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**AD HOC COMMITTEE ON PREVENTING  
AND COMBATING VIOLENCE AGAINST WOMEN  
AND DOMESTIC VIOLENCE (CAHVIO)**

**Draft Convention  
on preventing and combating violence  
against women and domestic violence**

Document prepared by the  
Directorate General of Human Rights and Legal Affairs

## ***Preamble***

**Recalling** the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No. 5, adopted in 1950) and its Protocols;

**Recalling** Recommendation Rec (2002)5 of the Committee of Ministers to member states on the protection of women against violence;

**Recalling** the European Social Charter (CETS No. 35, adopted in 1961 and revised in 1996);

**Recalling** the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197, adopted in 2005);

**Having regard to** the Declaration “Making gender equality a reality” adopted by the Committee of Ministers (12 May 2009, Madrid), by which the Committee of Ministers renewed its commitment to achieve real gender equality and invited member states to adopt and implement all the necessary legislation, policies and strategies in the field;

**Having regard to** Recommendation Rec(2009)5 of the Committee of Ministers to member states on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communications environment;

**Having regard to** Recommendation Rec (2007)17 of the Committee of Ministers to member states on gender equality standards and mechanisms;

**Recalling** the Beijing Declaration and Platform for Action adopted at the Fourth World Conference of Women in 1995 and Women 2000: Gender Equality, Development and Peace for the Twenty-first Century;

**Having regard to** the United Nations Convention on the Elimination of all forms of Discrimination Against Women (1979) and its Optional Protocol of 10 December 1999;

**Having regard to** the Rome Statute of the International Criminal Court which entered into force in 2002;

**Recalling** the basic principles of international humanitarian law, and especially the 4<sup>th</sup> Geneva Convention relative to the protection of civilian persons in time of war (1949) and the 1<sup>st</sup> and 2<sup>nd</sup> Additional Protocols thereto;

**Recalling** the Action Plan adopted at the 3rd Summit of the Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005) where the Heads of State and Government of the member states underlined that equal participation of both women and men is a crucial element of democracy and confirmed their commitment

to achieving real equality between women and men and to combating violence against women, including domestic violence;

**Condemning** all forms of violence against women and domestic violence;

**Recognising** that the realisation of *de jure* and *de facto* equality between women and men is a key element in the prevention of violence against women;

**Recognising** that violence against women is a manifestation of historically unequal power relations between women and men, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women;

**Recognising** the structural nature of violence against women as gender-based violence, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men;

**Recognising**, with grave concern, that women and girls are often exposed to serious forms of violence such as domestic violence, sexual harassment, rape, forced marriage, crimes committed in the name of honour, and genital mutilation, which constitute a serious violation of the human rights of women and girls and a major obstacle to the achievement of equality between women and men;

**Recognising** the continuing human rights violations during armed conflicts, affecting the civilian population, especially women in the form of widespread or systematic rape and sexual violence;

**Recognising** that women and girls are exposed to a higher risk of gender-based violence than men are;

**Recognising** that domestic violence affects women disproportionately, while noting that men may also experience domestic violence;

**Taking account of** the growing body of case law of the European Court of Human Rights which sets important standards in the field of violence against women;

Have agreed as follows:

## **Chapter I – Purpose, definitions, equality and non-discrimination, general obligations**

### **Article 1 Purpose of the Convention**

1. The purpose of this Convention is to
  - a. prevent, combat and prosecute violence against women and domestic violence;
  - b. promote equality between women and men;
  - c. design a comprehensive framework, policies and measures for the protection of and assistance to all victims;
  - d. promote international co-operation with a view to eliminating violence against women and domestic violence;
  - e. promote the collection of data and research on all forms of violence against women and domestic violence.
2. In order to ensure effective implementation of its provisions by the Parties, this Convention establishes a specific monitoring mechanism.

### **Article 2 Definitions**

For the purpose of this Convention:

- a. “violence against women” is a form of discrimination against women and a violation of human rights and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological, or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.
- b. “domestic violence” shall mean all acts of physical, sexual and psychological violence that occur within the family or domestic unit or within any other intimate relationship, whether or not the perpetrator shares or has shared the same residence with the victim.
- c. “gender” shall mean the socially and culturally constructed position of the two sexes that underlies the unequal power relationships between women and men.
- d. “a gendered understanding” of violence against women and domestic violence shall mean addressing it in the context of inequality between women and men and discrimination against women.

### **Article 3**

#### **Fundamental rights, equality and non-discrimination**

1. Parties shall take the necessary legislative and other measures to implement the right for everyone, particularly women, to be free from violence in both the public and the private sphere.

2. Parties condemn discrimination between women and men and agree to take, without delay, the necessary legislative and other measures to prevent it, in particular by:

- embodying in their national constitutions or other appropriate legislation the principle of equality between women and men and to ensure the practical realisation of this principle;
- prohibiting discrimination between women and men, including through the use of sanctions, where appropriate; and
- abolishing laws and practices which constitute discrimination against women.

3. Parties recognise that the enjoyment of the right to be free from violence is interconnected with the Parties' obligation to secure equality between women and men to exercise and enjoy all civil, political, economic, social and cultural rights as set out in the human rights instruments of the Council of Europe, particularly the European Convention of Human Rights and Fundamental Freedoms and the European Social Charter, and other international instruments, particularly the United Nations Convention on the Elimination of All Forms of Discrimination against Women, to which they are Parties.

4. The implementation of the provisions of this Convention by the Parties, in particular the measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, state of health, marital status, migrant or refugee status, age or disability.

5. Special measures which are necessary to prevent and protect women from gender-based violence shall not be considered discrimination under the terms of the present Convention.

### **Article 4**

#### **Due diligence principle**

Parties shall take the legislative and other measures necessary to exercise due diligence to prevent, investigate and, in accordance with internal law, punish acts of violence against women and domestic violence, whether those acts are perpetrated by the state or non-state actors.

## **Chapter II – Integrated policies**

### **Article 5**

#### **Comprehensive, co-ordinated and evidence-based policies to prevent and combat violence against women and domestic violence**

1. Parties shall take the legislative and other measures necessary to adopt and implement nation-wide evidence-based, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat violence against women and domestic violence and offer a holistic response to violence against women and domestic violence.
2. Parties shall ensure that policies referred to in paragraph 1 place the rights of the victim at the centre of all measures and are implemented by way of effective co-operation among all agencies, institutions and organisations.
3. Measures taken pursuant to this article shall involve all relevant government agencies, the national parliament, local and regional authorities, religious institutions and civil society organisations, in particular women's non-governmental organisations and migrant organisations.

### **Article 6**

#### **Civil society, financial resources and evaluation**

1. Parties shall allocate sufficient financial and human resources for the adequate implementation of integrated policies, measures and programmes to prevent and combat violence against women and domestic violence, including those carried out by non-governmental organisations and civil society.
2. Parties shall ensure the domestic monitoring and evaluation of measures taken pursuant to this Convention.

### **Article 7**

#### **National co-ordinating body on violence against women and domestic violence**

1. Parties shall take the legislative and other measures necessary to establish, at national level, an official body responsible for the co-ordination, implementation and monitoring of policies and measures to prevent and combat violence against women and domestic violence.
2. Parties shall ensure that the body established pursuant to paragraph 1 co-ordinates the collection of data as referred to in Articles 53 and 54 and disseminate its results.

## **Chapter III – Prevention**

### **Article 8 General obligations**

1. Parties shall take the necessary legislative or other measures to prevent violence against women and domestic violence by any person, organisation or enterprise and monitor and evaluate their implementation.
2. Any measures taken pursuant to this chapter shall take into account and address the specific needs of individuals made vulnerable by particular circumstances and shall place the human rights of all victims at their centre.
3. Parties shall take the necessary measures to promote changes in the social and cultural patterns of conduct of women and men, with a view to combating prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for women and men.
4. Parties shall take the necessary measures to encourage men and boys to actively contribute to preventing violence against women.
5. Parties shall ensure that custom, religion, tradition or honour may not be considered as justification for any acts of violence against women.

### **Article 9 Awareness raising**

1. Parties shall promote or conduct awareness raising campaigns or programmes, in co-operation with civil society, to increase awareness of the different manifestations of violence against women and the need for its prevention among the general public.
2. Parties shall ensure the wide dissemination among the general public of information on available measures to prevent acts of violence against women.

### **Article 10 Education**

1. Parties shall ensure that formal curricula in primary, secondary and tertiary education include teaching material on equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships and concepts of honour and individual self-determination, adapted to the evolving capacity of learners.
2. Parties shall encourage informal educational facilities as well as sports, cultural and leisure facilities, religious institutions and the media to promote the same principles as referred to in paragraph 1.

## **Article 11**

### **Training of professionals**

1. Parties shall take the necessary legislative or other measures to ensure that professionals in the judiciary and in law enforcement agencies as well as in the fields of health care, social work and education receive appropriate initial vocational and in-service training on violence against women and domestic violence as well as on the needs of victims.
2. Parties shall ensure that the training referred to in paragraph 1 includes training on co-ordinated multi-agency co-operation to allow for a comprehensive handling of and appropriate referrals in cases of violence against women and domestic violence.

## **Article 12**

### **Preventive intervention and treatment programmes**

1. Parties shall take the necessary legislative or other measures to set up programmes aimed at teaching perpetrators of domestic violence to adopt non-violent behaviour in intimate relationships with a view to preventing further violence and changing violent behavioural patterns.
2. Parties shall take the necessary legislative or other measures to set up treatment programmes aimed at preventing sex offenders from re-offending while respecting their human rights.
3. In setting up the programmes referred to in paragraphs 1 and 2, Parties shall ensure that the safety and human rights of victims is of primary concern and that these programmes are implemented in co-ordination with specialist support services, the judiciary and law enforcement agencies.

## **Article 13**

### **Participation of the private sector**

1. Parties shall encourage the private sector, the media and the information and communication technology sector to participate in the elaboration and implementation of policies and to set self-regulatory standards to prevent violence against women.
2. Parties shall develop and promote, in co-operation with private sector actors, skills among children, parents and educators to deal with the new information and communications environment that provides access to harmful content of a sexual nature leading to harmful practices in gender relations.



## **Chapter IV – Protection and support services**

### **Article 14**

#### **General obligations to protect and support victims**

1. Parties shall take the necessary legislative or other measures to protect victims from any further acts of violence against women and domestic violence.
2. Parties shall take the necessary legislative or other measures to ensure that the judiciary, law enforcement agencies, non-governmental organisations and other relevant organisations and entities co-operate effectively in protecting and supporting victims or witnesses of violence against women and domestic violence.
3. Parties shall ensure that measures taken pursuant to this chapter shall
  - be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim;
  - allow, where appropriate, for the location of a range of protection and support services on the same premises;
  - address the specific needs of and be made available to individuals made vulnerable by particular circumstances.
4. Parties shall take the necessary legislative or other measures to provide consular and other protection and support to victims outside their country of origin or the Party in which they habitually reside in accordance with existing obligations under international law.

### **Article 15**

#### **Information and consent**

1. Parties shall take the necessary legislative and other measures to ensure that victims receive adequate information on available support services and legal measures in a language they understand.
2. The provision of services shall not depend on the victim's willingness to press charges or testify against the perpetrator.

### **Article 16**

#### **General support services for victims**

Parties shall take the necessary legislative and other measures to ensure that general social services such as social housing schemes, social welfare services, unemployment agencies and public health services provide priority assistance to victims of violence against women and domestic violence with a view to establishing, where necessary, economic independence from the perpetrator.

### **Article 17**

#### **Specialist support services for victims**

1. Parties shall take the necessary legislative and other measures to provide, in an adequate geographical distribution, immediate, short- and long-term specialist support services, to any victim subjected to any of the acts of violence covered by this Convention.
2. Parties shall take the necessary legislative and other measures to set up easily accessible and appropriate shelters in sufficient numbers to provide safe accommodation for and to pro-actively reach out to victims of violence against women and domestic violence.
3. Parties shall take the necessary legislative and other measures to set up easily accessible and appropriate rape crisis or sexual violence referral centres for victims to ensure medical and forensic examination, trauma support and counselling for victims.
4. Parties shall take the necessary legislative and other measures to set up nationwide round-the-clock (24/7) telephone help lines free of charge for all victims of violence against women and domestic violence to ensure referral of relevant information to the competent authorities as well as the services set up pursuant to this article.
5. The services set up pursuant to this article shall offer the necessary victim-appropriate medical, legal and psychological counselling and support and shall duly address the specific needs of child victims.

### **Article 18**

#### **Protection and support for child witnesses of domestic violence**

1. Parties shall take the necessary legislative and other measures to ensure that in the provision of protection and support services to the victims, due account is taken of the needs of child witnesses of domestic violence.
2. Measures taken pursuant to this article shall include age-appropriate psychological counselling for children of victims who have witnessed acts of violence and shall give due regard to the best interests of the child.

### **Article 19**

#### **Reporting**

1. Parties shall take the necessary legislative or other measures to encourage any person witness to the commission or planning of any act of violence against women and domestic violence to report this to the competent organisations or authorities.
2. Parties shall take the necessary legislative or other measures to ensure that the confidentiality rules imposed by internal law on certain professionals do not constitute

an obstacle to the possibility of their reporting to the competent organisations or authorities if they have reasonable grounds to believe that an act of violence against women and domestic violence has been committed or planned.

## **Chapter V – Substantive law**

### **Section 1: Civil law**

#### **Article 20**

##### **Civil lawsuits and remedies**

Parties shall take the necessary legislative or other measures to provide victims of violence against women and domestic violence with adequate civil remedies against the perpetrator as well as against third parties which have failed to take preventive or protective measures within the scope of their powers.

#### **Article 21**

##### **Restraining and protection orders**

1. Parties shall take the necessary legislative or other measures to ensure that appropriate restraining and protection orders are available to victims of all forms of violence against women and domestic violence.
2. Parties shall take the necessary legislative or other measures to ensure that restraining and protection orders referred to in paragraph 1 are
  - available for immediate protection and without financial or administrative burdens placed on the victim;
  - issued for a specified period or until varied or discharged;
  - where necessary, issued on an *ex parte* basis without a hearing;
  - available irrespective of and in addition to other legal proceedings;
  - allowed to be introduced as a material fact in subsequent legal proceedings.
3. Parties shall take the necessary legislative or other measures to ensure that, in cases of domestic violence, restraining and protection orders as referred to in paragraph 1 may not be issued against the victim and perpetrator mutually and shall not be based on notions of provocative behaviour.
4. Parties shall take the necessary legislative or other measures to ensure that standing to apply for restraining and protection orders referred to in paragraph 1 is not limited to victims.
5. Parties shall take the necessary legislative or other measures to ensure that breaches of restraining and protection orders issued pursuant to paragraph 1 shall be subject to criminal sanctions.

## **Article 22**

### **Compensation**

1. Parties shall take the necessary legislative or other measures to ensure that victims receive compensation for any of the acts of violence covered by this Convention. Dependants of a victim who has deceased as a result of such acts shall be entitled to adequate compensation.
2. Compensation referred to in paragraph 1 shall include compensation for physical and psychological injuries, necessary treatment and rehabilitation as well as loss of income. In the event of the death of a victim, compensation for dependants shall include compensation for loss of alimony, emotional distress and funeral expenses.
3. Parties shall take the necessary legislative or other measures to set up a compensation scheme for victims of any of the acts of violence covered by this Convention committed in their jurisdiction irrespective of the nationality of the victim.
4. State compensation shall be awarded to the extent that the damage is not covered by other sources such as the perpetrator, insurance or state-funded health and social provisions.
5. Measures taken pursuant to this article shall ensure the granting of compensation without undue delay.

## **Article 23**

### **Custody, visitation and safety in domestic violence cases**

1. Parties shall take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights, any reliable indications of a history of violence against women and domestic violence are taken into account.
2. Parties shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardise the safety of the victim and children.

## **Section 2: Criminal law**

### **Article 24 Psychological violence**

Parties shall take the necessary legislative or other measures to establish as a criminal offence, when committed intentionally, impairing a person's psychological integrity through intimidation, harassment or emotional and/or economic abuse and threats with the intention of controlling that person's behaviour against his or her will.

### **Article 25 Stalking**

Parties shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

- a. engaging in threatening conduct directed at another person or any member of her or his family;
- b. repeatedly following, watching or engaging in unwanted communication with another person or any member of her or his family directly or indirectly;

which causes her or him to fear for her or his safety or that of any member of her or his family or which creates an intimidating, hostile, degrading, humiliating or offensive environment.

### **Article 26 Physical violence**

Parties shall take the necessary legislative or other measures to establish as a criminal offence, when committed intentionally, acts of physical violence against another person against that person's will.

### **Article 27 Sexual violence and rape**

1. Parties shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

- a. engaging in non-consensual vaginal, anal or oral penetration of the body of another person with any bodily part or object ;
- b. engaging in non-consensual acts of a sexual nature with a person;
- c. causing another person to engage in non-consensual acts of a sexual nature.

2. Parties shall take the necessary legislative or other measures to ensure that the provisions of paragraph 1 apply to situations of international and non-international armed conflict.

### **Article 28**

#### **Sexual harassment**

Parties shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

- a. engaging in unwanted sexually determined verbal or non-verbal behaviour or making sexually-oriented remarks toward another person that has the purpose or effect of violating her or his dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment;
- b. implying or expressing a promise of reward, in the field of education or employment, for complying with a sexually-oriented request;
- c. implying or expressing a threat of reprisal or actual reprisal for refusal to comply with a sexually-oriented request;
- d. engaging in acts of a sexual nature which constitute an abuse of power.

### **Article 29**

#### **Forced marriage**

1. Parties shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

- a. forcing a person to enter into a marriage without her or his free and full consent;
- b. luring a person to the territory of a Party or country other than the one she or he resides in and forcing this person to enter into a marriage without his or her free and full consent.

2. For the purpose of the present article, “force” shall include coercion, duress, threats or any other coercive circumstances.

### **Article 30**

#### **Female genital mutilation**

Parties shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised when committed for non-medical purposes:

- a. excising, infibulating or otherwise mutilating the whole or any part of a girl's or woman's labia majora, labia minora or clitoris;
- b. performing any other harmful procedure to the female genitalia;
- c. counselling or procuring a girl or woman to excise, infibulate or otherwise mutilate the whole or any part of her own labia majora, labia minora or clitoris.

### **Article 31**

#### **Aiding or abetting and attempt**

1. Parties shall take the necessary legislative or other measures to establish as a criminal offence, when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with this Convention.

2. Parties shall take the necessary legislative or other measures to establish as a criminal offence, when committed intentionally, attempts to commit the offences established in accordance with this Convention.

### **Article 32**

#### **Application of criminal offences**

The criminal offences established in accordance with this Convention shall apply irrespective of the nature of the relationship between victim and perpetrator.

### **Article 33**

#### **Jurisdiction**

1. Parties shall take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:

- a. in their territory; or
- b. on board a ship flying the flag of the Party; or
- c. on board an aircraft registered under the laws of the Party; or
- d. by one of their nationals; or
- e. by a person who has her or his habitual residence in the territory of the Party; or
- f. against one of their nationals or a person who has her or his habitual residence in the territory of the Party.

2. For the prosecution of the offences established in accordance with this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction as regards paragraph 1, d is not subordinated to the condition that the acts are criminalised in the territory where they were committed.

3. For the prosecution of the offences established in accordance with this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction as regards paragraph 1, d and e is not subordinated to the condition that the prosecution can only be initiated following the reporting by the victim of the offence or the filing of charges by the state of the place where the offence was committed.

4. Parties shall take the necessary legislative or other measures to establish jurisdiction over the offences established in accordance with this Convention, in cases where an alleged perpetrator is present on their territory and they do not extradite her or him to another Party, solely on the basis of her or his nationality.

5. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult each other with a view to determining the most appropriate jurisdiction for prosecution.

6. Without prejudice to the general rules of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its internal law.

#### **Article 34**

##### **Sanctions and measures**

1. Parties shall take the necessary legislative or other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include sentences involving the deprivation of liberty which can give rise to extradition.

2. Parties may adopt other measures in relation to perpetrators, such as withdrawal of parental rights or monitoring or supervision of convicted persons.

3. Mandatory participation in perpetrator programmes shall not ordinarily be considered a substitute for any of the sanctions and measures provided under paragraph 1.

#### **Article 35**

##### **Aggravating circumstances**

Parties shall take the necessary legislative or other measures to ensure that the following circumstances, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal



law, be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with this Convention:

- a. the offence was committed against a person with whom the perpetrator has or has had an intimate relationship;
- b. the perpetrator, at the time the offence was committed, contravened a protection, restraining or barring order in place in favour of the victim;
- c. the offence, or related offences, were committed over an extended period of time;
- d. the offence was committed for the purpose of defending the perceived honour of the family or community;
- e. the offence was committed against an individual made vulnerable by particular circumstances, such as pregnancy, disability, substance abuse or age;
- f. the offence was committed in the presence of a child;
- g. the offence was committed against a child;
- h. the offence was committed by multiple perpetrators;
- i. the offence was preceded or accompanied by acts of torture or serious violence;
- j. the offence was committed with the use or threat of a weapon;
- k. the offence resulted in severe physical or psychological consequences for the victim;
- l. the perpetrator had previously been convicted of offences of the same nature.

### **Article 36**

#### **Previous sentences**

Parties shall take the necessary legislative or other measures to provide for the possibility of taking into account final sentences passed by another Party in relation to the offences established in accordance with this Convention when determining the sentence.

## **Chapter VI – Investigation, prosecution, procedural law and sentencing**

### **Article 37**

#### **General obligations**

1. Parties shall take the necessary legislative or other measures to ensure that investigations and judicial proceedings are carried out as a priority and without undue delay while taking into consideration the rights of the victim at all times.
2. Parties shall take the necessary legislative or other measures, in conformity with the gendered understanding of violence and fundamental principles of human rights law, to ensure the effective investigation and prosecution of offences established in accordance with this Convention.

3. Measures taken pursuant to this article shall ensure that investigations and judicial proceedings do not aggravate any harm experienced by victims and that the criminal justice response is accompanied by assistance to victims, where appropriate.

### **Article 38**

#### **Immediate response and protection**

1. Parties shall take the necessary legislative or other measures to ensure that law enforcement agencies respond to violence against women and domestic violence promptly and appropriately by offering adequate and immediate protection to victims.

2. Parties shall take the necessary legislative or other measures to ensure that law enforcement agencies engage promptly and appropriately in the prevention and protection against violence against women and domestic violence, including the employment of operational measures and the collection of evidence.

### **Article 39**

#### **Risk assessment**

Parties shall take the necessary legislative or other measures to ensure that a coordinated assessment of the lethality risk is carried out by the police when called upon for help and that police respond accordingly.

### **Article 40**

#### **Emergency protection orders**

Parties shall take the necessary legislative or other measures to ensure that the competent authorities are granted the power to order, *ex officio*, in situations of immediate danger, a perpetrator of domestic violence to vacate the residence for a sufficient period of time. Measures taken pursuant to this article shall prioritise the safety of victims.

### **Article 41**

#### **Investigations and evidence**

1. Parties shall adopt such measures as may be necessary to ensure that persons, units or services in charge of investigations are specialised and trained in a human rights-based approach to violence against women and domestic violence.

2. Parties shall take the necessary legislative or other measures to ensure that evidence relating to the sexual history and conduct of the victim shall be inadmissible in any civil and criminal proceedings.

**Article 42**  
***Ex parte and ex officio applications***

1. Parties shall ensure that investigations into or prosecution of offences established in accordance with this Convention shall not be dependant upon the report of or complaint filed by a victim if the offence was committed in whole or in part on its territory.
2. Parties shall take the necessary legislative or other measures to ensure, in accordance with the conditions provided for by their internal law, the possibility for non-governmental organisations and domestic violence counsellors to assist and/or support victims, at their request, during investigations and judicial proceedings concerning the offences established in accordance with this Convention.

**Article 43**  
**Measures of protection**

1. Parties shall take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of investigations and judicial proceedings, in particular by:
  - a. informing them of their rights and the services at their disposal and, unless they do not wish to receive such information, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein as well as the outcome of their cases;
  - b. ensuring that victims be informed when the perpetrator is prosecuted or released temporarily or definitively;
  - c. enabling victims, in a manner consistent with the procedural rules of internal law, to be heard, to supply evidence and to choose the means of having their views, needs and concerns presented, directly or through an intermediary, and considered;
  - d. providing victims with appropriate support services so that their rights and interests are duly presented and taken into account;
  - e. protecting their privacy, their identity and their image and by taking measures in accordance with internal law to prevent the public dissemination of any information that could lead to their identification;
  - f. providing for their safety, as well as that of their families and witnesses on their behalf, from intimidation, retaliation and repeat victimisation;
  - g. ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible;
  - h. providing victims with independent and court-sworn interpreters where necessary;

- i. enabling the victim to testify, according to the rules provided by their internal law, in the courtroom without being present, notably through the use of appropriate communication technologies.
2. A child victim shall be afforded special protection measures taking into account the best interests of the child.

#### **Article 44**

##### **Legal aid**

Parties shall ensure that victims have access to free legal aid, advice and assistance where warranted.

#### **Article 45**

##### **Prohibition of mandatory alternative dispute resolution processes or sentencing**

1. Parties shall take the necessary legislative or other measures to prohibit mandatory alternative dispute resolution processes, including mediation and conciliation, in all cases of violence against women and domestic violence.
2. The payment of a fine shall only be ordered in cases where this does not result in financial hardship to the victim.

#### **Article 46**

##### **Statute of limitation**

Parties shall take the necessary legislative and other measures to ensure that the statute of limitation for initiating any legal proceedings with regard to the offences established in accordance with this Convention shall continue for a period of time sufficient to allow the efficient initiation of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the offence in question.

## **Chapter VII – Migration**

### **Article 47 Residence status**

1. Parties shall take the necessary legislative or other measures to ensure that victims of violence against women and domestic violence whose residence status depends on marital status, in the event of the dissolution of the marriage, are granted, upon application, an independent residence permit irrespective of the duration of the marriage.
2. Parties shall take the necessary legislative or other measures to ensure that victims of violence against women and domestic violence may obtain suspension of deportation proceedings initiated in relation to a residence status dependent on the marital partner.
3. Parties shall take the necessary legislative or other measures to ensure that victims of forced marriages brought into the Party for the purpose of the marriage, in the event of the dissolution or annulment of the marriage, are granted, upon application, an independent residence permit irrespective of the duration of the marriage.

### **Article 48 Gender-based asylum claims**

1. Parties shall take the necessary legislative or other measures to ensure that violence against women and domestic violence may be recognised as a form of gender-related persecution within the meaning of Article 1 A (2) of the 1951 Convention relating to the Status of Refugees.
2. Parties shall take the necessary legislative or other measures to develop gender guidelines and gender-sensitive procedures for refugee status determination.

## **Chapter VIII – International co-operation**

### **Article 49**

#### **General principles and measures for international co-operation**

1. Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through the application of relevant applicable international and regional instruments on co-operation in civil and criminal matters, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:

- a. preventing, combating and prosecuting violence against women and domestic violence;
- b. protecting and providing assistance to victims;
- c. investigations or proceedings concerning the offences established in accordance with this Convention;
- d. enforcing relevant civil and criminal judgements issued by the judicial authorities of Parties, including protection orders.

2. Parties shall take the necessary legislative or other measures to ensure that victims of an offence established in accordance with this Convention and committed in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their state of residence.

3. If a Party that makes mutual legal assistance in criminal matters or extradition conditional on the existence of a treaty receives a request for legal assistance or extradition from a Party with which it has not concluded such a treaty, it may consider this Convention the legal basis for mutual legal assistance in criminal matters or extradition in respect of the offences established in accordance with this Convention.

4. Parties shall endeavour to integrate, where appropriate, the prevention and the fight against violence against women and domestic violence in assistance programmes for development provided for the benefit of third states, including by entering into bilateral and multilateral agreements with third states with a view to facilitating the protection of victims in accordance with Article 14, paragraph 4.

### **Article 50**

#### **Measures relating to endangered persons**

When a Party, on the basis of the information at its disposal, has reasonable grounds to believe that a person is at risk of being subjected to any of the acts of violence referred to in this Convention on the territory of another Party, the Party that has the information shall transmit it without delay to the latter for the purpose of ensuring that appropriate protection measures are taken. Where applicable, this information shall include details on existing protection orders for the benefit of the person at risk.

### **Article 51**

#### **Information**

1. The requested Party shall promptly inform the requesting Party of the final result of the action taken under this chapter. The requested Party shall also promptly inform the requesting Party of any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly.
2. A Party may, within the limits of its internal law, without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.
3. A Party receiving any information in accordance with paragraph 2 shall submit such information to its competent authorities in order that proceedings may be taken if they are considered appropriate, or that this information may be taken into account in relevant civil and criminal proceedings.

### **Article 52**

#### **Exchange of information**

1. Parties shall ensure that any competent authority involved in international co-operation in matters covered by this Convention keep the body referred to in Article 7 informed of measures taken in accordance with this Chapter.
2. Parties shall ensure that the body referred to in Article 7 shall have the capacity to communicate directly and foster relations with its counterparts in other Parties.

## **Chapter IX – Data collection**

### **Article 53**

#### **Data collection and statistics**

1. Parties undertake to conduct appropriate population-based surveys at regular intervals to assess the prevalence of and trends in violence against women and domestic violence at national level as a reliable evidence base for formulating policies and preventing violence.
2. Parties undertake to collect appropriate statistical and administrative data at regular intervals on cases of violence against women and domestic violence, protection measures and conviction rates of perpetrators in order to identify trends and establish a basis for the monitoring of the implementation of this Convention.
3. Measures taken pursuant to this article shall ensure that the information collected be disaggregated by sex, age, type of violence as well as the relationship of the perpetrator to the victim and geographical location.
4. The process of collecting, storing and transforming this information shall:
  - a. comply with legally established safeguards, including international standards on data protection as contained in Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and its Additional Protocol, to ensure confidentiality and respect for the privacy of victims;
  - b. comply with international human rights' law and ethical principles in the collection and use of statistics.

### **Article 54**

#### **Research**

1. Parties shall undertake or intensify research efforts in the field of violence against women and domestic violence.
2. Parties shall take all necessary measures to develop research initiatives to study the root causes and effects of violence against women and domestic violence and the efficiency of measures taken to give effect to the present Convention.



## **Chapter X – Monitoring mechanism**

### **Article 55**

#### **Group of experts on violence against women and domestic violence**

1. The Group of experts on action against violence against women and domestic violence (hereinafter referred to as the “GRAVIO”), shall monitor the implementation of this Convention by the Parties.
2. The GRAVIO shall be composed of a minimum of 10 members and a maximum of 15 members, taking into account a gender and geographical balance, as well as multidisciplinary expertise. They shall be elected by the Committee of the Parties for a term of office, renewable once, to be determined by the Committee of Ministers of the Council of Europe in accordance with paragraph 4, and chosen from amongst nationals of the Parties to this Convention.
3. The election of the members of the GRAVIO shall be based on the following principles:
  - a. they shall be chosen from among persons of high moral character, known for their recognised competence in the fields of human rights, in violence against women and domestic violence, or in assistance to and protection of victims or having professional experience in the areas covered by this Convention;
  - b. they shall sit in their individual capacity and shall be independent and impartial in the exercise of their functions and shall be available to carry out their duties in an effective manner;
  - c. no two members of the GRAVIO may be nationals of the same state;
  - d. they should represent the main legal systems.
4. The election procedure of the members of the GRAVIO shall be determined by the Committee of Ministers of the Council of Europe, after consulting with and obtaining the unanimous consent of the Parties to the Convention, within a period of one year following the entry into force of this Convention. The GRAVIO shall adopt its own rules of procedure.

### **Article 56**

#### **Committee of the Parties**

1. The Committee of the Parties shall be composed of the representatives on the Committee of Ministers of the Council of Europe of the member states Parties to the Convention and representatives of the Parties to the Convention, which are not members of the Council of Europe.
2. The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention in order to elect the members of the GRAVIO. It shall subsequently meet whenever one-third of the Parties, the President of the GRAVIO or the Secretary General so requests.
3. The Committee of the Parties shall adopt its own rules of procedure.

### **Article 57**

#### **Procedure**

1. The evaluation procedure shall concern the Parties to the Convention and be divided into rounds, the length of which is determined by the GRAVIO. At the beginning of each round the GRAVIO shall select the specific provisions on which the evaluation procedure shall be based.
2. The GRAVIO shall define the most appropriate means to carry out this evaluation. The GRAVIO may in particular adopt a questionnaire for each evaluation round, which may serve as a basis for the evaluation of the implementation by the Parties of the present Convention. Such a questionnaire shall be addressed to all Parties. Parties shall respond to this questionnaire, as well as to any other request of information from the GRAVIO.
3. The GRAVIO may request information from civil society.
4. The GRAVIO may subsidiarily organise, in co-operation with the national authorities, in particular the body established in accordance with Article 7, and, if necessary, with the assistance of independent national experts, country visits. During these visits, the GRAVIO may be assisted by specialists in specific fields.
5. GRAVIO shall prepare a draft report containing its analysis concerning the implementation of the provisions on which the evaluation is based, as well as its suggestions and proposals concerning the way in which the Party concerned may deal with the problems which have been identified. The draft report shall be transmitted for comments to the Party which undergoes the evaluation. Its comments shall be taken into account by the GRAVIO when establishing its report.
6. On this basis, the GRAVIO shall adopt its report and conclusions concerning the measures taken by the Party concerned to implement the provisions of the present Convention. This report and the conclusions shall be sent to the Party concerned and to the Committee of the Parties. The report and conclusions of the GRAVIO shall be made public as from their adoption, together with eventual comments by the Party concerned.
7. Without prejudice to the procedure of paragraphs 1 to 6 of this article, the Committee of the Parties may adopt, on the basis of the report and conclusions of the GRAVIO, recommendations addressed to this Party (a) concerning the measures to be taken to implement the conclusions of GRAVIO, if necessary setting a date for submitting information on their implementation, and (b) aiming at promoting co-operation with that Party for the proper implementation of the present Convention.

### **Article 58**

#### **Parliamentary involvement in monitoring**

National parliaments shall be involved in monitoring measures taken in implementation of the present Convention.

## **Chapter XI – Relationship with other international instruments**

### **Article 59**

#### **Relationship with other international instruments**

1. This Convention shall not affect the rights and obligations arising from the provisions of other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms, the United Nations Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol as well as the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography. It intended to enhance the protection afforded by them and develop and complement the standards contained therein.

2. The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

## **Chapter XII – Amendments to the Convention**

### **Article 60**

#### **Amendments**

1. Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the member states of the Council of Europe, any signatory, any Party, the [European Community]/[European Union], any state invited to sign this Convention in accordance with the provisions of Article 62, and any State invited to accede to this Convention in accordance with the provisions of Article 63.

2. The Committee of Ministers of the Council of Europe shall consider the proposed amendment and, after having consulted the Parties to this Convention which are not members of the Council of Europe, may adopt the amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe.

3. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

4. Any amendment adopted in accordance with paragraph 3 of this article shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

## **Chapter XIII – Final clauses**

### **Article 61 Effects of this Convention**

The provisions of this Convention shall not prejudice the provisions of internal law and binding international instruments which are already in force or may come into force, under which more favourable rights are or would be accorded to individuals in preventing and combating violence against women and domestic violence.

### **Article 62 Signature and entry into force**

1. This Convention shall be open for signature by the member states of the Council of Europe, the non-member states which have participated in its elaboration and the [European Community]/[European Union].
2. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which 5 signatories, including at least 3 member states of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.
4. In respect of any state referred to in paragraph 1 or the [European Community]/[European Union], which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

### **Article 63 Accession to the Convention**

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consultation of the Parties to this Convention and obtaining their unanimous consent, invite any non-member state of the Council of Europe, which has not participated in the elaboration of the Convention, to accede to this Convention by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Contracting states entitled to sit on the Committee of Ministers.
2. In respect of any acceding state, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of

deposit of the instrument of accession with the Secretary General of the Council of Europe.

#### **Article 64**

##### **Territorial application**

1. Any state or the [European Community]/[European Union] may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

#### **Article 65**

##### **Reservations**

No reservation may be made in respect of any provision of this Convention.

#### **Article 66**

##### **Denunciation**

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

### **Article 67**

#### **Notification**

The Secretary General of the Council of Europe shall notify the member states of the Council of Europe, the non-member states which have participated in its elaboration, any signatory, any Party, the [European Community]/[European Union], and any state invited to accede to this Convention of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Convention in accordance with Articles 62 and 63;
- d. any amendment adopted in accordance with Article 60 and the date on which such an amendment enters into force;
- e. any denunciation made in pursuance of the provisions of Article 66;
- f. any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at ..., this ..., in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member states which have participated in the elaboration of this Convention, to the [European Community]/[European Union] and to any state invited to accede to this Convention.