



Strasbourg, 25 October 2010

CAHVIO (2010) 18

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

REPORT OF THE 6th MEETING

**Strasbourg
27- 30 September 2010**

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

ITEM 1 OF THE AGENDA: OPENING OF THE MEETING

1. The sixth 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.

ITEM 2 OF THE AGENDA: ADOPTION OF THE AGENDA

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

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

3. The Co-Chairs informed the Committee that the aim of the meeting was to finalise the second reading of the text by examining it article by article, starting at article 27 where the 5th CAHVIO meeting had left off. The Co-Chairs requested that delegations only put forward concrete remarks and to point out reservations they may have with regards to these provisions, as they were already discussed in past CAHVIO meetings. It was recalled that despite the high level of agreement reached on the preceding articles (articles 1-26), these were not yet formally approved.

ITEM 4 OF THE AGENDA: INFORMATION BY THE SECRETARIAT

4. 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 (2009)32 PROV)

5. The Committee proceeded with the second part of the second reading of the draft convention article by article. It covered articles 27 to 67.

6. During the discussion on the remainder of Section 2 on Criminal Law (articles 27 – 36 bis), some delegations expressed a reservation with regard to specific paragraphs or terminology, which will be reflected in footnotes included in the revised draft convention. With a view to shortening the draft and making it more concise, the Committee agreed to move many points of detail to the Explanatory Memorandum. Notably, the issue of consent in the context of sexual violence as well as forced sterilisation and forced abortion, a definition of force regarding forced marriages and a definition of medical purposes in the case of female genital mutilation. The majority of delegations were also in favour of the alternative article on sexual harassment prepared by the Secretariat. During the discussion on article 30 bis, there was general agreement among delegations not to create a specific criminal offence on “crimes committed in the name of honour”. The majority of delegations did, however, stress the need to keep a specific provision ensuring that a breach of “honour” does not constitute a legal excuse to justify criminal acts. Three delegations submitted alternative proposals prepared during the meeting which were combined and introduced into the revised version of the draft.

7. The Committee then proceeded with the examination of Chapter VI on investigation, prosecution, procedural law and protective measures. A small number of provisions and some issues related to terminology did not meet with consensus of all delegations and will be revisited during the next meeting, namely in relation to articles 40 bis, 43 and 46. Despite a few reservations that will be reflected in footnotes and following the introduction of several

amendments, the majority of articles met with agreement from all delegations. Once more, the Committee agreed to move several points of detail to the Explanatory Memorandum. These included, for example, the explanation of measures that need to be taken in order to ensure immediate response, prevention and protection. An additional provision was also added relating to the prohibition of firearms, following an alternative proposal submitted by UNIFEM during the meeting (article 40 ter).

8. In relation to Chapter VII on migration and asylum, many delegations expressed reservations regarding provisions and terminology. In view of an absence of agreement among delegations, the Co-chairs noted that the conclusions with regards to articles contained in Chapter VII were provisional and would need to be re-discussed at the next meeting. An additional provision was also introduced on the non-refoulement principle, based on a proposal made by UNHCR during the meeting (article 48 bis).

9. As for the provisions contained in Chapter VIII, delegations were divided with regards to keeping the provision in article 49 on the transmission of complaints from one Party to another. Furthermore, several delegations expressed reservations with regards to the list of articles contained in article 50 on measures relating to persons at risk. The Committee agreed that these issues would need to be resolved at the next meeting. All remaining articles met with agreement from all delegations.

10. The majority of delegations agreed to leave Chapter IX on data collection as it stands. The Co-chairs noted, however, the need to define objective criteria to be applied when collecting standardised data in the Explanatory Memorandum. The link between the collection of data and the follow-up mechanism should also be elaborated in the Explanatory Memorandum.

11. The Committee then proceeded with the examination of Chapter X on the future monitoring mechanism of the convention. Although delegations recognised current financial problems related to the setting up of new monitoring mechanisms in the Council of Europe, the majority agreed that a strong and independent monitoring mechanism is necessary in order to adequately implement the future convention. Delegations did not express a preference for the two alternative proposals submitted by the Secretariat and opted for a tailor-made approach by selecting elements from both alternatives. The Committee agreed in favour of an independent group of experts mandated to prepare reports on the basis of information received from Parties, non-governmental and civil society organisations, and relevant specialised bodies of the Council of Europe, among others. The Committee also agreed in favour of a Committee of the Parties, to be composed of members of the Committee of Ministers of the Council of Europe, that will be able to adopt recommendations on the basis of these reports. The independent group of experts will also be able to adopt under certain circumstances, general recommendations on the implementation of the convention. Additionally, the Committee agreed to include an inquiry procedure, allowing the independent group of experts to request the urgent submission of special reports regarding situations that require immediate attention. If necessary the inquiry may include a visit to the territory of the Party concerned. Finally, the Committee stressed the importance of parliamentary involvement in the monitoring of the implementation of the future convention.

12. The Committee ended its discussion with a round of comments on Chapters XII and XIII. Except for a reservation expressed by the German delegation with regards to the wording of article 60, all other articles met with agreement from all delegations.

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

13. The Committee completed the second reading of articles 1-67. In order to facilitate the final discussions on the draft convention during the next meeting, the Secretariat will prepare a revised version of the draft convention containing in footnotes reservations that delegations might have with regard to specific and substantial provisions of the draft convention. It will also prepare a compilation of proposals for alternative wording in relation to these reservations. The revised text of the draft convention and the compilation will be made available to the Committee prior to the 7th meeting. All participants to CAHVIO were invited to submit in writing to the Secretariat their reservations and concrete proposals for alternative wording for articles 1-67 by 25 October 2010. To facilitate the adoption of the final wording of the draft convention at the next meeting, the Secretariat will provide all delegations with a first draft of the Explanatory Memorandum on the remaining articles (articles 27-67). This document will serve as a background document and will not be discussed. Delegations were nonetheless invited to submit to the Secretariat comments/proposals for alternative wording on articles 1-26 of the Explanatory Memorandum, whenever they wish to do so.

ITEM 7 OF THE AGENDA: OTHER BUSINESS

14. The Committee discussed the requests for observer status received from the European Institute for Gender Equality and the Advocates for Human Rights. There were no objections to the admission of the European Institute for Gender Equality as observer to the CAHVIO. The Committee then proceeded with a vote on the request from the Advocates for Human Rights, in which 5 member states (Russian Federation, Slovak Republic, Germany, the Netherlands and Serbia) voted against their admission 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 two-thirds of all member states present voted in favour of referral, the Committee decided to transmit the matter to the Committee of Ministers. Informed on the result of its request and of follow-up procedure, the Advocates for Human Rights officially informed the Secretariat that they did not wish to continue the procedure notably because of the late stage of negotiations in CAHVIO.

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

15. In relation to the date of the next meeting of the Committee, one delegation officially proposed to postpone the next meeting to a later stage, in order to have sufficient time for the consultation process at national level. The Co-Chairs requested the Committee to take a position on possible dates. The result of this request was that the majority of delegations agreed to keep the original dates for the next meeting. Consequently, the next meeting of the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) will be held on 8 – 10 November 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 “Draft Convention on preventing and combating violence against women and domestic violence” (CAHVIO (2009)32 rev)
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

ALBANIA / ALBANIE

Ms Etleva SHESHI

Responsible for Sector for Gender Equality and Domestic Violence, Ministry of Labour, Social Affairs and Equal Opportunities, MOLSAEO

ANDORRA / ANDORRE

Mme Laura LOPEZ AMBATILE

Avocate, Ministère de la Santé, des Affaires sociales et de la Famille

Mme Caterina ALEIX LARTIQUE

Assistante Sociale, Ministère de la Santé, Affaires Sociales et Travail, Equipe d'Intervention auprès des femmes maltraités

ARMENIA / ARMÉNIE

Ms Nelli DURYAN

Deputy Head of the 3rd Division of the Criminal Investigation Police, Police Colonel
Main Department for Criminal Investigation of Police of Republic of Armenia

AUSTRIA / AUTRICHE

Ms Rosa LOGAR

Director Domestic Abuse, Vienna Intervention Centre against violence in the family

Apologised/Excusée

Ms Elisabeth TAEUBL

Judge, Ministry of Justice

AZERBAIJAN / AZERBAÏDJAN

Mr Ismayil ASADOV

Head of Division, International Humanitarian Law and Human Rights, Department of International Law and Treaties, Ministry of Foreign Affairs of Azerbaijan.

BELGIUM / BELGIQUE

Mr Steven LIMBOURG

Conseiller, Service public fédéral Justice, Direction générale Législation, Direction Pénale
Service Principes de droit pénal et de procédure pénale

M. Freddy GAZAN

Conseiller Général adjoint à la politique criminelle, Ministère de la Justice

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

Ms Samra FILIPOVIC-HADZIABDIC

Director of the Gender Equality Agency, Ministry for Human Rights and Refugees

BULGARIA / BULGARIE

Ms Irena BORISOVA

Head of Department "International cooperation and legal assistance in criminal matters" , Ministry of Justice

CROATIA / CROATIE

Ms Dubravka ŠIMONOVIĆ
 Head of Department for International Organizations and Human Rights,
 Ministry of Foreign Affairs and European Integration of the Republic of Croatia

Co-Chair/ Co-présidente

CYPRUS / CHYPRE

Apologised/Excusé

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Mr Michal NESPOR
 Legal expert, International Law Department, Ministry of the Interior

Ms Helena LISUCHOVA
 Legal Expert, Department for International Organizations and International Cooperation, Ministry of Justice

DENMARK / DANEMARK

Ms Brit Gotthard JENSEN
 Head of Section, Ministry of Justice

ESTONIA / ESTONIE

Ms Kristiina LUHT
 Chief Specialist, Gender Equality Department, Ministry of Social Affairs

Ms Tuuli PLOOM
 Adviser, Penal Law and Procedure Division, Criminal Policy Department, Ministry of Justice

FINLAND / FINLANDE

Ms Helena EWALDS
 Development Manager, The National Institute for Health and Welfare (THL)

Ms Marjatta HIEKKA
 Legal Counsellor, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs

Ms Kirsi PULKKINEN
 Legal Adviser, Law Drafting Department, Ministry of Justice

Mr Mika MICKELSSON
 Attaché, Unit for Human Rights Policy, Political Department
 Ministry for Foreign Affairs of Finland

FRANCE

M. Stéphane DUPRAZ
 Magistrat au Ministère de la Justice, Direction des Affaires criminelles et des Grâces, Mission de négociation et de transposition des normes pénales internationales

Mme Sophie DEL CORSO
 Chargée de Mission, Ministère des Affaires Sociales

M. Eric RUELLE
 Premier Vice-président
 Tribunal de Grande instance de Meaux

Co-Chair/ Co-président

GEORGIA / GÉORGIE

Mr Zurab MCHEDLISHVILI
 Assistant to the Deputy Chair of the Parliament of Georgia, Coordinator Gender Equality Advisory Council under the chair of the Parliament of Georgia

Ms Ketevan KHUTSISHVILI
 Executive Secretary of the Georgian Inter-Agency Council on Domestic Violence

Ms Marina MESKHI
Director of State Anti-Trafficking Fund

Ms Lali PAPIASHVILI
Chair of the State Inter-Agency Coordination Council on Domestic Violence, Member of the Constitutional Court of Georgia

GERMANY / ALLEMAGNE

Ms Nicole ZÜNDORF-HINTE
Adviser, Federal Ministry for Family Affairs, senior citizens, women and youth

Mr Tile MILKE
Ministry of Justice

GREECE / GRÈCE

Ms Theodora KATSIVARDAKOU
Head of the Directorate of Labour Relations and Social Policy, General Secretariat for Gender Equality, Ministry of Justice

Ms Sofia PAPADOPOULOU

HUNGARY / HONGRIE

Ms Orsolya MAKÁR
Counsellor, Ministry of National Resources, Department for Equal Opportunities

ICELAND / ISLANDE

Apologised/ Excusé

IRELAND / IRLANDE

Mr Anthony FLYNN
Assistant Principal, Cosc - The National Office for the Prevention of Domestic, Sexual and Gender-based Violence, Department of Justice, Equality and Law Reform,

Ms Tara STOREY
Cosc - The National Office for the Prevention of Domestic, Sexual and Gender-based Violence
Department of Justice, Equality & Law Reform,

ITALY / ITALIE

Mme Maria Gabriella COLOMBI Apologised/Excusée
PCM - Presidency of the Council of Ministers – Department for Equal Opportunities
Head of Social Affairs Service

Mme Sabrina PECORIELLO Apologised/Excusée
Expert, Presidency of the Council of Ministers – Department for Equal Opportunities

LATVIA / LETTONIE

Mr Zigmunds DUNDURS
Legal adviser, Criminal law department of the Ministry of Justice of the Republic of Latvia

LIECHTENSTEIN

M. Carlo RANZONI
Juge, Fürstliches Landgericht,

LITHUANIA / LITUANIE

Ms Vanda JURSENIENE
Head of Gender Equality Division, Ministry of Social Security and Labour

LUXEMBOURG

Apologised/Excusé

MALTA / MALTE

Ms Marceline NAUDI
Ministry of Education, Employment and Family

MOLDOVA

Ms Lilia PASCAL

Head of Division for Gender Equality and Prevention of Violence Policies, Ministry of Labour, Social Protection and Family

Mr Eugen RUSU

Deputy General Prosecutor
Office of Prosecutor General of Moldova

Ms Tatiana FOMINA

Manager of Analytical and Juridical Department, International Center for Women Rights Protection and Promotion Center "La Strada"

Mr Iurie PEREVOZNIC

Head of Department of Protection of Children, General Prosecutor's Office

MONACO

M. Frédéric PARDO

Apologised/ Excusé

Secretary for External Relations, Office for International Affairs, Ministry of Foreign Affairs

MONTENEGRO

Apologised/ Excusé

NETHERLANDS / PAYS-BAS

Mr Marnix ALINK

Legal Adviser

Mr Joël van ANDEL

Advisor in International Relations, Ministry of Justice

Ms Ingrid HORST

National Project Leader on Domestic Violence, Ministry of Justice, Judicial Youth Policy Department

NORWAY / NORVÈGE

Ms Hilde Marit KNOTTEN

Senior Adviser, Department of Family Affairs and Equality, Ministry of Children, Equality and Social Inclusion

Ms Astrid BERGMÅL

Adviser, Ministry of Children, Equality and Social Inclusion

Ms Torunn SALOMONSEN

Adviser, Ministry of Justice, Legislation Department, N - OSLO

POLAND / POLOGNE

Ms Monika KSIENIEWICZ

Senior Specialist, Gender Equality Unit, Ministry of Labour and Social Policy,

Ms Agata ROGALSKA-PIECHOTA

Expert, Office of the Plenipotentiary for the Proceedings before the International Organs of the Protection of Human Rights, Ministry of Foreign Affairs

Mr Rafal KIERZYNKA

Judge, Ministry of Justice

PORTUGAL

Mr José BARROS

Commission for Equality and Gender

ROMANIA / ROUMANIE

Ms Aura Manuela COLANG

Adviser, Child Protection Directorate-General, Ministry of Labour, Family and Social Protection

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Ms Elena RODIONOVA

Senior inspector of the Department for Security of Public Order of the Ministry of Interior of the Russian Federation

Ms Rada SECHENOVA

Senior prosecutor of the General Prosecutor's Office of the Russian Federation

Ms Ekaterina SYVOROTKINA

Attache of the Department of Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs,

Ms Ksenia GAL

Secretary of the Legal Department of the Ministry of Foreign Affairs of the Russian Federation

SAN MARINO / SAINT- MARIN

Mme Sylvie BOLLINI

Gender Issues Specialist, Ministry of Foreign Affairs

SERBIA / SERBIE

Ms Gordana GASMI

Law Professor, Singidunum University

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Mr Branislav KADLEČIK

General State Counsellor, Directorate for International and European Law, Ministry of Justice,

SLOVENIA / SLOVÉNIE

Ms Sara SLANA

Senior Adviser, Office of the Government of the Republic of Slovenia for Equal Opportunities

SPAIN / ESPAGNE

Ms Cecilia PAYNO DE ORIVE

Deputy, Office for International Relations, Ministry of Equality

Mr Íñigo ORTIZ DE URBINA GIMENO

Asesor del Gabinete del Ministro, Ministerio de Justicia

SWEDEN / SUÈDE

Ms Charlotte EDVARDSSON

Legal Adviser, Division for Criminal Law, Ministry of Justice

Mr Göran NILSSON

Deputy Director, Division for Criminal Law, Ministry of Justice

SWITZERLAND / SUISSE

Mme Anita MARFURT

Juriste en droit pénal international, Département Fédéral de Justice et Police, Office Fédéral de la Justice, Unité droit pénal international

Mme Sophie HEEGAARD-SCHROETER

Juriste, Département fédéral des affaires étrangères, Direction du droit international public
Section des droits de l'Homme et du droit international

Mme Karine LEMPEN

Juriste au Service Juridique et International, Bureau fédéral de l'égalité entre femmes et hommes,

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / “L’EX-REPUBLIQUE YUGOSLAVE DE MACEDOINE”

Ms Tanja KIKEREKOVA
Head, Human Rights Department, Ministry of Justice

TURKEY / TURQUIE

Ms Feride ACAR
Professor, Department of Political Science and Public Administration, Middle East Technical University

UKRAINE

Ms Lyudmyla RUDA
Deputy Head, Department of International Private Law and International Legal Assistance, Ministry of Justice

UNITED KINGDOM / ROYAUME-UNI

Ms Jan SALIH
Senior Policy Adviser, Family Law and Justice Division, Access to Justice Policy, Ministry of Justice,

Ms Louise BOYLE
Interpersonal Violence Team: Policy and Delivery, Home Office

* * * *

**STEERING COMMITTEE FOR EQUALITY BETWEEN WOMEN AND MEN/
COMITE DIRECTEUR POUR L’EGALITE ENTRE LES HOMMES ET LES FEMMES (CDEG)**

Ms Ifigénie KATSARIDOU
Relations internationales, Secrétariat Général de l’Egalité

Ms Käthlin SANDER
Adviser, Gender Equality Department, Ministry of Social Affairs

**EUROPEAN COMMITTEE ON CRIME PROBLEMS /
COMITE EUROPEEN POUR LES PROBLEMES CRIMINELS (CDPC)**

Mr Branislav BOHÁČIK
District Prosecutor’s Office Bratislava

Apologised/ Excusé

Mr Christian MANQUET
Leiter der Abt. II 1 im, Bundesministerium für Justiz

**STEERING COMMITTEE FOR HUMAN RIGHTS /
COMITE DIRECTEUR POUR LES DROITS DE L’HOMME (CDDH)**

Ms Inga REINE
Government Agent, Representative of the Government of Latvia before International Human Rights Organizations, Ministry of Foreign Affairs

**EUROPEAN COMMITTEE ON LEGAL CO-OPERATION /
COMITE EUROPEEN DE COOPERATION JURIDIQUE (CDCJ)**

Mme Nicole COCHET
Magistrat, Chargée de Mission près du Directeur des Affaires Civiles et du Sceau (DACS)

**EUROPEAN COMMITTEE ON MIGRATION /
COMITE EUROPEEN SUR LES MIGRATIONS (CDMG)**

Ms Kateryna LEVCHENKO
Adviser on Human Rights, Minister of Internal Affairs

Apologised/Excusée

**GOVERNMENTAL COMMITTEE ON THE EUROPEAN SOCIAL CHARTER /
COMITE GOUVERNEMENTAL SUR LA CHARTE SOCIALE EUROPEENNE (ESC)**

Mme Jacqueline MARECHAL
Première Vice-Présidente du Comité gouvernemental, Chargée de mission, Délégation aux affaires européennes et internationales

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

Apologised/Excusée

**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
L'EUROPE**

Ms Karin NORDMEYER
Representative of the Conference of NGOs of the Council of Europe, Chair of the Gender Equality Group

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EUROPEAN UNION / UNION EUROPEENNE

Mr Ekmel CIZMECIOGLU
Policy Officer, Financial support unit for Fundamental rights and Citizenship

* * * * *

**OBSERVERS WITH THE COUNCIL OF EUROPE /
OBSERVATEURS AUPRES DU CONSEIL DE L'EUROPE**

HOLY SEE / SAINT-SIÈGE

Mme Christine De SAINT-CHAMAS

UNITED STATES OF AMERICA / ÉTATS-UNIS D'AMÉRIQUE

CANADA

JAPAN / JAPON

MEXICO / MEXIQUE

**INTERNATIONAL INTERGOVERNMENTAL ORGANISATIONS /
ORGANISATIONS INTERNATIONALES INTERGOUVERNEMENTALES**

**UNITED NATIONS DEVELOPMENT FUND FOR WOMEN /
LE FONDS DE DEVELOPPEMENT DES NATIONS UNIES POUR LA FEMME (UNIFEM)**

Ms Raluca Maria POPA
Project Manager, Ending Violence against Women

**UNITED NATIONS DIVISION FOR THE ADVANCEMENT OF WOMEN /
DIVISION DES NATIONS UNIES POUR L'AVANCEMENT DE LA FEMME (DAW)**

**UNITED NATIONS CHILDREN'S FUND /
FONDS DES NATIONS UNIES POUR L'ENFANCE (UNICEF)**

**OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (UNHCHR) /
BUREAU DU HAUT COMMISSAIRE DES NATIONS UNIES POUR LES DROITS DE L'HOMME
(HCUUDH)**

**UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) /
HAUT COMMISSAIRE DES NATIONS UNIES POUR LES REFUGIES (HCNUR)**

Ms Jutta SEIDEL
Senior Legal Assistant, UNHCR Representative to the European Institutions in Strasbourg

**ORGANISATION FOR SECURITY AND CO-OPERATION IN EUROPE /
ORGANISATION POUR LA SECURITE ET LA COOPERATION EN EUROPE (OSCE)**

Ms Jamila SEFTAOUI Apologised/Excusée
Senior Adviser on Gender Issues, Office of the Secretary General, Gender Section

INTERPOL

EUROPOL

**COMMONWEALTH OF INDEPENDANT STATES (CIS) / COMMUNAUTE DES ETATS
INDEPENDANTS (CEI)**

**INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS /ORGANISATIONS
INTERNATIONALES NON-GOUVERNEMENTALES**

EUROPEAN WOMEN'S LOBBY / LOBBY EUROPEEN DES FEMMES

Ms Colette DE TROY
Director, European Policy Action Centre on Violence against Women (EPACVAW), European Women's
Lobby

Ms Marie-José JONCZY

Board member of the European Women's Lobby (EWL), Vice-President of the University Women of
Europe

AMNESTY INTERNATIONAL

Ms Lisa GORMLEY

Legal Adviser on International Law and Women's Rights, Amnesty International

WOMEN AGAINST VIOLENCE EUROPE (WAVE)

Ms Hilary FISHER

Director, Dying Matters Coalition

**INTERNATIONAL LESBIAN, GAY, BISEXUAL, TRANS AND INTERSEX ASSOCIATION (ILGA) –
ILGA Europe**

Mr Nigel WARNER

ILGA-Europe Council of Europe Adviser

EUROPEAN GROUP OF NATIONAL HUMAN RIGHTS INSTITUTIONS

Ms Cornelia ZILCH

Human Rights Policies Germany/Europe, Consultant, German Institute for Human Rights

* * * *

SCIENTIFIC EXPERTS

Ms Renée RÖMKENS

Apologised/Excusée

Full Professor of Victimology/Interpersonal Violence, INTERVICT International Victimology Institute,
Tilburg University, Faculty of Law M 923

Ms Christine CHINKIN

Professor of International Law, Department of Law, Centre for the Study of Human Rights,
The London School of Economics and Political Studies

* * * * *

**SECRETARIAT OF THE COUNCIL OF EUROPE /
SECRETARIAT DU CONSEIL DE L'EUROPE**

**Directorate General of Human Rights and Legal Affairs /
Direction Générale des droits de l'Homme et des affaires juridiques**

Mr Jan KLEIJSEN	Director of Standard-Setting / Directeur des activités normatives
Mr Jeroen SCHOKKENBROEK	Head of the Human Rights Development Department / Chef du Service du développement des droits de l'Homme
Mr Jörg POLAKIEWICZ	Head of the Law Reform Department / Chef du Service des réformes législatives
Mr Giovanni PALMIERI	Head of Gender Equality Division / Chef du Service pour l'égalité entre les hommes et les femmes
Mr Carlo CHIAROMONTE	<i>Secretary to the Ad Hoc Committee to Combat Violence against Women and Domestic Violence (CAHVIO) / Secrétaire du Comité ad hoc pour combattre la violence à l'égard des femmes et la violence domestique</i> Head of the Criminal Law Division / Chef de la division du droit pénal
Ms Johanna NELLES	<i>Co-Secretary to the Ad Hoc Committee to Combat Violence against Women and Domestic Violence (CAHVIO) / Co-Secrétaire du Comité ad hoc pour combattre la violence à l'égard des femmes et la violence domestique</i> Gender Equality Division / Division pour l'égalité entre les hommes et les femmes
Ms Paula KROL	Gender Equality Division / Division pour l'égalité entre les hommes et les femmes
Ms Sylvie AFFHOLDER	Secretary of the PACE Committee on Equal Opportunities for Women and Men / Secrétaire de la Commission sur l'égalité de chances pour les femmes et les hommes
Ms Muriel GRIMMEISSEN	Co-Secretary of the Committee on Social Cohesion of the Congress of local and regional authorities/ Co-Secrétaire de la Commission de la Cohésion sociale du Congrès des pouvoirs locaux et régionaux
Ms Lucy ANCELIN	Principal Assistant / Assistante principale Criminal Law Division / Division du droit pénal
Ms Marjaliisa JAASKELAINEN	Assistant / Assistant Criminal Law Division / Division du droit pénal
Ms Natacha LAZARUS	Assistant / Assistant Gender Equality Division / Division pour l'égalité entre les hommes et les femmes

* * * * *

INTERPRETERS / INTERPRETES

Barbara GRUT

Corinne McGEORGE-MAGALLON

Sylvie BOUX-STINTZY