrimination and establishing gender equality".<sup>85</sup>

In addition to the legally-binding CEDAW, the United Nations has, through its General Assembly and other bodies, adopted several non-binding declarations and resolutions on violence against women, which manifest a certain level of political will to address violence against women, to which governments need to be held.

Foremost among these is the *United Nations Declaration on the Elimination of Violence against Women* adopted in 1993, a year after the CEDAW Committee issued its *General Recommendation No.19* on violence against women. Article 4 of the Dec-

laration provides that "States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons".<sup>86</sup>

Two years later, the Beijing Declaration and Platform for Action, adopted at the 4th World Conference on Women in 1995 in Beijing, also took up the issue of violence against women as one of twelve critical areas of concern.<sup>87</sup> These are special thematic concerns which, as a result of a review of progress since the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women in 1985 in Nairobi, need to be addressed with particular urgency. All the parties concerned, including governments, the international community and civil society, are therefore called on to focus resources and action on combating and preventing violence against women, including domestic violence. The measures set out in the Beijing Declaration and Platform for Action remain the reference point for any action to prevent and combat violence against women. Commitment to these measures was confirmed at the Twenty-third Special Session of the General Assembly in 2000, in what is known as the Beijing Plus 5 Process.<sup>88</sup> In recognition of the fact that not all the objectives had been attained, it was agreed to speed up their achievement. This reflected the unremitting political will of governments worldwide to work towards the advancement of women, as well as the slow pace of progress. Several areas were recognised as requiring special attention, and violence against women, as a particularly widespread form of violation of

83. *A.T. v. Hungary*, CEDAW Committee, 2/2003. In this case, the applicant was unable to seek protection from her abusive common-law husband, as no shelter was prepared to take her in because she had a disabled child and protection orders did not exist. The committee therefore considered this lack of effective remedies against the perpetrator a violation of Article 2 (a), (b), and (e) and Article 5 (a) in conjunction with Article 16 of CEDAW.

84. UN Report CEDAW/ A/ 59/38 (2004) pp. 161 and 164, para. 261.

85. *Ibidem*, para. 268.

86. *Declaration on the Elimination of Violence against Women*, General Assembly Resolution 48/104 of 20 December 1993.

87. *Beijing Declaration and Platform for Action*, Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995, Chapter 1, Resolution 1, Annex 1, para.44.

88. Resolution adopted by the General Assembly, A/S-23/10/Rev.1, "Further actions and initiatives to implement the Beijing Declaration and Platform for Action".

human rights, featured among them. Once again, the outcome document shows it is not possible to give effect to women's rights by declarations of political will alone: an array of changes in law, policy and attitudes is required so that women's human rights and their needs for protection and personal development are fully reflected and respected.

The 2000 United Nations General Assembly Millennium Declaration

adopted only a few months later reiterated the importance of respecting all human rights and fundamental freedoms. It pledged to combat all forms of violence against women and to implement CEDAW.

Reacting to the continued existence of all forms of violence against women around the globe five years later, the Commission on Human Rights adopted a resolution on the elimination of violence against

women in 2005. The latest in this series of declarations of political intent, the resolution urges states to accelerate their efforts to implement the Beijing Platform for Action and take effective measures to address all forms of violence against women. It makes it clear that all forms of violence against women are related to *de jure* and *de facto* discrimination against women and the lower status accorded to them by society.

### **United Nations declarations**

- *Declaration on the Elimination of Violence against Women*, General Assembly Resolution 48/104 of 20 December 1993
- *Beijing Declaration and Platform for Action*, Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995

### **United Nations resolutions**

- General Assembly Resolution A/S-23/10/Rev.1, "*Further actions and initiatives to implement the Beijing Declaration and Platform for Action*", 2000
- General Assembly Resolution A/RES/55/2, *United Nations Millennium Declaration*, 2000
- General Assembly Resolution A/RES/61/143, "*Intensification of efforts to eliminate all forms of violence against women*", 2006
- Commission on Human Rights Resolution 2005/41, "*Elimination of violence against women*", 2005

## **Mechanisms**

In a further effort to enhance measures to eliminate violence against women by integrating the rights of women into the human rights mechanisms of the United Nations, the Commission on Human Rights decided in 1994 to appoint a *Special Rapporteur on Violence against Women, including its Causes and Consequences*,<sup>89</sup> whose mandate was extended by the Commission on Human Rights in 2003.<sup>90</sup> The Special Rapporteur's mandate comprises seeking information from governments, United Nations bodies and agencies and other international governmental and non-governmental organisations and recommending measures at national, regional and international level to eliminate violence against women. To this end, the Special Rapporteur is empowered to conduct

fact-finding country visits and transmit urgent appeals and communications concerning alleged incidents of violence against women to member states.

Domestic violence, as one of the most widespread manifestations of violence against women, has been extensively covered by the work of the Special Rapporteur. Both the previous and current Special Rapporteurs<sup>91</sup> have used their mandate to study this and other forms of violence against women worldwide and discern trends and shortcomings in efforts to prevent and combat such violence. During her country visits, the Special Rapporteur investigates many different forms of violence against women, including domestic violence, sexual assault and rape, violence against migrant women, traf-

ficking in women and crimes committed in the name of honour. Her thematic reports usually focus on one particular aspect of violence against women, which allows her to highlight particularly important issues and present new concepts.<sup>92</sup>

In thematic reports of this kind, the Special Rapporteur has elucidated the scope of obligations on member states to combat violence against women by introducing the due diligence standard as the point of departure for evaluating measures taken to combat violence against women.<sup>93</sup> This legal concept was later successfully broken down into practical obligations in terms of legislative, administrative, support and other measures which member states were required to take in order to discharge their obligation to prevent, investigate,

89. Resolution 1994/45, *Question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women*, XI-E/CN.4/1994/132, adopted on 4 March 1994.

90. Resolution 2003/45, *Elimination of violence against women*, XII. E/CN.4/2003/L.11/Add.4 adopted on 23 April 2003.

91. The post of Special Rapporteur on Violence against Women, its Causes and Consequences, was held by Ms Radhika Coomaraswamy (Sri Lanka) from 1994 to 2003 and has been held by Dr Yakin Ertürk (Turkey) since August 2003.

92. See, for example, the Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms Yakin Ertürk, "*Intersections of violence against women and HIV/AIDS*", E/CN.4/2005/72, 17 January 2005. This report highlights the specific vulnerability of women to HIV/AIDS as a result of sexual violence.

93. Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights Resolution 1995/85, E/CN.4/1996/53, paras. 32-39.

punish and provide compensation for acts of violence against women, including domestic violence.<sup>94</sup>

In response to the call by the *Special Rapporteur on Violence against Women* for full application of the human rights framework to the concerns of women, the *Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*<sup>95</sup> is aiming to apply the current torture protection framework in a gender-inclusive manner. In his second report to the Human Rights Council, he draws parallels between, *inter alia*, torture and inhuman/degrading treatment and three particularly widespread forms of violence against women: domestic violence (intimate partner violence), female genital mutilation and trafficking in women.<sup>96</sup> With a view to raising awareness of the level of atrocity these acts may reach, he argues that these forms of violence against women may fulfil all the criteria for torture, as set out in the *United Nations Convention against Torture*. Consequently, member states are urged to interpret the concept of tor-

ture and ill-treatment in a gender-inclusive way and ensure that their prevention efforts are extended so that they fully include the torture and ill-treatment of women, even if they occur in the private sphere.

Another body set up to design and shape policies on gender equality and the advancement of women is the Commission on the Status of Women (CSW).<sup>97</sup> As a functional commission of the United Nations Economic and Social Council (hereinafter ECOSOC), it prepares recommendations and reports on women's rights in the field of politics, economics, and education and in society in general.

In addition to its agreed conclusions, which set priority themes for each year, the CSW may adopt resolutions. In its recent *Resolution 51/1 on Women, the girl child and HIV/AIDS*, it urges governments to "strengthen legal, policy, administrative and other measures for the prevention and elimination of all forms of violence against women and girls, including harmful traditional and customary practices, abuse, early and forced marriage, rape, including mar-

ital rape, and other forms of sexual violence, battering and trafficking in women and girls, and to ensure that violence against women is addressed as an integral part of the national HIV/AIDS response".<sup>98</sup> It also stresses that "women should be empowered to protect themselves against violence and, in this regard, that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, including their sexual and reproductive health, free of coercion, discrimination and violence". In its agreed conclusion of the same year, the CSW urges governments to condemn all forms of violence against girls and take all necessary measures, including legislation and other measures, effectively to prevent and eliminate all such violence.<sup>99</sup> The measures which governments are urged to take are designed to address the root causes of discrimination against girls and gender stereotypes as much as to set up structures for age-specific support and protection needs.

## Activities

In October 2006 the Secretary-General, mandated by United Nations General Assembly Resolution 58/185, published an extensive "In-depth study on all forms of violence against women". The study examines various forms of violence to which women are subjected, including violence against women within the family and sexual violence. It presents many promising practices in the area of law, provision of services and prevention from around the world, but also points to important challenges to the effective implementation of promising initiatives in these areas. Importantly, eradicating

discrimination against women is the point of departure for the study's recommendations at national level. Furthermore, it contains several recommendations on how to improve the efforts of the United Nations' various bodies and agencies in preventing and combating violence against women. Among these recommendations is the request that the United Nations take a stronger, better coordinated and more visible leadership role in addressing violence against women.

Recognising the importance, for the development of appropriate policies, of collecting data on the various

forms of violence against women and their coping strategies and help-seeking behaviour, the United Nations has embarked on the difficult process of identifying a set of indicators to "...assist states in assessing the scope, prevalence and incidence of violence against women".<sup>100</sup> An expert group is currently charged with the task of establishing indicators that allow states systematically to collect data on both common and uncommon forms of violence, and leave room for the identification of emerging forms of violence against women.<sup>101</sup>

Because of the cross-cutting nature of violence against women and the

94. Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms Yakin Ertürk, "The due diligence standard as a tool for the elimination of violence against women", E/CN.4/2006/61, 20 January 2006, paras. 74 – 99.

95. The United Nations Commission on Human Rights decided, in Resolution 1985/33, to appoint an expert, a special rapporteur, to examine questions relevant to torture. The mandate of the Special Rapporteur covers all countries, irrespective of whether a state has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This mandate is currently held by Mr Manfred Nowak (Austria).

96. *Supra* note 7.

97. It was established by ECOSOC Resolution 11(II) of 21 June 1946 and consists of one representative of each of the 45 member states elected by ECOSOC on the basis of equitable geographic distribution.

98. Adopted at its 51st session, Commission on the Status of Women, Report on the fifty-first session, ECOSOC, E/2007/27 E/CN.6/2007/9, Chapter 1, D, para.17.

99. *Ibidem*, chapter 1, A, para.14(9).

100. United Nations General Assembly Resolution A/RES/61/143 *Intensification of efforts to eliminate all forms of violence against women*, 2006.

101. See the work of the Expert Group on indicators to measure violence against women, [http://www.un.org/womenwatch/daw/egm/vaw\\_indicators\\_2007/egm\\_vaw\\_indicators\\_2007.htm](http://www.un.org/womenwatch/daw/egm/vaw_indicators_2007/egm_vaw_indicators_2007.htm).

diversity of its manifestations, many different United Nations bodies and agencies have engaged in a variety of projects and activities to combat violence against women. Among the recommendations of the United Nations study was that the Special Advisor to the Secretary-General on Gender Issues and the Advancement of Women start co-ordinating this work to ensure greater visibility and consistency and more effective action.

In February 2008, in order to follow up the Secretary-General's study, the United Nations launched a seven-year campaign to end violence against women ("Unite to end violence against women"). With the aim of mobilising public opinion, securing political will and increasing public and private resources in order to combat all forms of violence against women, the campaign seeks to build on current momentum to put an end to such violence. The cam-

paign is linked to the achievement of the United Nations' Millennium Development Goals in order to reflect the fact that violence against women constrains the active involvement of women in development and presents a serious obstacle to the achievement of internationally agreed development goals.

This overview of the various United Nations initiatives designed to reduce the many ways in which women are subjected to violence is highly illustrative. Firstly, it shows that, over the course of 25 years, understanding of violence against women as a manifestation of discrimination against women has improved and can now be regarded as common ground. Secondly, it demonstrates that states have recognised their responsibility for developing strategies and mechanisms to offer women real protection and support by preventing, investigating, punishing and

compensating for acts of violence against women. Thirdly, the fact that more and more states have agreed to have individual allegations of violations of women's human rights looked into by the CEDAW Committee shows that there is a shared willingness to be held accountable for the implementation of women's rights, but also an urgent need to ensure that this is the case. The detail in which measures to protect women from violence are set out in resolutions, particularly in Human Rights Commission *Resolution 2005/41 on the Elimination of Violence against Women*, makes it clear that the knowledge base for the necessary policy framework has expanded significantly, offering ample guidance for states willing to ensure that their obligation to protect and respect the human rights of women is rigorously honoured.

### 3.1.5. Organisation of American States

#### *Legal framework*

Shortly after it was set up, the Organisation of American States adopted legally binding obligations to enhance respect for women's rights. While its earlier conventions in this field focused on women's civil and political rights,<sup>102</sup> it was the first international organisation to adopt, in 1994, a legally binding convention to combat all forms of violence against women.<sup>103</sup> The *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para)* recognises the fact that violence against women is a human rights violation and that states are under an obligation to prevent, investigate and prosecute cases of such violence. The fact that this is the most widely ratified convention within the inter-American system is an indication of the strong political will to set common, legally binding standards in this field. In force since March 1995, the convention is now binding on 32 of the 34 active member states.

Following a definition of violence against women that includes physical, sexual and psychological violence, whether in public or in private, the Convention lists a set of women's rights followed by the corresponding duties of states parties to respect them.

While some of the rights enshrined in the convention reiterate the basic rights and freedoms guaranteed by the *American Convention on Human Rights*,<sup>104</sup> Article 3 of the Convention of Belem do Para explicitly establishes that every woman has the right to be free from violence in both the public and the private sphere. Article 6 goes on to explain that being free from violence means:

- the right of women to be free from all forms of discrimination, and
- the right of women to be valued and educated free of stereotyped patterns of behaviour and social and cultural practices based on concepts of inferiority or subordination.

As the first and only international convention to establish a legally enforceable right of women to be free from violence, the convention spells out a responsibility to take specific action to eradicate both official and private violence against women. It divides this responsibility into immediate obligations to ensure necessary legal and administrative changes and obligations to be fulfilled more progressively in order to introduce far-reaching social, cultural and economic reforms. In honouring both types of obligations, state parties are required to pay particular attention to women with special needs.

Member states of the Organisation of American States that have undertaken these obligations by ratifying the convention have also committed themselves to an enforcement mechanism. So that the convention is not reduced to mere rhetoric, this obliges states parties to report to the Inter-American Commission of Women (CIM) on measures adopted to pre-

102. *Convention on the Nationality of Women*, Montevideo, Uruguay (1933), *Inter-American Convention on the Granting of Civil Rights to Women*, Bogota, Colombia (1948), *Inter-American Convention on the Granting of Political Rights to Women*, Bogota, Colombia (1948).

103. *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women*, Belem do Para, Brazil (1994).

104. *American Convention on Human Rights* (Pact of San Jose, Costa Rica), entry into force 18 July 1978.

vent and prohibit violence against women as well as on action they have taken to assist its victims. They are also obliged to report the challenges they face and the factors that contribute to violence against women in their countries. If in doubt about the

## Mechanisms

Despite these different enforcement mechanisms – reporting and individual complaints – there had not been any significant eradication of violence against women ten years after the convention's entry into force. The member states of the Organisation of American States therefore decided to set up a new mechanism with which to follow up and promote implementation of the convention.<sup>105</sup>

The new Mechanism to Follow Up on the Implementation of the *Inter-American Convention on the Prevention, Punishment, and Eradication of*

legality of a particular law or practice, states parties may turn to the Inter-American Court of Human Rights for advisory opinions. More significantly, individuals and non-governmental organisations are granted the right to file petitions with the Inter-American

Court of Human Rights if states parties are believed to have failed to honour their immediate responsibilities. Obligations with regard to social, cultural and economic issues are not, however, subject to such petitions.

*Violence against Women* (MESECVI) consists of a political organ, comprised of representatives of all states parties, as well as a technical organ (CEVI), composed of experts. The aim is to encourage renewed commitment to implementing the convention by putting in place a more structured reporting system, whereby member states are asked to reply to questionnaires to establish the degree of fulfilment of the obligations deriving from the convention. Every evaluation round concludes with expert recommendations providing states parties with detailed guidance on

how to enhance implementation of the convention.

To ensure full respect for women's rights in all member states, in 1994 the Inter-American Commission on Human Rights set up its Rapporteurship on the Rights of Women. Mandated to analyse member states' compliance with the obligations of equality and non-discrimination set forth in the *American Declaration of the Rights and Duties of Man* and the *American Convention on Human Rights*, it places special emphasis on violence against women as a distinct form of discrimination.

## Activities

The Inter-American Commission of Women (CIM) is the intergovernmental body responsible for the development of policies on the advancement of women's rights and gender equality. It has been instrumental in bringing the protection of

women's rights into the political arena and organises meetings, conferences and research to prepare the ground for further policy decisions.

Human rights and the eradication of violence against women, in both the public and the private sphere, fea-

ture among select priorities which CIM has been mandated to promote as part of the Inter-American Programme on the Promotion of Women's Human Rights and Gender Equity and Equality.

### 3.1.6. African Union

#### Legal framework

Concerned that, despite ratification of the African Charter on Human and Peoples' Rights, women in Africa were still suffering from discrimination and harmful practices, in 2003 the African Union adopted the Protocol on the Rights of Women in Africa.<sup>106</sup> This is a comprehensive legally binding instrument that sets out the rights of women in public and private life. It covers civil and political rights and extensive economic, social and environmental rights, including the right to education, food security and adequate housing and the right to a sustainable environment and development. States parties

are also responsible for providing special protection for different groups of women such as elderly women, women with disabilities and women in distress (poor women, women heads of families and women from marginalised population groups).

In requiring states parties to eradicate all forms of discrimination against women, not least by changing attitudes and cultural patterns and by guaranteeing a similar set of rights to be enjoyed by women without discrimination, the Protocol builds heavily on CEDAW. However, it significantly extends the level of protection by placing on states parties strong

obligations to provide women with adequate living conditions to enable them to develop their full potential.

Furthermore, it explicitly calls for the protection of women against violence – in private and public life – as a means of guaranteeing the right to life, integrity and security of person. Strikingly, the definition of violence against women with which the Protocol operates includes all acts causing not only physical, sexual and psychological harm, but also economic harm. This goes beyond the scope of violence against women as defined in both *General Recommendation No. 19* to CEDAW and the *Inter-American*

105. Mechanism to Follow Up on the Implementation of the *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women*, "Convention of Belem do Para" – MESECVI, following General Assembly resolution AG/RES.1942(XXXIII-O/03).

106. *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*, entry into force 25 November 2005, 21 ratifications as of 17 January 2008.

*Convention on the Prevention, Punishment, and Eradication of Violence against Women*, but also beyond that defined in Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence*.

The African Protocol also distinguishes between violence against women and harmful practices, the latter referring to any behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls.

It is an ambitious document, not only designed to protect women

against violence and harmful practices, but aspiring to achieve a fundamental improvement in women's lives. States parties are obliged to take measures to give meaning to the rights enshrined in the Protocol and provide budgetary and other resources to ensure their swift implementation.

However, the Protocol on the Rights of Women in Africa does not provide for an independent complaints mechanism. Instead, it establishes a procedure for reporting on progress achieved in the realisation

of the rights recognised by the Protocol. This reduces the authority of some of the obligations. Nonetheless, the Protocol is of significant value in that it recognises the many different forms of human rights violations that women may suffer during their lifespan and proclaims the right of women to develop their full potential by leading independent, responsible lives free from stereotyping and violence.

## Mechanisms

In 1999 the African Commission appointed a Special Rapporteur on the Rights of Women in Africa to serve as a focal point for the promotion and protection of the women's rights.<sup>107</sup> The mandate envisages

assistance to governments in developing and implementing policies on women's human rights, in particular in the light of the Protocol on the Rights of Women in Africa, carrying out fact-finding missions, issuing rec-

ommendations, conducting studies and, where appropriate, preparing draft resolutions on the situation of women in the various African countries for adoption by the African Commission.

## Activities

One of the objectives of the African Union is the promotion and protection of human and peoples' rights, including the rights of women. In its desire to build a partnership between governments and all segments of civil society, particularly women, the African Union has set up a department within the Commission of the African

Union on Women, Gender and Development, responsible for activities and projects aimed at the advancement of women in Africa.

To encourage activities across the continent, member states of the African Union decided in 2004 to launch public awareness campaigns against gender-based violence, trafficking in

women and girls, the recruitment of child soldiers and the abuse of girl children as wives and sex slaves.<sup>108</sup> They also agreed to reinforce legal mechanisms for the protection of women at national level in order to change the attitudes of African society.

### 3.1.7. Conclusion

Council of Europe member states have, in the framework of different international intergovernmental organisations, recognised the obligation to protect women from gender-based violence through general human rights obligations. The case-law of the European Court of Human Rights and the CEDAW Committee has begun to elaborate on what these obligations mean in practice. There is a strong tendency to shape these obligations on the basis of the due diligence standard, which requires states to prevent, investigate, punish and compensate for women's human rights violations, whether they occur in public or in private.

Institutional requirements, which are part and parcel of adequate

national legislation for preventing and combating violence against women, and essential support structures are thus being introduced as a result of case-law. This development is important as it points the way forward and shows that protection against gender-based violence is an enforceable right.

However, case-law on the adequacy of the efforts of one particular member state of the Council of Europe will not necessarily lead to a wide-ranging overhaul of institutions, structures and legislation for combating violence against women in another. To achieve significant improvements in support and protection for women suffering gender-based violence across Council of

Europe member states, a comprehensive, well-targeted, legally binding strategy supported by strong leadership and political will needs to be developed.

The only way to achieve change with such a strategy is to frame it within a legally binding instrument on the elimination of violence against women. A legally binding instrument focusing on legal, institutional and practical measures to eliminate all forms of gender-based violence would provide all Council of Europe member states with a roadmap for the effective prevention of, and protection against, gender-based violence. It would also give new impetus to any efforts taken at national level to provide women with real support

107. ACHPR/res.38 (XXV) 99 on the appointment of a Special Rapporteur on the Rights of Women in Africa adopted by the African Commission on the occasion of its 25th Ordinary Session held in Bujumbura, Burundi, from 26 April to 5 May 1999.

108. *Solemn Declaration on Gender Equality in Africa*, Third Ordinary Session of the Assembly of the African Union, 2004, Doc. Ex. CL/170 (VII).



and protection against such forms of violence. Lastly, it would allow member states to afford this topic new political priority, which is essential to any effort to prevent and combat violence against women.

Developments across the globe demonstrate that governments have the political will to be bound by addi-

tional legal obligations to protect women from gender-based violence. Initiatives of this sort within the Inter-American system for the protection of human rights and the Protocol on the Rights of Women in Africa may serve as examples. By building on Council of Europe *Recommendation Rec (2002) 5 on the protec-*

*tion of women against violence*, this political momentum to provide women in Europe with express protection against all forms of gender-based violence needs to be used to ensure adequate recognition of their human rights.

### 3.2. National measures to prevent and combat violence against women

While the past ten years have brought significant improvements in terms of protection for women against gender-based violence and support for victims, particularly as a result of changes in public attitudes, women in all Council of Europe member states still suffer from numerous forms of violence. Despite an increase in support services, changes in the law and improved training for professionals, there is still neither effective prevention nor protection from gender-based violence, nor adequate support for women victims of violence in Europe.

The fact that this issue has been given more attention in legislation, policy development and research means that the knowledge base in respect of violence against women and strategies for its elimination has increased considerably. Some governments that have designed specific laws and policies evaluate and monitor them, although information on systematic evaluation and subsequent changes is scant. At the same time, a significant number of member states have begun to assess the scale of the phenomenon by carrying out prevalence studies or other initiatives in order to collect important data. The body of national and international research into different aspects of violence against women is growing steadily, as are efforts to

train and educate professionals and the public.

This section presents a variety of legal and policy measures to protect women against gender-based violence and provide victims with support, but also to prevent such violence. It provides an overview of various legal measures taken in Council of Europe member states to criminalise violence against women, improve the protection of women victims and ensure the effective implementation of legal remedies for all forms of violence against women. It then looks into the different types of measures member states have taken to support and protect victims through adequate services and the guiding principles that should govern such services. The sub-sections in question are supplemented with a section on data collection and research that explains the importance of compiling relevant data, including qualitative data, for the development of new policies and for the evaluation of existing measures and services. Lastly, this section presents an overview of initiatives in some member states to raise awareness of the issue of violence and train professionals in this field.

The variety of measures analysed in this section are all equally important in combating violence against women. This shows that violence against women needs to be addressed

in a comprehensive, but also co-ordinated, manner. The various types of measures, often very different in nature, in their legal basis and in terms of the financial resources required for their implementation, need to form part of a comprehensive policy to combat violence against women, as isolated measures will fail to yield results, irrespective of their quality. An important component of a comprehensive strategy is the framing of a national action plan to guide legal measures, policy, services and other measures, a process in which all stakeholders, including women's NGOs, need to be involved. An inclusive approach of this kind, based on recognition of the important role that services organised by women's NGOs play alongside that of statutory agencies and authorities, is a prerequisite for change. This was recognised in *Recommendation Rec (2002) 5*, which advocates that medium- and long-term co-ordinated action plans be drawn up by all relevant institutions dealing with violence against women.

This section seeks to analyse how Council of Europe member states meet their international obligations and set their national priorities when it comes to preventing and combating violence against women. On the basis of this assessment, recommendations for specific action to combat violence against women have been formulated in Chapter 5.

#### 3.2.1. Legal measures

Council of Europe member states differ in terms of their legal systems as much as they differ in their experiences and achievements in preventing and combating gender-based violence. While some have a long-standing history of exploring ways in which to tackle the many forms of

violence against women, particularly domestic violence, others have identified this as a matter of political concern only in the last few years. This section presents innovative legal approaches and traces the spread of different legal measures across Europe.

Legislative measures to prevent and combat gender-based violence against women in Council of Europe member states are manifold. Differences in approaches are, to a certain extent, attributable to differences in procedural law resulting from the distinctive features of the adversarial

and inquisitorial legal systems. However, they also stem from the fact that some countries have introduced specific criminal and/or civil legislation and legal procedures to address one or more forms of violence against women, whereas others simply use general criminal legislation. This difference in approach reflects the extent to which the issue is recognised at national level. While specific legal procedures and legislation are designed to place the victim, safety, protection and rehabilitation at the heart of all initiatives, legal systems with a purely criminal-law approach treat the many different manifestations of violence against women (domestic violence, rape and sexual violence, forced marriages, female genital mutilation etc.) as crimes like any other, with no particular focus on victim protection.

Until recently, there was scant recognition of, for example, domestic violence as a criminal offence. The heightened will to apply existing criminal-law provisions such as those concerning assault and rape in order to make perpetrators criminally responsible for domestic violence represents a step forward. However,

the severe and often continuous nature of domestic violence and the fact that it is a crime perpetrated by intimate partners with whom victims share a home means that it has particular consequences for the physical and psychological well-being of victims. Legal systems that do not provide the authorities (the police, the prosecution services and the judiciary) with specific powers that reflect and respect these particular consequences are usually ill-equipped to provide victims with full protection. Recognising this state of affairs, a number of member states have devised legal measures to address certain forms of violence against women. However, most initiatives in law have focused on legal remedies for victims of domestic violence: a range of countries have introduced new legislation to protect women against domestic violence, but also to make it a criminal offence. A number of member states have also introduced specific anti-stalking laws, which are usually targeted at current and former partners. As a consequence of stalking, victims face daily intimidation and the risk of its escalating to life-threatening attacks.<sup>109</sup>

Rape and sexual assault, on the other hand, have not been given much attention in the legal arena and, as with other forms of violence against women, conviction rates across member states remain very low. In many states, the definition of rape is very narrow, requiring proof of the use of (physical) force, which has affected conviction rates. Other forms of violence against women such as crimes in the name of honour, including killings, forced marriage and female genital mutilation, are not specifically addressed in the legal systems of many member states. Those member states that are addressing them seem to be diverting legislative attention to these newly recognised forms of violence against women, rather than overhauling their legal system to improve criminal justice for victims of rape and sexual assault – a much-needed step.

In addition to civil and criminal law measures, some countries have introduced legal measures to address the root causes of violence against women, providing further opportunities to address the phenomenon.

In 2007, the United Kingdom introduced a Gender Equality Duty, requiring public bodies in England, Wales and Scotland to show they were taking active steps to eliminate unlawful sex discrimination and harassment and promote equality between women and men. The duty will affect policy-making and how public services are delivered, and will help address violence against women as one of the single biggest barriers to gender equality.<sup>a</sup>

a. See <http://www.equalities.gov.uk>.

### 3.2.1.1. Comprehensive legal approaches: linking different fields of law

Combating violence against women in its various forms requires a systematic and comprehensive response to the phenomenon. Legislation to protect and support women victims can be only one, albeit a very important, part of any strategy in this field. Legislation needs to fulfil a complex role. It needs to protect women from imminent violence, hold the perpetrator criminally liable and act as a deterrent. It is also the means with which to deal with the aftermath of violence – in the case of domestic violence, for example,

many legal issues may arise: divorce, custody and visitation issues, property issues, financial issues, further protection orders and, in the case of many immigrant women, residency issues.

The majority of legal issues, including laws governing access to protection and support services and social and economic rights, such as access to housing, are usually governed by many different fields of law, which are not always compatible: criminal law, family law, civil law and immigration law. Rather than provid-

ing effective relief, they may operate to the detriment of women victims of violence, particularly domestic violence. It is of the utmost importance to bring these different fields of law into line with one another to ensure a comprehensive and harmonised legal approach to combating violence against women.

Some Council of Europe member states have embarked on the difficult but important task of addressing one particular form of violence against women, domestic violence, through a comprehensive legal approach.<sup>110</sup>

109. See, for example, developments in the Netherlands, the United Kingdom, Sweden and Belgium, *Stocktaking study on the measures and actions taken in Council of Europe member states*, supra note 1. p. 22

With a view to enabling victims to pursue both civil and criminal law avenues of redress and settling all related legal matters such as divorce, custody and property questions, the Spanish Integrated Protection Measures against Gender Violence Act set up specific “violence against women” courts.<sup>a</sup> These courts, a special branch of the criminal courts with investigating judges, are granted the power to rule on criminal cases involving violence against women as well as any related civil-law cases. Consequently, both are dealt with in the first instance by the same bench. This relieves women going to court of costly bureaucratic hurdles. At the same time, the Spanish law sets up the institution of “Public Prosecutor for Cases of Gender Violence”, assigned the power to supervise and co-ordinate the actions of the Public Prosecutor’s Office at all levels. These prosecutors are specially trained to prosecute cases of gender violence within the jurisdiction of the “violence against women” courts and are granted the power to intervene in civil proceedings concerning separation, divorce and custody issues.

a. Organic Act 1/2004 of 28 December 2004 on Integrated Protection Measures against Gender Violence, Spain, BOE [Official Gazette] No.313.

A uniform definition of violence against women is central to any comprehensive legal approach to combating violence against women. It should encompass all those acts that the law sets out to regulate in order to provide a definite framework within which the different parties involved can operate.

In defining domestic violence, for example, it is necessary to decide what acts it includes (psychological, physical, sexual or financial abuse) and which victims to protect (intimate partners of the same or the other sex, relatives, persons sharing a household or not). In accordance with the definition in Council of Europe *Recommendation Rec (2002) 5*, any definition of violence against women occurring in the family or domestic unit should include, but not be limited to, physical and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of honour, female genital and sexual mutilation, and other forms of violence, such as forced marriages.

This definition should then apply to all fields of law that seek to regulate any issue related to domestic violence, so as to ensure a coherent

understanding of the phenomenon. A harmonised definition to be used by all parties concerned, including health authorities, social workers and other related professions, would also assist and unite different branches of government in their efforts to combat domestic violence and could serve as the basis for all government guidelines and recommendations, irrespective of the area of policy. Similar, comprehensive definitions should be devised for other forms of violence against women, and should be recognised and used by the relevant players in the same manner.

A major discrepancy between different fields of law has surfaced in connection with efforts to address legal issues resulting from separation and divorce after domestic violence. Women with children who have experienced domestic violence and who choose to leave their violent partner often find themselves legally tied to the perpetrator because of joint custody over common children or the extensive visitation and access rights of the perpetrator. Courts across Europe do not systematically take incidents of domestic violence against the mother into consideration when deciding on the custody and visitation rights for violent partners. This is even the case where perpetra-

tors have been convicted of violent crimes committed against the former spouse or partner. There are many underlying assumptions that lead to such situations. Most importantly, it is assumed that joint custody or at least extensive visitation rights are always in the best interests of the child – irrespective of the circumstances that led to the separation. Secondly, the degree to which the safety of women is interlinked with custody issues, but also visitation rights, is not sufficiently recognised. Many women who have divorced or separated from an abusive partner continue to live in fear because of child visitation arrangements that force them physically to meet the perpetrator. It should thus be no surprise that women have been killed by abusive ex-partners while complying with court-ordered visitation rights.

A comprehensive legal approach designed to protect women against domestic violence needs to ensure that attempts to protect women through legal measures, such as protection orders, are not thwarted by legal measures taken in a different context. Innovative legal developments in criminal law or other fields of law therefore need to be followed by appropriate adjustments to family law. Furthermore, arrangements for

110. The Swedish Law on the Protection of Women’s Integrity, for example, tackles several areas of law and policy by improving existing criminal and civil legislation, introducing additional preventive measures and offering women better treatment. Covering, as it does, all forms of violence against women, this law provides a comprehensive approach to combating violence against women. Changes have been introduced in the criminal code to cover domestic violence, the purchase of sexual services and female genital mutilation. The Equal Opportunities Act has also been amended to enhance prevention of sexual harassment, and there have also been changes to the Social Services Act to address the question of economic constraints faced by women willing to leave violent partners. The 1998 legal reform originally merely required local social welfare boards to provide women victims of abuse with help and support with changing their situation. With the introduction of the new Social Services Act in July 2001, their obligation was widened to include responsibility for providing support and assistance to persons who had been victims of a crime, including victims of domestic violence, and to their families – particularly to women victims of violence and abuse. In connection with the introduction of this comprehensive bill, the Swedish Government has taken special decisions instructing the Office of the Prosecutor-General and its services, along with the National Police Board, the National Prison and Probation Administration, the National Board of Health and Welfare and the national administrative courts, to step up their efforts to combat violence against women, by drawing up action programmes or policy documents to this end and reporting back to the government.

improved co-operation among the different branches of the judiciary need to be made to ensure information-

sharing and adequate handling of cases.

### 3.2.1.2. Civil law protection orders and police measures to protect victims

Since the late 1990s more and more Council of Europe member states have recognised that acts of violence against women perpetrated in the home are a matter for public concern and need to be treated as such. A review of existing police and court powers, however, has often revealed a significant lack of instruments for dealing adequately with this issue. To fill this gap, some member states have introduced comprehensive civil-law measures to protect victims from threats to their physical integrity and life.

The legal measures in question can be grouped into two categories, at times overlapping, but significantly distinct as they cover different aspects of life. The first group are protection orders, which comprise barring and eviction orders. They are designed to guarantee the victim's safety by temporarily evicting perpetrators of domestic violence from the shared home, thereby making the home a safer place.

The second group, non-molestation orders, predominantly seek to guarantee the victim's safety by ordering perpetrators of violence to refrain from certain action such as approaching the victim in public, contacting the victim or other specified persons or entering certain parts of town, the aim being to ensure the woman's safety in public.

In most member states, both types of orders are issued by a civil-law judge, who decides on the duration of the order. Compliance with the order is monitored by the police. While in some member states, a breach of a protection or non-molestation order will lead to a fine (a civil-law measure), others consider it a criminal offence punishable under criminal law. Making breaches of protection

orders a criminal offence demonstrates that domestic violence is a serious public concern and not a minor incident between private individuals.<sup>111</sup>

Protection and non-molestation orders are a progressive development in terms of combating domestic violence because they empower women to rally the might of the police and the judiciary for their protection. At the same time, they send out a strong signal, placing women's physical, psychological and sexual integrity above perpetrators' right to freedom of movement and their property rights. This puts a stop to the widespread tendency to allow rights claimed by men to take precedence over the rights of women to life and physical integrity – a long-standing tradition in some legal systems.

As longer-term protection orders are granted by a civil-law judge upon application, they do not provide victims of domestic violence with immediate protection. Furthermore, civil-law protection orders require the victim to take action, which is often too much of a burden in acute cases of violence. Moreover, the state has an obligation to protect citizens from violence in dangerous situations. Some member states have therefore introduced legislation empowering the police to evict and remove perpetrators of domestic violence for a limited period in an immediate crisis. Some have made it mandatory for such a decision to be reviewed by either a judge or a prosecutor shortly afterwards (usually during the first three days), while others place the power to issue such orders solely in the hands of the police. Eviction orders issued by the police are designed to ensure the victim's immediate physical safety and can be

issued for only a limited period of time, although member states have opted for different lengths, ranging from 10 days to four weeks. This approach aims to guarantee the victim's immediate safety while at the same time respecting the separation of power, the need for judicial review and the requirements of due process. By allowing the police to act when called to a scene of domestic violence, it is hoped to avoid dangerous delays in ordering physical separation between victim and perpetrator.<sup>112</sup> These extended police powers do not replace standard police powers such as the power to arrest.

In contrast to the extensive police powers to arrest granted in common-law systems, continental European legal systems do not so readily authorise the police and public prosecutors to remand perpetrators of crime in custody. Often, however, the detention of perpetrators of domestic violence may be the only way of guaranteeing the victim's safety. Aware of the risk to which women are known to be exposed in serious cases of domestic violence, the CEDAW committee has specified that the due diligence obligation of states parties to protect women from domestic violence includes the obligation to respond adequately to reported acts of violence and subsequent threats and intimidation. This means that available mechanisms such as pre-trial detention must be used if circumstances permit.<sup>113</sup>

The grounds for pre-trial detention are usually much more limited in continental European legal systems, as a result of which provision has been made for the police to evict a perpetrator of domestic violence to ensure some level of physical safety. Despite difficulties in their enforce-

111. The German Protection from Violence Act, for example, makes breaches of court protection orders a criminal offence, punishable by up to one year in prison. See the German Protection from Violence Act, entry into force 1 January 2002, Article 4.

112. The German Protection from Violence Act is of a civil-law nature and empowers judges to issue civil-law protection orders as interim injunctions. To fill the void until such an injunction may be granted by the court, regional police laws have conferred on the police the power to remove a violent partner from the shared home. The duration of such a police order varies between seven and ten days and is a matter for the discretion of the police force, and is not subject to immediate judicial review. Perpetrators of violence who have been evicted from their home by the police may, however, file a complaint using standard judicial remedies of an administrative law nature.

113. See *Fatma Yıldırım (deceased) v. Austria*, CEDAW Committee, 6/2005.

ment, protection orders have become a very important legal measure for protecting women against domestic violence.

- The Austrian Protection of Violence within the Family Act is the earliest and most comprehensive example of a specific legislative measure taken to protect women from recurring violence. Since it came into force in 1997, it has significantly extended the powers conferred on both the police and the courts for dealing with domestic violence. It has granted the police the power to evict a perpetrator of domestic violence from the home for a period of ten days as a preventive measure on the grounds of violent attacks or threats of violations of the life, health and freedom of another person – irrespective of the wishes of the victim (*ex-officio* power). Within 24 hours the police have to send a report to an intervention centre, which offers the victim comprehensive counselling. One aim of this counselling is to enable the victim to take an informed decision as to whether or not to apply to the family court for a long-term protection order in the form of an interim injunction (a civil-law measure) lasting up to three months. The intervention centres are run by women's NGOs and fully funded by the federal government. The beneficiaries of these protection orders include not only married women and common-law partners, first degree relatives and their spouses, but also all other persons living together in any number of family-type living arrangements, with the result that protection is offered to a wide range of potential victims.<sup>a</sup>
- Other countries, for example Germany, Luxembourg, the Czech Republic and the Netherlands, have taken similar measures.

a. See Section 382b of the Austrian Execution Act, as amended in 2003. A new legislative reform being undertaken in Austria will, in 2008, guarantee the right to be protected to all victims, without the need for there to be a family or other relationship.

It is therefore important to incorporate both law-enforcement, as an inherent duty of the state, in the form of immediate police action, and victim empowerment through the possibility of further or prolonged protection orders upon application by the victim. With a two-tier approach of this kind, the state assumes its responsibility for guaranteeing the right to life and the right to liberty and security of person while at the same time respecting the right of the individual victim to decide how to proceed. A two-tier approach further-

more lowers the threshold for obtaining protection orders, because they are originally issued by the police with only a minimum of paperwork on part of the victim. Similarly, women are not barred for financial reasons from opting for further protection by applying for an extension of the order to the district court if legal aid is freely available for victims on low incomes.

While a certain trend towards protection and non-molestation orders is noticeable in a number of European countries,<sup>114</sup> there are significant dif-

ferences in detail, leading to different levels of effectiveness. Major differences exist with regard to the duration of the (barring or non-molestation) order, the consequences of a breach of such an order (criminal offence or contempt of court), the possibility of imposing such orders in addition to or instead of criminal proceedings, the level of evidence necessary as well as the question of whether the order is applied for by the victim (*ex parte*), is mandatory (*ex officio*) or is applied for by third parties.

Since 2003 Spanish law has provided for extensive protection and non-molestation orders. The Court Orders for the Protection of Victims of Domestic Violence Act (No. 27/2003) first made it possible for courts to order a perpetrator of domestic violence to refrain from residing in or frequenting specified areas and/or to refrain from approaching or contacting a particular person. Furthermore, the powers granted under this law include the power to adopt any other civil measures deemed necessary (custody of children, maintenance payments) and to order social welfare payments for victims and any other procedural measures deemed necessary. They also allow for the adoption of any measures provided for by law to deal with any offence committed. The new Integrated Protection Measures against Gender Violence Act, which set up specialised “violence against women” courts,<sup>a</sup> confers this power on these specialised courts. Protection orders may thus be issued *ex officio* or at the request of the victim or any other person related to them – after the victim and the perpetrator have been heard separately. Social services and institutions assist in the application for such orders. To guarantee immediate protection, the Court Orders for the Protection of Victims of Domestic Violence Act stipulates that hearings on protection orders must be held within 72 hours.

a. Organic Act 1/2004 of 28 December 2004 on Integrated Protection Measures against Gender Violence, Spain, BOE [Official Gazette] No.313, Article 61.

114. Eviction orders are available in 29 member states, while restraining orders are available in 36. Non-molestation orders may be obtained in 24 member states, while the removal of a child through court order is possible in 37 member states.

Not all legal systems that have introduced protection and non-molestation orders extend the scope of these to all those potentially at risk. While a large number of types of relationship between victim and perpetrator are covered, including married and unmarried couples, women's same-sex relationships, cou-

ples who do not live together and couples who have recently separated, some laws link the right to obtain a protection order to a particular status such as marriage or cohabitation. This results in women who are at risk continuing to live in fear of former spouses or partners and yet not being eligible for protection by such orders

because they no longer share or have never shared a home with the perpetrator. It is therefore important to grant protection orders to all women experiencing violence from a current or intimate partner, irrespective of the status of the relationship.

The Domestic Violence, Crime and Victims Act which entered into force in the United Kingdom in 2005 recognises the numerous types of relationships between victim and perpetrator and defines the beneficiaries of non-molestation orders as two persons who, although not married to each other, are living together as husband and wife or (if of the same sex) in an equivalent relationship, thus recognising the prevalence of domestic violence among same-sex partners.<sup>a</sup>

a. Domestic Violence, Crime and Victims Act 2004, United Kingdom, part 1, para. 3.

In introducing protection orders, states are confronted with a difficult choice: should only the victim herself be eligible to apply for a protection order or should third parties be granted the right to intervene on her behalf? Third parties to cases of domestic violence are usually close

relatives or professionals working with victims, for example health authorities, doctors or social workers. This issue raises the moral question of allowing third parties to initiate protective legal measures irrespective of the wishes of the victim or even against her express wishes,

which may exacerbate the feeling of powerlessness and helplessness of victims rather than empowering them. This can in turn directly affect the success of subsequent initiatives to ensure the victim's long-term protection.

- In Ireland, for example, health boards have the power to apply for protection orders if the victim is unable or unwilling to do so because of fear or trauma and has been consulted.
- In Bulgaria, the Protection against Domestic Violence Act allows third parties such as relatives (siblings and other direct relatives irrespective of the degree of kinship), as well as the Director of the Social Assistance Directorate, to apply, in an emergency, for a protection order for a victim of domestic violence where immediate protection is required.<sup>a</sup>
- The Spanish Law on Court Orders for the Protection of Victims of Domestic Violence goes a step further and places an obligation on public and private social service institutions and bodies that become aware of incidents of domestic violence to report these to the duty magistrate or public prosecutor with a view to instituting proceedings for the adoption of a protection order. The consent of the victim is not required for a protection order to be issued by the court.

a. Protection against Domestic Violence Act 2005, Bulgaria, Section 8.

Such initiatives allow others to seek protection for a woman in danger who, for any number of reasons, may be unwilling or unable to do so herself. As with mandatory prosecution of cases of domestic violence, this raises a number of issues. While third parties should be encouraged to report cases of domestic violence to the police, it is advisable to confer the right to apply for a civil-law protection order solely on the victim or the police. The police should also have the power to protect victims in situations of immediate danger as a preventive measure and, if a violent act has already been committed, judges should be able to issue

restraining orders to prevent further violence. Co-operation among all agencies involved in cases of violence against women and women's shelters and counselling services should be made mandatory so that trained professionals may actively assist women victims of violence through the criminal justice system and by means of other legal proceedings, and empower them. In many member states, counselling services and shelters run by women's NGOs have built up extensive expertise in providing advocacy and empowering women victims of violence. It is important to recognise their role in supporting vic-

tims in their pursuit of criminal justice.

Victims who wish to protect themselves need to be supported through readily obtainable help. Protection orders will serve their purpose only if the threshold for obtaining them is low. Having to pay a fee to obtain a protection order may deter women from doing so – as do language barriers and a lack of awareness of their rights and the remedies available to them.

Another issue in assessing the effectiveness of protection orders is the difficulty in enforcing them. The fact that many perpetrators are not deterred by such measures and fre-

quently violate them shows that they do not necessarily guarantee actual safety. Most member states that have introduced protection orders have tried to improve the level of implementation of, and compliance with, such orders. Some states have linked the legal obligation to stay away from the victim with practical safety measures such as equipping victims with mobile alarms or mobile phones. While this may instil a certain sense of safety in the short run, member states that experience problems in enforcing protection orders need to enhance the authorities' ability to enforce them, in law and in practice, to ensure the protection of victims.

To ensure the effective application of protection orders, the law should not – intentionally or unintentionally – allow traditional attitudes and stere-

otypes to affect decisions. It should be clear that nothing in the behaviour of the victim can be used to justify a refusal to respond to her call for help. In those countries that have granted the police the initial power to issue a protection order on the spot, guidelines on its application or training of the police force must ensure that personal convictions or a lack of motivation do not lead to an unwillingness to act. Reports from all over Europe show that, without an adequate understanding of the nature of domestic violence, members of the police force may not see the point of issuing a series of protection orders against the same perpetrator and may display a tendency to disbelieve the victim or misjudge her need for repeat protection. Similarly, concepts of provocative behaviour on the part

of a victim that serve as grounds for barring her from obtaining a protection order against a perpetrator of domestic violence should be removed from the law and any directives for its implementation.

Other protection measures explored by Council of Europe member states are linked to providing victims of domestic violence with a new identity. This is an extreme measure which is very demanding for the victim, as it may easily result in social isolation, psychological trauma and a life full of secrets. Furthermore, it places the onus of staying safe from harm on the victim, rather than preventing the perpetrator from committing further criminal acts. It should thus be considered as a last resort, to be used only in extreme cases.

### 3.2.1.3. Criminal law

Criminal law measures – criminalisation of all forms of violence against women, arrests, prosecution and appropriate sentencing – are fundamental in eliminating violence against women. Yet incidents of violence against women are widely under-reported. While reasons for not disclosing them vary, many women simply lack confidence in the criminal justice system – police and judiciary alike. Many women are still reluctant to file complaints for fear of having to disclose intimate details, being ridiculed or disbelieved and not knowing whether the difficult pursuit of criminal justice will actually lead to a conviction.

The record of the criminal justice system in dealing with violence against women is indicative of the difficulties of achieving justice through law for violations of women's physical and sexual integrity. Council of Europe member states have long traditions of criminalising, for example, sexual assault and rape, and most, but not all, have removed the marriage exemption, making rape under any circumstances a criminal act.

However, judging by the rate of convictions for rape, sexual assault and other forms of violence across Europe, criminal justice is widely lacking. A significant number of women choose not to report incidents of sexual violence. Of those cases that are reported to the police, only a fraction is prosecuted. The reasons are manifold: insufficient police investigation, resulting lack of corroborative evidence, missing or inadequate support for victims in the criminal justice system, which can result in unwillingness to testify or withdrawal of testimony, perceived difficulties in proving the case, attitudes of members of the police and judiciary and many more. Even if criminal proceedings are instituted, few lead to a conviction and fewer still to a conviction considered to be commensurate with the nature of the crime.

The issue of attrition – cases that fail to result in prosecution and conviction – has, in recent years, been given more attention in research. It has therefore become apparent that while an increase in public awareness and a change in public attitude have led to higher levels of reporting,

this heightened sense of confidence in the criminal justice system has not translated into higher rates of conviction. For example the number of convictions – or even prosecutions – in cases of rape and sexual assault does not correspond to the number of cases reported, which itself does not reflect the overall number of incidents of sexual assault and rape.<sup>115</sup>

222. This suggests that the desire to improve the protection of women against rape and sexual assault and offer criminal justice has led to a strong emphasis on confidence-building and awareness-raising activities, but not to a corresponding overhaul of the criminal justice system. It would therefore seem important to review the handling of rape and sexual assault cases as well as that of other cases of violence against women by prosecution offices and courts across Europe to find solutions that could help to increase the level of convictions.

A similar review of the handling of crimes perpetrated in the name of honour and traditional practices harmful to women is needed to ensure that these crimes are not mar-

115. Research shows that, for example, in England and Wales the rate of reported rapes rose from 1,842 in 1985 to 14,192 in 2004. The rate of prosecutions, however, does not follow this rise, as they merely rose from 844 to 2,689 in the same time-frame. More strikingly, the number of convictions has not even doubled, rising from 450 in 1985 to 751 in 2004. Of the estimated 80,000 rapes and sexual assaults in the United Kingdom in 2003, only 12,760 cases were reported, and only 673 ended in conviction. Source: Liz Kelly, Child and Woman Abuse Studies Unit, London Metropolitan University, Council of Europe regional seminar presentation, Lisbon, Portugal, July 2007. See also Kelly L., Lovett J., and Regan, L., *A gap or a chasm: Attrition in reported rape cases*, Home Office Research Study 293, Development and Statistics Directorate, 2005, p. 92.

ginalised. For example, while awareness-raising and education in the community regarding forced marriages is important, it is essential that states recognise their responsibility and do not prioritise this at the expense of addressing the abuse directly.<sup>116</sup> Equally, criminal courts need a thorough understanding of concepts of honour and tradition in order to assess relevant factors and behaviour in cases of crimes committed in the name of honour.

To achieve legal recognition of the different forms of gender-based violence many women suffer and hence

to enable the criminal justice system to deal better with reported cases of such violence, some Council of Europe member states have introduced specific criminal offences for the different types of violence, such as domestic violence, forced marriage, female genital mutilation and stalking. Common to this approach is the desire to expose specific forms of coercion and physical or sexual violence as gender-based violence. The aim is to spread the message that such acts are criminal behaviour not tolerated by society. While their practical relevance remains to be

assessed, the benefit of such provisions lies in the fact that the existence of such crimes and their gender-specific nature are recognised. This, in turn, has often led to changes in the law that allow the consequences resulting from these crimes, for example legally valid marriages to which one party was forced to consent, to be adequately dealt with. Furthermore, introducing specific criminal offences avoids the assumption that less common forms of violence against women, such as genital mutilation, are covered by more general criminal offences.

“Genital mutilation may be thought to constitute a crime already because of the injury inflicted. In 2001, Austria took a closer look and identified a ‘loophole’, since causing bodily harm was not punishable if done with the consent of the injured party. Although such a reservation may be appropriate to deal with tattooing or piercing or cosmetic surgery, with the practice of genital mutilation the girl’s parent or guardian could legally give consent as with other operations. With a criminal law amendment, Austria ensured that consent cannot be given to a ‘mutilation or wounding of the genitals that is intended to bring about a permanent impairment of sexual sensation.’<sup>a</sup>”

a. Supra note 8. p. 12

However, establishing specific criminal offences for the different types of gender-based violence harbours the risk of relegating criminal offences committed against women to the sidelines of criminal law. Criminal offences that would otherwise be prosecuted under existing criminal provisions such as (aggravated) assault, rape, coercion and murder are treated as specific offences, which may, in some cases, carry lesser sentences or with which prosecutors and judges have no experience. Provisions of this nature may therefore unwittingly allow traditional attitudes concerning the private nature

of, for example, domestic violence to influence proceedings, thereby preventing effective protection and punishment. Similarly, a provision under the heading of “crimes against the family” may focus predominantly on protecting the family, rather than serving the protection of individual liberty rights. Many victims of domestic violence are married with children, so their roles as mothers and perceived backbone of the family may be considered to take precedence over the exercise of their human rights. Tendencies of this kind have surfaced in some Council of Europe member states, where domes-

tic violence may be justified in court if committed with the aim of preserving a marriage.

In introducing specific offences, it is thus of paramount importance to guarantee that the serious nature of the crime is reflected in the sentence it carries. At the same time, criminal justice professionals need to be extensively trained in how to apply such specific offences. Finally, the introduction of specific gender-based crimes needs to be accompanied by procedural regulations that allow for sensitive handling of the case and reflect the special needs of victims.

Since 1998, the Swedish Criminal Code has provided for the criminal offence of “gross violation of a woman’s integrity”, which serves as an example of a gender-based crime.<sup>a</sup> This provision groups together several criminal acts such as assault, unlawful threat or coercion, sexual molestation and more, rendering them punishable if committed by a man against a woman he is or has been married to or cohabiting with. This means that if a man engages in criminal acts against the life or liberty of a current or former spouse or common law spouse (assault, unlawful threat or coercion, sexual or other molestation, sexual exploitation etc.), he is convicted of gross violation of a woman’s integrity rather than of individual criminal acts. This demonstrates recognition of criminal liability for the entire cycle of domestic violence, which often includes repeated acts of abuse, and makes it punishable by imprisonment of between six months and six years. However, to come within the remit of this provision, these acts must be committed repeatedly and must be intended seriously to damage the woman’s self-confidence. Application of this provision does not rule out criminal liability under other criminal law provisions such as those concerning rape and aggravated assault, if applicable.

a. Violence against Women Act, Sweden, Government Bill 1997/98:55, entry into force 1 July 1998.

116. Welchman, L., and Hossain, S. (eds.), *'Honour' Crimes, Paradigms, and Violence Against Women*, Zed Books, 2005, pp. 269–270.



In choosing a gender-specific approach to legislation, it is important to ensure its application to any number of potential victims. Rather than limiting its scope, for example in cases of domestic violence, to cases where the victim and perpetrator are

or have been married or sharing a household, it should be applicable to all cases of the required seriousness and repetitive nature, including those where victim and perpetrator no longer live together or have never lived together but have or have had

an intimate relationship. It is only through the exhaustive application of a gender-specific law that it is possible to demonstrate that it is the structural nature of violence that it aims to criminalise.

The Spanish Integrated Protection Measures against Gender Violence Act was drafted entirely from a gender-based perspective and extends protection to victims who do not live with the perpetrator. It combats all acts of physical and psychological violence, including offences against sexual liberty, threats, coercion and the arbitrary deprivation of liberty, perpetrated against women by their current or former spouses or by men with whom they maintain or have maintained equivalent affective relationships, with or without cohabitation.<sup>a</sup> Article 148 of the Criminal Code was subsequently amended to increase the sentence to be served if acts of assault are directed against the (former) wife of the aggressor or someone the aggressor shared an equivalent relationship with, irrespective of whether or not they cohabited. Criminal law provisions prohibiting any other form of abuse, threat or coercion also extend to intimate partners without a shared home.<sup>b</sup>

a. Article 1.

b. Spanish Criminal Code, Articles 153, 171, paras. 4 – 6, and 172.

Another option when it comes to recognising the serious nature of domestic violence in criminal law is to establish criminal liability not only for the individual acts of physical and sexual violence, duress or control, but for the continuous nature of the abuse. Some Council of Europe member states have introduced behavioural crimes such as habitual abuse or repeated violations of a person close to the perpetrator. This may be an appropriate way of recognising that the crime is more severe because of its extended duration, and that it may therefore be much more abusive and destructive than isolated criminal acts.<sup>117</sup>

To attach greater weight to crimes committed in a domestic setting, some Council of Europe member states have introduced a legal basis in criminal law to increase court sentences if violent acts have been committed against a former or current partner as opposed to a stranger (aggravating circumstances). The underlying principle is to reflect in law the serious nature of violent acts

against a partner and to signal that this is a serious public matter, not a private one. Others have issued prosecuting and sentencing guidelines to public prosecutors and judges to ensure that the fact that violent acts have been committed against someone close to the victim or the victim's next of kin is given due consideration in the decision to prosecute or sentence.

This new approach links the status of the perpetrator to that of the victim, reflecting the view that any emotional attachment or relationship between the two makes the crime more reprehensible. Although the concept of aggravating circumstances has long existed in European criminal law, it was connected to such aspects as the consequences of the criminal act (death or loss of limb or eyesight) or how the criminal act was carried out (for instance, the fact that it was particularly brutal). Considering the relationship between perpetrator and victim as an aggravating circumstance is therefore a novel way of

reflecting in law the serious nature of domestic violence.

This approach raises many questions concerning the benefits and drawbacks of such legal provisions. It has the potential to make sentencing more severe and therefore enhance criminal justice in cases of domestic violence because its application is enshrined in law and therefore mandatory. Clearly stating that a criminal offence perpetrated by an intimate partner carries a stricter sentence than the same criminal offence committed against a stranger sends out an important message. However, its deterrent effect is useful for the purposes of prevention only if the harsher penalties are actually applied. In order for such legal provisions to be effective, much training needs to be carried out to ensure that members of the judiciary understand the implications of stricter sentences. To date, data on the use of such provisions by courts are scant and implementation of this approach is therefore difficult to monitor.

117. Norway, for example, established a specific criminal offence of domestic violence. Section 219 of the Criminal Code provides that anybody who uses threat, duress, deprivation of liberty or violence or who grossly or repeatedly maltreats a former or current spouse, kin thereof, his or her own kin or any person in his or her household or care is liable to a prison term of up to three years. This increases to six years if the aggrieved person dies or sustains considerable harm to body or health. Similarly, the Andorran Criminal Code of 2005 provides for the criminal offence of "domestic abuse", meaning the repeated infliction of physical and psychological violence on someone who is or was his or her partner or with whom he or she cohabits or cohabited, or on the ascendants, descendants or own brothers or sisters of that person or any other person in the custody or care of one or other partner. Abuse is considered to be habitual if at least three acts of violence were committed against the same person within a period of three years, regardless of whether such acts were prosecuted or investigated. The Swedish crime of "gross violation of a woman's integrity" is a further example of a behavioural crime.

The Belgian Criminal Code, for example, does not provide for a specific offence of domestic violence. Any act of physical violence, whether committed by a stranger or a partner, comes within the remit of provisions on intentional bodily harm. If such violence is committed by a spouse, a partner or a person with whom the victim lives or has lived and has or has had a long-term emotional and sexual relationship, however, it is considered a more serious crime warranting more severe punishment.<sup>a</sup>

a. See Articles 398-405 of the Criminal Code of Belgium and the Belgian Law of 24 November 1997 on combating violence between partners.

While most legal systems have moved away from mediation and other social solutions in cases of domestic violence, concepts of victim-driven mediation solutions rather than investigative criminal justice mechanisms persist. These ignore the fact that domestic violence is a criminal offence and send out a signal that domestic violence is pun-

ishable by law but is not a crime worthy of prosecution. Furthermore, the fact that the measures imposed as a result of mediation are much less severe than a criminal sentence runs counter to efforts to raise awareness of the serious criminal nature of such violence. Mediation should never be used in any cases of violence against women. Another example of such a

shortcoming in criminal law is the fact that in many legal systems victims of domestic violence are referred for private rather than public prosecution. This conveys the feeling that little importance is attached to such private offences, whereas they should be treated as a public concern.

#### 3.2.1.4. Criminal procedural law

The intimate nature of violence against women and prevailing stereotypes concerning its victims means that victims may sometimes be reluctant to report it to the police, bring criminal charges against the perpetrator or testify in criminal proceedings. Some member states have taken the line that domestic violence is a public concern and as such should be prosecuted by the state. They have therefore been resourceful in ensuring the prosecution of perpetrators by allowing for prosecution even if victims decline to report violence and press charges, or later withdraw their charges and testimony.

Some Council of Europe member states have come out unequivocally in favour of a state duty to protect, prosecute and punish. Consequently, they have introduced *ex officio* prosecution of violent acts against women such as assault, coercion, duress, defamation and other offences. In contrast to cases of murder, manslaughter or rape, prosecution services are granted the power of discretion as to whether or not to prosecute. In the past this has contributed to the low number of prosecutions and convictions for cases of violence against women.

As a result of the introduction of mandatory prosecution, which means that prosecution is initiated by the office of the public prosecutor irrespective of the wishes of the victim, prosecution services are

required to prosecute offences that may previously not have been considered to be a matter of public interest.

While public prosecutors across Europe seem increasingly to consider cases of assault in a domestic violence context to be of public concern, with the result that criminal proceedings may be brought, the number of sets of proceedings and, ultimately, convictions, may not necessarily increase. The perceived or genuine lack of evidence, voluntary or involuntary withdrawal of victim support, a failure to take violent acts against women seriously and other factors often lead to the discontinuation of proceedings – even if they were originally instituted on the basis of a public-interest presumption.

Given the low rates of conviction in cases of rape and sexual assault, which are often linked to failure to collect adequate evidence, including photographs to prove the crime, it is of paramount importance to carry out a critical analysis of existing criminal procedural law to identify rules of procedure that could be improved. The way rape and other cases of violence against women are dealt with in court in most member states leaves much room for improvement, mostly in respect of procedural matters, the attitudes and awareness of judges and public prosecutors and the collection of evidence. It is crucial to re-assess national approaches to deal-

ing with rape and sexual assault cases to ensure criminal justice for women who have suffered violations of their sexuality, the most intimate part of a human being.

To lower the threshold for obtaining access to the criminal justice system for any type of violence against women and to prevent victims from withdrawing from the process, some member states have allowed audiovisual testimony in court. By avoiding direct confrontation with the defendant, with the help of cross-examination by video link or behind screens, and by endowing family counsellors with investigative powers, it is hoped to make it possible to gather sufficient evidence for a conviction.

Yet many criminal law systems rely on procedures for giving evidence like cross-examination, which can easily be exploited to humiliate victims. If traditional family attitudes prevail over the notion of women as autonomous human beings endowed with individual rights and freedoms on an equal footing with men, cross-examination can easily lead to assumptions of transgressions of gender roles, which, in turn, are considered to justify the violent behaviour of men. It allows defence lawyers to portray victims of domestic violence as having provoked violence, rendering them vulnerable to re-victimisation. The same holds true for cases of sexual assault and rape.

Procedural rules on evidence should take into consideration the negative effects they can have on particularly sensitive cases such as those concerning violence against women, including rape, sexual assault and domestic violence. It is vital to eliminate all stereotyping pitfalls by ensuring the sensitive gathering of evidence.

In cases of domestic violence, the collection of evidence becomes particularly important, because family members often have the right to refuse to give evidence. Consequently, it is crucial to collect other available evidence (pictures of injuries and of the scene of the crime, witness statements) carefully and systematically.

With a view to ensuring prosecution, some member states have made provision for prosecuting cases of domestic violence primarily on the basis of sources of evidence other than the testimony of the victim.<sup>118</sup> This means that criminal proceedings do not necessarily have to be discontinued should the victim withdraw her support for prosecution if it is in the public interest to prosecute.

Other member states have opted for a more drastic approach by simply removing from their criminal code the possibility for victims of physical assault to drop charges.

To enhance levels of prosecution and conviction for violent crimes against women, women victims of violence need to be helped to understand how legal instruments can protect them, thereby ensuring enjoyment of their rights. Many women's NGOs that run shelters or other advocacy services offer support and counselling for women to help them take informed decisions about their legal options, but also to make it clear to them that they play a decisive role in legal proceedings. If guided through the criminal and other court systems, women tend to understand and appreciate the importance and value of co-operation with the justice system much more readily. They thus experience it as a system that is working to protect them rather than as something that re-victimises them, and this can lead to an increase in the number of convictions.

Courts should adopt procedures that both protect the victims from re-victimisation and enable them to provide the best possible evidence. These should include the right of the victim not to testify in front of the perpetrator. Measures to address violence against women should be incorporated into witness protection policies and standards. Courts should ensure the anonymity of victims in the media. The requirement that the victim tell her story repeatedly should be restricted to a minimum.

Some member states have recognised that support and guidance in dealings with the legal system, criminal or other, are important to the rate of prosecutions and convictions. They have introduced special institutions that support women victims of domestic violence, helping them to find their way through the criminal justice system. The aim here is to improve judicial effectiveness by addressing the difficulties facing victims of domestic violence in pursuing justice and their special concerns.

The United Kingdom is currently exploring the benefits of specialist domestic violence courts in a model programme.<sup>a</sup> This programme, which has been linked with the Tackling Violent Crime Programme, offers an effective working method for purely criminal courts to improve the delivery of justice through a higher conviction rate, improves victim satisfaction with the overall process and generates greater public confidence in the justice system. It focuses only on criminal justice matters and does not provide a particular court with jurisdiction over issues from a different field of law. An Independent Domestic Violence Advisor at the court provides a link between the victim and the criminal justice system and is entrusted with the co-ordination of the activities of multiple support agencies, including the police, the Social Service Department, the Housing Department, the Crown Prosecution Service and the Probation Service. The advisors help to ensure early identification and fast-tracking of domestic violence cases, as much as the prevention of early dropping of cases. Furthermore, specially trained prosecutors are allocated to domestic violence cases.<sup>b</sup>

a. Specialist Domestic Violence Court Programme – Guidance, produced by Her Majesty's Courts Service, Crown Prosecution Service and the Home Office, United Kingdom, October 2005, p.8.

b. Similarly, the Spanish Integrated Protection Measures against Gender Violence Act set up specific "Violence against Women Courts", see section 3.2.1.1.

Special attention should be given to the protection of children from further trauma by ensuring that they are properly supported and represented in legal proceedings by a legal representative.

Free legal aid is important as a means of enabling women victims of violence to pursue criminal justice. In many member states, court fees

and the legal representation costs have reached prohibitive levels.

Furthermore, women victims should have the right to be informed about services for victims and, if they wish, to be supported, accompanied and represented in court by a specialised service for women victims of violence. So that victims may make use of such services, they should be free of charge. Victims should also have

the right to be informed about all proceedings concerning them. This includes the receipt of information about the release of the perpetrator from pre-trial detention or from prison. They should be able to take an active part in the criminal proceedings. This includes giving evidence. All women victims of violence should receive compensation for any damage suffered, and funding sys-

118. Crown Prosecution Services, Policy for Prosecuting Cases of Domestic Violence, United Kingdom, 2005, p.12.

tems should be put in place in order to compensate victims.

### 3.2.1.5. Council of Europe monitoring framework for Recommendation Rec (2002) 5 on the protection of women against violence – results and assessments regarding legislation

The system for monitoring implementation of the measures proposed by Recommendation Rec (2002) 5 includes several indicators concerning legislative measures. Information is collected on the criminalisation of the different types of violence against women, the powers of public prosecutors to initiate criminal proceedings and the availability of judicial protection orders.

The results of two rounds of monitoring reveal a heightened sense of recognition among member states that combating violence against women requires a sound legal framework. More and more member states have introduced protection orders to meet domestic violence victims' need for physical safety. An increasing number of legal systems make several forms of violence against women a criminal offence, notably physical, sexual and psychological violence between partners, spouses and cohabitants or in the family as well as sexual harassment at work. Furthermore, a growing number report that they have made provision for public prosecution of cases of violence against women, both within the family and in cases of sexual violence.

Despite some improvement in the law, most member states still face a range of difficulties in implementing national legislation. Furthermore, the criminalisation of certain forms of violence against women and the introduction of judicial protection orders do not constitute a comprehensive approach in law to protecting women against violence and prosecuting perpetrators. Rather, member states need to ensure consistency in concepts and definitions, but also in the purpose and results of the different laws and regulations.

For example, the mere existence of judicial protection orders does not guarantee that they are easily available. The requirements attached to them in some countries may in many cases bar victims from obtaining protection. In some member states, protection orders are available to anyone threatened by violence at the hands of an intimate partner, whether married or not and of the same sex or not, whereas other legal systems require the victim to have lived with the partner or to be married to him. In yet others, the applicant is required to pay a fee, which may often be a financial and psychological barrier to seeking this form of help. Very few coun-

tries evaluate the implementation and effectiveness of protection orders and often no statistics are available, even for the number of orders applied for and those issued.

Furthermore, the fact that all forms of violence against women generally constitute a criminal offence does not mean that all incidents of violence will be prosecuted. Despite a growing number of states that allow for *ex officio* prosecution in cases of violence against women in the family, a larger number do so only in more severe cases. A number of member states still do not prosecute domestic violence cases except at the express request of the victim. In sexual violence cases, a public prosecution will be initiated *ex officio* only if this is in the public interest, which is usually the case in severe cases only. Member states that have indicated that public prosecutors can institute criminal proceedings in cases of both domestic and sexual violence seem to grant public prosecutors discretionary power to pursue or drop a case. Positive replies to this indicator do not therefore mean that all cases of domestic and sexual violence are prosecuted at all times.

### 3.2.2. Measures to support and protect victims

Violence suffered by women is a traumatic experience. In addition to physical injuries, it causes psychological trauma, fear, distress and loss of self-confidence. To overcome the multiple consequences of violence and rebuild their lives and relationships, women victims require a wide range of support and assistance. While a well implemented legal framework as described in the previous section is fundamental in ensuring the victim's safety and preventing further violence, Council of Europe member states are also under an obligation to provide women victims of gender-based violence with services

and empowering support to enable them to cope with their physical and psychological injuries as well as the long-term effects of violence on their lives.

Most Council of Europe member states recognise the need for services for abused women, but the availability and quality of such services varies greatly within countries and across Europe. The availability of services for the different forms of violence against women also varies significantly. While shelters for victims of domestic violence exist in most Council of Europe member states, services for victims of sexual assault

and rape are much less frequent and there are even fewer services for victims of forced marriages, crimes perpetrated in the name of honour and female genital mutilation.

Nonetheless, many member states run substantial services or fund NGOs in part or in full to enable them to offer support to women victims of violence. Many examples of good practices have emerged across Council of Europe member states, establishing a sound knowledge base for the provision of services for women victims of violence.

### 3.2.2.1. Basic goals of service provision and principles of good practice

Because of the devastating effects of violence, recovery may be a very long process. In addition to immediate support services such as access to a safe shelter, psychological and legal counselling, but also immediate medical and health care, long-term services need to form an integral part of service provision. Long-term services should take the role of assisting and supporting women throughout criminal or civil proceedings and as they build a new violence-free life for themselves.

Increasingly, it has been recognised that children are also affected by violence against their mothers. In cases of domestic violence, research and practice clearly show a link between men's violence towards women and violence towards children. Violence towards women also concerns children, and the safety, protection and needs of children must therefore be considered as well.

As is the case with all measures to prevent and combat violence against women, support services require ade-

quate government funding. It is essential that specific funds be allocated to specialised agencies, activities and NGOs at national, regional and local level to ensure the provision of adequate services for all victims of violence, but also that parts of the budgets of relevant public institutions (such as health and social services) be earmarked for the purpose, to ensure that qualified people are working to prevent violence.<sup>119</sup>

Scotland has a national budget head for providing services and refuges and implementing domestic violence projects and as a result has good coverage over most of the country. It has the highest level of provision of sexual assault services in relation to the population of the four countries in the United Kingdom. Scotland is currently funding a £10 million Refuge Development Programme to improve and increase the number of refuge places available to women and their children.<sup>a</sup>

a. Coy, M., Kelly, L. and Foord, J.: *Map of Gaps: The postcode lottery of violence against women support services*, London: End Violence Against Women, 2007.

#### Specialised services

While general services such as social and health services have an important role in identifying incidents of violence against women, in that they provide basic support in a crisis situation and refer women victims and their children to the necessary support services, the services currently available in most Council of Europe member states are equipped neither to meet the various needs of victims nor to prevent violence effectively. The complex task of adequately responding to the problem of violence against women and empowering victims through optimal support and assistance can be fulfilled only by a well-resourced specialist sector.

Safety, services and support are best ensured by women's organisations and agencies with specialised training and experience in women's advocacy and in-depth knowledge of gender-based violence.<sup>120</sup> It is important that these services are able to address the different types of violence suffered and provide support for all women and their children, including hard-to-reach groups such as women with disabilities and women from migrant communities as well as ethnic minorities.

The poor geographical spread of specialised services poses a challenge to equal access to services for all women. In most countries, the range and quality of services vary consider-

ably from region to region, and specialised women's services are often lacking. The majority of the provision is concentrated in cities and urban areas and sometimes the only services available are located in capital cities.

To ensure that these services are available to all women victims, sufficient funds need to be allocated to establish a protective and supportive service infrastructure. In particular, regional governments and municipalities, which are usually responsible for providing services such as counselling, health services and social services, need to be allocated sufficient resources to set up and run the necessary services at local level.

- Norway has made efforts to extend service provision and organise training for professionals throughout the country by setting up one national and five regional resource centres which offer a wealth of information on violence, sexual abuse and traumatic stress. These resource centres collect expert information and work closely with professionals in this field, providing them with specialised training and advice. In addition, they facilitate multi-disciplinary co-operation between different agencies and services offering support to victims.
- Similarly, Finland has ensured co-ordination of different authorities and service providers in all parts of the country by appointing a co-ordinator on violence against women in almost all of the country's 415 municipalities.

119. Supra note 1, p. 29

120. Supra note 1, pp. 38-39

## The overarching principles

During the last three decades, women's NGOs and specialised agencies providing services for women victims have embarked on the process of devising basic principles to be applied by service providers in this

field. Building on this work, some European women's NGOs, as well as international intergovernmental organisations, have introduced examples of good practice which provide guidance to service experts on how to

comply with these principles in their everyday work.<sup>121</sup> Work on minimum standards for the service sector has also been undertaken, mostly by NGOs, service institutions and academics working directly with victims.

- The European network WAVE (Women Against Violence Europe) has drawn up guidelines for setting up and running a women's shelter as well as guidelines for the services it should provide for victims. It sets out the main objectives of, and standards for, a shelter and provides guidance on how to meet victims' needs. Furthermore, the manual offers practical assistance with setting up such a shelter, including information on how to seek funding and manage the shelter.<sup>a</sup>
- The Women's Aid Federation of England has developed National Service Standards for Domestic and Sexual Violence. These standards are of three types: standards for services, occupational standards for staff and accredited training/qualifications for staff and volunteers. Honouring the government's commitment and providing a stream of funding to build up the capacity of the services are considered crucial to the enforcement of these standards.<sup>b</sup>

a. See <http://www.wave-network.org/>.

b. See <http://womensaid.org.uk>.

Drawing on the expertise of women's services, the Council of Europe has recently prepared a study entitled *Combating violence against women: minimum standards for support services*. The study addresses minimum requirements for the types of services needed by women victims of domestic and sexual violence and the standards they should meet. The study provides benchmarks – for states and service providers – in respect of the extent and mix of services, which services should be available, who should provide them, and the principles and practice base from which they should operate.<sup>122</sup>

These principles combine human rights standards as well as practices which NGOs have developed and championed, but which have also proved effective in supporting women in the aftermath of violence. They may be adapted and applied to work undertaken within government agencies. Internationally recognised good practice is invariably based on these principles.

Any service provided for women victims of violence and their children should be based on these principles, as set out below. To ensure that they

are applied in practice, procedures incorporating guidelines for gender-sensitive treatment and respectful behaviour should be adopted by professionals and agencies providing services for women victims of violence.

### **Working from a gendered understanding of violence**

**against women:** Services need to demonstrate an appropriate and informed approach, relevant to their service users, which recognises the gendered dynamics, impact and consequences of violence against women within an equalities and human rights framework, including the need for women-only services. Service provision should therefore acknowledge that violence against women is not a problem affecting a number of individuals, but the result of an imbalance of power between men and women, and that it leads to serious discrimination against women, both in society and within the family. Furthermore, any services provided for women victims of violence should be based on the definitions set out in Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence*.

**Safety, security and human dignity:** Services need to ensure that all intervention prioritises the safety, security and dignity of service users and of staff.

**Specialist services:** The knowledge and skill base of staff, and forms of provision, need to be specialised, i.e. appropriate and tailored to the specific needs of service users. Special attention should be paid to addressing the needs of particular groups of women, such as young women, older women, immigrant women and women from ethnic minorities, and women with disabilities.<sup>123</sup> Furthermore, the type of service victims need may differ according to the type of violence suffered (domestic violence, sexual violence or violence that women suffer as a result of harmful traditional practices such as crimes committed in the name of honour, forced marriages and female genital mutilation).

**Diversity and fair access:** Services need to respect the diversity of service users and positively engage in anti-discriminatory practice. Services should be provided free of charge, provision equitably distributed across

121. See *Good practices in combating and eliminating violence against women*, Report of the Expert Group meeting organised by the United Nations Division for the Advancement of Women in collaboration with the United Nations Office on Drugs and Crime (Vienna, Austria, 17-20 May 2005); Women against Violence Europe (WAVE), <http://www.wave-network.org/start.asp>.

122. Supra note 16.

123. *Bridging gaps – from good intentions to good co-operation, Manual for effective co-operation in tackling domestic violence*, Women Against Violence Europe (WAVE), 2004.

the country and crisis provision available round the clock.

Various measures are needed to facilitate women victims' access to services. These range from awareness-raising campaigns to inform women about their rights and the services on offer to the organisation of free transport to women's shelters and outreach services. So that they comply with this principle, the Council of Europe urges member states to provide victims with documentation and information about their rights, the service they can receive and the courses of action they can take, regardless of whether they lodge a complaint, as well as information about continuing psychological, medical and social support and legal assistance.<sup>124</sup>

**Advocacy and support:** Services need to provide both case and system advocacy services in order to support and promote the rights of service users and meet their needs.

**Empowerment:** Services need to ensure service users can put a name to their experiences, are familiar with their rights and entitlements and can take decisions in a supportive envi-

ronment that treats them with dignity, respect and sensitivity. In addition, support services should always aim to help women victims of violence to regain control of their lives and, at the same time, promote their overall wellbeing by ensuring their physical and financial security.

**Participation and consultation:**

Services need to promote user involvement in the development and evaluation of the service. Services should therefore be organised democratically, ensure the participation of service users and be provided by a sufficient number of well-trained staff. Furthermore, victims should be regularly invited to participate in the evaluation of services and should have the right to file a complaint with an independent body (ombudsperson) if they are not satisfied with the quality of the service.

**Confidentiality:** Services need to respect and observe service users' right to confidentiality and ensure that all service users are informed of situations where confidentiality may be limited.

**A co-ordinated response:** Services need to operate in a context of

co-operation among the relevant agencies, collaboration and co-ordinated service delivery. Ideally, the service provision should involve women's NGOs and all relevant agencies and service sectors in developing, implementing and monitoring the support and assistance offered to victims. A co-ordinated response should aim at ensuring that victims can easily gain access to the various services without having to deal separately with several agencies.

**Holding perpetrators accountable:** Services need to work from the twin foundations of believing and respecting victims and considering that perpetrators should be held accountable for their actions.

**Governance and accountability:**

Services need to be effectively managed, to ensure that service users receive a quality service from appropriately skilled and supported staff.

**Challenging tolerance:** Services need to promote the model of non-violence internally and externally and use gender analysis to raise awareness, educate and undertake prevention work, both in communities and with individuals.

### 3.2.2.2. Core support services for women victims of violence

While the above standards provide a benchmark for the quality of service, standards can also be applied to the minimum requirements for the different types of services. A basic principle should be that all women victims and their children are offered appropriate support according to their needs. They should therefore be offered a range of services.

The Council of Europe study *Combating violence against women: minimum standards for support services* proposes that each member state should provide helplines, shelters, rape crisis centres and sexual assault centres with an adequate geographical distribution.<sup>125</sup> In addition to these core services, advice/advocacy, counselling and outreach services

should either be provided independently or incorporated into the services mentioned above. Furthermore, it is suggested that member states develop minimum standards for the provision of specialised services, including: at least one free national helpline covering all forms of violence against women operating 24 hours a day 7 days a week and providing crisis support in all relevant languages; safe accommodation in specialised women's shelters, available in every region, with one family place per 10 000 head of population; one rape crisis centre per 200 000 women; one women's counselling centre for every 50 000 women, which can intervene in a crisis and provide long-term support to women

victims of all forms of violence and to special groups, including migrant and ethnic minority women, refugees and others; and outreach and pro-active services in all regions.<sup>126</sup> All services for women victims of violence should also provide adequate support for their children.

The main focus of the following section is on core services that should be provided to every victim of any form of violence against women and her children. While it is based on the minimum standards developed for service provision in the recent Council of Europe study, it goes beyond these standards and addresses services which have proved vital in providing effective support and assistance to victims.

124. Recommendation Rec (2002) 5, Appendix, para. 26.

125. Supra note 16, p. 41.

126. Idem, Table 7.1.

## Women's helplines

Violence against women, in particular domestic and sexual violence, has an enormous impact on the psychological, social and economic aspects of women's lives. It is therefore essential that victims have immediate access to professional help and assistance. To address this need, 24-hour emergency services have been established.

Helplines are one of the most important ways of enabling women to find help and support. A free helpline (with a widely advertised public number) that provides support and crisis counselling and refers women to face-to-face services, such as shelters, counselling centres or the police, forms the cornerstone of any support service for women victims of violence. It is recommended that every country should operate at least one nationwide women's helpline round the clock. These helplines

should be funded by national governments and run by women's NGOs with long-standing experience in providing counselling and support for victims of violence.<sup>127</sup>

Women's helplines provide ready access to help and support, as callers may remain anonymous and receive free information about their rights and options. This is crucial because many women hesitate to seek help. New information and communication technologies make it possible to provide services in a number of languages, or to put people through to specialists in specific forms of violence against women.<sup>128</sup> An important aspect of improving the level of help and assistance through helplines is to monitor the calls and evaluate data on calls received according to type of violence and type of assistance needed.

Evidence shows high rates of usage and demand, yet helplines are systematically under-funded.<sup>129</sup> Lack of sufficient resources for helplines is considered a major problem since professionals have clearly recognised that helplines form an essential part of the service provision to women victims. The increasing demand for these lines clearly indicates that this is an area in which resources need to be significantly extended in order to improve access. It is of paramount importance to provide immediate assistance throughout the year and ensure that it is available 24 hours a day, seven days a week. Within the Council of Europe, 24 member states operate nationwide helplines which provide services round the clock. However, most helplines are still limited to certain days of the week and hours of the day and are not completely free of charge.<sup>130</sup>

## Shelters for women victims

An important means of fulfilling the obligation to provide protection to victims is to ensure immediate, round-the-clock access to safe accommodation for women and their children when they are no longer safe at home. Temporary housing alone or general shelters such as shelters for the homeless, without qualified support from trained staff, are not sufficient and will not provide the necessary support for victims of violence or empower them to claim their basic rights. Victims face multiple, interlocking problems related to their health, financial situation and safety outside the home and the well-being of their children, and specialised

women's shelters are therefore better equipped to address the situation.<sup>131</sup>

The functions of a shelter usually go beyond providing a safe place to stay. They provide women and their children with support, enabling them to cope with their traumatic experiences, leave violent relationships, regain their self-esteem and lay the foundations for an independent life of their own choosing. Furthermore, women's shelters play a central role in networking, multi-agency co-operation and awareness-raising in their respective communities.

To fulfil their primary task of ensuring safety and security for women, it is crucial that all shelters

apply a set of standards in order to keep victims safe from further attack by the perpetrator. To this end, the security situation of each victim should be assessed and an individual security plan should be drawn up on the basis of that assessment. The technical security of the building is another key issue for shelters as violent attacks by the perpetrators are a threat not only to the women and their children, but also to the staff and other people in the surrounding area. Furthermore, effective co-operation with the police on security issues is indispensable and, to that end, a technical security system should be set up by the police.<sup>132</sup>

Portuguese law regulates the organisation, functioning and supervision of shelters for victims of domestic violence to ensure quality services. It sets out minimum standards concerning, *inter alia*, security and safety, training of staff and their responsibilities, practical questions such as appropriate size and locations of shelters but also the type of data to be collected on residents.<sup>a</sup>

a. Regulatory Decree 1/2006 of 25 January 2006, Portugal.

127. *Preventing violence against women: a European perspective*, Council of Europe, Strasbourg, 2003, p. 71; *Away from violence – Guidelines for setting up and running a women's refuge*, WAVE, Vienna, 2004.

128. *Supra* note 127, pp. 71-75.

129. *Reality Check: When Women's NGOs Map Policies and Legislation on Violence against Women in Europe*, European Women's Lobby, 2007, p. 42.

130. According to information available from WAVE (January 2008), the following member states operate a national helpline for women: Albania, Armenia, Austria, Belgium, Bulgaria, Denmark, Estonia, Greece, Iceland, Ireland, Italy, Latvia, Lichtenstein, Luxembourg, Romania, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and the United Kingdom. Nationwide free helplines are provided by the following countries: Austria, Belgium, Greece, Ireland, Italy and the United Kingdom.

131. *Supra* note 1, p. 16.

132. *Away from violence*, *supra* note 127.



The data provided by the first round of monitoring of the implementation of *Recommendation Rec (2002) 5 on the protection of women against violence* suggest that most member states recognise the urgent need for more shelters for abused women as the number of places is often insufficient and their geographical distribution is inadequate.<sup>133</sup> While most countries reported the existence of shelters (36 member states out of 40),<sup>134</sup> a closer look at the data raises many concerns. Only eight member states indicate they fulfil the quantitative minimum standard: one shelter place per 10 000 inhabitants for women victims of violence.<sup>135</sup> Ten countries provide about half of the minimum places needed and eight countries less than half. The situation is especially alarming in seven member states as they report only 0,1 or fewer places per 10 000 inhabitants, clearly failing to guarantee the safety of women victims of violence and their children.<sup>136</sup> Only 18 out of 40 member states provide shelters with a sufficiently wide geographical distribution and some member states report no shelters at all, revealing the need for firm meas-

ures by member states to fill this gap in service provision.

The second round of monitoring of implementation of *Recommendation Rec (2002) 5* shows that while some improvement was made over the course of two years, services remain insufficient in most countries. Very few member states that took part in both monitoring exercises have increased the number of places in shelters.<sup>137</sup> However, 23 instead of 18 now report the provision of shelters with a sufficiently wide geographical distribution and 35 instead of 29 offer shelters that are accessible round the clock, revealing greater determination to provide services in some member states.

The quality of the services in women's shelters cannot be assessed from the results of the monitoring exercise, but evidence from national NGOs and other sources suggests that in many member states there is still a considerable lack of quality services.

Even well-resourced networks of shelters face challenges in providing support for all women in need. For example, countries which report an adequate number of shelters still find the regional provision of services a

challenge. Women's shelters and counselling centres are usually found in urban settings and are therefore beyond reach for a large number of women concerned. In rural areas, services for migrant, refugee and disabled women and other groups with special needs are often lacking. Furthermore, the supply of places in women's shelters is insufficient overall, which means that victims seeking help may not be admitted right away. Economic constraints and the lack of financial resources pose a constant challenge for shelters: most women's shelters have to struggle to obtain funding every year.<sup>138</sup>

In recent years, shelters for women victims of trafficking have been set up in several member states. Sometimes women's shelters accommodate victims of domestic violence together with victims of trafficking, often because of a lack of alternatives. Experience has shown that it is more effective to provide separate, specialised shelters for women victims of trafficking, since they require a different kind of support and protection and appropriately specialised staff.

The city of Vienna provides full funding for four women's shelters as well as a counselling centre. The services are run by women's NGOs. All four shelters apply a gender-sensitive, empowering approach and are equipped with technical safety devices. One shelter was especially built as a women's shelter. The shelters have secure funding through an unlimited contract with the city; the annual budget amounts to approximately 4 million a year.

### Rape crisis centres

Rape crisis centres have been established to respond to the needs of victims of sexual violence, who often require immediate medical care and other specific services. A rape crisis centre usually refers victims to a safe environment with specially trained psychologists and service staff.<sup>139</sup> Both the traumatic nature of rape and the

need for immediate forensic examination to collect the evidence needed for prosecution require a rape crisis centre with trained staff on call, preferably accessible round the clock.<sup>140</sup>

A variety of models of rape crisis centres exist in Council of Europe member states. Some of these are to be found in a hospital setting, which

ensures immediate medical care, while others focus on different types of support and counselling. Two main approaches can be identified in the provision of services for victims of sexual abuse.

Sexual assault (referral) centres are based in hospitals or located close to partner hospitals, ensuring high-

133.Supra note 1. p.17.

134.Supra note 1. Table No.8, p.52.

135.Luxembourg, Lichtenstein, Slovakia, Malta, the Netherlands, the Czech Republic, Spain; in Slovakia only three of the 31 shelters are reserved for women victims of violence.

136.Cyprus, Hungary, "the former Yugoslav Republic of Macedonia", Georgia, Bulgaria, Greece.

137.Supra note 8. Figure 3, p.17.

138.Logar, R., *The Austrian model of intervention in domestic violence cases*, expert paper prepared for the Expert Group meeting on "Violence against women: Good practices in combating and eliminating violence against women" organised by the United Nations Division for the Advancement of Women in collaboration with the United Nations Office on Drugs and Crime (Vienna, Austria, 17-20 May 2005), pp. 3-4.

139.Supra note 1. p. 32.

140.The World Health Organization has drawn up *Guidelines for medico-legal care for victims of sexual violence* in order to enhance health workers' capacity to respond to cases of sexual assault in a sensitive and comprehensive manner and to improve professional health services for all victims of sexual violence. ([http://www.who.int/violence\\_injury\\_prevention/publications/violence/med\\_leg\\_guidelines/en/index.html](http://www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en/index.html)).

quality forensic practice combined with crisis intervention and advocacy. Referral centres respond to recent sexual assault, carry out medical checks, intervene in a crisis and refer victims to other specialised and community-based organisations for further services.<sup>141</sup> A recent evaluation of these centres in the United Kingdom revealed that advocacy and pro-active follow-up were the most relevant services in the immediate aftermath of sexual violence.

In addition to the support needed immediately after the violent incident, victims of rape and sexual abuse need advocacy and long-term support and counselling. To meet this need, rape crisis centres have been set up. Many of them offer a helpline, face-to-face counselling, support groups and woman-to-woman advocacy in court proceedings, and contact other services.<sup>142</sup> Research indicates that the need for counselling and therapy usually emerges not so

much in the first days or weeks after the event, but several months or years later.<sup>143</sup> It has proved to be good practice to provide these services regardless of whether the matter will be reported to the police, and to offer the possibility of having samples taken and stored so that the decision as to whether or not to report the rape can be taken at a later date.<sup>144</sup>

- The United Kingdom has long-standing experience of Sexual Assault (Referral) Centres (SACs/SARCs), which have been established since the 1980s in hospitals or near partner hospitals. The SACs/SARCs strive to ensure high quality forensic responses and provide short-term counselling and advocacy for recent sexual assault victims, both female and male.<sup>a</sup>
- Sweden has set up a National Centre for Battered and Raped Women in a hospital setting in the city of Uppsala to carry out medical examinations and provide treatment and support to women subjected to violence. In addition, it provides training and practical guidance for health and medical staff in the area of sexualised violence and serves as a national resource centre offering a wealth of expert information on the subject. To ensure the dissemination of expertise throughout the country, the National Centre for Battered and Raped Women documents information on its working methods and disseminates it throughout the country.<sup>b</sup>
- Norway has set up service centres for victims of rape and sexual violence in every county of the country. These are linked to inter-municipal emergency clinics. The service centres aim to enhance service provision at local level and ensure that the needs of victims of rape and sexual abuse are met by trained staff and specially tailored services.<sup>c</sup>

a. See for example: Sexual Assault Referral Centres "Getting started", ACPO Rape Working Group, United Kingdom.

b. See [www.akademiska.se](http://www.akademiska.se).

c. Overgrepsmotlak, Beileder for helsetjenesten (Rape Clinics, Guide for the Health Service), 2007. For a list of rape clinics see the website [www.dixi.no](http://www.dixi.no).

Recent data point to an alarming lack of rape crisis centres and other appropriate services for rape victims in Europe. The results of the second round of monitoring of implementation of *Recommendation Rec (2002) 5* show that rape crisis centres with specially trained staff, ensuring immediate medical care and providing documentation, are available in

only 21 out of 40 countries which took part in the monitoring exercise. In 24 countries services are free of charge and 22 countries report that they are accessible to all women. However, only 16 of 24 member states concerned provide services with sufficiently wide geographical coverage.<sup>145</sup>

A look at these figures in the light of the standards laid down in the Council of Europe *Recommendation Rec (2002) 5*, which include providing victims with immediate, comprehensive assistance free of charge, round the clock, shows that the actual situation in member states falls far short of the recommendation.

### Counselling

Counselling, understood as comprehensive support including practical help and accompaniment, forms an important part of the services offered to women who have experienced violence as it enables them to understand and overcome the effects

of violence. Counselling should be available to all women victims of all forms of violence, including victims of domestic violence who do not need accommodation in a women's shelter but might still seek support. It is essential that women receive profes-

sional and non-judgmental support, which fosters women's self-esteem and self-determination regardless of the decisions they take as regards their future. At least one women's counselling centre should therefore be available per 50 000 women to pro-

141. *Not either/or but both/and: Why we need Rape Crisis Centres and Sexual Assault Referral Centres*, EVAW, CWASU, Rape Crisis, Fawcett.

142. *Idem*.

143. *Supra* note 8, p.24.

144. Kelly, L., *Promising Practices addressing sexual violence*, expert paper prepared for "Violence against women: Good practices in combating and eliminating violence against women", Expert Group meeting organised by the United Nations Division for the Advancement of Women in collaboration with the United Nations Office on Drugs and Crime (Vienna, Austria, 17-20 May 2005), pp. 7-8.

145. *Supra* note 8, Table 9, p.43.

vide support in a crisis as well as in the longer term.<sup>146</sup>

One purpose of counselling is to help women understand how vio-

#### *Trauma care and long-term support*

Therapeutic help, either individual therapy or group work, forms an additional component of the services needed by women victims as violence has serious consequences for

#### *Pro-active services*

An innovative type of service for domestic violence cases, often in the form of what are known as intervention centres, has emerged over the last decade in several European countries to respond to the needs of victims of violence by means of a pro-active approach. With a view to ensuring co-operation between the police and specialised women's serv-

#### *Outreach and mobile intervention*

One important aspect of pro-active services is outreach work, which targets vulnerable groups of women, such as women from minorities and women with disabilities who have no contact with the services available and are unaware of their rights. In addition, outreach work is needed for women with small children and women without access to public

#### *Integrated model for domestic violence*

An integrated working model for family domestic violence cases has been developed as a tool to ensure co-operation, co-ordination and the sharing of all relevant information among

#### *Legal aid and advocacy services*

Many women victims of violence have difficulty in availing themselves of legal remedies against the perpetrator. Whether it is a case of pressing charges against the perpetrator, giving evidence in court or dealing with issues concerning divorce, child custody and support, property settlement, social welfare, housing or employment, many women need emotional and financial support to see court battles through to the end.

lence is used to exert power and control and what kind of controlling behaviour has been applied to gain power and control over them. By

their physical, reproductive and mental health.

It is important to understand that psychological recovery continues long after the last traces of the physical injuries have disappeared.

ices, this type of service is based on the pro-active approach of contacting victims of violence after police intervention. Recognising the obstacles that women face when they seek help and assistance from various agencies and services, intervention centres provide women with information about their legal and social rights and

transport who face practical obstacles in getting to support services.

Experience in different European countries shows that outreach work and mobile (telephone) intervention have proved valuable in reaching women victims with limited access to support services by bringing the service to the woman rather than the other way round.<sup>149</sup> Mobile outreach

all the service providers and authorities involved in the case, so that the woman and her children obtain the safety and support they need. Making contact with the perpetrator is con-

Supporting women through criminal proceedings has proved highly effective for the outcome of such proceedings. For example, court proceedings can be extremely strenuous for victims of rape and many victims choose not to testify out of fear for their own safety, public humiliation or re-victimisation. Recent research in the United Kingdom and the Netherlands shows that advocacy is an essential and effective means of sup-

acknowledging the mechanisms of violent behaviour women learn how better to resist violence and protect themselves.<sup>147</sup>

Trauma care and psychological support for victims should therefore be extended to deal with the long-term consequences of violence, even years after the first incidents occurred.

help them to obtain access to other support services.

Many women's NGOs have expressed concern at the limited number of intervention centres, as they play an important role as central referral agencies for other services.<sup>148</sup> It is therefore recommended that more attention be paid to this type of service provision.

services, which attain victims in rural areas, are considered an integral part of the service set-up for women victims and should therefore be set up in every region. A similar approach could be adopted in the health system, where the first contact is often made with victims of violence when they seek medical treatment for some other reason.

sidered an important component of this model, to ensure safety and protection, as are providing protection for the children and responding to their need for safety and support.

porting women victims of domestic violence in pursuing criminal justice and helping to prevent attrition. Women who receive support from specialised advocacy services are more likely to give evidence and are more satisfied with the legal proceedings. Adequate support in criminal court proceedings can also prevent secondary trauma.<sup>150</sup>

As violence causes severe devastation in all aspects of women's lives for

146.Supra note 16. Table 5.2.

147.Away from violence, supra note 127.

148.Supra note 129. p. 42.

149.Supra note 8. pp. 26-27.

150.Supra note 1. p. 22.

years and can cause serious trauma, women may seek general or specialist information from various service providers, such as those providing financial support or doing social work and children's services, as well as education and training authorities.

Advocacy services play an important role in helping women to come in contact with relevant agencies and services, which provide support as they claim their rights.<sup>151</sup>

To ensure that women are not prevented from seeking criminal justice

or effective legal counselling, legal aid should be widely available to women victims of violence. Legal aid is best provided in a co-ordinated way – there should be one agency responsible for all legal matters related to violence against women.

In the United Kingdom, independent Domestic Violence Advisors have been appointed to assist the victim in criminal proceedings and facilitate contacts with the authorities and various support services.<sup>a</sup>

a. See *Domestic violence – a national report*, March 2005, Section 16, Home Office, United Kingdom.

### Services for children

Exposure to violence has a severe impact on children. It breeds fear, causes trauma and adversely affects their development. In cases of domestic violence, the perpetrator, who is usually the father or stepfather, is often known to be violent towards the children in the household as well as, a result of the same abusive pattern that characterises his behaviour towards his partner. Children may be threatened and hurt by the perpetrator, for example when he tries to exert pressure on the woman who has left him. Furthermore, violence usually continues after separation and is often reported during visits by the father.<sup>152</sup>

Although violence is known to be detrimental to children, little attention has been paid to its impact on a parent's ability to protect and care for the children. As a result, there have been few developments in Europe with regard to specific intervention strategies for children who witness domestic violence.<sup>153</sup>

*Recommendation Rec (2002) 5* urges member states to “take steps to ensure the necessary psychological and moral support for children who

are victims of violence by setting up appropriate facilities and providing trained staff to treat the child from initial contact to recovery”, adding that “these services should be provided free of charge”.<sup>154</sup> 37 out of 40 Council of Europe member states report doing so.<sup>155</sup> However, these results are in contrast with results obtained through research in selected countries, which revealed that child protection services have no authority to act unless the child himself or herself is being recognisably abused or shows symptoms of possible abuse. There results of the monitoring of implementation of *Recommendation Rec (2002) 5* therefore point to the existence of child protection services in general, but do not bear out the existence of specialised services for children who witness domestic violence. In view of these limitations, the results reflect a low level of awareness of what is needed to protect children from harm in situations of domestic violence.<sup>156</sup>

As children's health and well-being are affected by their being a witness to and/or victim of violence, it is very important that they receive help

and counselling to cope with their traumatic experiences. On the basis of the body of expertise and knowledge built up by women's services, support for mothers (usually in their capacity as non-abusive carers) is considered the most effective child protection strategy in cases of domestic violence.<sup>157</sup> The victimisation of children and their right to support have been recognised by women's shelters and they usually provide safe accommodation and support for the children of abused women. The WAVE standards for shelters recommend that every women's shelter should have at least two child care workers offering support to children.<sup>158</sup>

Given the close relationship between a mother and her children, any support offered should be empowering for both and should strengthen their relationship, since the mother is often the only person the children can rely on. Furthermore, it is important to recognise that women and children are often victimised together and that they therefore both need advocacy and support in legal proceedings.

151. Idem; Kelly, L., and Humphreys, C., *Supporting women and children in their communities: outreach and advocacy approaches to domestic violence*, in: Taylor-Browne, J., (ed.), *What works in reducing domestic violence? A comprehensive guide for professionals*, Whiting & Birch Ltd, London, 2001, p. 239.

152. Hester, M., Pearson, C. and Harwin, N., *Making an Impact: Children and Domestic Violence. A Reader*, Bristol, 2000; and Hester, M., *Children, abuse and parental contact in Denmark*, in: Eriksson, M. et al: *Tackling Men's Violence in Families. Nordic issues and dilemmas*, The Policy Press, Bristol, 2005, pp. 13-30.

153. Hester, M., *Approaches to effective intervention by the specialised service sector*, Keynote speech delivered at the Council of Europe Regional Seminar on Protection and specialised support by the police, health care professionals and social workers for victims of domestic violence, Skopje, 11-12 September 2007.

154. *Recommendation Rec (2002) 5*, Appendix, paragraph 32.

155. *Supra* note 8. Table 10.

156. *Supra* note 1. p. 18, footnote 32, p. 68 and *supra* note 8. p. 18.

157. Hester, *supra* note 153.

158. *Away from violence*, *supra* note 127. p. 46.

Sweden's Action Plan refers to the United Nations Convention on the Rights of the Child to highlight the fact that children who "only" witness violence against adults close to them are also entitled to protection.<sup>a</sup>

a. Supra note 8. p. 8.

### 3.2.2.3. The role of general services in preventing violence against women

While the establishment of a specialised service sector is essential in the organisation of support and protection for women victims of violence, the important role of the authorities in reaching the victims

and addressing their needs should not be neglected. When official help is sought, it is most frequently sought from health and social services. Since women turn to these general services for help, it is of utmost importance

that the capacity of the agencies concerned and staff training be improved in all sectors of public and private service provision.

#### Health services

As the victims turn to medical professionals for treatment for their physical injuries and any other health-related matter, health professionals are usually among the first service providers to come in contact with victims of domestic violence. For this reason, health professionals such as nurses and doctors are well placed to identify high-risk profiles for domestic violence and prevent violence at an early stage. This potential is not always exploited by the health services because of a lack of awareness, poor professional skills in dealing with such problems, a lack of knowledge about referral agencies or a lack of services to which patients can be referred. According to the most recent round of monitoring of implementation of *Recommendation Rec (2002) 5*, only 7 out of 40 member

states systematically collect medical data on contacts between victims with health care services.

At international level, the World Health Organization (WHO) has issued guidelines for medical personnel to help them identify and prevent sexual assault and domestic violence and to raise awareness of violence against women among health care professionals.

Among the Council of Europe member states, there are no examples of comprehensive national approaches to preventing and identifying cases of domestic violence within the health sector. However, directly asking women about domestic violence is found to be a beneficial practice in a number of sectors, including health care. The very fact of asking questions about domestic

violence conveys the important message to women and children that practitioners are aware of its existence and relevance. This may facilitate disclosure by women trying to seek help. It may enable women who do not see themselves as being in a domestically abusive relationship or who are ignoring the abuse to reveal their experiences for the first time, and thus allow intervention, sometimes even at an early stage.

Routine inquiries about any experience of violence are increasingly recommended, in particular in primary health care and maternity clinics. Training of staff working in emergency units in hospitals is also seen as a good practice in identifying violence against women at an early stage.<sup>159</sup>

- Finland has carried out a project to screen for domestic violence in maternity and child health care clinics: pregnant women and women with small children were asked routine questions about intimate partner violence.<sup>a</sup>
- In Slovenia, guidelines for treating domestic violence in the health sector have been issued and nurses and midwives receive regular training in family violence.<sup>b</sup>

a. Supra note 8. p.22.

b. Ibidem.

Increased attention must be paid to the importance of close co-operation between health professionals, women's support services and other agencies. Clear protocols and guidelines as well as comprehensive training are needed in all health agencies. Adopting joint procedures for co-operation between health services and the police and setting up sys-

tems for recording medical data concerning the victims is of particular importance. As victims might be reluctant to report the incident to the police immediately, it is important that the medical records can be used as evidence in court should legal protection be sought at a later date.

The traditional health care approach is to treat injuries but not

their causes, and insufficient legal authority to intervene to address the patient's situation remains the major obstacle to preventing further violence at a fairly early stage. Furthermore, securing confidentiality and the protection of patient data present additional challenges when it comes to finding appropriate means of pre-

159.Hester, supra note 153.

venting and combating domestic violence within the health services.

### *Social services*

It is usually the social services that are responsible for the safety and well-being of the child and they take measures to guarantee the child's rights in those respects. If a child is exposed to violence in the family, the social services have the power to remove the child from the violent home. In cases of domestic violence against women, the measures taken by the social services to uphold the rights of the child may result in conflicting interests. The fact of supporting fathers' access rights may jeopardise the abused mother's right to safety.<sup>160</sup> Co-operation between the social services and women's services must therefore be co-ordinated to

dispel contradictions between the law and professional practice in relation to domestic violence, child protection and access/contact.<sup>161</sup> Giving priority to children's safety and well-being over the right of parents to see their children should be standard practice. Similarly, children should never be forced to have contact with a father who exposed them to violence.<sup>162</sup>

As social services deal mainly with services related to child welfare, it is essential that the capacity of social services and child welfare agencies be strengthened to deal with cases of violence against women in a holistic way, focusing on the safety and empowerment of both women and

children at all times.<sup>163</sup> To this end, guidelines and protocols should be adopted by the social services, and staff should receive comprehensive training in the issue of violence against women and its impact on children. The social services are not, however, in a position to provide independent advocacy to women victims of violence and should not therefore be given the role of providing support to victims after police intervention. This task should be fulfilled by independent agencies and specialised services for women run by women's NGOs.

### *Measures to guarantee economic and social rights*

Apart from the basic services outlined above, women are likely to need a wide range of long-term services and economic and social support as they strive to rebuild their lives. As sexual abuse and domestic violence may require the victim to be off work, give up her job or move out of her

home in order to protect herself and her children from the perpetrator, they expose women to an enormous financial risk.<sup>164</sup> Attention should therefore also be paid to services facilitating long-term re-integration in society, such as financial assistance, housing, assistance with find-

ing employment and education opportunities. Escaping violence is a process, not an event, and as such takes time. It is not therefore possible to predict on first contact what services any individual woman will need or for how long.<sup>165</sup>

### *Affordable housing*

Housing constitutes an important element in the provision of long-term services for victims of violence. It is of vital importance when considering the safety of victims of domestic violence. For most, leaving their home is usually the last resort. As discussed earlier in this report, various civil and legal remedies are available as a means of barring the perpetrator from the shared home and its immediate surroundings. However, women victims of violence may not always be able to stay in their homes, for safety or other reasons, such as unaffordable rents or difficulties stemming from the fact that close relatives

of the perpetrators live in the same house or nearby. The housing needs of victims of violence have not been a central feature of research into service provision, although violence results in homelessness in a number of cases. A United Kingdom study reports that 16-18% of households accepted as homeless have lost their accommodation because of the breakdown of a violent relationship.<sup>166</sup> Finding accommodation may be especially difficult for poor and single women, who have often been prevented from building up or accessing financial resources.

Many countries still have few safe shelters, and the lack of affordable permanent housing presents another challenge when it comes to ensuring the safety of women victims. If women victims manage to obtain a place in a women's shelter, the lack of housing may prevent them from leaving the shelter. The situation seems to be especially alarming in Central and Eastern Europe, where the privatisation of housing has led to dramatic price increases. The lack of suitable housing is therefore one of the main factors discouraging women from seeking a divorce from the person abusing them.<sup>167</sup> The provi-

160. Hester, *supra* note 153.

161. *Idem*.

162. The United Nations *Convention on the Rights of the Child* (1989) guarantees protection from violence for all children. The Convention also states that children have the right to have contact with both parents. This includes the right to refuse contact.

163. Clemensen, M. and Theil Nielsen, R. (eds.), *The Danish National Observatory on violence – team effort working to eliminate men's violence against women*, published by the Women's Council, Denmark, p.26.

164. Women victims of domestic violence may also be financially abused, e.g. not allowed to work, rendered totally dependent on the perpetrator for assistance and made responsible for all household liabilities and loans and may, as a result, face considerable debt after leaving a violent relationship.

165. Regan, L., *Responding to victims*, paper presented at the Council of Europe Regional seminar on Support and protection for victims of domestic violence: services needed, Espoo, Finland, 8-9 October 2007.

166. Levison, D., and Harwin, N., *Accommodation provision*, in: Taylor-Browne, J., (ed.), *What works in reducing domestic violence? A comprehensive guide for professionals*, Whiting & Birch Ltd, London, 2001, pp. 151-152.

sion of affordable permanent housing is therefore a key means of fulfilling the obligation to assure women of

their social rights and their right to protection.

- Sonas Housing in Ireland has developed a unique model of transitional and permanent housing. Women and their children who have left their own homes because of an abusive relationship may be provided with housing for a period of up to two years. Sonas has approximately 50 housing units in the Dublin area and also supports the provision of transitional housing in rural areas, in partnership with the local frontline services responding to domestic violence.<sup>a</sup>
- The Supporting People programme in England offers vulnerable people the opportunity to improve their quality of life by providing a stable environment which makes for greater independence. It delivers high-quality and strategically planned housing-related services which are cost-effective and reliable, and complement existing care services. The planning and development of services is needs-led. Every housing authority is required to formulate a strategy in its district to prevent homelessness and provide accommodation and support to vulnerable people.<sup>b</sup>
- For decades, the city of Vienna has invested in affordable social housing and resisted privatisation. Women victims of violence and members of other vulnerable groups in danger of homelessness can apply for a flat through a special department in the housing unit. The application does not involve much paperwork and is handled speedily: women may be allocated a flat within a month. For several years now, immigrants have also, under certain circumstances, been entitled to social housing when in danger of homelessness.<sup>c</sup>

a. See [www.sonashousing.ie](http://www.sonashousing.ie).

b. See <http://www.spkweb.org.uk/>.

c. See [www.wohnen.fsw.at](http://www.wohnen.fsw.at).

### *Perpetrator programmes for men*

Perpetrator programmes for men are another type of service developed during the last ten years to enhance the safety of women and children and to prevent the perpetrator from resorting to violence. To ensure that

these programmes give priority to the needs and safety of victims, close co-operation with women's support services is considered a primary requirement. Whilst programme participants have a right to privacy, women

should be guaranteed access to information about the programme's protocols, the man's attendance rate, his progress and the prospects of change.

### *A co-ordinated community response*

Long-term efforts to prevent violence against women have led to the conclusion that no single agency or authority can successfully tackle violence against women alone. If violence against women is to be effectively prevented and the victims provided with the necessary protection and support, a co-ordinated community approach is needed. Since the early 1990s, multi-agency approaches, based on co-operation among different state agencies, service providers and NGOs, have been developed in a number of countries. These may be defined as targeted joint ventures that involve all relevant official and voluntary agencies from which women seek help and seek to develop co-ordinated policies and practices.<sup>167</sup>

The main aim of multi-agency co-operation is to enable women to receive co-ordinated assistance in claiming their rights, provide them with easy access to the services they need and facilitate contact with the authorities. This approach requires that the needs of the victims be placed at the centre of multi-agency co-operation, which, in turn, means that victims must be regularly consulted and invited to participate in evaluation schemes.

As the co-ordinated multi-agency approach has proved to be the only effective approach to preventing violence and protecting victims, it is now considered good practice in service provision across Europe. However, even though many Council of Europe member states report adopting co-operation models at regional

and municipal level, efficient implementation and comprehensive evaluation of such models are still largely lacking.

On a practical level, the idea behind multi-agency co-operation is that, by bringing agencies together, it is possible to overcome differences in approaches and working methods between them and develop joint partnerships, policies and practices, so as to provide the user with improved services. Despite these intentions, however, multi-agency collaboration is a complex task fraught with potential difficulties.<sup>169</sup> A lack of comprehensive action plans to combat violence against women and clear guidelines and protocols for co-operation among different service providers and a failure to collect data and train professionals have been

167. Supra note 8. p. 28.

168. Supra note 1. p. 24.

169. Hague, G., *Multi-agency initiatives*, in: Taylor-Browne, J., (ed.), *What works in reducing domestic violence? A comprehensive guide for professionals*, Whiting & Birch Ltd, London, 2001, pp. 279-280.

reported by various service providers and NGOs as the remaining challenges to an effective multi-agency approach. Whereas urban areas are better equipped with co-ordinated support for victims, rural areas are still struggling to provide quality services and therefore lack the basis for multi-agency work. Operational multi-agency co-operation fora are a highly cost-effective means of increasing the effectiveness of pro-

tection and identifying gaps and shortcomings locally, where they can be addressed quickly.<sup>170</sup>

There is evidence that the most successful examples of co-operation rely heavily on good personal relations between the staff of public authorities, service providers and NGOs. Consequently, multi-agency co-operation requires sound commitment and networking skills on the part of all professional groups dealing

with violence against women. The lack of authorisation to exchange information and to co-operate with other professionals and authorities needs to be adequately addressed. It is therefore highly recommended that a legal basis or procedures and regulations be introduced to enable institutions to co-operate across professional fields.

#### ***Domestic Violence MARACs – Multi-Agency Risk Assessment Conferences for very-high-risk victims***

MARACs were introduced as a means of establishing an effective multi-agency network to protect high-risk women victims of violence. The network consists of various authorities and service providers responsible for preventing domestic violence and helping victims, such as the police, the probation service, the local authority, the health and housing authorities, shelters and support services for women victims. The network meets regularly (once a month) to exchange information and take action to prevent harm to high-risk victims and their children. At the first meeting, the circumstances of individual victims are discussed and plans are drawn up to enhance their safety. In many cases, the first meeting reveals discrepancies in the information held by different agencies. While on the one hand the women's services may have identified a woman at high risk of domestic violence, the probation service might be unaware that her partner is a serious domestic abuser. These conferences provide an important forum that serves to identify and fill gaps in information. MARACs have proved effective in improving co-operation across agencies, contributing to victims' safety and raising awareness of the impact of domestic violence on children. On the basis of the number of police call-outs for domestic violence, it emerged that the majority of victims had not suffered violence after a MARAC had taken place.<sup>a</sup>

a. See <http://www.caada.org.uk/>.

#### ***3.2.2.4. The role of the police in protecting victims and preventing violence***

In many Council of Europe member states, the police have taken an active role in combating and preventing violence against women. Quick and appropriate responses to emergency calls and other effective management measures such as the establishment of special units are a key element in good policing. Interviewing the victim and the perpetrator separately, guaranteeing the right of a female victim to be interviewed by a specially trained female officer, especially in cases of sexual violence, and referring all victims to specialised support services are important and should be standard police procedure. Having one specially trained female officer assigned to the victim

helps to establish a relationship of trust and avoids the secondary trauma of having to repeat the story to different police officers.

Many cases of violence against women are widely under-reported. The police can play an extremely important role in encouraging women victims of violence to report it. It is essential that the police take cases of violence against women seriously: failure to do so directly affects the number of cases referred to prosecutors and contributes to under-reporting. A number of countries have therefore made it a priority to increase the number of first reports of domestic violence against women

and decrease the number of second reports.<sup>171</sup>

It is crucial to win the trust of the victim and carry out a thorough investigation. Evidence-gathering is especially important shortly after the criminal act, and the police talk of the "golden hour": evidence collected during this period will directly affect whether a case is prosecuted.<sup>172</sup> It is also important that the police collect photographic evidence, particularly as the victim may decide not to be a witness, or may change her mind about giving evidence.

Every police force should actively engage in multi-agency co-operation work and devise protocols and regulations on information-sharing.

#### ***3.2.2.5. Council of Europe monitoring framework for Recommendation Rec (2002) 5 on the protection of women against violence – results and assessments regarding support services***

Monitoring of the implementation of Recommendation Rec (2002) 5 on the protection of women against violence

shows that more and more Council of Europe member states have introduced specialised services to protect

and support women victims of gender-based violence, such as shelters, 24-hour rape crisis centres, serv-

170. Supra note 1. p. 24.

171. Supra note 8. p. 21.

172. Ibidem.



ices for children and perpetrator programmes. However, not much progress has been made in the area of general services despite significant gaps in provision everywhere. In fact, in some countries the provision of services to women victims of violence seems to be stagnating.

The countries with the lowest provision levels have improved some of their services, and three-quarters of the member states claim to provide such facilities as round-the-clock shelters. It is difficult, however, to carry out a more general assessment of progress in terms of shelters in member states, as a strikingly large number of countries are unable to provide information about the number of shelters or the number of places in them. A number of countries provide no figures at all or give a vague estimate, stating that either the number of shelters or the number of places is unknown. Steps therefore

need to be taken to improve the collection of accurate data in this field.

Interpreting the information about the number of shelters and places in shelters poses a challenge as no general standard has been adopted as to whether the number of places in shelters refers to the number of family places (i.e. including children) or the number of persons (with places for mothers and children counted separately). In general, not much progress has been made with setting up more shelters, with a sufficiently wide geographical distribution, and currently only half of the member states say they conform to this standard.

As regards services for victims of sexual assault and rape, a slight increase can be detected. There has been more improvement since the last round of monitoring with regard to accessibility and making these services free of charge. Yet there is a

noticeable lack of immediate medical care, forensic services and also documentation. Furthermore, it is alarming that more than half of the responding member states do not provide any services for victims of sexual violence.

As regards outreach strategies and support for children, few countries provide help specifically targeting children who witness violence against their mothers. Many countries assume that the existence of statutory child protection services is a sufficient response to the need for specialised services for children who have witnessed domestic violence.

As regards perpetrator programmes, only one more country can be added to the list of member states that run such programmes. In total, fewer than half of Council of Europe member states offer such programmes, and they are often small-scale or isolated.

### 3.2.3. Data collection and research

#### 3.2.3.1. Data collection and research as a prerequisite for policy design and political decision-making

The importance of data for devising, implementing and monitoring policies to prevent and combat violence against women is increasingly being recognised by governments, international organisations, non-governmental organisations and researchers. To be effective, political decisions, intervention strategies/policies and evaluation must be supported by comprehensive knowledge and data based on social science research.

Along with research, population-based data collected through surveys is vital for evaluating the prevalence and incidence of violence against women at national and international level. Furthermore, reliable data on violence against women, combined with qualitative research and analysis, can help to improve prevention and intervention policies and practices. Reliable data and statistics form the basis for estimates of the preva-

lence and risk of violence against women and can also help in the design of effective policies for combating violence against women.

Service-based administrative data compiled by government agencies and institutions, on the other hand, may show how the police, the judiciary, the social welfare system and the health care services are assisting victims of violence. It is therefore essential to collect such data in order to monitor the implementation and effectiveness of laws, policies and goals set out in national action plans.

Statistical information is also important in any effort to raise public awareness of violence against women and to encourage the reporting of such violence.<sup>173</sup> At the same time, indicators for violence against women enhance the capacity to evaluate policies by making it possible to provide concrete data on the result-

ing increase or decrease in levels of violence.<sup>174</sup>

In recent years, initial steps have been taken to improve survey methods, develop common indicators and address the challenges of comparing data over time and across different countries and regions.

One attempt to harmonise the type of information available to inform policies and political decisions has involved the development of a uniform set of international indicators by various intergovernmental but also non-governmental international organisations. The Council of Europe, for example, devised a monitoring framework based on indicators as a follow-up to the *Recommendation Rec (2002) 5 on the protection of women against violence*. The monitoring instrument comprises 20 indicators measuring the implementation of different legal and policy measures called for in the recommendation.

173. Walby, S., and Myhill, A., *Assessing and Managing Risks*, in: Taylor-Browne, J., (ed.), *What works in reducing domestic violence? A comprehensive guide for professionals*, Whiting & Birch Ltd, London, 2001, p. 308.

174. *Violence against women: a statistical overview, challenges and gaps in data collection and methodology and approaches for overcoming them*, Report of the Expert Group meeting organised by the United Nations Division for the Advancement of Women in collaboration with the Economic Commission for Europe (ECE) and the World Health Organization (WHO), Geneva, Switzerland, 11-14 April, 2005. See also the *Report of the Expert Group meeting on indicators to measure violence against women*, organised by the United Nations Division for the Advancement of Women in collaboration with the Economic Commission for Europe (ECE) and the United Nations Statistical Division, Geneva, Switzerland, 8-10 October, 2007.

Monitoring takes place every two years: the first round was completed early in 2006 and the second in 2008. The results are analysed in studies that assess the overall implementation of *Recommendation Rec (2002) 5*.<sup>175</sup> This type of monitoring through indicators makes it possible, through comparable quantitative data, to track, over time, developments in national responses to violence against women, such as the numbers of protection orders issued.

Within the framework of the United Nations, the *Special Rapporteur on Violence against Women, its Causes and Consequences* has, on request,<sup>176</sup> made proposals for indicators for violence against women and

for national measures taken to eliminate it.<sup>177</sup> These form a limited set of indicators that allow for comparisons between countries to assess both the prevalence of violence against women and government responses designed to protect and support women victims of gender-based violence. They therefore cover two different areas: there are indicators to measure violence against women and indicators for government responses to violence against women (levels of ratification, access to justice, protection of victims, prevention, training etc.).

With a view to enhancing efforts to prevent and combat violence against women, including domestic violence,

some Council of Europe member states have also taken steps to ensure data collection and research. Data on the nature, prevalence and incidence of various types of violence against women are still widely lacking, however. The lack of agreed indicators for measuring the prevalence of all forms of violence and evaluating existing policies is still a major concern and an obstacle to effective policy-making.<sup>178</sup> New impetus is therefore needed to improve data collection and research as major tools for combating violence against women.

### 3.2.3.2. Definitions and operational concepts

While there have been many data-collection initiatives across member states, not all operate with the same definition and concepts of violence against women. This presents serious obstacles to research and the collection of rigorous and comparable data

in this area.<sup>179</sup> Consequently, it is important to base the collection of data and any ensuing research on widely-accepted concepts and definitions to ensure that indicators and categories used to collect data are informed by agreed sociological con-

cepts. This is particularly important for concepts of violence, violence against women, domestic violence, crime, differences based on sex and differences based on gender.

### 3.2.3.3. Types of data collection

Four types of data can be generated and collected in order to study and efficiently combat violence

against women: data based on surveys (population-based data), data from the national statistics agency,

administrative data and qualitative data.

#### i. Population-based data: national and local surveys

Over the last decade, two major approaches to the collection of population-based data on violence against women have emerged. One is that of a dedicated study, i.e. a study designed for the purpose of gathering detailed information about the extent of the different forms of violence against women. Another approach is to embed questions about violence against women in an ongoing large-

scale study that is designed to generate information about a different or wider subject, such as women's health. A hybrid approach is to add a special module on violence against women to a general survey.

So-called household surveys or population surveys obtain information from randomly selected samples, from which survey results may be generalised to the overall population

from which the sample was selected. Population-based surveys, in which respondents are questioned about acts of violence they have experienced, are designed to assess the actual percentage of women victims of violence in society.

There are various ways of conducting population-based surveys. Some countries have generated information through national crime surveys.

175. Supra note 1. note 8. and note 33.

176. United Nations Commission on Human Rights Resolution on violence against women, 2004/46, para 25. In support of such a move, the United Nations General Assembly requested the United Nations Statistical Commission to propose possible indicators for assessing the scope, prevalence and incidence of violence against women, building on the work of the Special Rapporteur, see UN GA Resolution 61/143 of 19 December 2006.

177. Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms Yakin Ertürk, "Indicators on violence against women and State response", A/HRC/7/6, 29 January 2008.

178. Supra note 173.

179. The concept of violence is often linked to the criminal perspective or to institutional, organisational and social/local context considerations and is rarely approached from the victim's point of view.

The British Crime Survey measures the level of crime in England and Wales by asking respondents about crimes they have experienced in the last year, whether they were reported or not. This makes it possible to form a more realistic picture of crime as actually experienced by the general population, irrespective of the respondents' tendency to report crime. The survey includes a section with specific questions on domestic violence, which all respondents are asked to complete. Periodically, it also contains a module with detailed questions on intimate violence, including partner abuse, family abuse, sexual assault and stalking. Men and women between the ages of 16 and 59 are asked to respond.<sup>a</sup>

a. The findings of the British Crime Survey are available at <http://www.homeoffice.gov.uk/rds/pdfs/hors191.pdf> and [www.crimereduction.gov.uk](http://www.crimereduction.gov.uk).

The prevalence of violence against women can also be studied by stand-alone population-based surveys focusing specifically on certain types of violence against women.<sup>180</sup>

- The *International Violence Against Women Survey (IVAWS)*, carried out by the European Institute for Crime Prevention and Control (HEUNI), UNODC and Statistics Canada, is an international project to collect cross-cultural, comparable data on the prevalence and incidence of men's violence against women, especially domestic violence and sexual assault. It aims to measure the level of victimisation of women in a range of different countries worldwide, on a repetitive basis, to provide input for the development of a targeted criminal justice response. To allow for comparison between countries, a standard questionnaire was designed and used by all participating countries.<sup>a</sup>
- The World Health Organization *Multi-Country Study on Women's Health and Domestic Violence* is an example of a dedicated or specialised population-based survey. It seeks to measure the prevalence and characteristics of violence against women. It also assesses the extent to which such violence affects women's health. Other important objectives of the study are to identify certain risk factors and document and compare how women cope and deal with such violence, including what services they use. Framed in the context of women's health, the survey is designed to take account of the stigma attached to violence against women and what this means for disclosure. It consists of a household survey carried out through face-to-face interviews with randomly selected women aged 15-49. Interviewers are carefully trained to handle the interview sensitively, as many women have never before shared their experiences of violence.<sup>b</sup>

a. Apart from collecting much-needed data on violence against women, the project includes the preparation of national, but also comparative, reports, as well as seminars and workshops on violence against women. A final report presenting comparative findings from nine countries was published in 2007 ("*Violence against Women: An International Perspective*", by Johnson, H., Ollus, N., and Nevala, S.). For more information on the surveys, see <http://www.heuni.fi/12859.htm>.

b. A comparative analysis of the results of the study in ten different countries is available in "WHO Multi-country Study on Women's Health and Domestic Violence against Women, Initial results on prevalence, health outcomes and women's responses", World Health Organization ([http://www.who.int/gender/violence/who\\_multicountry\\_study/en/](http://www.who.int/gender/violence/who_multicountry_study/en/)). The report also includes important recommendations on strengthening action to combat violence against women.

Data on violence against women can also be generated by conducting national surveys of health, well-being or quality of life, which can also include questions on gender-based violence. Within Council of Europe member states, several large-scale surveys to measure the extent of violence against women have been carried out: at least sixteen surveys are currently available.<sup>181</sup>

The data needed to understand and address violence against women can also be collected through specific research focused on exploring other dimensions of the phenomenon, such as the cost of violence against women.<sup>182</sup>

Depending on the country, the scope of the surveys may be national or local. In general, this depends partly on economic considerations and the specific characteristics of each study. It is very important to increase co-operation between these two levels of research in order to combine a macro view of the phe-

180. See for example the Portuguese surveys "*Violence against women*", by Lourenço, N. and Lisboa, M., 1995; "*Social costs of violence against women*", by Lisboa, M., Carmo, I., Vicente, L. and Nóvoa, A., 2002; "*Gender Violence – a national survey*", by Lisboa, M. (co-ord.), in 2007, and the Spanish survey of 2006 "*Macro survey on violence against women*", by the Spanish Ministry of Labour and Social Affairs. Other examples of prevalence studies are two consecutive studies carried out in Finland in 1998 and 2006 ("*Faith, Hope and Battering: A survey of men's violence against women in Finland*", Tilastokeskus Statistiskentralen, Helsinki, Finland, 1998, by Heiskanen, M., and Piispa, M., and "*Violence against women in Finland*", National Research Institute for Legal Policy and the European Institute for Crime Prevention and Control (HEUNI), affiliated to the United Nations, Helsinki, Finland, 2006, by Piispa, M., Heiskanen, M., Kääräinen, J., and Siren, R). See also "*Health, well-being and personal safety of women in Germany – A representative Study of Violence against women in Germany*", 2004, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

181. Supra note 1. p. 7, See also Martínez, M., and Schröttle, M., *Report on the status of European research on the prevalence of interpersonal violence and its impact on health and human rights*, CAHRV, 2005 ([www.cahrv.uni-osnabrueck.de](http://www.cahrv.uni-osnabrueck.de)).

182. See for example "*The economic and social costs of domestic violence in Andalusia*", Institute of Women, Andalusia, Spain, 2003.

nomenon with any local or regional specificities.

## II. Administrative data

The prevalence of violence against women can also be studied with the help of administrative data, collected from statistics compiled by health care services and social welfare services, the justice system, the police and NGOs.

Within the health care system, data can be collected systematically by recording victims' contacts with hospitals, emergency departments, general practitioners or other physicians in private practice, using international classifications to identify the reasons for contacts with health care services.

Health services have the most frequent and widest contact with the population. Most women regularly

use services providing, for instance, contraceptive advice, cervical and breast screening, maternity care and care for their children. Women experiencing domestic violence use the health services more frequently still. Screening – routinely asking women about domestic violence in health settings – can therefore be an effective way of identifying the problem and collecting reliable data on victimisation, if the staff in health agencies are properly trained and clear guidelines exist on how to deal with the problem and support victims.<sup>183</sup> This kind of routine inquiry involves asking users of health care services a set of standardised questions or testing them according to a procedure applied con-

sistently across the country. If it is based on clear procedures and carried out by sensitive, well-trained staff, routine inquiry may encourage victims to seek help at an early stage. Furthermore, it can increase the level of knowledge and awareness of domestic violence among health care professionals.<sup>184</sup>

Good practices in Council of Europe member states show that data compiled by the police and the judiciary reveal important information about violence against women.<sup>185</sup> NGOs dealing with victims of violence, particularly those that work with women, also record important information.

In Spain, the *State Observatory of Violence against Women* has developed a system of indicators and variables concerning gender-based violence, on which to build its database. This is an attempt to co-ordinate the data produced by different sources, including governmental administrative records, the national surveys provided for in the National Statistics Plan and specific surveys of gender-based violence. In addition, the judiciary has set up its own *Observatory of Domestic and Gender-Based Violence*, which collects information generated by the courts. This institution also studies random court rulings to obtain information on the characteristics of gender-based violence in Spain.<sup>a</sup>

a. National Report on Action to Prevent and Combat Violence against Women, Spain, in: *Compilation of National Reports on action to prevent and combat violence against women*, Council of Europe, supra note 12.

However, service-based administrative data are a form of data that – despite the benefits of information technology – is still rarely collected. Government agencies such as the police, the judiciary, the public health services and child or social welfare services do not, for the most part, have administrative data systems that go beyond their internal recording needs. As a consequence, violence against women becomes invisible because it is difficult to track cases, even across the criminal justice system. Similarly, it is difficult to assess whether any improvements in reporting and prosecution have occurred. Furthermore, the effective-

ness of multi-agency strategies to improve intervention is undermined by the failure to provide even a minimum of feedback about overlapping procedures when other agencies take over. While it is important to take data protection issues into consideration, these should never be considered insurmountable obstacles to improving the collection of administrative data.

Reasons why the collection of administrative data on violence against women is not given priority include the lack of agreed indicators and of model data collection systems, as well as diverging definitions of violence against women.

To fill this gap, the Council of Europe has drawn up guidelines on how to collect administrative data in areas that could reveal important information on the use of government and other services by women victims of domestic violence, the response of the justice system and the level of confidence in police support. These guidelines are designed to support member states in their efforts to assess their national response to domestic violence and other forms of violence against women by seeking information about the performance of government institutions. These guidelines are set out in the study *Administrative Data Col-*

183. For example, the United Kingdom and Finland have conducted screening in different health settings. In Finland, screening for intimate partner violence has been carried out at maternity and child welfare clinics for pregnant women in their first or second trimester and mothers of infants of no more than six months of age.

184. See Taket, A., Nurse, J., Smith, K., Watson, J., Shakespeare, J., Lavis, V., Cosgrove, K., Mulley, K., and Feder, G., *Routinely asking women about domestic violence in health settings*, Education and Debate, Vol. 327, 20 September 2003.

185. The first Portuguese study findings were published in Lisboa, M., Barroso, Z., and Marteleira, J., *The social context of violence against women as identified in the Portuguese Forensic Institutes*, Portugal, 2003.

lection on Domestic Violence in Council of Europe member States,<sup>186</sup> which analyses current schemes to collect administrative data on domestic violence and offers recommendations on how to introduce new recording systems or improve existing ones. It recommends, as a first step, that any attempt to collect administrative data by agencies such as the police, the judiciary, health care services and other services (hotlines, shelters, counselling centres) should be based on instructions and clear protocols established by higher administrative authorities to ensure that individual staff members apply the same concepts and definitions.

As a second step, member states willing to set up administrative data systems need to assess the number and type of bodies that have the

potential to collect relevant data and take stock of existing initiatives to compile such information, including any differences in methodology, definitions and approach. On the basis of this assessment, it will then be possible to design a data collection system that suits the different parties concerned and allows for disaggregation by sex, type of violence, relationship of the perpetrator to the victim and age of both victim and perpetrator.

A third and important step is the training of all staff members involved in the collection of data (i.e. filling out forms or data sheets), as only data that are recorded accurately and according to standard rules and principles are useful. It is essential to make the importance of data collection processes clear to all those involved to ensure a high level of

motivation, which in turn, will lead to improved data quality.

A sound methodological approach and a high level of care in collecting, handling and using administrative data are vital if such data are to serve a purpose. Nonetheless, it is important to be aware that the number of incidents of violence against women identified with the help of administrative data reflects only a fraction of the real number of such incidents.<sup>187</sup> Administrative data should therefore never be used to assess the prevalence of violence against women. Rather, their purpose is to make it easier for the authorities and institutions, but also national and regional governments, to analyse, evaluate and devise measures to combat violence against women and to take budgetary and staffing decisions.

### III. Data generated by National Statistics Agencies

Very few countries include data about violence against women in the national statistics collected systematically every year. It seems very important, however, to analyse certain trends such as the evolution of,

and cycles and seasonal variations in, violence against women. National statistics agencies are well placed to collect such information. While it is difficult in some countries to generate data of this kind, national statis-

tics can be organised demographically, economically and socio-culturally so as to yield sex-disaggregated indicators, which can help to expand the knowledge base in this field.

### IV. Qualitative data

In addition to quantitative data on the number of incidents of violence against women and their handling by statutory agencies, it is important to study the phenomenon of violence against women with the help of qualitative data. The collection of data of this kind is particularly relevant to an understanding of the dynamics of processes that lead to violent behaviour towards women but also to the evaluation of measures to prevent violence and protect victims from a victim's perspective. The participation of victims of violence in devising and evaluating measures is an essential means of guaranteeing that measures focus on the needs of victims.<sup>188</sup> Furthermore, it is vital to study the

consequences of violence for the women who experience it. This may make it easier to design support services that reflect the women's needs. This type of research can involve texts, images or voice testimonies. In many cases, these contain independent qualitative information, while in others they can be linked to quantitative data, for example by combining the results of national surveys with in-depth interviews.<sup>189</sup>

Council of Europe *Recommendation Rec (2002) 5* spells out the principal sectors where research should be developed. Apart from recommending the collection of disaggregated data, it advocates research into the medium- and long-term conse-

quences of attacks for victims, but also for those who witness it, including family members. It also suggests looking into the causes of violence against women, for example the reasons why men are violent but also why society condones such violence. These are fields suitable for extensive qualitative research to explore currently unknown reasons for certain forms of behaviour.

While the collection of data and research into violence against women are a key feature of efforts to eliminate it, they are not ends in themselves but should foster the development of appropriate measures for the evaluation of measures introduced.

186. *Supra* note 17.

187. In Portugal, for example, such data account for less than 13% of the annual national rate of victimisation of women.

188. As advocated in *Recommendation Rec (2002) 5*.

189. See the Portuguese study on violence against women by Lisboa, M., Carmo, I., Vicente, L., N6voa, A., Barros, P., Roque, A., Silva, S., Franco, L., and Amandio, S., *To Prevent or to Remedy*, Portugal, 2006.

### 3.2.3.4. Council of Europe monitoring framework for Recommendation Rec (2002) 5 on the protection of women against violence – results and assessments regarding data collection

The monitoring system also tracks developments in the implementation of *Recommendation Rec (2002) 5* regarding data collection in the field of violence against women, determines whether the police record the sex of the victim and that of the perpetrator and their relationship in the case of all criminal offences, whether data on contacts with health services and the reasons for violence against women are systematically collected and whether national surveys on violence against women are carried out.

The results concerning police record requirements show that some member states have begun to improve the police recording systems, to improve tracking of individual cases of violence against women, but also to obtain a clearer picture of the numbers and type of cases. However, many member states have still not introduced standardised categories in their police statistics making it possible to distinguish the sex of the perpetrator and victim and identify

the nature of their relationship. This should constitute the minimum of data to be collected by the police. Member states that have introduced these recording categories rarely combine the two, so that male violence against women in a close relationship may still go undetected.

Few member states collect relevant data in the health field. Very few countries report the systematic collection of data on contacts made with health care services that can be identified as being prompted by gender-based violence against women. An analysis of those member states that do seems to suggest that this type of data collection is easier in member states that have a system of personal identity numbers, an established practice in some northern European member states. The vast majority of member states, however, remain ill-informed about the medical help-seeking behaviour of victims of gender-based violence. Consequently, they do not have reliable

information on the basis of which to develop strategies for improvement.

More and more member states, however, do report that they seek to assess the prevalence of violence against women through national surveys. Slightly more than a third of the member states indicate that they include a question on violence against women in a regular representative national survey and/or have carried out a national representative survey of the prevalence of violence against women in the past 10-15 years. This shows that an understanding of the need to collect quantitative data to assess the scale of violence against women at national level is gaining ground. A similar understanding now needs to be fostered in respect of the collection of administrative data to make it possible to assess the functioning of the justice system and help devise long-term improvements.

### 3.2.4. Awareness-raising, education and training

Awareness-raising, education and training are essential tools in combating violence against women and in ensuring prevention, protection and the effective delivery of services. If violence against women is to be challenged and eradicated it is necessary to change attitudes and beliefs that allow violence to occur, to inform women of their rights and the services available to them and to train staff providing those services. This requires long-term, integrated awareness-raising programmes, targeted campaigns on specific issues, and informal and formal education across the curriculum as well as specialised training programmes for all relevant personnel.

International organisations have taken a clear stand by instructing governments to address violence against women through awareness-raising schemes and education. The Beijing Platform for Action sets out a series of

specific preventive measures to be taken by governments to raise awareness of violence against women as a violation of women's human rights and to sensitise girls and boys and women and men to the harmful personal and social effects of violence against women in the family.<sup>190</sup> The 2006 United Nations *"In-depth study on all forms of violence against women"* also outlines various preventive strategies for raising awareness of violence against women and mobilising the public and different communities to ensure that acts of violence against women are condemned.<sup>191</sup>

The 3rd Council of Europe Ministerial Conference held in 1993 on the theme *"Strategies for the elimination of violence against women in society: the media and other means"*, paid particular attention to measures facilitating changes in socio-cultural attitudes and the behaviour of men and women.<sup>192</sup> It also emphasised the

importance of government-run public information and awareness campaigns and of educating young people, adults and public-service personnel. *Recommendation Rec (2002) 5 on the protection of women against violence* encourages member states to organise campaigns to raise awareness of violence against women, stressing that men should be responsible for their acts and encouraging them to analyse and dismantle mechanisms of violence and to adopt different behaviour. It recommends that member states introduce or reinforce a gender perspective in human rights education programmes and reinforce sex education programmes that afford special importance to gender equality and mutual respect.

Furthermore, the *Blueprint of the Council of Europe Campaign to Combat Violence against women, including Domestic Violence*, recognised the responsibility of governments in

190. Supra note 87.

191. See section 3.1.4.

192. Supra note 37.

challenging prevailing gender stereotypes and discriminatory cultural norms, which are the root causes of violence against women.<sup>193</sup> To this

end, states should combine legal and policy reform with programmes to raise awareness and to change attitudes, prejudices and social beliefs

that foster and reinforce violence against women.

### 3.2.4.1. Public awareness-raising

Various national and international organisations, regional and local communities and individual activists have engaged in a wide variety of efforts to raise awareness of violence against women, educate women about their rights, teach men that violence against women is a human rights violation and a crime, and mobilise communities to take responsibility for ending it.<sup>194</sup>

Women's NGOs have been at the forefront of public awareness-raising through their efforts to reach out to communities and their daily work in providing shelters and other services and organising seminars and conferences on various aspects of violence

against women. To ensure awareness-raising programmes are effective, women's NGOs and women victims of violence who are willing to be involved should be included in their preparation and implementation. Adequate funding should also be provided in support of the awareness-raising activities of women's NGOs.

Awareness-raising takes place at different levels and can take a variety of forms. Awareness of the issue of violence against women can be fostered within the family as much as in formal settings such as nursery schools, schools, colleges and universities. National and local leaders can play an important role in raising

awareness by publicly speaking out against violence against women and informing the public about its gravity, including its social and economic cost to society. Introducing a national action plan to combat violence against women and setting up government bodies to address the problem raises awareness among decision-makers and policy-makers and affects the way in which the issue is dealt with on the political agenda. Governments' influence extends to all policy-making areas, in particular education, through which human rights and gender equality can successfully be promoted.<sup>195</sup>

In Turkey, the Prime Minister, the Minister of State responsible for the Family and Women and the President of Religious Affairs publicly denounced violence against women in a television spot, which was produced as part of the national awareness campaign to combat violence against women. The public statement uttered by the President of Religious Affairs (the highest religious authority in the country) condemning violence against women as a crime and a sin in Turkish society came across as a very strong message.

Challenging and eradicating discriminatory attitudes towards women and the underlying economic and political inequalities that reinforce

women's subordination is difficult. Governments must play a leading role in challenging and changing these attitudes as well as developing

laws, policies and practices to end discrimination and ensure gender equality.

### Campaigns

Successful campaigns can create a culture which both enables change to take place, and provides the momentum for change in a society that condones violence against women. Campaigns can also provide support for legislative and policy changes to prevent violence against women.

Information campaigns raise women's awareness of their right to be free from all forms of violence and provide information on the remedies and services available to them. It is

essential that such campaigns are carried out regularly, use a variety of methods and are in a number of languages to ensure that all sectors of society are reached.<sup>196</sup>

Research has shown that, in the past, such campaigns focused both on information for women and on protection aspects.<sup>197</sup> However, many campaigns appear to have been small in scale, reaching only a limited target group, and their impact is difficult to assess. Many years of experi-

ence have proved that simple media campaigns proclaiming women's rights may not have the intended impact.<sup>198</sup> The Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*, sparked a variety of national campaigns, because member states were urged to "raise awareness that violence against women is a human rights violation and encourage every citizen to challenge it".<sup>199</sup>

193. Supra note 10.

194. Fisher, H., *Building Promising Practices: campaigning, awareness-raising and capacity building to combat violence against women – a human rights approach*, expert paper prepared for the expert group meeting on "Violence against women: Good practices in combating and eliminating violence against women" organised by the United Nations Division for the Advancement of Women in collaboration with the United Nations Office on Drugs and Crime (Vienna, Austria, 17-20 May 2005).

195. Supra note 121. Final report of activities of the Council of Europe Group of specialists for combating violence against women (EG-S-VL), including a Plan of Action for combating violence against women, Council of Europe, Strasbourg, 1997.

196. See *Recommendation Rec (2002) 5*, para. 6.

197. Supra note 1. p.26.

198. Supra note 8. p.39.

199. See the Blueprint, footnote 10. For more information on the number and types of awareness-raising campaigns, see section 2.2.1.

Campaigns need to link messages about women's rights to clear indications that the state will protect them. To be effective they also need to be comprehensive, target a variety of groups and run for a significant period of time.

- The Scottish Zero Tolerance Campaign began in 1992 and ran for over five years, covering rape, sexual harassment, domestic violence and child sexual abuse. This campaign was the first project on violence against women to draw on graphic design and social marketing techniques. It consisted of a phased campaign linked to research and accompanied by work on the Three Ps, which denote the key aspects of efforts to address violence against women and children: Prevention (active prevention of crimes of violence against women and children), Provision (adequate provision of quality support services for women and children) and Protection (appropriate legal protection for women and children).<sup>a</sup>
- Amnesty International launched a six-year global campaign (Stop Violence Against Women) in 2004, to raise awareness and challenge attitudes which condone violence. Using country research, it calls on governments to improve and strengthen prevention, the protection of women and the prosecution of perpetrators. Research on violence against women has been carried out in several European countries.<sup>b</sup>
- In 2008 the UN Secretary-General launched the seven-year campaign "Unite to end violence against women" to secure political will and increase resources in order to end violence against women and girls, engage male leaders in efforts to combat such violence and mobilise men and boys. The campaign also aims to improve United Nations action to prevent and address violence against women.<sup>c</sup>

a. See [www.zerotolerance.org.uk](http://www.zerotolerance.org.uk).  
 b. See <http://www.endviolenceagainstwomen.org.uk/pages/resources.html>.  
 c. See <http://endviolence.un.org/>.

Campaigns are usually the first step in the process of changing attitudes and raising awareness. Changing behaviour permanently can take a very long time when it comes to the issue of violence against women, which is rooted in the social and ideological construct of society as a whole.<sup>200</sup> Key dates such as the United Nations International Day for the Elimination of Violence against Women (25 November), the 16 Days of Activism against Gender Violence (25 November to 10 December) and International Women's Day (8 March), but also Valentine's Day (14 February), provide important campaigning opportunities.

- Campaigning by the Southall Black Sisters in the United Kingdom resulted in the development of police guidelines on forced marriage and improvements in the response of the United Kingdom Foreign and Commonwealth Office to cases of British nationals being forced into marriage abroad.<sup>a</sup>
- The *End Violence Against Women Campaign* (EVAW) in the United Kingdom has for the last three years produced an annual report entitled *Making the Grade*, which analyses the effectiveness of every Government department in tackling violence against women. Each department is sent a set of questions and EVAW collates the results and scores each area of work out of 10.<sup>b</sup>

a. See <http://www.southallblacksisters.org.uk>.  
 b. See <http://www.endviolenceagainstwomen.org.uk/home.asp>.

Raising the awareness of men and boys and involving them in campaigns to challenge violence against women is an important preventive measure. The Council of Europe *Recommendation Rec (2002) 5* on the protection of violence against women states that men should be encouraged to condemn violence against women as part of their collective duty as members of their communities. The White Ribbon Campaign, which operates in a number of countries, is one of the most successful campaigns to involve men in campaigning on the issue of violence. It encourages them to make a personal pledge never to commit, condone or remain silent about violence against women.<sup>201</sup>

### The role of the media

The media have a massive and largely unregulated role in influencing behaviour. While they can play an important part in raising awareness and promoting gender equality and human rights, they are too often seen as perpetuating gender stereotypes and fostering discriminatory views on women.<sup>202</sup>

200. Fisher, H., supra note 194.  
 201. White Ribbon Campaign, <http://www.whiteribboncampaign.co.uk/>.  
 202. Substantial steps have been taken to use the media to campaign against violence against women, for example in Turkey, with the focus on raising men's awareness of violence against women. The television spot developed for the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*, has also been widely broadcast in 26 Council of Europe member states and on international television.



*Recommendation Rec (2002) 5* encourages member states to adopt codes of conduct and train media professionals in issues related to violence against women. The United Nations *"In-depth study on all forms of violence against women"* identifies training and sensitisation of media

personnel as a promising practice, on the grounds that it can "enhance the quality of reporting and contribute to increased awareness and understanding of the causes and consequences of violence against women among the general public".<sup>203</sup>

Few member states attempt to influence the way in which the media portray violence against women by means of legislation and alarmingly few have adopted codes of conduct covering violence against women for media professionals.<sup>204</sup>

In 2004 Turkey's largest-circulation newspaper, *Hürriyet*, launched a campaign against domestic violence. *Hürriyet's* campaign, entitled "No to Domestic Violence", provides a unique example of involving a private media institution in efforts to change attitudes and raise awareness of domestic violence in society. The newspaper's editors, reporters and journalists were trained to handle the issue sensitively in the paper's own coverage. *Hürriyet* also set up a free 24-hour helpline for victims of domestic violence. The *Hürriyet* campaign sparked close co-operation with local communities through co-operation with local authorities, opinion leaders (including imams) and women's NGOs. The campaign was later expanded into an international campaign carried out through other media outlets (such as CNN Turk) in the same group.<sup>a</sup>

- a. Turkish national broadcasting law prohibits portrayals conveying sex discrimination and also forbids "abuse on grounds of gender" and "the encouragement of violence against women". Legal provisions of this kind can enable civil society organisations to challenge films or advertisements in which women are made to seem deserving of abusive treatment, and those that put across stereotyped masculine ideals of violent behaviour.

### 3.2.4.2. Education

Education in the nature, causes and consequences of violence against women, women's human rights and

the elimination of gender stereotypes is an important preventive measure. Any education must be comprehensive and included in the formal and

informal curriculum for children and young people from an early age.

#### *Preventive work with children and young people*

##### *Informal education*

Voluntary youth groups, peer groups and other forms of extra-curricular education provide good opportunities to influence young people's behaviour. Cultural and sports associations should be encouraged to raise awareness of violence against women and challenge gender stereotypes. A lot of preventive work has been piecemeal and many projects are undertaken as pilot projects and therefore rarely incorporated and expanded into national schemes that reach out to every young person in the country.

##### *Formal education*

The formal education system in schools, colleges and universities can play an important part in raising awareness of violence against women and challenging and eliminating gender stereotypes. To be successful, education programmes need to be comprehensive, include gender-sensitive training for all school personnel, be devoid of any gender-based material conveying stereotypes or sexism and include positive images of women.<sup>205</sup>

Recourse to violence is more easily avoided if inter-generational and cul-

turally adopted patterns of violent behaviour are broken at an early stage of life. Throughout their schooling, from an early age, children should be taught about their rights and the importance of respecting the rights of others. Such education should include the fact that violence against women is unacceptable. Gender differences should be recognised but gender stereotypes should be challenged.<sup>206</sup>

UNICEF Croatia has initiated a comprehensive educational programme at the national level entitled "Safe and Enabling Schools". Within this programme, a major national campaign ("Stop Violence among Children") has been launched. The purpose of the campaign is to provide a safe environment for all children in primary and secondary schools. Violence in schools is an obstacle to new, healthy and well-educated generations. The UNICEF campaign has already been introduced into over 400 schools in Croatia.<sup>a</sup>

- a. See [www.unicef.hr/show.jsp](http://www.unicef.hr/show.jsp).

203. Secretary-General's *"In-depth study on all forms of violence against women"*, United Nations publication, 2006, para. 349. See section 3.1.4. of this report.

204. *Supra* note 8. p. 22.

205. *Supra* note 203. paras. 284 and 353.

206. Paras. 15 and 16 of the appendix to *Recommendation Rec (2002) 5* call on member states to "ensure that both boys and girls receive a basic education that avoids social and cultural patterns, prejudices and stereotyped roles for the sexes and includes training in assertiveness skills, with special attention to young people in difficulty at school; train all members of the teaching profession to integrate the concept of gender equality in their teaching" and "include specific information in school curricula on the rights of children, help-lines, institutions where they can seek help and persons they can turn to in confidence".

27 Council of Europe member states have introduced programmes in state schools to educate children in violence against women. However, many education programmes are

pilot schemes that are not available in an integrated manner across the curriculum and to all age groups. To be effective, education programmes must be part of the school curriculum

in every school. Just as core subjects are taught throughout the country, violence prevention should be taught to every young person.

Spain has developed a large amount of information material on the issue for schools and has passed a law to ensure that curricula include material on equality and conflict resolution.<sup>a</sup>

a. Article 4, Law on Integrated Protection Measures against Gender Violence, Spain.

Young people in their teens should be the primary target group of educational programmes focusing on healthy ways of forming intimate relationships. Young people in this age group should be made aware of

the unacceptability of psychological, physical and sexual abuse when dating or in intimate relationships. Results from educational programmes directed towards young people show that once they learn

about the nature of abusive behaviour, they are more likely to recognise violence in their past and current relationships and in their immediate surroundings.

### 3.2.4.3. Professional education and in-service training

It is essential that all professionals who come up against violence against women be given a basic knowledge of the phenomenon, its causes and its consequences during their basic vocational or professional training to ensure that legislation and policies on violence against women are effectively enforced.<sup>207</sup> Such training should be a compulsory part of the curriculum<sup>208</sup> and part of the examination syllabus.

Basic education and training in violence against women should be

supported by further training to foster the sensitivity and skills required to respond appropriately and effectively on the job. Ongoing training for practitioners should be ensured throughout their careers.<sup>209</sup> Training should cover all forms of violence against women and should teach skills such as how to support victims and how to deal with perpetrators. Furthermore, it should be provided by experts, including experts from women's NGOs with many years experience in this field.

Specialised training should go beyond sensitising professionals to violence against women. It should extend to equipping professionals with adequate tools for identifying cases of violence, managing such cases, assessing the risk involved, taking preventive measures and adequately supporting women victims of violence. Professionals should also be taught skills in multi-agency working, equipping them to work in co-operation with other professionals from a range of disciplines.<sup>210</sup>

- In most countries it is difficult to persuade judges to accept special training from outside their profession. By inviting magistrates to apply for the status of specialist domestic violence judge, which is conditional on their volunteering to go on a training course, the United Kingdom has found a way of ensuring the training of judges handling domestic violence cases.<sup>a</sup>
- In Spain, setting up specialised courts has also provided a “window of opportunity” for training judges and prosecutors in gender-based violence and the implications of the new law.<sup>b</sup>

a. See the Judicial Studies Board training package for magistrates: “Domestic Violence – An Ordinary Crime?”, 2003.

b. Supra note 8, pp.22-23.

It is important that training should be supported and reinforced by clear protocols and guidelines that set the standards staff are expected to follow in their respective fields.<sup>211</sup> The effectiveness of these protocols should be

regularly monitored, reviewed and, where necessary, improved.

As victims are often unaware of the specialised services available to them or hesitate to contact such services, much more needs to be done to

ensure effective gender mainstreaming in the field of general services. It is of paramount importance to ensure general service staff recognise and understand violence against women and their roles in addressing women's

207. Supra note 203, para. 280.

208. For example, Denmark has included the subject of violence against women as a compulsory part of the curriculum for medical doctors, public health authorities, decision-makers, psychologists, nurses and the police academy as well as doctors specialising in gynaecology and general medicine.

209. Supra note 1, pp.28 and 35.

210. The APROPOS Multi-sectoral and Multi-disciplinary Professional Specialization Programme and Network for Violence Prevention, for example, focuses on building a national and international network of professionals preventing and combating violence. The project aims to develop a multi-sectoral and multidisciplinary specialist programme for professional and in-service training in violence and its prevention. <http://www.wedu.oulu.fi/apropos/>.

211. Supra note 203, para. 298.

needs. There are currently significant variations in the attitudes of staff to violence against women and their understanding of it. This can affect the nature and quality of the support provided to women seeking support and assistance.<sup>212</sup>

In response to the Council of Europe recommendation that they ensure effective training of all professionals involved, a number of countries have introduced training programmes for various professions whose members are likely to engage with women victims of violence. Where this has been done, however, training may be neither mandatory nor systematic and reporting on it is often vague.<sup>213</sup> The existence of professional training may be confined to one-off events, which do not cover all the professionals concerned in all parts of the country.

Training in violence against women in general is in need of improvement in most Council of Europe member states, and training for the police has been recognised as the most urgent form of training. Member states have taken appropriate action to address this. 33 states report including violence against women in the initial vocational training of the police and 27 of them provide further training for the police.<sup>214</sup> The Council of Europe has also reacted to the inadequate police response to women victims of violence by producing the *VIP Guide on policing violence against women and children*. The guide was designed to promote awareness amongst police officers of the different forms of violence against women and children, including trafficking. It is part of the human rights training and aware-

ness-raising material produced under the 1997-2000 Council of Europe Police and Human Rights Programme.<sup>215</sup>

Whereas initial vocational training for the police is the most common form of training, immediately followed by initial vocational training for social workers, around half of the Council of Europe member states provide initial vocational training in domestic violence or other forms of violence against women for judges and lawyers.<sup>216</sup> Other professionals knowingly or unknowingly confronted with cases of violence against women, such as doctors, psychologists, nurses and midwives, but also schoolteachers and media professionals, receive initial vocational training in only about a third of Council of Europe member states.<sup>217</sup>

In Ireland, training for the health care services is provided by Women's Aid, a feminist service-based political and campaigning organisation, which has developed a special training programme for hospital staff.<sup>a</sup>

a. Towards a common European framework to monitor progress in combating violence against women, Observatory of the European Policy Action Centre on Violence against Women, European Women's Lobby, 2001 ([www.womenlobby.org](http://www.womenlobby.org)).

Member states that have recently introduced protection orders in cases of domestic violence have recognised the need to provide extensive training for serving as well as incoming

police officers in their power and duty to evict a perpetrator of domestic violence. In general, however, figures for in-service training are even lower than those for initial vocational

training, which suggests that changes in the law do not filter down immediately to those they equip with new powers.

### 3.2.4.4. Council of Europe monitoring framework for Recommendation Rec (2002) 5 on the protection of women against violence – results and assessments regarding awareness-raising, education and training

More and more countries have acknowledged the importance of awareness-raising, education and training in changing attitudes to violence against women. In particular, the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*, has sparked many important awareness-raising initiatives across Europe. As a result, the level of awareness among the general public is increasing and many member states have introduced training for professionals in an

attempt to address the problem more effectively. Training curricula for various professions, such as the police, the judiciary and health and media professionals, now include some form of training in violence against women, albeit not in all Council of Europe member states.<sup>218</sup>

The results of the two rounds of monitoring of member states' awareness-raising activities, but also the results of the Campaign, show that there has been a sharp increase in training in violence against women

for a range of professionals, predominantly members of the police force, but also social workers. In comparison with the first round of monitoring, slightly fewer member states provide specific training in violence against women for professionals (with the exception of nurses and midwives) during initial vocational training. Instead, more member states include modules on violence against women as part of in-service training programmes, which suggests a shift in approach. This seems to

212. Supra note 127. p.72.

213. Supra note 33. p. 37.

214. Supra note 33. p. 36.

215. *Vision, Innovation and professionalism in policing violence against women and children*, VIP Guide, Council of Europe, Strasbourg, 2001.

216. Supra note 33. Figure 5, p.37.

217. Ibidem.

218. The following professions are considered in the monitoring framework in the context of the provision of initial vocational training and further education: police, lawyers, judges, social workers, physicians, psychologists and therapists, nurses and midwives, school teachers, pre-school teachers and media professionals.

reflect efforts to ensure that new protocols, procedures and practices are implemented by experienced staff. It should be borne in mind, however, that initial vocational training is essential for the purposes of eliciting a sustained change in professional responses.

Nearly half of all member states report that they provide training in violence against women for legal professionals, teachers and the media. While this represents a positive devel-

opment, a closer look at the figures reveals that training initiatives do not necessarily extend to all members of the workforce. Often, training is provided either as initial vocational training or as in-service training, but rarely as both.<sup>219</sup> To ensure training of all professionals irrespective of their level of seniority, a combination of both types of training is necessary.

Progress in fostering media awareness is slow and only a handful of countries have adopted a code of con-

duct for media professionals. Between the first and the second round of monitoring this number actually decreased. This drop might be explained, however, by the tightening of criteria for codes of conduct. A more positive development can be traced in relation to efforts to set up a body serving as a media watch, as more and more member states have done this. Nonetheless, overall numbers remain low, at a quarter of Council of Europe member states.<sup>220</sup>

### 3.2.5. Conclusion and assessment of the monitoring framework used to monitor implementation of Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence*

Council of Europe member states have taken many different measures in a range of fields to prevent and combat violence against women. The past ten years have seen significant developments in laws and policies, which reflect a shift in paradigm, demonstrating that most Council of Europe member states consider violence against women a public issue warranting an effective public response. However, the extent to which this recognition translates into effective protective measures, legislation and its implementation, support services for women and the training of professionals varies considerably and is, in many member states, insufficient.

National legislation has improved in many member states. The majority of states have introduced legal measures that allow public authorities to respond to domestic violence. Some have also recognised stalking, forced marriages and female genital mutilation as forms of violence that need to be addressed through specific legal measures. However, a large number of Council of Europe member states do not treat all forms of violence against women as a criminal offence, and the rape in marriage exemption is still available in two member states. A third do not offer protection orders against abusive partners or former partners. As Section 3.2.1 shows, the effectiveness of legal measures to deal with violence against women often depends on legislative details

which in practice prevent effective implementation of a certain provision. Furthermore, existing legislation is not always adequately applied, leaving much room for improvement.

Implementation and enforcement of available legal measures remains difficult to monitor because member states do not necessarily compile data on the proportion of cases of violence against women that come to their attention, or their outcome (opening of criminal proceedings, conviction, or case dropped). It appears that much needs to be done to improve levels of reporting and conviction for all forms of violence against women.

The best way to achieve this may be to increase the availability and quality of services for women victims of gender-based violence. While many interesting pilot projects or isolated schemes have been initiated to serve women victims and their needs better, significant shortfalls in the provision of services remain in virtually all Council of Europe member states. A handful of member states offer a sufficient number of places in shelters for victims of domestic violence and half report that they provide shelters that are sufficiently widely distributed in geographical terms. This means that in most member states demand for shelter space seriously outweighs supply. Services for victims of sexual assault and rape are much less frequent. This raises doubts about the level of support women may receive. The brunt

of the burden of offering these services, often at high personal cost and commitment, lies squarely with under-resourced women's NGOs, yet their significant contribution to supporting women victims of violence goes largely unrecognised. Political will on the part of governments to introduce national or regional budget heads to ensure funding for these services would help to secure the continuous provision of quality services.

The Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*, seems to have sparked a special effort among some member states to raise awareness of violence against women. Many public awareness initiatives have been carried out by member states, but also by NGOs, at different levels. Training of professionals appears to be taking place more systematically in some member states, although most focus on in-depth training of police officers at the expense of training for other important professionals such as doctors, nurses, midwives, judges, lawyers and social workers. While awareness-raising is an important element in preventing and combating violence against women, it constitutes only one of several important measures that need to be taken to ensure a comprehensive approach. Awareness-raising activities thus need to be followed up by efforts to change the law and implement appropriate legisla-

219. Supra note 8. p. 21.

220. Supra note 8. p. 20.

tion, offer supportive and protective services and train all the professionals involved.

Efforts to collect data on the different forms of violence against women have improved, but a satisfactory level has still not yet been reached. Most member states do not systematically retrieve information on victims of violence against women that is readily available in different types of administrative records (health services, the judiciary, social welfare system etc.). The most frequently collected type of data is data available in police statistics, which reflect only a fraction of the cases in which women are abused. Member states already seem to assess the prevalence of violence against women through national surveys of such violence, but the information obtained is not easily comparable across countries because of differences in methodology.

The results of two rounds of monitoring of the implementation of *Recommendation Rec (2002) 5* show that most member states have accepted the Recommendation as a reference tool for either a comprehensive strat-

egy or numerous individual measures to combat violence against women. While the information collected thus makes it possible to some extent to gauge developments and progress over time in national efforts to prevent and combat violence against women, it does not provide insight into the quality and effectiveness of such measures. Neither does it provide information about the implementation and monitoring of new measures taken at national level. As is often the case, the introduction of governmental national action plans and changes in legislation to combat violence against women are not sufficient without effective implementation and monitoring of the results of these measures. There is a pressing need for routine statistics, which could be collected and compared as a measure of progress. At present, no member state has national data on the number of cases of domestic violence that come to the attention of the police, or any systematic process for keeping track of either referral or judicial outcomes. To this end, it would be advisable to

modify the monitoring system so it is possible to work with systematised, comparable data in order to obtain a baseline from which to measure the effectiveness of legal reforms to combat violence against women. Another problem inherent in this type of voluntary monitoring is the level of reporting. While 40 member states have participated in both rounds by submitting information in the requested format, this was only possible after many extensions of the original deadline and numerous appeals to member states. The effectiveness of such a monitoring exercise would be greatly enhanced if member states were under a legal obligation to report on progress in preventing and combating violence against women. If the Council of Europe is to go ahead and prepare a legally binding instrument to prevent and combat violence against women, the instrument should be equipped with a strong, binding monitoring mechanism that requires accurate and timely reporting.

## 4. The roles of men in the context of violence against women

### 4.1. Working with men to prevent violence against women

Men have a responsibility to actively engage in the elimination of all forms of violence against women. As male violence against women has been recognised as a human rights violation, it is the responsibility of all individuals to challenge and prevent it. Recognition of violence against women as a major structural and societal problem stemming from unequal power relations between women and men means that men should participate actively in all action to combat violence against women. Furthermore, as men form the vast majority of perpetrators of violence against women, they have special responsibility for ending male violence against women.

To combat violence against women effectively, it is important to engage all men in attempts to change the culture and the environment that allows men to resort to violence. Men

need to promote equality and challenge prevailing gender stereotypes and discriminatory cultural norms in order to prevent violence against women and its harmful impact on society. By speaking out against violence, engaging other men and encouraging them to speak out against such violence privately and publicly, they make an essential contribution. Men also have a responsibility to act as role models. Men's active engagement as fathers and caretakers is vital for the purposes of changing the attitudes of boys and young men.

The Council of Europe has carried out extensive work on the role of men in the context of domestic violence against women, mainly concentrating on men as perpetrators, but also addressing men's roles as victims and active agents of change in preventing and combating domestic violence

against women. *Recommendation Rec (2002) 5* and the *Blueprint of the Council of Europe Campaign to Combat Violence against Women, including Domestic Violence*, place a strong emphasis on the active participation of men in overcoming violence against women.<sup>221</sup> The United Nations has also acknowledged the important role of boys and men in achieving gender equality and has encouraged its agencies to encourage men and boys to take an active part in the prevention and elimination of gender-based violence and gender stereotypes.<sup>222</sup>

Over the last decade, increased attention has been paid to programmes targeting gender attitudes and norms. Promising examples of such programmes encourage boys and men in various community settings to speak out against violence against women.

The White Ribbon Campaign encourages boys and men to make a personal pledge never to commit, condone or remain silent about violence against women, by wearing a white ribbon on 25 November, the International Day for the Elimination of Violence against Women. The campaign involves action in various community settings such as schools, workplaces and sports associations and encourages men and boys to take part in preventing and raising awareness of violence against women.<sup>a</sup>

a. See <http://www.whiteribboncampaign.co.uk/>.

221. See also seminars organised by the Council of Europe: Seminar on men and violence against women, Strasbourg, 7-8 October 1999; Measures dealing with men perpetrators of domestic violence, Strasbourg, 25-26 June 2003; Therapeutic treatment of men perpetrators of violence within the family, Strasbourg, 18-19 November 2004, EG-SEM-MV (2004) Proceedings, and Violence within the family: the place and role of men, Strasbourg 6-7 December 2005, EG-SEM-MV (2005), Proceedings.

222. The United Nations Commission on the Status of Women focused in 2004 on "The role of men and boys in achieving gender equality".

Educational programmes targeting men and boys are a key element in challenging the male norm and promoting non-violent behaviour among men. Addressing young people pro-

vides a key opportunity to construct alternative definitions of masculinity and reduce gender-based violence as young men more readily adopt alternative forms of behaviour in relation-

ships. Furthermore, reaching young people in their teens means reaching them at an age when gender identities are constructed and can still be reshaped.<sup>223</sup>

“Stay in Love” is a joint community programme in the Netherlands set up for young people between the ages of 16 and 20 to increase their awareness of violent and abusive behaviour in close relationships. These programmes are carried out in different community settings such as schools, sports clubs and youth organisations. Educational and training material, such as relationship tests for young people and manuals for teachers, and theatre workshops have been developed as part of this initiative.<sup>a</sup>

a. See <http://www.stayinlove.nl>.

While some examples of practices involving men in preventing violence against women exist, data and studies on effective strategies to engage men

in combating violence against women remain scant. The sharing of information and dissemination of models of good practice in commit-

ting men to violence prevention is therefore an area which needs to be addressed in the future.

## 4.2. Towards change: perpetrator programmes

The Council of Europe *Recommendation Rec (2002) 5* on the protection of women against violence calls on member states to set up programmes to enable perpetrators of violence against women to adopt violent-free behaviour by helping them to become aware of their acts and acknowledge their responsibility. According to the latest round of monitoring of the implementation of Council of Europe *Recommendation Rec (2002) 5*, 22 out of 40 member states report that they offer specifically designed perpetrator programmes to male perpetrators of violence against women. The number of programmes varies between one and 64 per member state. Ireland, United Kingdom and Norway have the longest experience in the field, as perpetrator programmes have existed in these countries for more than 15 years.<sup>224</sup> Programmes involving work with perpetrators are therefore not yet widely established and exist only in limited numbers, if at all.<sup>225</sup> The effectiveness of the programmes is often not evaluated and there are no quality standards.

Concerns have been raised over the expectations attached to perpetra-

tor programmes as they are sometimes considered as an immediate remedy, which will prevent violence by changing men's behaviour. Experience shows, however, that concentrating efforts on the perpetrator does not automatically result in improved safety for the victim. Women's organisations have repeatedly pointed out that the needs of women and children and the allocation of resources for services for women victims should be considered a priority. While perpetrator programmes are important, they should never take precedence over the provision of services for women and children.<sup>226</sup>

Research on perpetrator programmes points to the need for further analysis of the success of programmes and their implications for the safety of victims. It appears that the majority of perpetrators who took part in the programmes were able to stop committing physical violence for a sustained period of time. However, about one-fifth repeatedly committed further violence towards their partners. This group of men is usually responsible for the most serious violence, sometimes leading to death. It is therefore of the utmost importance

to identify, at an early stage, perpetrators likely to be severely violent towards their partners.<sup>227</sup> Experience also shows that most men enter perpetrator programmes because they are ordered to do so by a court. Low levels of motivation mean that voluntary referral is rare, and usually the result of extensive pressure from the victim and contact with the social services, the police, the probation service or women's services.

Despite the challenges in this field, research on models of perpetrator group work developed in the United States and the United Kingdom has shown that perpetrator programmes can help to prevent further violence against women if the programmes are devised and implemented in a co-ordinated way.<sup>228</sup>

Perpetrator programmes can also supplement a criminal justice response, not as an alternative to sanctions, but as an additional preventive measure, as indicated in *Recommendation Rec (2002) 5*. In some countries, the introduction of perpetrator programmes has led to close cooperation between the police, the probation service and women's services. This has allowed close supervi-

223. *Exploring Dimensions of Masculinity and Violence*, Western-Balkan Gender-Based Violence Prevention Initiative, report published by the Care and International Center for Research on Women (ICRW), 2007.

224. *Supra* note 1. p.17, and note 28. pp. 72-73.

225. *Supra* note 8. p.21.

226. Women's Aid Federation of England, Response to the 2002 Criminal Justice White Paper: “Justice for all”, <http://www.womensaid.org.uk>.

227. Beckman, S., *Intervention programmes: evaluation and future challenges*, paper presented at the Council of Europe Regional Seminar on Men's Active Participation in Combating Domestic Violence, Zagreb, Croatia, 9-10 May 2007.

228. See, for example, the DULUTH model and the CHANGE programme.

sion of the perpetrator's attendance and made it possible to inform the women's services and the victims of his progress, a failure to attend and the risk of recidivism. However, in the light of the current situation in Europe, where prevalence rates for violence against women are high and conviction rates low, the number of men sentenced to perpetrator programmes by the court remains minimal. There are therefore still few court-ordered perpetrator programmes and their effect on changing men's behaviour and protecting victims is very limited.

There is wide agreement among experts from organisations running perpetrator programmes and women's services that the safety of women and children should always be the main goal of work with perpetrators. Perpetrator programmes should not be organised in isolation, but should always be run in close co-operation with specialist women's services running victim support programmes which offer pro-active support to every partner or ex-partner of those taking part in perpetrator training. Work with couples, anger management, mediation and restorative

justice are not appropriate responses to men's abusive behaviour towards women.<sup>229</sup>

Research has shown that the outcomes of perpetrator programmes are substantially influenced by how well the police, women's services, the courts and other services involved work together. In order to ensure that perpetrator programmes contribute effectively to protecting victims and preventing re-victimisation, those responsible for these programmes need to be actively involved in multi-agency work and form part of the "intervention chain".<sup>230</sup>

- In the United Kingdom, Respect – a membership association for domestic violence perpetrator programmes and associated support services – has developed accreditation standards (Respect Accreditation Standard) for Domestic Violence Prevention Programmes (DVPPs) and Integrated Support Services (ISS) working with male perpetrators of domestic violence.<sup>a</sup>
- The European DAPHNE project "Work with Perpetrators of Domestic Violence in Europe" (WWP) has developed standards for perpetrator programmes in consultation with European experts from women's services and perpetrator programmes.<sup>b</sup>

a. See <http://www.respect.uk.net/>.

b. See <http://www.work-with-perpetrators.eu/>.

### 4.3. Violence against men and the role of men in combating the culture of violence

For decades, women have been raising awareness of gender-based violence against women in society and conducting research on the prevalence, context and root causes of the phenomenon. As a result, violence against women is now recognised as a human rights violation and a serious structural and social problem in societies worldwide.

The knowledge possessed by women academics and women's movements and their work in exposing the gendered power dynamics of violence against women has also fuelled interest in the context in which this violence takes place and how it affects men in society. Violence against women has been identified as gender-based violence rooted in the wider societal and historical context. This analysis does not apply to violence against men. Unlike vio-

lence against women, violence against men is not "a manifestation of the historically unequal power relations between men and women", and has not led to domination over, and discrimination against, men by women or to the prevention of men's full advancement and enjoyment of their human rights.<sup>231</sup>

While men undoubtedly suffer violence at the hands of women, not much research has been undertaken into the extent to which men suffer from domestic violence and its impact on their lives, as prevalence studies of violence against women mainly consider women in their capacity as victims.<sup>232</sup> The few studies that specifically research the prevalence of violence against men show that, while men also suffer from domestic violence, they do so to a much lesser degree and the violence

perpetrated against them is less severe. Moreover, men rarely suffer from multiple forms of violence, discrimination and dependency in relationships that make it difficult or impossible for them to leave their violent female partner.

Whereas violence against women is perpetrated mainly by men, which makes it gender-based violence, violence against men is often perpetrated by another male member of the family. Studies of sexual violence against men occurring in the private sphere show that in many cases young boys are violated by male relatives or stepfathers.<sup>233</sup>

Similarly, as far as violence against men in public places (at work, in schools, in the army) is concerned, empirical data demonstrate that much of the violence men experience is perpetrated by other men: men

229. See Gondolf, E.W., *Batterer Intervention Systems: Issues, outcomes and recommendations*, Sage, London, 2002.

230. See Respect Accreditation Standards developed by Respect, [www.respect.uk.net](http://www.respect.uk.net).

231. See *United Nations Beijing Declaration and Platform for Action*, 1995.

232. Lenz, H.-J. and Puchert, R., *Violence within the family – men as victims*, keynote speech given at the Council of Europe Conference on Violence within the family: the place and role of men, Strasbourg 6-7 December 2005, p. 17.

233. Puchert, R., and Jungnitz, L., *Violence against Men. The Hidden Side of Patriarchy?*, in *Men and Gender Equality – Towards Progressive Policies* (eds. Varanka, J., Närhinen, A., and Siukola, R.), Conference Report, Ministry of Social Affairs and Health, Helsinki, Finland, 2006, p.146.



form the majority of offenders but also the majority of victims.<sup>234</sup> Consequently, violence suffered by men can – to a large extent – be characterised as an “inter-male issue” rather than gender-based violence.

All too often violence and violent behaviour are considered a key element of male cultures and male dominance and are exacerbated by popular culture and the media. Among

male youths and young adult men, the display of violence plays an important role in power struggles and rivalries.<sup>235</sup> Male socialisation involving violence starts at an early age. Studies on child-rearing practices indicate that violence is seen as a more acceptable means for boys to express their emotions and even affection than it is for girls.

Men do not only play an important role in preventing violence against women: they also play a fundamental part in addressing violence against men and the general culture of violence. Men need to take an active part in addressing masculinity and male invulnerability stereotypes in society and promoting non-violent behaviour among men.

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234. *Ibidem*, pp.146-148.

235. *Ibidem*, p.148.

## 5. Conclusions and recommendations

### 5.1. Introduction

Chapter II.4 of the Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005) reads as follows:

“The Council of Europe will take measures to combat violence against women, including domestic violence. It will set up a task force to evaluate progress at national level and establish instruments for quantifying developments at pan-European level with a view to drawing up proposals for action. A pan-European campaign to combat violence against women, including domestic violence, will be prepared and conducted in close cooperation with other European and national actors, including NGOs.”

The expected results of the Council of Europe *Task Force to Combat Violence against Women, including Domestic Violence*, as outlined by the Committee of Ministers in the framework of the Follow-up to the Action Plan adopted during the Third Summit of the Council of Europe, are among others to evaluate the effective functioning of the measures for preventing and combating violence against women adopted at national and international level and to make proposals for revising these measures or for adopting new measures.

One of the main responsibilities of the Task Force is to draw up proposals

for future action by the Council of Europe and its member states to prevent and combat violence against women.

Despite the positive developments in law, policies and practices, violence against women in its various forms continues to be widespread in every Council of Europe member state. The evaluation of measures to prevent and combat violence against women clearly indicates to date that they are not sufficiently effective to eradicate this scourge.

Measures to protect women and punish perpetrators have had limited effect as can be seen by the alarmingly low conviction rate of perpetrators of violence against women, particularly in comparison with other violent crimes. Services for women victims of gender-based violence remain insufficient and inconsistent and in some countries non-governmental organisations with limited resources are solely responsible for providing them without any support from the state. Very often national action plans have not addressed violence against women in a comprehensive, holistic way or been provided with sufficient financial and other resources to ensure their effective implementation. Where there are examples of “good practice” these are not always available to all women because of geo-

graphical, budgetary, language or access restrictions or because they are only being run as pilot projects.

Under international law states have a responsibility to act with due diligence to prevent acts of violence, protect women from violence and punish perpetrators and to provide remedies and redress to women who have experienced violence. All the Task Force’s recommendations are based on the importance of the recognition by member states that violence against women is a human rights violation, that it can only be tackled effectively by a comprehensive and holistic approach, and that it is supported by political will at the highest level to ensure that adequate resources are provided for long-term sustained action.

To reinforce and develop the ongoing work of the Council of Europe and its member states in preventing and combating violence against women, the Task Force prepared the recommendations set out below which are addressed to both. In accordance with the mandate of the Task Force, these recommendations focus on violence against women occurring in the family or domestic unit<sup>236</sup> and some forms of violence against women occurring within the community<sup>237</sup> such as rape and sexual abuse but not others such as harassment at work or trafficking in women

236. See the definition of “violence occurring in the family or domestic unit” contained in the Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence*.

237. See the definition of “violence occurring within the general community” also contained in the Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence*.

as such forms of violence against women are already covered in specific Council of Europe conventions.<sup>238</sup> Recommendations at international level include: the drafting of a new legally binding human rights international instrument to prevent and combat violence against women,

establishing a European Special Rapporteur on violence against women and setting up a femicide watch. Recommendations at national level are two-fold: on the one hand they call for a comprehensive approach and for adequate resources to effectively prevent and combat violence against

women, and on the other hand they call for specific measures to be adopted in the following five key areas: legislation, assistance and protection of victims, data collection, awareness raising and the role of men.

## 5.2. Recommendations at international level to prevent and combat violence against women

### 5.2.1. A European human rights convention to prevent and combat violence against women

There is a clear need for a European Convention to prevent and combat violence against women and to protect its victims. The Council of Europe has a unique opportunity to lead the process in the preparation of the first European human rights treaty to prevent and combat violence against women. In this way, the measures and standards set out in the Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence* would thus become legally binding for all states parties to the new convention.

The absence of both a universal treaty and a European treaty in this field should be highlighted. The *European Convention on Human Rights* is a general international instrument on civil and political rights but it does not provide for specific protection to women victims of gender-based violence. Indeed, at present only the Organisation of American States and the African Union have treaties in this field. The Organisation of American States was the first international organisation to adopt, in 1994, a legally binding instrument to combat all forms of violence against women,<sup>239</sup> in force since March 1995.

The fact that this is the most widely ratified convention within the inter-American system demonstrates the strong political will to set common legally binding standards in this field. The African Union, in 2003, adopted the Protocol on the Rights of Women<sup>240</sup> in Africa which explicitly calls for the protection of women from violence – in private and public life – as a form of guaranteeing the right to life, integrity and security of the person.

One of the main messages of the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence* was “to urge states to demonstrate political will to stop violence against women”. In this respect, it could be considered that the agreement among Council of Europe member states to prepare a new legally binding human rights instrument will demonstrate their strong commitment to eradicating violence against women which they already showed through the adoption of *Recommendation Rec (2002) 5 on the protection of women against violence*.

In conformity with the Council of Europe Campaign Blueprint, “Violence against women is a human

rights violation and therefore states have the responsibility to act with due diligence to prevent this type of violence, to protect its victims, to award them compensation and to prosecute and punish the perpetrators”. Consequently, it is strongly recommended that a future Council of Europe Convention to prevent and combat violence against women should be a human rights instrument containing justiciable rights in relation to the protection of the rights of victims (for example, *European Convention on Human Rights*).

Any future Council of Europe legally binding instrument to combat violence against women should be a comprehensive human rights treaty and its paramount objectives should be the prevention of gender-based violence, the protection of victims and the prosecution of the perpetrators.

The scope of such a convention, the areas to be covered and the possible monitoring mechanism of a future Council of Europe Convention in this field are detailed below.

#### *Underlying principle of a future convention*

It is important to recognise the gendered nature of the phenomenon of domestic violence and the structural causes of violence against women. Women are disproportionately

subjected to many forms of violence and they are subjected to this violence because they are women. Hence the term gender-based violence. This gender-based violence is a

human rights violation which results from an imbalance of power between women and men and is an obstacle to achieving gender equality.

238. See, for instance, 1961 *European Social Charter* and 1996 *Revised European Social Charter* and the 2005 Council of Europe *Convention on Action against Trafficking in Human Beings*.

239. *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women*, “*Convention of Belém do Pará*”, Brasil (1994). See also section 3.1.5.

240. *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*, entry into force on 25 November 2005, 21 ratifications as of 17 January 2008. See also section 3.1.6.

### Scope *ratione personae* of a future convention

In conformity with the *Recommendation Rec (2002) 5 on the protection of women against violence*, which covers gender-based violence throughout the lifetime of women, a legally binding human rights instrument in this field should comprise all forms of gender-based violence perpetrated

against women throughout their lifetime, and should therefore include girls.

Restricting its application to women who have reached the age of majority would limit the scope and effectiveness of such an instrument, as some severe forms of gender-based

violence such as female genital mutilation, forced marriages and honour killings often concern girls under the age of 18. Furthermore, girls under 18 can also suffer violence at the hands of partners before marriage.

### Scope *ratione materiae* of a future convention

Any legally binding international instrument of the Council of Europe in this field should be a human rights instrument and framed in the broader context of violence against women as gender-based violence. It is therefore vital to expand the scope of a possible convention to cover various forms of the following three types of violence against women: physical violence, sexual violence and psychological violence.

The forms of violence against women covered by such an instrument would therefore encompass, *inter alia*, forms of gender-based violence such as physical violence among partners or former partners, rape, sexual violence as well as sexual harassment, but also female genital

mutilation, forced marriages and crimes committed in the name of honour. Furthermore, any definition of violence against women should be sufficiently broad to encompass other emerging forms of violence.

Including a range of forms of violence against women is all the more justified as it follows existing international instruments. *Recommendation Rec (2002) 5 on the protection of women against violence* covers all forms of gender-based violence. Other international legally binding instruments such as the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women* ("*Convention of Belem do Para*"), and the *Protocol to the African Charter on Human and People's Rights on the*

*Rights of Women in Africa*, also extend to various forms of violence against women and are not confined to one type of violence only. In particular, the definition of violence against women on which the Protocol operates includes not only all acts causing physical, sexual and psychological harm, but also economic harm. This goes beyond the scope of violence against women included in both, *General Recommendation No.19* to the 1979 *United Nations Convention on the Elimination of All Forms of Discrimination against Women* and the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women*.

### Areas to be covered by a future convention

Council of Europe *Recommendation Rec (2002) 5 on the protection of women against violence* proposes a comprehensive strategy to prevent violence, protect its victims and punish the perpetrators.

Any legally binding human rights instrument in this field should also cover these three areas. This implies a holistic approach to preventing and combating violence against women, meaning that a future convention

should contain a comprehensive set of measures covering the three areas above.

### Monitoring mechanism of a future convention

It is generally recognised that the effectiveness of international instruments can be measured by the effectiveness of their monitoring mechanism. Therefore any future convention should be equipped with an effective and independent monitoring mechanism. Such independent human rights monitoring mechanisms are very well known in the framework of the Council of Europe and enjoy high credibility – as a result of the independence and impartiality

of their members and due to the quality of their reports and conclusions resulting from the monitoring procedure. The monitoring body of such a convention should be composed of independent and highly qualified experts capable of monitoring implementation of the obligations contained therein.

In relation to the composition and competences of such a monitoring mechanism, it would be appropriate to examine existing human rights

treaty bodies or monitoring mechanisms such as the monitoring mechanism of the Council of Europe *Convention on Action against Trafficking in Human Beings* (GRETA), the United Nations *Committee on the Elimination of Discrimination against Women* (CEDAW Committee) or the Mechanism to Follow Up on the Implementation of the *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women* (MESECVI).

### Practical modalities

To guarantee that such a wide range of diverse subject matters are adequately addressed in a future convention, the group in charge of drafting such a human rights instrument should be multidisciplinary and

include experts with different professional experience on violence against women, gender equality, human rights in general, criminal and civil law as well as experts from non-governmental organisations. There-

fore, it is proposed that a new ad hoc committee is set up with the multidisciplinary expertise mentioned above and with the participation of representatives of the European Committee on Crime Problems (CDPC), the

Steering Committee for Equality between Women and Men (CDEG), Steering Committee for Human Rights (CDDH), European Commit-

tee on Legal Co-operation (CDCJ) as well as other Steering Committees concerned (e.g. composition similar to the Ad-Hoc Committee on Action

against Trafficking in Human Beings (CAHTEH)).

### 5.2.2. Special Rapporteur on violence against women

A *Special Rapporteur on violence against women* should be established for Europe. This Special Rapporteur would work in collaboration with the Council of Europe Commissioner for Human Rights and the future monitoring mechanism of the envisaged Council of Europe convention to prevent and combat violence against women.

The mandate of this European Special Rapporteur would primarily be to place particular emphasis on the nature and specificities of violence against women in Europe. He

or she should have the competence to carry out country visits and put forward specific recommendations to the Council of Europe and its member states in order to raise visibility of the problem, enhance awareness raising both at the governmental level and within civil society, assist in the development of new jurisprudence and other measures on the basis of, *inter alia*, thematic studies and regional research.

When drawing up the mandate due note should be taken of the two existing regional mandates – Special

Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights appointed in 1994 and the Special Rapporteur on Rights of Women in Africa appointed in 1998 as well as the United Nations Special Rapporteur on violence against women, its causes and consequences, appointed in 1994. To this end, a Council of Europe analytical study should be carried out to examine existing mechanisms and propose solutions to overcome existing problems.

### 5.2.3. Violence against women watch – Femicide watch

Council of Europe member states should without any delay undertake effective measures to prevent the frequent and most blatant violations of women's human rights – murders of women by husbands, ex-husbands, intimate partners and relatives.

Member states should institute a method for collecting specific data on the number of such murders of women per year disaggregated by age, number of perpetrators disaggregated by age and sex of the perpetrators as well as the relationship

between the perpetrator and the victim or victims. Information concerning the prosecution and punishment of perpetrators should also be collected. Each case of such a murder should be carefully analysed to identify any failure of protection in view of improving and developing further preventive measures.

In the collection, analyses and publication of such data member states should co-operate with NGOs working in this field. Such data should be made publicly available at

the national level and by the Council of Europe and published during the 16 Days on Activism against Gender Violence. The Secretariat General of the Council of Europe should ensure the publication of such data.

Member states could entrust this task to the existing national structures mandated to work on violence against women or to the proposed national observatories on violence against women.

## 5.3. Recommendations at national level to prevent and combat violence against women

### 5.3.1. Need for a comprehensive approach in preventing and combating violence against women

States have an obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the state or private persons, and provide protection to victims. In order to be able to fulfil this obligation, member states need to have evidence-based, comprehensive and coordinated policies in place, including adequate resources for effective implementation, monitoring and evaluation. This policy should focus on the needs of the victims and cover all aspects relevant to the prevention

of violence and protection of victims, including service provision for victims, protective laws, awareness raising, education and training, systematic data collection and research, as well as the improvement of co-operation between the different areas and actors and the promotion of networking at the national and international level in order to reach good quality standards.

The Spanish Organic Act 1/2004 of 28 December on *Integrated Protection Measures against Gender Violence* clearly states in its Preamble the

need for a comprehensive approach in preventing and combating violence against women:

“Gender violence is approached from an integrated, multidisciplinary standpoint, starting from the processes of education and socialisation. The pursuit of equality and respect for human dignity and individual liberties must be a priority objective at all levels of socialisation. The Act introduces sensitisation and intervention measures in the education sphere. It also seeks to reinforce an image of women that respects their dignity and equality, with

particular reference to the world of advertising. Support is proffered to the victims of violence by recognising their right to information, free legal counsel and other measures of social protection and economic assistance. It thus provides an integrated legal response that encompasses both trial proceedings, with the creation of new courts, and substantive civil and criminal legislation, including specific training for the health, police and judicial personnel entrusted with obtaining evidence and enforcing the law. Sensitisation and intervention measures are likewise directed at the health sector, to optimise early detection as well as the physical and psychological care given to victims, in conjunction with other support measures. Situations of violence against women also affect minors sharing their family environment, who may suffer their consequences both directly and indirectly. The Act also addresses their protection, not only to safeguard their rights as minors but also to ensure the effectiveness of the protection measures taken for women”.

The main goal of a comprehensive and co-ordinated policy is to establish a well functioning “intervention system” or “intervention chain” focused on the needs of the victims. According to *Recommendation Rec (2002) 5 on*

*the protection of women against violence*, all relevant state institutions and non-governmental organisations should be associated with the drawing up and the implementation of necessary measures.

At the heart of any comprehensive strategy to combat violence against women there is a need for a clear definition of violence against women as gender-based violence and a human rights violation.

Legislation to protect and support women victims is a very important part of any strategy to combat violence against women. It is of utmost importance to bring the different fields of law such as criminal law, civil law, family law, and immigration law into line to ensure a comprehensive and harmonised legal approach.

A national action plan to prevent and combat violence against women is an effective way of putting a comprehensive and co-ordinated policy into practice, if it is based on a clear political commitment and accompanied by the necessary resources for its effective implementation. A governmental action plan should address all forms of gender-based violence against women. It should be comprehensive in the sense that it covers all legal and policy areas relevant for preventing violence and protecting

women and co-ordinated in the sense that all measures are attuned to each other in order to avoid gaps and contradicting interventions.

A national action plan should be a public document and it should have a clear time-frame. It should be based on a thorough analysis of the status quo and the newest knowledge from research and practice. It also needs to contain concrete goals in all areas and defined indicators to evaluate the goals, including the systematic collection and gathering of data in all relevant areas. Action plans should be approved by the government and should include an adequate and secure budget for implementation.

Each member state should set up a governmental body with a clear and strong mandate to co-ordinate, develop, implement, and internally monitor and evaluate policies on violence against women and to guarantee the implementation and revision of the action plan. All relevant state agencies and institutions on the federal, regional and local level should be a member of the governmental body, as well as experts from NGOs, especially women’s NGOs providing services to victims, and experts from academia.

### 5.3.2. Need for adequate resources to prevent and combat violence against women

Member states of the Council of Europe have an obligation to devote adequate resources to the prevention of violence against women, the protection of victims, the punishment of perpetrators and the provision of services if they are to comply with their duty of due diligence. The political, social and economic costs of not addressing violence against women are enormous and impact directly on

society. Political commitment at the highest level is essential in order to ensure that the necessary financial and other resources are allocated to protecting women from all forms of violence.

All National Action Plans should include a designated budget line, both at national, regional and local level, and member states should conduct a process of gender budgeting in

order to establish the impact of the mainstream budget on women and the extent to which policy commitments towards gender equality and eradicating violence against women are adequately resourced. This would not only allow them to measure the cost-effectiveness of their work, it would also improve reporting.

### 5.3.3. Legal measures

Legal measures are at the centre of effective strategies to combat violence against women. Current legal measures need to be improved in almost all Council of Europe member states and new measures need to be introduced to combat violence and sustain progress. States need to review and amend, where necessary,

national legislation, in order to identify and fill gaps in the protection of women from all forms of gender-based violence, including violence occurring in the family or domestic unit, derogate laws that discriminate against women and adopt laws to combat discriminatory traditional

attitudes towards women that can lead to violence.

Member states should set up a comprehensive and co-ordinated legal system to effectively prevent all forms of violence against women and to protect victims. Effective laws to protect victims and punish and deter violent acts, as well as legal provi-

sions to tackle violence and its consequences need to be available in all relevant areas, including, *inter alia*, civil law, family law, child custody and child protection law, social security and public welfare law, employment law, immigration law, housing law as well as insurance law.

Member states should ensure that different fields of law are linked in order to ensure that all legal measures taken to protect women are consistent and are not thwarted by legal measures taken in other contexts, such as visitation rights of abusive fathers, revoked custody over the children or immigration laws and administrative procedures that prevent women from leaving violent relationships due to fear of deportation or loss of legal status. Mediation or out-of-court settlements should never be applied in any cases of violence against women, in either civil or criminal law matters.<sup>241</sup>

States should criminalise any act of violence against women. Effective implementation of the existing criminal law provisions such as those of assault and rape is needed in order to ensure criminal liability for all forms of violence against women and the effective prosecution of perpetrators. These should be supported by comprehensive civil law measures to protect women from violence, and states should ensure that the rights of perpetrators do not supersede the rights of victims to life and physical integrity.

Consideration should be given to the introduction in the national criminal code of specific criminal offences for each type of violence, *ex officio*

prosecution, aggravating circumstances for gender-based violence and for recidivism. States should ensure the establishment of effective legal protection, including protection orders, for all women victims of violence, and regularly monitor and evaluate effective implementation to identify and put in place measures to increase the rate of reporting, prosecution and sanctions of perpetrators of violence against women. All legal systems should provide its authorities (police, prosecution service and the judiciary) with specific powers that enable effective criminal justice, particularly in cases of rape, sexual assault, crimes committed in the name of honour and traditional practices harmful to women.

Different kinds of protective measures have to be available in order to meet the differing needs of victims and to fulfil the obligation of the state to effectively protect victims and prevent violence. Comprehensive civil law measures such as protection orders, restraining and non-molestation orders, to protect women from all forms of violence, including stalking, should be in place. Protection orders should be easily obtainable and enforceable and their scope of application should extend to all intimate partners, whether or not they have lived together, including same sex relationships. Breaches of such protective orders should be a criminal offence subject to a prison term, not only a fine.

Additionally, protection orders issued *ex officio* such as barring and eviction orders by the police should be considered. Restraining orders

should be in place and applied *ex officio* by the criminal justice system, in order to prevent repeat victimisation.

Ensuring the safety of victims should be paramount and all states should ensure that risk assessment and safety measures are standard procedure in crime prevention to prevent violence against women, and ensure special attention is given to high risk victims who face repeated incidents of violence.

Member states should ensure the protection of the rights of victims before, during and after legal proceedings to avoid secondary victimisation. Measures to be taken to this end include, but are not limited to, the availability of free legal advice, sufficient information about their role and status in criminal proceedings, access to compensation, timely information about the outcome of proceedings and the release of the perpetrator from pre-trial detention or jail, witness protection policies and standards and all other measures that ensure the safety of and respect for the victim. To support successful prosecutions all victims should be provided with legal aid, psycho-social support and witnesses should be guaranteed protection.

Immigrant women who have been or are victims of domestic violence should be granted an independent right to residence in order to enable them to lead a life without violence.

Member states should ensure effective implementation and monitoring of all legal measures they adopted to strengthen the protection of women against gender-based violence.

### 5.3.4. Assistance and protection of victims

States should ensure that all women victims of violence have access to services facilitating long-term re-integration in society such as financial assistance, housing, and assistance in employment, education and training.

Providing a comprehensive, country-wide, adequately resourced net-

work of services that deliver swift, effective and empowering support to all women victims of violence and their children, regardless of the form of gender-based violence or the status of the women, is essential for the protection of victims of violence and forms a core part of member states' due diligence obligation.

All Council of Europe member states should introduce general standards for support services which ensure that well-funded autonomous women's NGOs are central to their development and delivery. Services need to be independent, specialised and pro-active and ensure the co-ordinated cross-sectoral provision of

241. Indeed already *Recommendation No. R(98)1 of the Committee of Ministers to member States on family mediation* states that "the mediator should pay particular regard to whether violence has occurred in the past or may occur in the future between the parties and the effect this may have on the parties' bargaining positions, and should consider whether in these circumstances the mediation process is appropriate" (see also *Recommendation No. R (99) 19 of the Committee of Ministers to member States concerning mediation in penal matters* and *Recommendation Rec (2002) 10 of the Committee of Ministers to member States on mediation in civil matters*).

support and advocacy, both crisis and long-term based on well-functioning multi-agency co-operation. Information about the availability of these support services should be made widely known on a regular basis to ensure women victims of violence know where and how to access them.

Service agencies must be able to respond and support all women victims of violence and be sensitive to their needs regardless of their cultural background, legal status or economic situation.

Health care and social service professionals should be adequately resourced and trained to deliver high quality services to assist women vic-

tims of violence and refer them to the appropriate specialised services.

States should ensure that all support services take a gender perspective, ensure the safety, security and dignity of the victims, respect and empower victims and guarantee access to all victims and respect diversity. Confidentiality should be central to all methods of working which should be based on user participation and consultation.

States should ensure that children who witness violence against women receive adequate protection and assistance.

Member states should develop minimum standards for the provision

of specialised services which includes: at least one free national helpline covering all forms of violence against women operating 24 hours a day 7 days a week delivering crisis support in all relevant languages; safe accommodation in specialised women's shelters available in every region ensuring one family place per 10 000 of population; and one rape crisis centre per 200 000 women.<sup>242</sup>

Member states should ensure quick and appropriate responses to emergency calls as they are a key element in the role of the police to prevent and combat violence against women.

### 5.3.5. Data collection

Member states should base their policies to prevent and combat violence against women on state-of-the-art research and knowledge in this field. This research should include the impact of policy and practices employed.

To this end, states should – at minimum – collect data on the following three levels: level one concerns data directly related to the victim and the perpetrator (e.g. data disaggregated by sex, age, legal status, type of violence, place where the violence has occurred, relationship of the perpetrator to the victim, educational level and professional activity of the victim and the perpetrator, etc.); level two concerns data related to the different stages of the legal procedure (for example, compile statistics on reporting incidents and conviction rates of cases of violence against women, including the number of protection

orders issued, etc.); level three concerns data related to the victim's response to the violence and the consequences of the violence.

Council of Europe member states should set up national observatories to systematically collect and analyse all types of data on violence against women, producing indicators that can support decision-making and intervention and monitor and evaluate the implementation of policies and measures. Such data can take on multiple forms, and come from different sources (police, judiciary, health services, national and regional surveys, NGOs and other organisations, and research studies).

National observatories should be set up as independent bodies. They should co-operate with relevant government and state organisations, on regional and national levels, NGOs and other organisations directly

engaged in combating violence against women, especially with NGO observatories on violence against women. They could also network with national observatories in other countries and universities and organisations with expertise in this domain. National observatories should produce annual reports as a visible output of their work.

Member states need to co-operate in order to establish standardised indicators, methods and instruments for data comparison and collection. They should also widely share and disseminate the data collected.

Member states should encourage state authorities and public officials to co-operate with non-governmental organisations and civil society in establishing strategic partnerships with a view to making reliable data available for better preventing and combating violence against women.

### 5.3.6. Raising awareness, education and training

Member states should play an active role in challenging and modifying gender discriminatory and cultural norms, prevailing gender stereotypes and social stigmatisation that legitimise and help perpetuate violence against women.

National and local community leaders and opinion formers should be encouraged to publicly acknowledge the gravity of violence against

women, condemn its perpetration and the use of custom, tradition or religion to excuse it. They should commit to take action against it. Cultural and sport associations should also be encouraged to raise awareness on violence against women and challenge gender stereotypes. The work of women's NGOs in raising awareness and running campaigns should be encouraged.

Awareness raising activities and campaigns need to both inform the public of their rights and provide women with essential information for their protection. Member states should therefore conduct campaigns in collaboration with women's NGOs, parliaments and regional authorities. The private sector and the media should be encouraged to support awareness raising initiatives by

242.Supra note 16. Table 7.1.



speaking out against violence against women.

Educational curricula in the formal sphere should include comprehensive programmes for all children from an early age and young people informing them about women's rights and challenging gender stereotypes and attitudes that lead to violence against women and include positive images of women. For young people in their teens educational programmes should focus particularly on healthy ways of forming intimate relationships. All such programmes need to include gender sensitive training for all personnel engaged in educating children and

young people, the removal of any gender-based materials based on stereotypes or sexism from the curriculum.<sup>243</sup>

The education and training of all relevant professionals should include basic knowledge on violence against women, its causes and consequences as an obligatory part of the formal curricula, including in the examination syllabus. Professionals should also be taught skills for multi-agency co-operation. Basic education needs to be supported by further specialised training to all those working directly with victims to develop the necessary knowledge, sensitivity and skills

required to respond appropriately and effectively.

Ongoing training for practitioners should be guaranteed and required throughout their professional lives. Training should be provided by experts including from women's NGOs with many years experience on the issue.

Clear protocols and guidelines for all personnel in their respective fields that lay out the standards staff are expected to follow should be provided as part of and to support and reinforce training. The effectiveness of these protocols should be regularly monitored and reviewed and where necessary improved.

### 5.3.7. The role of men

Member states should ensure that national action plans or other measures directly engage men in the process of eradicating violence against women.

Positive attitudes of boys and men of all ages towards non-violent behaviour should be encouraged to ensure they will speak out against gender-based violence and become an active agent for change.

Perpetrator programmes for men should be widely established with the

aim of increasing the safety of women and their children and preventing perpetrators from resorting to violence. Such programmes should be developed and implemented in close co-operation with women's organisations and providers of services for women victims.

Member states should review their national legal and policy measures in the field of family, employment and social benefits with a view to encouraging men to take on equal parenting

and family responsibilities and act as caring role models.

Member states should organise awareness-raising campaigns on male violence towards women targeted at men, emphasising that men are responsible for their acts of violence, that such acts are illegal and will be punished, and encouraging them to examine and challenge cultural attitudes which are used to legitimate male violence against women.

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243. Recommendation CM/Rec (2007) 13 of the Committee of Ministers to member states on gender mainstreaming in education.

# Appendix I: Recommendation Rec (2002) 5 of the Committee of Ministers on the protection of women against violence

*Adopted by the Committee of Ministers on 30 April 2002 at the 794th meeting of the Ministers' Deputies*<sup>244</sup>

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Reaffirming that violence towards women is the result of an imbalance of power between men and women and is leading to serious discrimination against the female sex, both within society and within the family;

Affirming that violence against women both violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms;

Noting that violence against women constitutes a violation of their physical, psychological and/or sexual integrity;

Noting with concern that women are often subjected to multiple discrimination on ground of their gender as well as their origin, including as victims of traditional or customary practices inconsistent with their human rights and fundamental freedoms;

Considering that violence against women runs counter to the establishment of equality and peace and constitutes a major obstacle to citizens' security and democracy in Europe;

Noting with concern the extent of violence against women in the fam-

ily, whatever form the family takes, and at all levels of society;

Considering it urgent to combat this phenomenon which affects all European societies and concerns all their members;

Recalling the Final Declaration adopted at the Second Council of Europe Summit (Strasbourg, 1997), in which the heads of state and government of the member states affirmed their determination to combat violence against women and all forms of sexual exploitation of women;

Bearing in mind the provisions of the European Convention on Human Rights (1950) and the case-law of its organs, which safeguard, *inter alia*, the right to life and the right not to be subjected to torture or to inhuman or degrading treatment or punishment, the right to liberty and security and the right to a fair trial;

Considering the European Social Charter (1961) and the revised European Social Charter (1996), in particular the provisions therein concerning equality between women and men with regard to employment, as well as the Additional Protocol to the European Social Charter providing for a system of collective complaints;

Recalling the following recom-

mendations of the Committee of Ministers to member states of the Council of Europe: Recommendation No. R (79) 17 concerning the protection of children against ill-treatment; Recommendation No. R (85) 4 on violence in the family; Recommendation No. R (85) 11 on the position of the victim within the framework of criminal law and procedure; Recommendation No. R (87) 21 on assistance to victims and the prevention of victimisation;

Recommendation No. R (90) 2 on social measures concerning violence within the family; Recommendation No. R (91) 11 concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (93) 2 on the medico-social aspects of child abuse, Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation and Recommendation Rec (2001) 16 on the protection of children against sexual exploitation;

Recalling also the Declarations and Resolutions adopted by the 3rd European Ministerial Conference on Equality between Women and Men held by the Council of Europe (Rome, 1993);

Bearing in mind the United Nations Declaration on the Elimina-

244. In conformity with Article 10.2c of the Rules of Procedure of the Ministers' Deputies, Sweden reserved its right to comply or not with paragraph 54 of this recommendation.

tion of Violence against Women (1993), the United Nations Convention on the Elimination of All Forms of Discrimination against Women (1979), the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the Platform for Action adopted at the Fourth World Conference on Women (Beijing, 1995) and the Resolution on Further actions and initiatives to implement the Beijing Declaration and Platform for Action adopted by the United Nations General Assembly (23rd extraordinary session, New York, 5-9 June 2000);

Bearing in mind the United Nations Convention on the Rights of the Child (1989), as well as its Optional Protocol on the sale of children, child prostitution and child pornography (2000);

Also bearing in mind the International Labour Organisation Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) and Recommendation (R 190) on the Worst Forms of Child Labour (1999);

Recalling the basic principles of international humanitarian law, and especially the 4th Geneva Convention relative to the protection of civilian persons in time of war (1949) and the 1st and 2nd additional Protocols thereto;

Recalling also the inclusion of gender-related crimes and sexual violence in the Statute of the International Criminal Court (Rome, 17 July 1998),

Recommends that the governments of member states:

I. Review their legislation and policies with a view to:

1. guaranteeing women the recognition, enjoyment, exercise and protection of their human rights and fundamental freedoms;
2. taking necessary measures, where appropriate, to ensure that women are able to exercise freely and effectively their economic and social rights;
3. ensuring that all measures are co-ordinated nation-wide and focused on the needs of the victims and that relevant state institutions as well as non-governmental organisations (NGOs) be associated with the elaboration and the implementation of the necessary measures, in particular those mentioned in this recommendation;
4. encouraging at all levels the work of NGOs involved in combating violence against women and establishing active co-operation with these NGOs, including appropriate logistic and financial support;

II. Recognise that states have an obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the state or private persons, and provide protection to victims;

III. Recognise that male violence against women is a major structural and societal problem, based on the unequal power relations between women and men and therefore encourage the active participation of

men in actions aiming at combating violence against women;

IV. Encourage all relevant institutions dealing with violence against women (police, medical and social professions) to draw up medium- and long-term co-ordinated action plans, which provide activities for the prevention of violence and the protection of victims;

V. Promote research, data collection and networking at national and international level;

VI. Promote the establishment of higher education programmes and research centres including at university level, dealing with equality issues, in particular with violence against women;

VII. Improve interactions between the scientific community, the NGOs in the field, political decision-makers and legislative, health, educational, social and police bodies in order to design co-ordinated actions against violence;

VIII. Adopt and implement the measures described in the appendix to this recommendation in the manner they consider the most appropriate in the light of national circumstances and preferences, and, for this purpose, consider establishing a national plan of action for combating violence against women;

IX. Inform the Council of Europe on the follow-up given at national level to the provisions of this recommendation.

## APPENDIX TO RECOMMENDATION REC (2002) 5

### Definition

1. For the purposes of this recommendation, the term "violence against women" is to be understood as any act of gender-based violence, which results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty,

whether occurring in public or private life. This includes, but is not limited to, the following:

- a. violence occurring in the family or domestic unit, including, *inter alia*, physical and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners

and cohabitants, crimes committed in the name of honour, female genital and sexual mutilation and other traditional practices harmful to women, such as forced marriages;

- b. violence occurring within the general community, including, *inter alia*, rape, sexual abuse, sexual harassment and intimidations;

tion at work, in institutions or elsewhere trafficking in women for the purposes of sexual exploitation and economic exploitation and sex tourism;

- c. violence perpetrated or condoned by the state or its officials;
- d. violation of the human rights of women in situations of armed conflict, in particular the taking

of hostages, forced displacement, systematic rape, sexual slavery, forced pregnancy, and trafficking for the purposes of sexual exploitation and economic exploitation.

## General measures concerning violence against women

- 2. It is the responsibility and in the interest of states as well as a priority of national policies to safeguard the right of women not to be subjected to violence of any kind or by any person. To this end, states may not invoke custom, religion or tradition as a means of evading this obligation.
- 3. Member states should introduce, develop and/or improve where necessary, national policies against violence based on:
  - a. maximum safety and protection of victims;
  - b. empowerment of victimised women by optimal support and assistance structures which avoid secondary victimisation;
  - c. adjustment of the criminal and civil law including the judicial procedure;
  - d. raising of public awareness and education of children and young persons;

- e. ensuring special training for professionals confronted with violence against women;
- f. prevention in all respective fields.
- 4. In this framework, it will be necessary to set up, wherever possible, at national level, and in cooperation with, where necessary, regional and/or local authorities, a governmental co-ordination institution or body in charge of the implementation of measures to combat violence against women as well as of regular monitoring and evaluation of any legal reform or new form of intervention in the field of action against violence, in consultation with NGOs and academic and other institutions.
- 5. Research, data collection and networking at national and international level should be developed, in particular in the following fields:

- a. the preparation of statistics sorted by gender, integrated statistics and common indicators in order to better evaluate the scale of violence against women;
- b. the medium- and long-term consequences of assaults on victims;
- c. the consequence of violence on those who are witness to it, *inter alia*, within the family;
- d. the health, social and economic costs of violence against women;
- e. the assessment of the efficiency of the judiciary and legal systems in combating violence against women;
- f. the causes of violence against women, i.e. the reasons which cause men to be violent and the reasons why society condones such violence;
- g. the elaboration of criteria for benchmarking in the field of violence.

## Information, public awareness, education and training

Member states should:

- 6. compile and make available to the general public appropriate information concerning the different types of violence and their consequences for victims, including integrated statistical data, using all the available media (press, radio and television, etc.);
- 7. mobilise public opinion by organising or supporting conferences and information Campaigns so that society is aware of the problem and its devastating effects on victims and society in general and can therefore discuss the subject of violence towards women openly, without prejudice or preconceived ideas;
- 8. include in the basic training programmes of members of the police force, judicial personnel and the medical and social fields, elements concerning the treatment of domestic violence, as well as all other forms of violence affecting women;

- 9. include in the vocational training programmes of these personnel, information and training so as to give them the means to detect and manage crisis situations and improve the manner in which victims are received, listened to and counselled;
- 10. encourage the participation of these personnel in specialised training programmes, by integrating the latter in a merit-awarding scheme;
- 11. encourage the inclusion of questions concerning violence against women in the training of judges;
- 12. encourage self-regulating professions, such as therapists, to develop strategies against sexual abuse which could be committed by persons in positions of authority;
- 13. organise awareness-raising Campaigns on male violence towards women, stressing that men should be responsible for their acts and encouraging them to analyse and dismantle mechanisms

of violence and to adopt different behaviour;

- 14. introduce or reinforce a gender perspective in human rights education programmes, and reinforce sex education programmes that give special importance to gender equality and mutual respect;
- 15. ensure that both boys and girls receive a basic education that avoids social and cultural patterns, prejudices and stereotyped roles for the sexes and includes training in assertiveness skills, with special attention to young people in difficulty at school; train all members of the teaching profession to integrate the concept of gender equality in their teaching;
- 16. include specific information in school curricula on the rights of children, help-lines, institutions where they can seek help and persons they can turn to in confidence.

## Media

Member states should:

17. encourage the media to promote a non-stereotyped image of women and men based on respect for the human person and human dignity and to avoid programmes associating violence and sex; as far as possible, these criteria should also be taken into account in the field of the new information technologies;

18. encourage the media to participate in information Campaigns to alert the general public to violence against women;

19. encourage the organisation of training to inform media professionals and alert them to the possible consequences of programmes that associate violence and sex;

20. encourage the elaboration of codes of conduct for media professionals, which would take into account the issue of violence against women and, in the terms of reference of media watch organisations, existing or to be established, encourage the inclusion of tasks dealing with issues concerning violence against women and sexism.

## Local, regional and urban planning

Member states should:

21. encourage decision-makers in the field of local, regional and urban planning to take into account the need to reinforce women's safety

and to prevent the occurrence of violent acts in public places;

22. as far as possible, take all necessary measures in this respect, concerning in particular public

lighting, organisation of public transport and taxi services, design and planning of car parks and residential buildings.

## Assistance for and protection of victims (reception, treatment and counselling)

Member states should:

23. ensure that victims, without any discrimination, receive immediate and comprehensive assistance provided by a co-ordinated, multidisciplinary and professional effort, whether or not they lodge a complaint, including medical and forensic medical examination and treatment, together with post-traumatic psychological and social support as well as legal assistance; this should be provided on a confidential basis, free of charge and be available around the clock;

24. in particular, ensure that all services and legal remedies available for victims of domestic violence are provided to immigrant women upon their request;

25. take all the necessary measures in order to ensure that collection of forensic evidence and information is carried out according to standardised protocol and forms;

26. provide documentation particularly geared to victims, informing them in a clear and comprehensible manner of their rights, the service they have received and the actions they could envisage or take, regardless of whether they are lodging a complaint or not, as

well as of their possibilities to continue to receive psychological, medical and social support and legal assistance;

27. promote co-operation between the police, health and social services and the judiciary system in order to ensure such co-ordinated actions, and encourage and support the establishment of a collaborative network of non-governmental organisations;

28. encourage the establishment of emergency services such as anonymous, free of charge telephone help-lines for victims of violence and/or persons confronted or threatened by situations of violence; regularly monitor calls and evaluate the data obtained from the assistance provided with due respect for data protection standards;

29. ensure that the police and other law-enforcement bodies receive, treat and counsel victims in an appropriate manner, based on respect for human beings and dignity, and handle complaints confidentially; victims should be heard without delay by specially-trained staff in premises that are designed to establish a relationship of confidence between the

victim and the police officer and ensure, as far as possible, that the victims of violence have the possibility to be heard by a female officer should they so wish;

30. to this end, take steps to increase the number of female police officers at all levels of responsibility;

31. ensure that children are suitably cared for in a comprehensive manner by specialised staff at all the relevant stages (initial reception, police, public prosecutor's department and courts) and that the assistance provided is adapted to the needs of the child;

32. take steps to ensure the necessary psychological and moral support for children who are victims of violence by setting up appropriate facilities and providing trained staff to treat the child from initial contact to recovery; these services should be provided free of charge;

33. take all necessary measures to ensure that none of the victims suffer secondary (re)victimisation or any gender-insensitive treatment by the police, health and social personnel responsible for assistance, as well as by judiciary personnel.

## Criminal law, civil law and judicial proceedings

### Criminal law

Member states should:

34. ensure that criminal law provides that any act of violence against a person, in particular physical or sexual violence, constitutes a vio-

lation of that person's physical, psychological and/or sexual freedom and integrity, and not solely a violation of morality, honour or decency;

35. provide for appropriate measures and sanctions in national legislation, making it possible to take swift and effective action against perpetrators of violence and re-

dress the wrong done to women who are victims of violence. In particular, national law should:

- ▶ penalise sexual violence and rape between spouses, regular or occasional partners and cohabitants;
- ▶ penalise any sexual act committed against non-consenting persons,

even if they do not show signs of resistance;

- ▶ penalise sexual penetration of any nature whatsoever or by any means whatsoever of a non-consenting person;

- ▶ penalise any abuse of the vulnerability of a pregnant, defenceless, ill, physically or mentally handicapped or dependent victim;
- ▶ penalise any abuse of the position of a perpetrator, and in particular of an adult *vis-à-vis* a child.

### Civil law

Member states should:

- 36.ensure that, in cases where the facts of violence have been established, victims receive appropriate compensation for any pecuni-

ary, physical, psychological, moral and social damage suffered, corresponding to the degree of gravity, including legal costs incurred;

- 37.envisage the establishment of financing systems in order to compensate victims.

### Judicial proceedings

Member states should:

- 38.ensure that all victims of violence are able to institute proceedings as well as, where appropriate, public or private organisations with legal personality acting in their defence, either together with the victims or on their behalf;
- 39.make provisions to ensure that criminal proceedings can be initiated by the public prosecutor;
- 40.encourage prosecutors to regard violence against women and children as an aggravating or decisive factor in deciding whether or not to prosecute in the public interest;
- 41.take all necessary steps to ensure that at all stages in the proceedings, the victims' physical and psychological state is taken into account and that they may receive medical and psychological care;

- 42.envisage the institution of special conditions for hearing victims or witnesses of violence in order to avoid the repetition of testimony and to lessen the traumatising effects of proceedings;
- 43.ensure that rules of procedure prevent unwarranted and/or humiliating questioning for the victims or witnesses of violence, taking into due consideration the trauma that they have suffered in order to avoid further trauma;
- 44.where necessary, ensure that measures are taken to protect victims effectively against threats and possible acts of revenge;
- 45.take specific measures to ensure that children's rights are protected during proceedings;
- 46.ensure that children are accompanied, at all hearings, by their legal representative or an adult of their choice, as appropriate, unless the court gives a reasoned

- decision to the contrary in respect of that person;
- 47.ensure that children are able to institute proceedings through the intermediary of their legal representative, a public or private organisation or any adult of their choice approved by the legal authorities and, if necessary, to have access to legal aid free of charge;
- 48.provide that, for sexual offences and crimes, any limitation period does not commence until the day on which the victim reaches the age of majority;
- 49.provide for the requirement of professional confidentiality to be waived on an exceptional basis in the case of persons who may learn of cases of children subject to sexual violence in the course of their work, as a result of examinations carried out or of information given in confidence.

### Intervention programmes for the perpetrators of violence

Member states should:

- 50.organise intervention programmes designed to encourage perpetrators of violence to adopt a violence-free pattern of behaviour by helping them to become aware of their acts and recognise their responsibility;
- 51.provide the perpetrator with the possibility to follow intervention

- programmes, not as an alternative to sentence, but as an additional measure aiming at preventing violence; participation in such programmes should be offered on a voluntary basis;
- 52.consider establishing specialised state-approved intervention centres for violent men and support centres initiated by NGOs and as-

- sociations within the resources available;
- 53.ensure co-operation and co-ordination between intervention programmes directed towards men and those dealing with the protection of women.

### Additional measures with regard to sexual violence

#### A genetic data bank

Member states should:

- 54.consider setting up national and European data banks comprising the genetic profile of all identified

and non-identified perpetrators of sexual violence in order to put in place an effective policy to catch offenders, prevent re-of-

- fending, and taking into account the standards laid down by domestic legislation and the Council of Europe in this field.

## *Additional measures with regard to violence within the family*

Member states should:

- 55.classify all forms of violence within the family as criminal offence;
- 56.revise and/or increase the penalties, where necessary, for deliberate assault and battery committed within the family, whichever member of the family is concerned;
- 57.preclude adultery as an excuse for violence within the family;
- 58.envisage the possibility of taking measures in order to:
  - a. enable police forces to enter the residence of an endangered person, arrest the perpetrator and ensure that he or she appears before the judge;

- b. enable the judiciary to adopt, as interim measures aimed at protecting the victims, the banning of a perpetrator from contacting, communicating with or approaching the victim, residing in or entering certain defined areas;
- c. establish a compulsory protocol for operation so that the police and medical and social services follow the same procedure;
- d. promote proactive victim protection services which take the initiative to contact the victim as soon as a report is made to the police;
- e. ensure smooth co-operation of all relevant institutions, such as police authorities, courts and victim protection services, in

order to enable the victim to take all relevant legal and practical measures for receiving assistance and taking actions against the perpetrator within due time limits and without unwanted contact with the perpetrator;

- f. penalise all breaches of the measures imposed on the perpetrators by the authorities.
- 59.consider, where needed, granting immigrant women who have been/are victims of domestic violence an independent right to residence in order to enable them to leave their violent husbands without having to leave the host country.

## *Additional measures with regard to sexual harassment*

Member states should:

- 60.take steps to prohibit all conducts of a sexual nature, or other conduct based on sex affecting the dignity of women at work, including the behaviour of superiors and colleagues: all conduct of a sexual nature for which the perpetrator makes use of a position

of authority, wherever it occurs (including situations such as neighbourhood relations, relations between students and teachers, telephone harassment, etc.), is concerned. These situations constitute a violation of the dignity of persons;

- 61.promote awareness, information and prevention of sexual harassment in the workplace or in relation to work or wherever it may occur and take the appropriate measures to protect women and men from such conduct.

## *Additional measures with regard to genital mutilation*

Member states should:

- 62.penalise any mutilation of a woman's or girl's genital organs either with or without her consent; genital mutilation is understood to mean sewing up of the clitoris, excision, clitoridectomy and infibulation;
- 63.penalise any person who has deliberately participated in, facilitated or encouraged any form of female genital mutilation, with or without the person's consent;

such acts shall be punishable even if only partly performed;

- 64.organise information and prevention Campaigns aimed at the population groups concerned, in particular immigrants and refugees, on the health risks to victims and the criminal penalties for perpetrators;
- 65.alert the medical professions, in particular doctors responsible for pre- and post-natal medical visits

and for monitoring the health of children;

- 66.arrange for the conclusion or reinforcement of bilateral agreements concerning prevention, and prohibition of female genital mutilation and the prosecution of perpetrators;
- 67.consider the possibility of granting special protection to these women as a threatened group for gender-based reasons.

## *Additional measures concerning violence in conflict and post-conflict situations*

Member states should:

- 68.penalise all forms of violence against women and children in situations of conflict, in accordance with the provisions of international humanitarian law, whether they occur in the form of humiliation, torture, sexual slavery or death resulting from these actions;
- 69.penalise rape, sexual slavery, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity as an intolerable violation

of human rights, as crimes against humanity and, when committed in the context of an armed conflict, as war crimes;

- 70.ensure protection of witnesses before the national courts and international criminal tribunals trying genocide, crimes against humanity and war crimes, and provide them with legal residence at least during the proceedings;
- 71.ensure social and legal assistance to all persons called to testify before the national courts and in-

ternational criminal tribunals trying genocide, crimes against humanity and war crimes;

- 72.consider providing refugee status or subsidiary protection for reasons of gender-based persecution and/or providing residence status on humanitarian grounds to women victims of violence during conflicts;
- 73.support and fund NGOs providing counselling and assistance to victims of violence during conflicts and in post-conflict situations;

74.in post-conflict situations, promote the inclusion of issues specific to women into the reconstruction and the political renewal process in affected areas;  
75.at national and international levels, ensure that all interventions

in areas which have been affected by conflicts are performed by personnel who have been offered gender-sensitive training;  
76.support and fund programmes which follow a gender-sensitive approach in providing assistance

to victims of conflicts and contributing to the reconstruction and repatriation efforts following a conflict.

### *Additional measures concerning violence in institutional environments*

Member states should:

77.penalise all forms of physical, sexual and psychological violence perpetrated or condoned by the state or its officials, wherever it occurs and in particular in pris-

ons or detention centres, psychiatric institutions, etc.;  
78.penalise all forms of physical, sexual and psychological violence perpetrated or condoned in situations in which the responsibility

of the state or of a third party may be invoked, for example in boarding schools, retirement homes and other establishments.

### *Additional measures concerning failure to respect freedom of choice with regard to reproduction*

Member states should:

79.prohibit enforced sterilisation or abortion, contraception imposed

by coercion or force, and prenatal selection by sex, and take all necessary measures to this end.

### *Additional measures concerning killings in the name of honour*

Member states should:

80.penalise all forms of violence against women and children committed in accordance with the custom of "killings in the name of honour";

81.take all necessary measures to prevent "killings in the name of honour", including information Campaigns aimed at the population groups and the professionals concerned, in particular judges and legal personnel;

82.penalise anyone having deliberately participated in, facilitated or encouraged a "killing in the name of honour";

83.support NGOs and other groups which combat these practices.

### *Additional measures concerning early marriages*

Member states should:

84.prohibit forced marriages, concluded without the consent of the persons concerned;

85.take the necessary measures to prevent and stop practices related to the sale of children.



# Appendix II: Blueprint of the Campaign to Combat Violence against Women, including Domestic Violence

*Prepared by the Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV) and adopted by the Committee of Ministers on 21 June 2006*

## Outline of the Campaign

### I. Introduction

Violence against women is the result of an imbalance of power between women and men, leading to serious discrimination against women, both within society and the family. Violence in the family or domestic unit occurs in every Council of Europe member state despite positive developments in law, policies and practices. Violence against women is a violation of human rights, the very nature of which deprives women of their ability to enjoy fundamental freedoms. It often leaves women vulnerable to further abuse and is a major obstacle to overcoming inequality between women and men in society. Violence against women is a detriment to peace, security and democracy in Europe.

States have a responsibility to respect, protect and fulfil the human rights of all their citizens. Therefore,

states must ensure that they have taken all reasonable measures to prevent, investigate and punish all forms of violence against women, including in the family and domestic unit. Violence against women is a complex issue, particularly when it occurs within the home, which can be compounded by the response of authorities to whom women turn for help.

While the specific approaches of governments to violence against women will vary depending on particular country situations, all require a multifaceted response. This needs to address both the root causes of violence and its consequences, as well as challenge attitudes and behaviours and extend to legal, policy and practical measures.

A recent Stocktaking Study prepared by the Council of Europe<sup>245</sup> pointed out that not all member

states provide adequate resources for victims of violence, collect national data on the number of cases of violence occurring in the family or domestic unit that come to the attention of the police and/or health services and track neither referral nor judicial outcomes in a systematic process. Thus, there is no baseline from which the effectiveness of legal and other measures for combating violence against women can be measured.

To this end, member states of the Council of Europe are urged to prioritise preventing and combating violence against women, including violence in the family or domestic unit and are encouraged to become actively involved in implementing this Council of Europe Campaign that calls for strong commitment at the national level.

### II. Definition

In accordance with the definition contained in the appendix to *Recommendation Rec (2002) 5 of the Committee of Ministers to member states on the*

*protection of women against violence*, the term “violence against women” is to be understood as any act of gender-based violence, which results in, or is

likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary depriva-

245. Supra note 1.

tion of liberty, whether occurring in public or private life. This includes:

“violence occurring in the family or domestic unit”, including, *inter alia*, physical and mental aggression, emotional and psychological abuse,

### III. Main theme

Bearing in mind the Action Plan adopted during the 3rd Summit of the Council of Europe and *Recommendation*

rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of honour, female genital and sexual mutilation and other traditional prac-

tices harmful to women, such as forced marriages.

This definition is used for the purpose of the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*.

### IV. Aims of the Campaign

The aims of the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence* are:

- ▶ to raise awareness across the Council of Europe member states that violence against women is a

*tion Rec (2002) 5* of the Committee of Ministers, the theme of the Campaign will be: *Prevent and combat violence*

*against women occurring in the family or domestic unit (domestic violence)*.

human rights violation and encourage every citizen to challenge it;

- ▶ to urge states to demonstrate political will by providing adequate resources to deliver concrete results in ending violence against women;
- ▶ to promote the implementation of effective measures for preventing

and combating violence against women, through legislation and national action plans for the implementation of *Recommendation Rec (2002) 5* of the Committee of Ministers and to regularly monitor the progress achieved;

### V. Objectives

Protection of women against violence in the family or domestic unit should be placed at the highest political level in all Council of Europe member states, and should consequently be allocated the necessary financial resources. All member states should be committed to preventing this type of violence, to protect its victims and provide adequate services, legal redress and compensation as well as to prosecute, punish and provide treatment to the perpetrators. In addition, member states should raise awareness of this problem with all available means, in particular through the media and educational curricula.

Patriarchal culture is an important force in legitimising power inequalities between women and men. It is therefore essential that member states address discriminatory traditions and attitudes as well as gender stereotypes as root causes of violence against women.

ures for preventing and combating violence against women as contained in *Recommendation Rec (2002) 5* through legislation and national plans of action and, at the end of this Campaign, to report on progress achieved.

Low income, unemployment and poverty are major risk factors for violence against women in the family or domestic unit. Therefore, states should take effective measures to promote economic independence of women.

All measures contained in this Recommendation are equally important and should be fully implemented. Recognising the different stages of member states in implementing this Recommendation, member states are urged to make significant progress during the Campaign in the following areas:

Member states should commit themselves to elaborate and implement concrete and effective meas-

#### a. Legal and policy measures

- ▶ review and amend, where necessary, national legislation in order to identify and fill gaps in the protection of women from all forms of violence occurring in the family or domestic unit, repeal laws that discriminate against women and criminalise any act of such violence against women including rape between spouses;
- ▶ establish effective legal protection, including protection orders, for all women victims of violence, and

regularly monitor and evaluate its effective implementation;

- ▶ ensure that immigration laws and administrative procedures do not prevent women from leaving violent relationships due to fear of deportation, loss of legal status or revoked custody over the children;
- ▶ identify and put in place measures to increase the rate of reporting, prosecution and sanctions of perpetrators of violence against

women occurring in the family or domestic unit;

- ▶ provide victims with legal aid, psycho-social support and guarantee protection for witnesses;
- ▶ develop risk assessment and safety planning as standard procedure in crime prevention to prevent violence against women, and ensure special attention is given to high risk victims who face repeated incidents of violence.

#### b. Support and protection for victims

- ▶ provide the necessary resources for free 24-hour helplines staffed by adequately trained personnel and

other emergency services for all women victims of violence;

- ▶ provide adequate support and advocacy services, that meet quality standards, to all victims of violence

and empower women and ensure that services are accessible to all women, including socially excluded women and recent migrants, refugees, women from ethnic minority groups and those with disabilities;

- ▶ provide resources for an adequate number of safe shelters for women victims of violence who have to flee from violence (one place in a women's shelter per 7 500 inhabitants) as well as for women's advocacy services and crisis centres in all regions of the country and provide these services with the necessary human and financial resources;
- ▶ develop a co-ordinated, well-resourced multidisciplinary specialist sector to increase capacity building across core national and

local agencies such as health, justice, social welfare and education, in order to provide women victims of violence with immediate, comprehensive and coordinated support;

- ▶ organise integrated training on the continuum of violence against women for professionals who deal with women victims of violence occurring in the family or domestic unit (e.g. police, medical professionals, judicial officials, etc.);
- ▶ include the issue of violence against women as a violation of women's human rights and a public health issue in the education curricula of all studies and training for judicial and security personnel, health care professionals, social workers, teachers and others;

▶ encourage at all levels the work of NGOs involved in combating violence against women, and establish active co-operation with these NGOs, including appropriate logistic and financial support;

- ▶ provide financial support, housing, independent rights to residence as well as training and employment to women victims of violence to enable them to freely decide whether or not to leave their violent partner;
- ▶ encourage the establishment of nationally co-ordinated and locally based programmes for perpetrators. These programmes must have at their core the need for women's safety and be organised in close co-operation with services for women victims.

#### c. Data collection

- ▶ ensure the systematic collection of statistical data disaggregated by sex, by type of violence as well as by the relationship of the perpetrator to the victim in all fields. This collection should be carried out by national statistics offices or other

bodies (e.g. national observatories on domestic violence);

- ▶ develop and use a methodology that allows for gender analysis and comparison with other member states of the Council of Europe;

- ▶ collect and disseminate good practices for preventing violence occurring in the family or domestic unit, protecting its victims and prosecuting the perpetrators at national, regional and local level.

#### d. Awareness-raising

- ▶ publicly denounce violence against women occurring in the family or domestic unit as a violation of women's human rights and commit to taking action against it at the highest political level;
- ▶ raise awareness on violence against women occurring in the family or domestic unit using all available means, in particular through the media and educational curricula to challenge prevailing

gender stereotypes, and discriminatory cultural norms and public opinion about its acceptability;

- ▶ encourage national and community leaders and opinion formers to publicly acknowledge the gravity of violence against women occurring in the family or domestic unit, to condemn its perpetration and the use of custom, tradition or religion to excuse it;

▶ translate, if they have not done so, into their national language(s) and disseminate Recommendation Rec (2002) 5 and its Explanatory Memorandum;

- ▶ support specific awareness raising initiatives aimed at men in order to mobilise them to take an active part in eliminating all forms of violence against women, including violence in the family or domestic unit.

## VI. Messages

### *Combating domestic violence calls for joint public action*

Violence against women occurring in the family or domestic unit (domestic violence) continues to be a serious problem that extends to all Council of Europe member states, regardless of culture, religion, times

of peace, conflict or disaster. It takes on many forms and is too frequently tolerated. Therefore, urgent action is required by governments, parliaments, local and regional authorities and international governmental

organisations as well as civil society to stop violence against women occurring in the family or domestic unit.

### *Domestic violence is a human rights violation*

Violence against women occurring in the family or domestic unit should not be regarded as a private matter. Violence against women both violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms. Therefore, states

have the responsibility to act with due diligence to prevent this type of violence, to protect its victims, to award them compensation and to prosecute and punish the perpetrators. Consequently, states have an obligation to take all reasonable

measures to ensure that women are not exposed to violence and provide protection for those at risk as well as redress for victims. Culture, custom, family or religion should never be used as an excuse for turning a blind

eye to human rights violations against women in the home.

*Domestic violence seriously injures women and damages the whole of society, including future generations*

Many women in many countries die as a result of violence occurring in the family or domestic unit. Furthermore, the physical and psychological health of the surviving victims is seriously affected. This type of violence also has serious consequences

for the families as well as society as a whole and is often perpetuated from one generation to another. Violence against women, over and above the personal and social consequences, has a high economic cost (medical care, psychological treatment, absen-

teeism, less productivity at work etc.). Ending violence against women in the family or domestic unit is the responsibility of everyone. Being silent means complicity.

*Domestic violence calls for men's active participation to combat violence against women*

During this campaign, active participation of men in activities aimed at combating violence against women was encouraged. Men have the

responsibility to stand up and challenge violence occurring in the family or domestic unit. To this end, they have an important role to play

and can bridge the gap to other men as well as encourage them to speak out against such violence.

## VII. Target groups

The Council of Europe has worked with a variety of partners and target groups to deliver the *Campaign to Combat Violence against Women, including Domestic Violence*. These include:

- ▶ Heads of State
- ▶ Heads of Government
- ▶ Ministers of national governments
- ▶ Presidents of parliaments
- ▶ Members of parliament

- ▶ Members of regional and local authorities
- ▶ International intergovernmental organisations
- ▶ International and regional women's and human rights non-governmental organisations
- ▶ National opinion formers
- ▶ Local community leaders
- ▶ Regional and national business leaders
- ▶ Law-enforcement officials
- ▶ Members of the judiciary

- ▶ Social and health-care workers and state-run social services organisations
- ▶ National women's NGOs providing support services to women
- ▶ Education professionals and groups
- ▶ Trade unions
- ▶ All women
- ▶ Women victims and survivors
- ▶ Men as agents of change
- ▶ Youth audience
- ▶ Youth workers

## VIII. Slogan

The slogan of the Council of Europe Campaign was "Stop domestic violence against women".

## IX. Duration

Preparations for the Council of Europe Campaign began at the beginning of 2006. A high-level conference to launch the Campaign, with participants from governments, parlia-

ments, local and regional authorities, international intergovernmental organisations and NGOs was organised in the Spanish Senate in Madrid, Spain, on 27 November 2006. The

Campaign ended at a high-level closing conference in Strasbourg on 10 and 11 June 2008.

## X. Division of responsibilities

The implementation of the Campaign was carried out involving the Committee of Ministers through the Directorate General of Human Rights and Legal Affairs (Gender Equality and Anti-Trafficking Division) for the intergovernmental dimension of the

Campaign, the Parliamentary Assembly of the Council of Europe for the parliamentary dimension and the Congress of Regional and Local Authorities of the Council of Europe for the local and regional dimension. Furthermore, this Campaign was car-

ried out in partnership with governments and parliaments of the member states, international intergovernmental organisations as well as NGOs involved in the protection of women against violence.

## Action carried out in the framework of the Council of Europe Campaign

The Council of Europe Campaign included two implementation levels through which the Campaign was carried out. The first level included

activities directly carried out by the Council of Europe, reflecting its intergovernmental, parliamentary and local and regional dimensions. The

second level consisted of national campaigns and national activities carried out by the member states of the

Council of Europe at national, local and regional level.

## I. Council of Europe activities

### a. A launching conference

A high-level conference to launch the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence* with participants from governments, parliaments, local and regional authorities,

international intergovernmental organisations and NGOs was organised on 27 November 2006 in the Spanish Senate in Madrid, Spain.

The *Task Force to Combat Violence against Women, including Domestic*

*Violence* had recommended that the launching conference of the Council of Europe Campaign be organised at the highest political level and with wide participation of NGOs working in this field.

### b. Media and campaign activities

The launching Conference of the Campaign was given wide media cov-

erage throughout Council of Europe member states.

### c. Regional seminars

Five high-level seminars were organised in the requesting Council

of Europe member states highlighting the different objectives of the Cam-

paign. Member states were encouraged to undertake this activity.

### d. Activities carried out by the Parliamentary Assembly (PACE) and Congress of Local and Regional Authorities

The Parliamentary Assembly of the Council of Europe implemented the parliamentary dimension of the

Campaign. Similarly, the Congress of Local and Regional Authorities imple-

mented the local and regional dimension of the Campaign.

### e. Setting up a special Campaign website

A special Web site devoted to the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence* was created at <http://www.coe.int/stopvio->

[lence/](http://www.coe.int/stopviolence/), providing detailed information on the campaign and its activities. The Web site also provided information on national activities and campaigns and a link to national cam-

paign websites. In addition, it served as an interactive forum for exchanging information and good practices.

### f. Dissemination of Campaign material for member states and Council of Europe Information and Field offices

▶ Campaign material was distributed to participants at the Council of Europe's launching Conference and

regional seminars as well as to the Council of Europe's Information and Field Offices.

▶ Campaign material was distributed to NGOs and the general public by the Council of Europe Secretariat.

## II. Activities organised by the member states

### a. Setting up Focal Points

Each member state was invited to appoint a high-level official and a focal point for the purpose of the Council of Europe Campaign as well as for national campaigns. The high-level official was invited to champion the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence*, with the support of a Focal Point. Focal Points were encouraged to be supported by a national Task Force on violence against women occurring in the family or domestic unit which should include women's NGOs and others working to combat violence against women. The role of the national Task Force was to support the delivery of member states' national campaigns to

combat violence against women, including violence in the family or domestic unit.

It was considered advisable that this Focal Point appointed by national authorities would be a person holding responsibilities at national level in the field of combating violence against women. National Focal Points were invited to contribute to the Council of Europe Campaign by providing information and making available national good practices to combat violence against women which were published on the Council of Europe website. The Council of Europe encouraged member states with experience and expertise in legislative, policy and other measures to

share their knowledge with other member states to support the national campaigns.

Focal Points were encouraged to disseminate campaign material as widely as possible for all requesting actors at national level, in particular social and health care workers, the police, the judiciary, policy makers and NGOs working to combat violence against women.

Each member state was invited to inform the Council of Europe Secretariat about the appointment of a national Focal Point. Subsequently, information concerning all 46 national Focal Points was published on the Council of Europe's website.

## b. Campaign Action Plans

National Task Forces were encouraged to develop their own National Campaign Action Plan based on the Blueprint, including the following:

- ▶ Analysis of the country situation to identify success and gaps in combating violence against women.
- ▶ Collection and/or organisation of existing data to develop a baseline national information sheet.

- ▶ Define concrete activities based on the objectives in the Blueprint to fill the gaps.
  - ▶ Earmark appropriate resources, identify time-frame, etc.
  - ▶ Campaign Action Plans should be shared with the Council of Europe for information and exchange.
- Member states were invited to submit to the Council of Europe Secretariat an interim report in 2007 and

a final report on activities and concrete results of their national campaigns in 2008 for consideration by the Task Force. In accordance with its mandate, the Task Force evaluated progress at national level and established instruments for quantifying developments at pan-European level with a view to drawing up proposals for action.

## c. Key Opportunities for Campaigning

- ▶ Date: 8 March. Significance: International Women's Day

International Women's Day is a key opportunity to organise public events and carry out media work in partnership with women's organisations in the field of violence against women occurring in the family or domestic unit. All member states participating in the Council of Europe Campaign were invited to prioritise this type of violence as their theme for International Women's Day 2007 and 2008 and to promote the messages of the Campaign.

- ▶ Date: 15 May. Significance: International Day of the Family

International Day of the Family provides an important opportunity to highlight violence against women in the family or domestic unit. Member states were invited to organise public campaigning and media activities to speak out against such violence.

- ▶ Date: 25 November – 10 December. Significance: International Day for the Elimination of Violence against Women and 16 Days of Activism Against Gender Violence

International Day for the Elimination of Violence against Women and the 16 Days of Activism campaign provide an opportunity for media action and campaigning. Member

states participating in the Council of Europe campaign were invited to speak out publicly on violence against women occurring in the family or domestic unit and join women's non-governmental organisations and others at the national level that are participating in the 16 Days of Activism to campaign together on ending violence against women.

Member states were also invited to use key national dates to publicly highlight the Campaign and to issue joint statements during Committee of Ministers' meetings over the course of the Campaign.

## Campaign material

### Printed material produced

- ▶ posters
- ▶ factsheets
- ▶ bookmarks

- ▶ folders
- ▶ booklets
- ▶ stickers

- ▶ calendars

### Audiovisual material produced

- ▶ television and radio spots
- ▶ public service announcements
- ▶ video packages
- ▶ photographic exhibition

- ▶ video

The Campaign material produced is available at the Council of Europe

website devoted to the Campaign at <http://www.coe.int/stopviolence/>.

## Timetable

### Year 2006

- ▶ The blueprint for the Council of Europe *Campaign to Combat Violence against Women, including Domestic Violence* was finalised by the Task Force during its second meeting on 25-27 April and

adopted by the Committee of Ministers on 21 June.

- ▶ The Launching conference took place in the Spanish Senate in Madrid, Spain, on 27 November.
- ▶ A special Council of Europe website devoted to the Campaign

was set up at <http://www.coe.int/stopviolence/>.

- ▶ Council of Europe member states were requested to appoint high-level officials and national focal points and to launch national campaigns as far as possible in 2006.

### Year 2007

- ▶ Regional seminars were organised in the Council of Europe member

states.

- ▶ National campaigns were carried out and launched by those member states which had not yet done so.
- ▶ Interim national reports on Campaign activities were submitted to the Task Force for consideration.

### *Year 2008*

- ▶ The closing conference of the Campaign was organised in Strasbourg on 10 and 11 June 2008.
- ▶ Final national reports on Campaign activities were submitted to the Task Force for consideration.
- ▶ Final activity report of the Task Force (including evaluation of the Council of Europe Campaign) was adopted.

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