

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 20 August 1985

CDSO (85) 29

STEERING COMMITTEE FOR SOCIAL AFFAIRS (CDSO)



COE176120

18th Meeting
(Strasbourg, 14-18 October 1985)

RECOMMENDATION R (85) 4 ON VIOLENCE IN THE FAMILY

REQUEST FOR AN OPINION BY THE COMMITTEE OF MINISTERS

Secretariat Memorandum
prepared by the
Directorate of Social and Economic Affairs

At their 382nd meeting the Ministers' Deputies decided to ask the Steering Committee for Social Affairs (CDSO) to study Recommendation R (85) 4 on violence in the family, and in the context of preparation of the 1986 programme of activities, the advisability of drawing up a draft Recommendation on measures of a social nature to help and assist victims of violence in the family.

The terms of reference and Recommendation R (85) 4 on violence in the family are set out below.

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DECISION NO. CM/354/260385

Ad hoc terms of reference

1. Name of relevant committee: ~~-----~~ STEERING COMMITTEE FOR
SOCIAL AFFAIRS (CDSO)
2. Source of terms of reference: Committee of Ministers
3. Completion date: 1986
4. Terms of reference:

To study, in the light of the discussions which preceded the adoption by the Committee of Ministers of Recommendation No. R(85)4 on violence in the family, and in the context of preparation of the 1986 programme of activities, the advisability of drawing up a draft Recommendation on measures of a social nature to help and assist victims of violence in the family.

5. Other committee(s) to be informed of terms of reference: -

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (85) 4

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

ON VIOLENCE IN THE FAMILY ¹

*(Adopted by the Committee of Ministers on 26 March 1985
at the 382nd meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the family is the basic organisational unit of democratic societies ;

Considering that the defence of the family involves the protection of all its members against any form of violence, which all too often occurs among them ;

Considering that there is violence in any act or omission which prejudices the life, the physical or psychological integrity or the liberty of a person or which seriously harms the development of his or her personality ;

Considering that such violence affects in particular children on the one side and women on the other, though in differing ways ;

Considering that children are entitled to special protection by society against any form of discrimination or oppression and against any abuse of authority in the family and other institutions ;

Considering that the same is true of women insofar as they are subject to certain *de facto* inequalities which hamper the reporting of any violence of which they are victims ;

Having regard in this respect to its Resolution (78) 37 on the equality of spouses in civil law ;

Having regard also to its Recommendation No. R (79) 17 concerning the protection of children against ill-treatment ;

Having regard to the proceedings of the Council of Europe's 4th Criminological Colloquy, on the ill-treatment of children in the family ;

Having regard to Recommendation 561 (1969) of the Consultative Assembly of the Council of Europe, on the protection of minors against ill-treatment,

Recommends that the governments of member states :

I. With regard to the prevention of violence in the family :

1. alert public opinion to the extent, seriousness and specific characteristics of violence in the family with a view to obtaining its support for measures aimed at combating this phenomenon ;

1. When this recommendation was adopted, the Representative of the United Kingdom, in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, reserved the right of her Government to comply or not with Article I.5 of the recommendation.

2. promote the dissemination among families of knowledge and information concerning social and family relations, early detection of potentially conflictual situations and the settlement of interpersonal and intra-family conflicts ;
3. provide appropriate professional training for all those responsible for intervening in cases of violence in the family, particularly those who, because of their functions, are in a position to detect such cases or deal with the victims thereof ;
4. arrange for and encourage the setting up, and support the work, of agencies, associations or foundations whose aim is to help and assist the victims of violent family situations, with due respect for the privacy of others ;
5. set up administrative departments or multidisciplinary boards with the task of looking after victims of violence in the family and with powers to deal with such cases.

Their powers might include the following :

- to receive reports of acts of violence in the family ;
 - to arrange for medical examinations at the victim's request ;
 - to help, care for and advise the various parties involved in cases of violence in the family and to that end to carry out social inquiries ;
 - to pass on, either to the family and children's courts or to the prosecuting authorities, information which the department or board deems should be submitted to one or another of those authorities ;
6. impose strict rules on these departments or boards concerning the divulging of information to which they have access in the exercise of their powers ;

II. With regard to the reporting of acts of violence in the family :

7. circulate specific information on the advisability and feasibility for persons who become aware of cases of violence in the family of reporting them to the competent bodies, particularly those mentioned in paragraphs 4 and 5 above, or of directly intervening to assist the person in danger ;
8. consider the possibility of removing the obligation of secrecy from the members of certain professions so as to enable them to disclose to the bodies mentioned in paragraph 5 above any information concerning cases of violence in the family ;

III. With regard to state intervention following acts of violence in the family :

9. take steps to ensure that, in cases of violence in the family, the appropriate measures can be quickly taken, even if only provisionally, to protect the victim and prevent similar incidents from occurring ;
10. take measures to ensure that, in any case resulting from a conflict between a couple, measures are available for the purpose of protecting the children against any violence to which the conflict exposes them and which may seriously harm the development of their personality ;
11. take measures to ensure that the victim's interests are not prejudiced by interference between civil, administrative and criminal measures, it being understood that criminal measures should be taken only as a last resort ;
12. review their legislation on the power to punish children in order to limit or indeed prohibit corporal punishment, even if violation of such a prohibition does not necessarily entail a criminal penalty ;
13. study the possibility of entrusting cases of violence in the family only to specialist members of prosecuting or investigating authorities or of trial courts ;
14. take steps to ensure that, as a general rule, a psycho-social inquiry is carried out into such cases and that, particularly on the basis of the findings of the inquiry and in accordance with criteria that take account of the interests of the victim as well as the children of the family, the prosecuting authority or the court is able to propose or take measures other than criminal ones, especially when the suspect or accused agrees to submit to the supervision of the competent social, medico-social or probation authorities ;

15. do not institute proceedings in cases of violence in the family unless the victim so requests or the public interest so requires ;

16. take measures to ensure protection against any external pressures on members of the family giving evidence in cases of violence in the family. In particular, minors should be assisted by appropriate counsel. Moreover, the weight of such evidence should not be diminished by rules relating to the oath ;

17. consider the advisability of adopting specific incriminations for offences committed within the family.