

Strasbourg, 16 April 2010

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

REPORT OF THE 3rd MEETING

Strasbourg
1-3 December 2009

ITEM 1 OF THE AGENDA: OPENING OF THE MEETING

1. The third meeting of the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) was opened by Ms Dubravka Šimonović and Mr Eric Ruelle as Co-Chairs.

2. Mr Jan Kleijssen, Director of Standard-Setting of the Directorate General of Human Rights and Legal Affairs of the Council of Europe, addressed the Committee in an opening speech. Welcoming the delegates, scientific experts and observers (see list of participants as it appears in Appendix II), he invited the Committee to start the first reading of the draft convention on preventing and combating violence against women and domestic violence. Recalling the scope and contents of the future convention as agreed in the Interim Report which the Committee adopted at its 2nd meeting by consensus, he asked the Committee to set itself the target of ending the first reading of the entire draft convention by the end of the next meeting. He recognised that the Committee was dealing with a particularly sensitive and important subject matter and expressed his belief that by preparing a new international legal instrument it will set a milestone in fighting violence against women and domestic violence.

ITEM 2 OF THE AGENDA: ADOPTION OF THE AGENDA

3. The Committee adopted the agenda as it appears in Appendix I.

ITEM 3 OF THE AGENDA: INFORMATION BY THE CO-CHAIRPERSONS

4. The Co-Chairs informed the Committee that the aim of the meeting was first to hold an exchange of general views on the draft convention and, secondly, to proceed with a first reading of the text by examining it article by article. In briefly presenting the draft convention, the Co-Chairs explained that it had been prepared by the Secretariat in close co-operation with them, and with the assistance of the scientific experts, Ms Christine Chinkin and Ms Renée Römkens. They explained that the draft closely followed the structure of the most recent Council of Europe conventions and was largely based on the Interim Report. Wherever possible, the draft articles reflected existing standards agreed at the European or international level. Finally, they pointed out that, in as far as the scope of the draft convention was concerned, the draft aimed at striking a balance between measures aiming at preventing and combating violence against women and those aiming at preventing and combating domestic violence.

ITEM 4 OF THE AGENDA: INFORMATION BY THE SECRETARIAT

5. Mr Carlo Chiaromonte, Secretary to the Committee, then proceeded with an overview of the background and working documents. In particular, he provided a brief explanation concerning the requests for observer status to CAHVIO submitted to the Secretary General by the International Lesbian and Gays' Association (ILGA Europe) and the German Institute for Human Rights.

ITEM 5 OF THE AGENDA: EXAMINATION OF THE DOCUMENT “DRAFT CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE” (CAHVIO (2009)32 PROV)

6. The Committee started the examination of the draft convention (CAHVIO (2009) 32 prov) with an exchange of general views. All delegates agreed that the draft provided an excellent basis for negotiations as it duly takes up the different matters contained in the Interim Report and which the Committee agreed to cover in the future convention. While some delegations considered some of the draft articles too broad and/or too detailed, other delegations recognised that preventing and combating violence against women and domestic violence required a multi-faceted approach and therefore warranted a comprehensive set of legally binding obligations. Furthermore, some delegations expressed the need to spell out the scope of the convention more explicitly by introducing a separate article. These delegations further noted that not all provisions of the draft extended to domestic violence and suggested to re-examine which draft articles were applicable to domestic violence and which to forms of violence against women. In addition, several delegations felt the need to strengthen the human rights approach in the draft convention. Lastly, a large number of delegations highlighted the importance of stressing the significant role that non-governmental organisations play in supporting and protecting victims of violence against women.

7. The Committee then proceeded with a first reading of the draft convention article by article. It covered articles 1 to 27.

8. As far as the purpose of the convention is concerned, many delegations proposed a variety of amendments to article 1. In particular, it had been suggested to highlight the promotion of equality between women and men as the fundamental purpose of the convention by giving it a more prominent place. Furthermore, several delegations expressed the importance of including a reference to the empowerment of women and ensuring their agency as a purpose of the convention.

9. In relation to the definitions contained in article 2, a number of delegations called for a more precise re-wording. It was also suggested to include a definition of “victim”, as this expression appears throughout the entire draft convention while no attempt is made at defining its meaning. The Co-Chairs noted that defining the concepts contained in the future convention required more work and invited delegations to send to the Secretariat examples of definitions contained in their national laws, in particular on violence against women and domestic violence.

10. Concerning the equality and non-discrimination clause contained in article 3, several delegations commented on the grounds of discrimination as currently listed. While some preferred an extensive list, others questioned the inclusion of grounds such as “gender identity” and “sexual orientation”. In particular, the Russian Federation stressed its view that the scope of the future convention should not extend to same-sex relationships and that the grounds for discrimination should not include “sexual orientation”.

11. Concerning chapter III on prevention, the delegations agreed on the importance of raising awareness through campaigns, training of professionals and education at various levels to foster gender equality and prevent violence against women and domestic violence. They also agreed on the need of setting up perpetrator programmes and involving the private sector. However, many specific measures provided for in this chapter require further discussion. Delegations were therefore invited to submit proposals for alternative wording to the Secretariat.

12. Under the heading of “protection and support services”, delegations agreed that victims of violence against women and domestic violence need to be accorded a variety of services, some of which required a high degree of specialisation. Some delegations pointed to the importance of ensuring that these services operate for the empowerment of women victims rather than lead to repeat victimisation. It was also stated that this chapter should contain clearer terminology such as in the case of “economic independence”, which is a concept that adds significant value to the future convention, but requires further clarification. A group of delegations stressed the need to separate clearly the provision of services from any obligation to report to the authorities, as that would raise a number of ethical issues for service providers as well as delicate questions of consent and privacy rights of victims.

13. The Committee then proceeded with the examination of Chapter V on substantive law. This chapter contains articles in the field of substantive civil and criminal law. Some members of the Committee drew attention to the fact that the division between civil and criminal law as proposed in the current draft did not necessarily reflect the reality of the legal systems of all member states. It was therefore suggested to re-organise the structure of the chapter while keeping all or most of its content. Some delegations expressed their desire to move away from the current level of detail to allow for provisions of a more general nature.

14. The Committee ended its discussion with a brief round of comments on some of the substantive criminal law provisions. While the majority of the delegations supported the idea of criminalising psychological violence, delegations agreed that this notion needed to be further examined and required a more robust definition. As regards stalking, a number of delegations were of the opinion that the current proposal did not adequately reflect the repeat nature of this crime. In relation to the draft article on sexual violence and rape, which had been drafted on the basis of requirements for rape legislation as stipulated in the jurisprudence of the European Court of Human Rights (*M.C. v. Bulgaria*), not all delegations agreed to base rape solely on the notion of lack of consent but instead highlighted the need to include the use of force.

ITEM 6 OF THE AGENDA: PLANNING OF THE FUTURE WORK OF THE COMMITTEE

15. Having completed the first reading of articles 1-27, the Committee decided to continue its first reading of the remaining articles during its next meeting (February 2010). All participants to CAHVIO were invited to submit in writing to the Secretariat proposals on alternative wording for articles 1-27 by 31 January 2010. On the basis of these proposals, the Secretariat will prepare a revised version of the draft convention for the meeting thereafter (June 2010).

16. The text of the draft convention as it is contained in document CAHVIO (2009)32 prov will be made available on the Committee’s website shortly after the meeting.

ITEM 7 OF THE AGENDA: OTHER BUSINESS

17. The Committee discussed the requests for observer status received from ILGA Europe and the German Institute for Human Rights. While the request from ILGA Europe had been received in good time prior to the meeting and had been communicated in writing to CAHVIO delegations on 4 November 2009, the request from the German Institute for Human Rights had been received by the Secretariat on the eve of the meeting and communicated to

the Committee on the first day of its meeting. Consequently, some delegations were not in a position to vote on the request, which is why the Committee decided to postpone the vote to the next meeting. It then proceeded with a vote on the request from ILGA Europe, in which one member state (Russian Federation) voted against the admission of ILGA Europe as observer to CAHVIO. In accordance with point 3.4 of *Resolution Res (2005) 47 on committees and subordinate bodies, their terms of reference and working methods*, the Committee then voted on the referral of this matter to the Committee of Ministers. As 31 out of 45 member states present voted in favour of referral, the Committee decided to transmit the matter to the Committee of Ministers.

ITEM 8 OF THE AGENDA: DATE OF NEXT MEETING OF THE COMMITTEE

18. The next meeting of the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) will be held on 22-24 February 2010 and the meeting thereafter on 29 June – 2 July 2010.

APPENDIX I: AGENDA

Agenda of the third meeting of the Ad Hoc Committee on preventing and combating violence against women and domestic violence, 1-3 December 2009.

1. Opening of the meeting
2. Adoption of the agenda
3. Information by the co-Chairpersons
4. Information by the Secretariat
5. Examination of the document “Draft Convention on preventing and combating violence against women and domestic violence” (CAHVIO (2009)32 prov)
6. Planning of the future work of the Committee
7. Other business
8. Date of next meeting of the Committee

APPENDIX II: LIST OF PARTICIPANTS

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