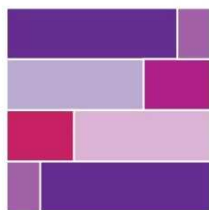


# COMPLIANCE OF SELECTED UKRAINIAN LAWS WITH THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (ISTANBUL CONVENTION)

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PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE  
IN UKRAINE



<http://www.coe.int/web/stop-violence-against-women-ukraine>

ВІЛЬНІ ВІД СТРАХУ  
ВІЛЬНІ ВІД  
НАСИЛЛЯ

SAFE FROM FEAR  
SAFE FROM  
VIOLENCE

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

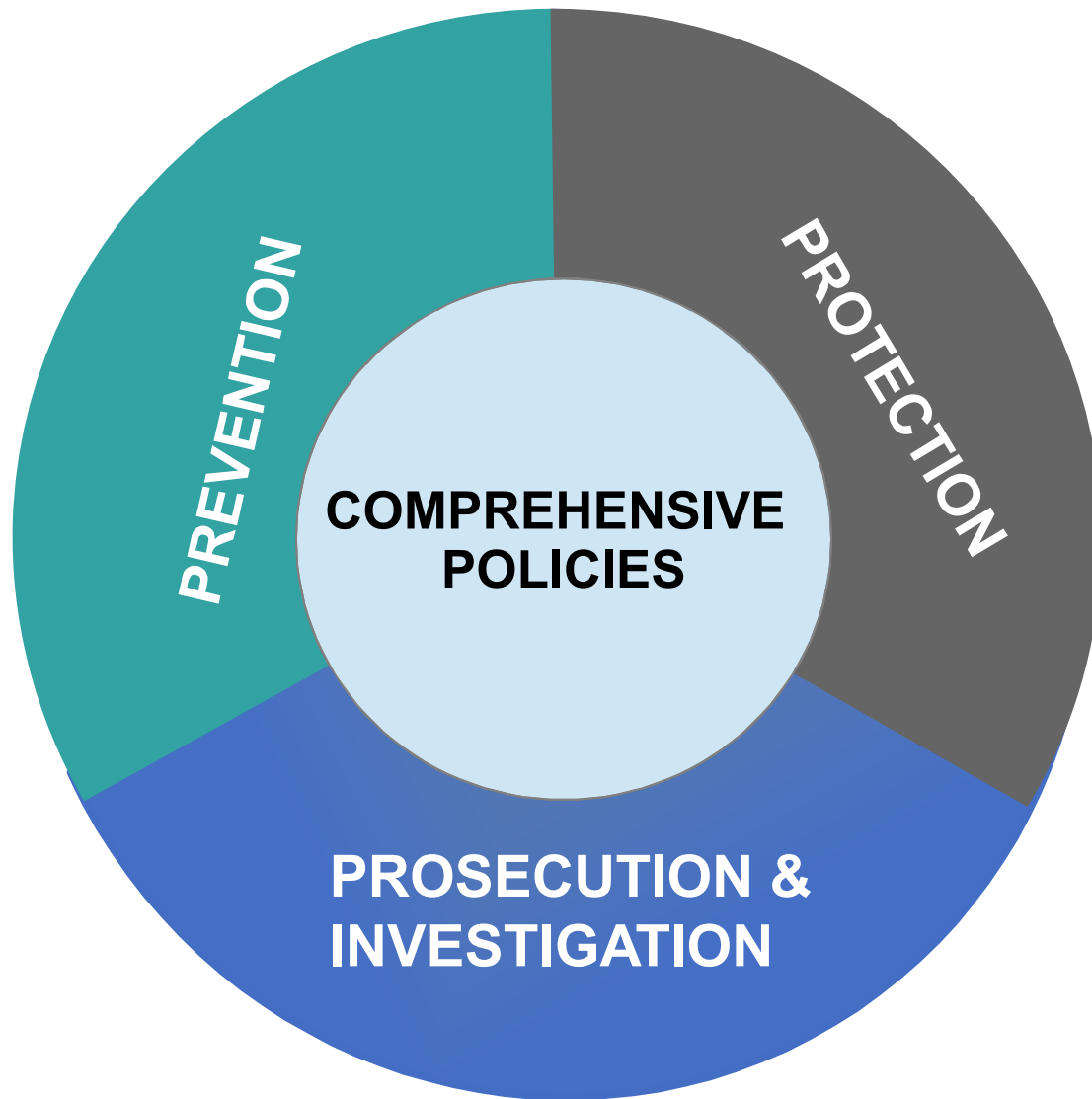
# Convention on preventing and combating violence against women and domestic violence

- First legally-binding instrument in Europe.
- The most far reaching international treaty.

## Purposes

- Protect women, prevent and prosecute VAW and DV
- Eliminate discrimination and promote equality between women and men.





## STRUCTURE OF THE ISTANBUL CONVENTION

## ADDED VALUE of the ISTANBUL CONVENTION in UKRAINE

- **Definitions:** violence against women, domestic violence...
- **Integrated policies:** Link between equality and ending of VAW; prevention policies.
- **Coordination:** all agencies involved
- **Specialist support services:** hotlines, shelters, crises centres.
- **Definition of specific criminal offences.**
- **The “due diligence” standard** applied to VAW.
- **Importance of national NGOs.**

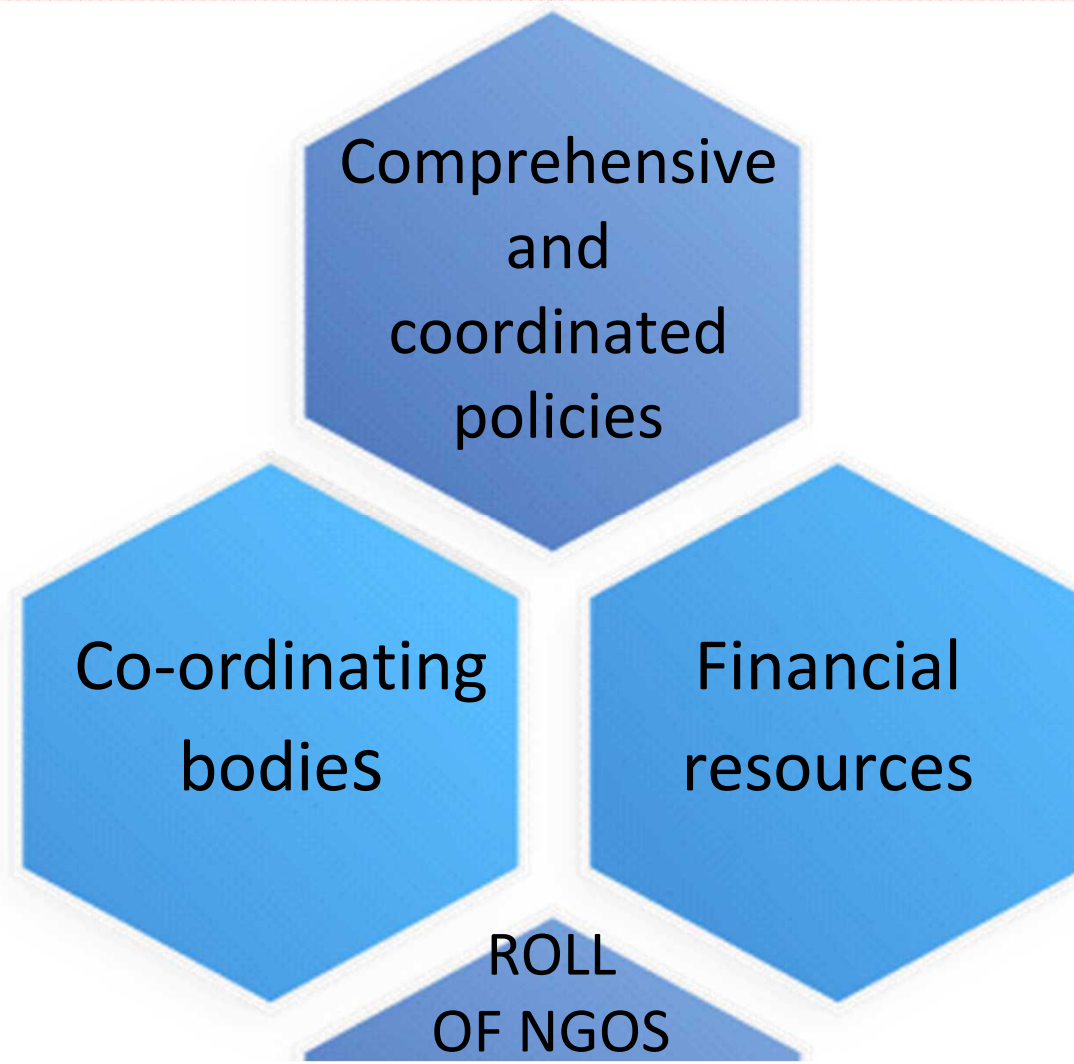


# GENERAL PRINCIPLES and DEFINITIONS

## Key recommendations

- Introduce a **definition** of violence against women / gender-based violence
- Ensure that laws and policies **address all forms of violence** against women and domestic violence, while paying **particular attention to women victims** of gender-based violence.

# INTEGRATED POLICIES

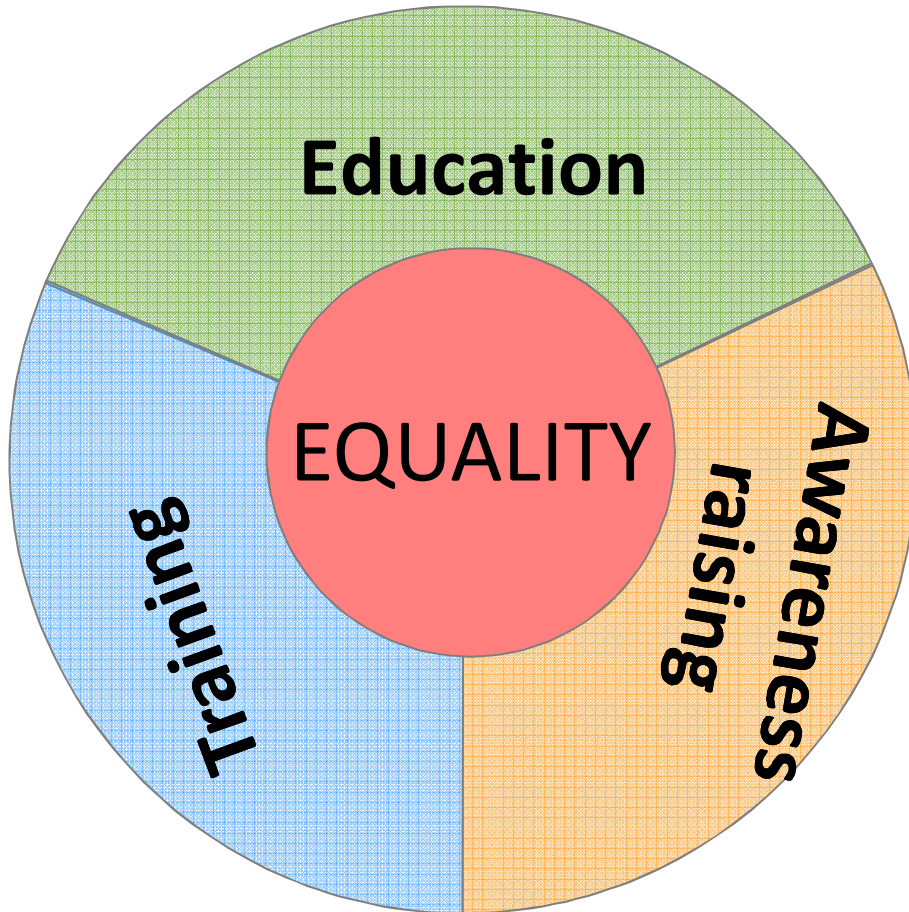


Data collection and research

# Key recommendations

- Ensure an **integrated and coordinated approach to all forms of violence against women**.
  - Define an **appropriate referential legal and institutional framework** for all forms of violence against women and not only for domestic violence.
  - Designate or establish one or more official **coordination bodies on violence against women** and domestic violence
- Establish a legal basis for the **co-operation with relevant non-governmental organisations and of civil society** active in combating violence against women
- Ensure the collection of disaggregated **relevant statistical data** at regular intervals on cases of all forms of violence against women and domestic violence.

# PREVENTION



## Specific measures

- Training of professionals
- Awareness raising campaigns
- Teaching materials promoting equality
- Treatment programmes for perpetrators



## Key recommendations

- Ensure an **integrated and coordinated approach to all forms of violence against women.**
- The Law on Domestic Violence should extend the list of **measures to prevent domestic violence** in accordance with the Istanbul Convention
- Ensure that all relevant professionals dealing with violence against women and domestic violence receive **appropriate and gender-sensitive training on the prevention and detection of such violence.**
- Improve the current legal framework on **domestic violence perpetrator programmes** and ensure that intervention and **treatment programmes are available for perpetrators of sexual offences.**

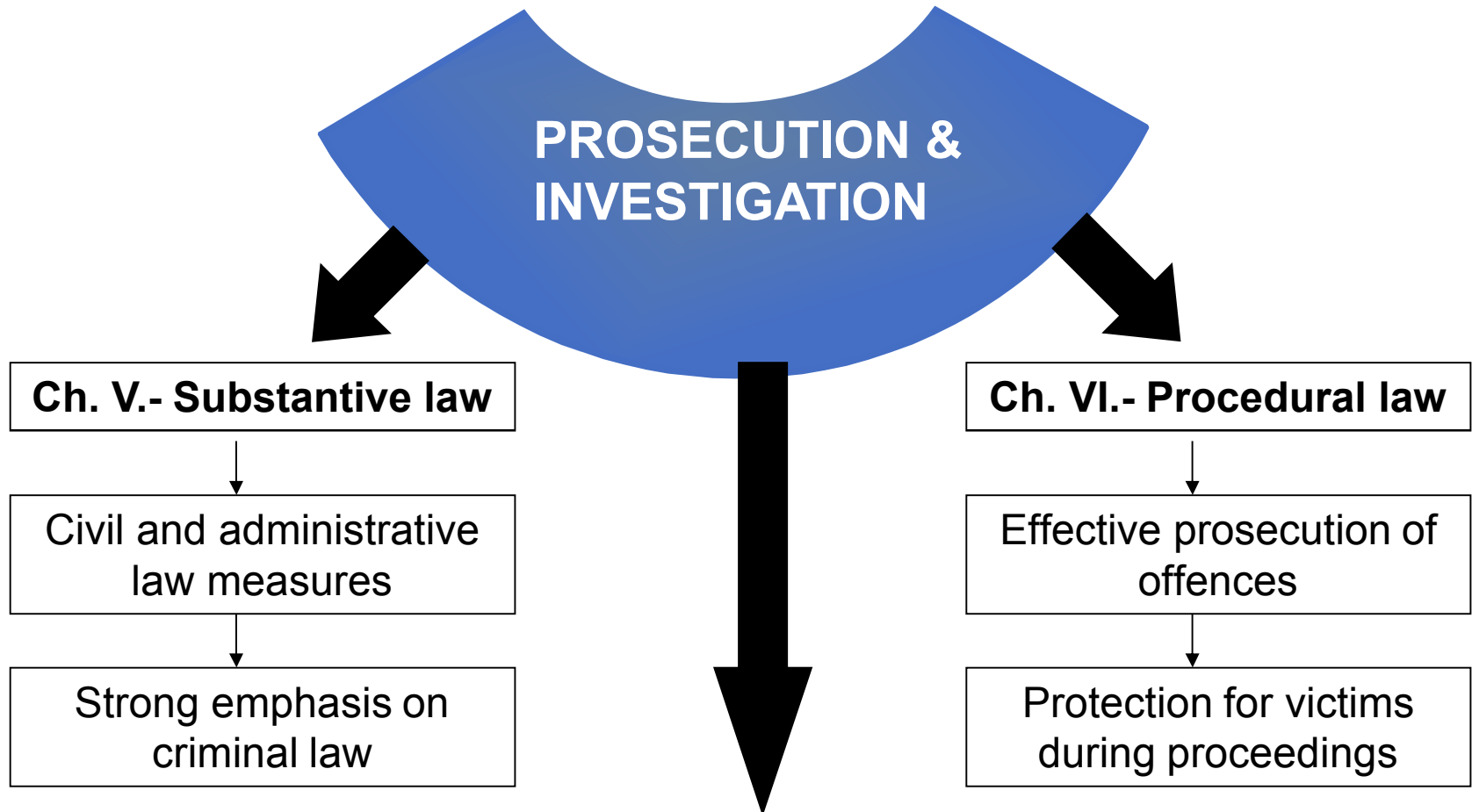
# PROTECTION



## Key recommendations

- Effective co-operation mechanisms, including referral procedures, between all relevant state agencies and NGOs
- Sufficient funding for NGOs.
- Specialist support services for all victims of violence against women and domestic violence.
- Appropriate, easily accessible shelters in sufficient numbers.
- A state-wide telephone helpline to provide round-the-clock and free of charge.
- The principle of the best interest of the child in the laws dealing with protection and support of victims of violence against women and domestic violence.

# PROSECUTION



BRING PERPETRATORS TO JUSTICE: END IMPUNITY

COMPENSATE VICTIMS: REPARATION

## Key recommendations

- A state compensation scheme that offers subsidiary compensation to victims of violence against women and domestic violence.
- Ensure that regulation on parental rights requires judges and the Custody and Care Authority to take into consideration any evidence of any of the forms of violence against women or domestic violence.

# PROSECUTION: CRIMINAL LAW

## PSYCHOLOGICAL VIOLENCE (ARTICLE 33)

- Seriously impairing a person's psychological integrity,

## PHYSICAL VIOLENCE (ARTICLE 35)

- "Physical violence" against another person, whatever the consequences

## Key recommendations

- Introduce a dedicated criminal offence on domestic violence. It should cover psychological and economic violence.
- Introduce an offence on coercion.

# PROSECUTION: CRIMINAL LAW

## STALKING (ARTICLE 34):

- Repeatedly engaging in threatening conduct with result of fear.

## FORCED MARRIAGE (ARTICLE 37):

- “Forcing” a person to enter into marriage
- “Luring” a person to a foreign country with a view to forcing her or him to enter into a marriage

## Key recommendations

- Enact criminal legal measures prohibiting and sanctioning conducts of stalking.
- Criminalise forced marriage.

# PROSECUTION: CRIMINAL LAW

## SEXUAL VIOLENCE (ARTICLE 36)

- All forms of sexual acts which are performed on another person without her or his freely given consent

## FEMALE GENITAL MUTILATION (ARTICLE 38)

- Cutting away certain parts of the female genitalia
- “Coercing” a woman or girl or “inciting” a girl to undergo this practice.

## Key recommendations

- Improve criminal law regulation on **sexual violence**
- Prohibit **all actions** included in the definition of FGM.



# ACCESSORY CRIMINAL-LAW PROVISIONS

## AGGRAVATING CIRCUMSTANCES

- Multiple perpetrators, use of a weapon, presence of child.
- Vulnerable victims, relationship with the victim.
- Repeat offender, including possible consideration of sentences passed in other States (Art. 47).

## UNACCEPTABLE JUSTIFICATIONS

- Culture, custom, religion, tradition or so-called “honour”

## Key recommendations

- Introduce an aggravating circumstance based on the intimate or family relationship between the victim and the perpetrator
- Exclude mitigating circumstances based on immoral behaviour on the part of the victim

# PROCEDURAL LAW: EFFECTIVE PROSECUTION

## DUE DILIGENCE

- Ensure investigations and judicial proceedings without undue delay.
- Ensure that offences are effectively investigated into and prosecuted.

## *EX OFFICIO* PROSECUTION

- Allow prosecutions of the more severe forms of violence to go ahead without the victim's report or complaint.
- Allow proceedings to continue in the event of withdrawal of such a complaint.

## Key recommendations

- Establish a **clear mandate for the Police** to act promptly and effectively in all cases of violence against women and domestic violence.
- Consider serious cases of physical and sexual violence, forced marriage, female genital mutilation and forced sterilisation and forced abortion as **public offences**

# PROCEDURAL LAW: EFFECTIVE PROSECUTION

## RISK ASSESSMENT AND RISK MANAGEMENT

- Obligation to assess and manage the lethality risk, the seriousness of the situation and the risk of repeated violence.
- Obligation to take into account the fact that perpetrators possess or have access to firearms.

## PROTECTION ORDERS

- Emergency barring orders.
- Restraining or protection orders.

## Key recommendations

- Introduce in the legislation emergency barring orders.
- Amend existing “restraining orders”.
- Ensure that all relevant authorities carry out a risk assessment in cases of violence against women and domestic violence