



Strasbourg, 12 January 2011

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

**REPORT OF THE 7<sup>th</sup> MEETING**

**Strasbourg  
8 - 10 November 2010**

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

## **ITEM 1 OF THE AGENDA: OPENING OF THE MEETING**

1. The seventh 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, including first-time participants such as the United States of America (see list of participants as it appears in Appendix II), he invited the Committee to begin the final reading of the draft convention on preventing and combating violence against women and domestic violence. Mr. Kleijssen informed that although the interim report presented by CAHVIO to the Committee of Ministers at its 1062<sup>nd</sup> meeting called for a strong, independent mechanism and that the current version of the draft convention foresees a heavy mechanism in terms of funding and staff, it was not certain however that the Committee of Ministers would be able to agree on this, due to current budgetary difficulties.

3. The Co-chairs reminded delegations that the interim report reflected the support of the Committee of Ministers for a strong and independent monitoring mechanism. Since the adoption of the interim report, no contrary indications by the Committee of Ministers had been received by the CAHVIO that this was no longer valid. However, taking into account the financial difficulties faced by the Council of Europe in relation to the funding of monitoring mechanisms, the Co-Chairs proposed to include in the meeting report an alternative for a more flexible monitoring mechanism. An alternative proposal was prepared by the Secretariat which reads as follows:

“Chapter X – Monitoring mechanism

Article 55 – Monitoring mechanism

1. The Committee of the Parties shall monitor the implementation of this Convention by the Parties. The Committee of the Parties shall be composed of the representatives of the Parties to the Convention.

2. In monitoring the implementation of this Convention, the Committee of the Parties shall be assisted by a monitoring committee, the members of which shall have recognised expertise in the field of preventing and combating violence against women and domestic violence.

3. The composition of this monitoring committee and its rules of procedure shall be determined by the Committee of the Parties within a period of one year following the entry into force of this Convention.”

## **ITEM 2 OF THE AGENDA: ADOPTION OF THE AGENDA**

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

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

5. The Co-Chairs informed the Committee that the aim of the meeting was to finalise the text of the draft convention. They explained that the reservations and written proposals for amendments submitted by delegations had been compiled by the Secretariat in a 100-page

document (CAHVIO(2010)19) which had been put at the disposal of all delegations beforehand and would serve as basis for the discussions of the meeting. In view of the limited time-span, the Co-Chairs urged delegations to focus only on changes in substance and not to go back on issues that had previously been examined, discussed and settled. The Co-Chairs further explained that in cases where provisions would not meet with agreement from all delegations, the Committee would proceed with an indicative vote in order to know where delegations stood. The Co-Chairs acknowledged that although this did not represent the best solution in order to get full consensus on all provisions of the draft convention, it was the only way to progress significantly if the Committee was to finalise as many provisions as possible by the end of the meeting.

#### **ITEM 4 OF THE AGENDA: INFORMATION BY THE SECRETARIAT**

6. Mr Carlo Chiaromonte, Secretary to the Committee, provided the Committee with additional practical information on the meeting.

#### **ITEM 5 OF THE AGENDA: CONTINUATION OF THE EXAMINATION OF THE DOCUMENT “DRAFT CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE” (CAHVIO (2010)17 REV)**

7. The Committee proceeded with the final reading of the draft convention article by article.

8. In relation to the Preamble, it was agreed to shorten the text and move some points of detail to the Explanatory Memorandum. It was also agreed to include in a footnote the proposals for additional wording from the Czech and German delegations, which will be discussed at the next meeting.

9. The Committee then proceeded with the examination of Chapter I on “Purposes, definitions, equality and non-discrimination, general obligations”. The first four articles were simultaneously examined due to their link to the scope of the convention. During the discussion on Article 1 bis on the scope of the convention, delegations examined the alternative text that had been drafted by the Legal Advice Department and Treaty Office of the Council of Europe and that had been previously submitted to delegations along with all other comments. The proposal did not receive the support of the Committee, which clearly supported the version in the draft text of the convention. Moreover, some delegations proposed the deletion of the provision on the application of the convention in times of peace or in situations of armed conflicts. The Committee decided however to keep the text as it stands. The delegation from the United Kingdom expressed a reservation on Article 1 bis (3) and the delegation from the Russian Federation expressed a general reservation on the article. The article on the purposes of the convention (Article 1) was subject to some restructuring in order to allow for a better reading of the convention. With regard to the article on definitions (Article 2), it was decided to re-introduce the definitions of gender-based violence and women and to include the term “economic violence” in the definition of domestic violence. The delegation from Denmark expressed a reservation in relation to a reference to “psychological violence” in both lit.a and lit.b of Article 2. The delegation from Lithuania expressed a reservation in relation to the reference to “partners as recognised by internal law” in lit.b. A reservation was also expressed by the delegation from the Russian Federation concerning lit.b and lit.c of this article. The delegation from the United Kingdom expressed a general reservation on Article 2. In relation to Article 3 on fundamental rights, equality and non-discrimination, the delegation from Lithuania expressed a reservation on paragraph 4 and the delegation from Denmark expressed a reservation on the reference to “marital status”

contained in paragraph 3. The remaining articles in Chapter I met with agreement from all delegations and were adopted.

10. During the discussion on Chapters II, III and IV on “Integrated policies”, “Prevention” as well as “Protection and support”, no major objections were raised by delegations. Aside from some changes in terminology and the decision to elaborate on the content of some articles in the Explanatory Memorandum, all articles met with general agreement from all delegations and were adopted. Nevertheless, the delegation from the United Kingdom expressed reservations on Article 10 (2) and Article 13. In relation to Article 11 on the training of professionals, the Committee opted for the combination of elements from the two alternatives in the draft convention. Subsequently, a new proposal was prepared by the Secretariat. The Secretariat was also asked to re-draft Article 19 bis on the reporting by professionals. Both articles will be re-discussed at the next meeting.

11. The Co-Chairs then decided to base the order of the discussion of articles on the categorisation (“agreed, almost agreed and significant differences”) proposed by Finland on behalf of a number of other delegations. It was decided to start with discussions on provisions raising substantial difficulties. The Committee then proceeded with the examination of Chapter X on the monitoring mechanism (see also paragraphs 2 and 3 of the present report). The provision on procedure (Article 57) was subject to re-structuring and additions based on proposals submitted by the German and Dutch delegations. Following an agreement from all delegations, additional provisions were included in the text of the convention such as for instance the obligation of the group of independent experts to take due account of the existing data-collection and research in the Parties. In order to respond to the issues that had been raised regarding the budgetary difficulties linked to monitoring mechanisms, delegations agreed to amend the provision related to on-site visits by establishing the principle that these visits should be carried out only in exceptional cases. The article on inquiry procedure (Article 57 bis) was therefore shortened and merged with Article 57. Once more, delegations asked that the content of some articles be further explained in the Explanatory Memorandum such as the types of questionnaires to be developed by the group of independent experts or what constitutes insufficient information submitted by the Parties. Following these amendments the chapter on monitoring was finalised and received the approval of all delegations, with the exception of the delegation from Azerbaijan that expressed a reservation in relation to paragraphs 12 bis, 12 ter and 12 quater of Article 57.

12. The Committee then proceeded with the examination of articles raising substantial difficulties in Section 2 on Criminal Law. In relation to Article 25 on stalking, delegations expressed concerns in relation to the wording of the article being too broad and had objections in particular to the term “surveillance”. The Committee agreed that the article should focus on the most serious conduct and that the Explanatory Memorandum should include an explanation of what constitutes “threatening conduct”. The delegations from Denmark and Slovenia expressed a reservation on this article. Regarding the provision on crimes committed in the name of “honour” (Article 30 bis), several amendments were made during the meeting. The majority of delegations were in favour of the proposal that had been submitted by the delegation from France during the 6<sup>th</sup> meeting of the CAHVIO, which served as basis for the re-wording of the article. In particular, delegations agreed to change the title of the article to “Unacceptable justifications for crimes”. During the discussion on the provision on jurisdiction, it was decided to remove Article 30 bis from the lists of articles covered by the provision, since it no longer constituted a criminal offence. Additionally, the reference to Article 29 was limited to forcing an adult or a child to enter into a marriage (paragraph 1). The delegation from the United Kingdom expressed a reservation on Article 33 (1 ter), while the delegation from Sweden expressed a reservation with regards to a reference to Article 27

in this article. The delegation from Denmark also expressed a reservation on paragraph 2 of this article. Moreover, the delegation from Denmark expressed a reservation on the article on aggravating circumstances (Article 35). Finally, the delegation from Estonia expressed a reservation on lit. a and lit.e of Article 35. Additionally, the Committee did not come to an agreement with regard to the use of “partners as recognised by internal law” or “partners as recognised by national law”, throughout the text of the convention. The Co-chairs noted that this will need to be resolved at the next meeting. A reservation was expressed by the delegation from Lithuania on all articles with a reference to partners as recognised by internal/national law. With the exception of the above-mentioned reservations and some issues that will be re-discussed, all articles were agreed upon and adopted.

13. In order to prepare the ground for the discussion on the provision (Article 55, paragraph 6) and appendix regarding the privileges and immunities during country visits, Ms Elise Cornu, Legal Advice Department and Treaty Office, Directorate of Legal Advice and Public International Law, provided the Committee with information regarding the need to include such a provision and this particular appendix in the text of the convention. Ms Cornu explained that the purpose of this amendment is to allow all members of country visit delegations to be on equal footing and benefit from the same privileges and immunities. The General Agreement on Privileges and Immunities of the Council of Europe is open to member states only. However, the future convention will also be open to non-member states. With regard to other Council of Europe conventions providing for country visits, the usual procedure is for the Committee of Ministers to ask for a bilateral agreement to be signed by non-member states, resulting in a lengthy process that can delay their accession to a convention. Ms. Cornu explained that for this reason, and as a precautionary step for the future, the provision and appendix were directly included in the body of the convention to avoid heavy procedures in order to negotiate bilateral agreements with non-member states.

14. Following this presentation, the Committee engaged in a discussion on the need for the inclusion of this appendix in the body of the convention. It was agreed that it was not up to the CAHVIO to decide on this matter and that the decision would need to be taken at a later stage by the Committee of Ministers. The text of the appendix would be included between brackets in the final version of the convention.

15. The Committee then proceed with the examination of Articles 40 ter, 41, 43 and 46. Delegations were divided with regards to keeping the provision on the prohibition of firearms. Some delegations considered that the obligation contained in Article 40 ter was covered by the provision on risk assessment and risk management. The Co-Chairs instructed the Secretariat to prepare an alternative proposal to be submitted to delegations before the next meeting. In relation to the provision on investigations and evidence (Article 41), which met with general agreement from delegations, the delegation from Austria expressed a reservation on this article. With various amendments, the article on measures of protection (Article 43) also met with agreement from all delegations, except for the reservations expressed by the delegations from Estonia and Denmark with regard to lit. b and the reservation expressed by the delegation from Sweden in relation to lit.f. The delegation from Denmark also expressed a reservation on lit.i. Article 46 on statute of limitation raised concerns among delegations regarding the list of articles to be included in the provision. By means of indicative votes, the Committee decided to keep the text as it stood. The delegation from the Czech Republic expressed a reservation on the list of articles included in the provision, and the Danish delegation also expressed a reservation in relation to including article 30 ter in the list.

16. During the discussion on the remainder of Section 2 on Criminal Law (Articles 24, 26-30, 30 ter-34 and 36 bis) and following some amendments, all articles met with general

agreement from delegations and were finalised. Some delegations did however express a reservation with regard to specific paragraphs or terminology. The delegations from the following member states expressed reservations : Denmark (Articles 24, 27 (1 ter) and 32), United Kingdom (Articles 24, 26 and 28), Ukraine (Article 29), Georgia (Article 28) and Ireland (Article 33 (2)). In relation to the provision on aiding or abetting and attempt, delegations decided to include Articles 24 and 25 in the list of criminal offences. Additionally, the reference to Article 29 was limited to forcing an adult or a child to enter into a marriage (paragraph 1), and the reference to Article 30 was limited to excising, infibulating or performing any other mutilation (lit.a). Article 30 bis was also deleted from the list due to the decriminalisation of crimes committed in the name of “honour”.

17. Representatives from the European Union raised the question of how to provide for the participation of the European Union when it takes part in the implementation of the convention. This issue particularly concerns the final clauses of the Convention and the monitoring mechanism. They explained that the provisions of the convention should reflect possible future developments in current discussions relating to the involvement of the European Union in decision-making processes. The Co-Chairs explained that the Council of Europe and European Union were regarding the matter in a transversal manner in order to integrate this key question into other Council of Europe conventions. It was decided that the CAHVIO is not the body that could take a decision on this general matter. However, it was decided that the convention would be put in conformity on the basis of what is decided by the Committee of Ministers and if the decision has an impact on this particular convention.

18. The Committee ended its discussion with the examination of Articles 47 and 48 on residence status and gender-based asylum claims. Article 47 was subject to some changes in terminology and some amendments such as the inclusion of the condition that residence permits are to be granted to victims in the event of particularly difficult circumstances and the adoption of the provision on the situations when permits may be granted (paragraph 2 bis). The delegations from Ireland, Denmark and the United Kingdom expressed reservations on Article 47 (1). A reservation was also expressed by the delegation of the United Kingdom in reference to Article 47 (4). In relation to the provision on gender-based asylum claims, the Committee was not able to fully agree on the content of the article. The majority of delegations were in favour of the Dutch proposal and the Co-Chairs asked the delegation from the Netherlands to submit a detailed explanation of their proposal. Although the Committee did not finalise the content of Article 48, the delegations from Georgia and Denmark expressed a reservation with regard to this article. Also, despite the fact that the Committee did not embark on a discussion of Article 48 bis, the delegation from Denmark expressed a reservation on this provision. Finally, the delegation from the Russian Federation expressed a reservation on the whole migration chapter.

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

19. On the last day of the meeting, Mr Jan Kleijssen intervened drew attention to the existing mandate of the CAHVIO, which expires on 31 December 2010. He informed delegations that the Secretary General requested the CAHVIO to finish its work within the deadline indicated in its terms of reference. Mr. Kleijssen proposed that the next meeting be held in December. Many delegations raised serious concerns with regards to this short deadline, stressing that it could seriously affect their capacity to sign the convention. In particular, delegations stressed that it could prove extremely difficult to finalise consultations at the national level due to the requirement of multi-agency negotiations.

20. In view of the information presented by Mr Kleijssen and due to the fact that a few provisions still needed to be finalised, the Committee decided to continue its final reading of the remaining articles during its next meeting (December). However, the Co-Chairs highlighted the fact that most of the duration of the meeting would be dedicated to the adoption of the Explanatory Memorandum. In light of what had been discussed at the 7<sup>th</sup> meeting, the Secretariat explained that it would prepare a "clean" revised text of the draft convention with only new agreed amendments in track-changes and that it will amend the draft Explanatory Memorandum in order to reflect proposals made by delegations and to align the text according to the finalised articles. The revised draft convention will be sent at the beginning of the week following the meeting and the revised text of the Explanatory Memorandum shortly afterwards. The Secretariat additionally invited delegations to submit proposals for concrete additional wording and paragraphs to be included in the draft text of the Explanatory Memorandum.

#### **ITEM 7 OF THE AGENDA: OTHER BUSINESS**

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

21. The next meeting of the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) will be held on 13 – 17 December 2010.

## **APPENDIX I: AGENDA**

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 “Third Draft Convention on preventing and combating violence against women and domestic violence”
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**

### **MEMBER STATES / ETATS MEMBRES**

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Apologised/Excusée

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#### **BELGIUM / BELGIQUE**

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*Apologised/Excusé*

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\* \* \* \*

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**GOVERNMENTAL COMMITTEE ON THE EUROPEAN SOCIAL CHARTER /  
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**PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIRE**

Mr José MENDES BOTA  
Chairperson of the PACE Committee on Equal Opportunities for Women and Men

**CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF THE COUNCIL OF EUROPE /  
CONGRES DES POUVOIRS LOCAUX ET REGIONAUX DU CONSEIL DE L'EUROPE**

Ms Sandra BARNES  
Chair of the Committee on Social Cohesion of the Congress of Local and Regional Authorities

**COUNCIL OF EUROPE COMMISSIONER FOR HUMAN RIGHTS /  
COMMISSAIRE AUX DROITS DE L'HOMME DU CONSEIL DE L'EUROPE**

Apologised/Excusée

**CONFERENCE OF INGOs ENJOYING PARTICIPATORY STATUS WITH THE COUNCIL OF EUROPE  
/CONFERENCE DES ONG DOTEES DU STATUT PARTICIPATIF AUPRES DU CONSEIL DE  
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**UNITED NATIONS CHILDREN'S FUND /  
FONDS DES NATIONS UNIES POUR L'ENFANCE (UNICEF)**

**OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (UNHCHR) /  
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**COMMONWEALTH OF INDEPENDANT STATES (CIS) / COMMUNAUTE DES ETATS  
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**INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS /ORGANISATIONS  
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**WOMEN AGAINST VIOLENCE EUROPE (WAVE)**

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Apologised/Excusé

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Mr Giovanni PALMIERI	Head of Gender Equality Division / Chef du Service pour l'égalité entre les hommes et les femmes
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