

**Council of Europe
Ad Hoc Committee on Preventing and
Combating Violence against women and
Domestic Violence (CAHVIO)**

15 May 2009

**The European Union's main instruments and actions to
combat violence against women**

JUSTICE, FREEDOM AND SECURITY

1. Fundamental Rights

Daphne III Programme to prevent and combat violence against children, young people and women and protect victims and groups at risk

- The Daphne Programme aims at combating violence against women, young people and children and protecting victims and groups at risk. Daphne started in 1997 and is financing targeted actions by NGOs, local public authorities and universities/research institutes to fight all forms of violence against women, young people and children. The new DAPHNE III programme (2007-2013) was adopted in June 2007 with total budget of 116.85 million euro for its 7 year duration (average annual budget of €16.7 million).
- Since its establishment in 1997, Daphne has funded more than 500 projects, half of which are in support of women who are victims of violence or to find ways to prevent violence from occurring. Details on funded projects are found on the website **Daphne Toolkit** http://ec.europa.eu/justice_home/daphnetoolkit/.
- The Commission also initiates its own actions under the programme, such as studies, conferences, publications etc. A study on harmful traditional practices has just been launched. Other upcoming actions include the co-financing of a conference on men's violence against women, organised by the Swedish EU Presidency in November 2009, and an Eurobarometer survey of EU citizens' perception of violence against women and children at the end of 2009.

Preparatory Action — Standardisation of national legislation on gender violence and violence against children (2008).

- The European Parliament has asked the Commission to implement this preparatory action to embody the efforts which the EU has been making to promote preventive measures to combat violence against children and adolescents of both sexes and against women, with a view to standardising national legislation in this area. Through this Preparatory Action, the European Parliament would like the Commission to start a process of European-level harmonisation of legislation against gender violence by proposing provisions to combat and reduce gender violence within the European Union.
- The Commission / DG JLS will use the available budget of €1.500.000 to carry out a feasibility study to assess the possibilities, opportunities and needs to respond to the objectives of the preparatory action. The study will include a desk review and a mapping of analysis of all available descriptions/analyses of violence, a gap analysis of what kinds

of laws are missing and where and recommendations on whether this gap could be filled with a specific EU-level instrument to standardise national legislation and, if so, how. An open call for tenders will be launched shortly to undertake the study.

2. Trafficking in human beings and sexual exploitation of children

A considerable policy and legislative package is currently being revised by the EU, but the details of such will not be included in this note since these areas will be kept out of the Council of Europe convention(s). However, the following is the main EU legislation in this area:

- Framework Decision 2002/629 of 19 July 2002 on combating trafficking in human beings
- Framework Decision 2004/68 of 22 December 2003 on combating the sexual exploitation of children and child pornography
- Directive 2004/81 of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.
- Framework Decision 2002/946 of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence

3. Crime prevention

- The main elements of the European strategy on crime prevention were developed in two **Commission Communications adopted in 2000 and 2004** (2000/786 and 2004/165). Defining the objectives and principles of the field, these orientations mention the need for a multidisciplinary approach and the importance of cooperation between all the concerned actors from judicial, social and educational services. Crime prevention covers a wide range of punishable conduct including violence, which can be divided into different subject areas such as domestic violence.
- To facilitate cooperation, the **European Crime Prevention Network** (Council Decision 2001/427/JHA) was established in 2001. It facilitates the exchange of best practice and information between local and national organisations as well as European or International networks working in similar areas. The main tools for the dissemination of information are the website (www.eucpn.org) and the Annual Best Practice Conference, organised in conjunction with the ceremony of granting the European Crime Prevention Award for the most successful project carried out in the priority field. In 2007, priority was given to the subject/theme of domestic violence.
- A number of **projects** on domestic violence are supported by the **financial programme "Prevention and fight against crime"**. With a global budget of more than 600 million euros for 2007-2013, the programme aims at facilitating the cooperation and research in different areas of crime. The protection of victims is among its main objectives.

4. Statistics on crime and criminal justice

COM(2006) 437 final: Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010.

- **Objective 5.12.** Development of **indicators for measuring violence against women**. The proposed action is to identify policy needs and develop common indicators on the basis of earlier work, according to what is indicated in the roadmap for gender equality and the opinion of the European Economic and Social Committee and in coordination with relevant international organisations.
- **Objective 5.13.** Development of **indicators for measuring domestic violence**. The proposed action is to identify policy needs and develop common indicators on the basis of above but including all types of domestic violence.

The creation of a **sub-group of experts** for the development of such indicators has been foreseen for 2010.

- **Objective 4.3.** The same Action plan identifies the establishment, translation and implementation of a **common survey module on victimisation**.

The current version of this module includes a section on violence and in particular in sexual harassment, violence by strangers, violence by partners (current and previous) and violence by acquaintances. No data has been collected so far.

5. Civil law

Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (Directive adopted on article 308 of the Treaty).

- This Directive sets up a system of cooperation between national authorities to facilitate access to compensation to victims of crimes in cross-border situations, which should operate on the basis of Member States' schemes on compensation to victims of violent intentional crime. It is operational since 1 January 2006.

6. Criminal law – rights of victims

La décision cadre du 15 mars 2001 relative au statut des victimes dans le cadre de procédures pénales (2001/220/JAI) vise notamment à garantir aux victimes:

- le droit à être entendues au cours de la procédure ainsi que le droit à fournir des éléments de preuve;
- l'accès aux informations pertinentes pour la protection de leurs intérêts, dès le début de la procédure;
- l'accès aux moyens appropriés d'interprétation et de communication;
- la possibilité de participer à la procédure en qualité de victime et d'avoir accès au conseil juridique ainsi que - si cela est justifié - à l'assistance judiciaire gratuite;
- le droit d'être remboursé pour les frais de justice;

- un niveau approprié de protection en ce qui concerne la sécurité, la vie privée et l'image des victimes et de leur famille;
 - le droit à l'indemnisation;
 - des modalités adéquates de participation à la procédure pénale pour les victimes résidant dans un autre État membre (téléconférence ou de la vidéoconférence, etc.);
 - une formation pour les autorités judiciaires et de police pour s'assurer que les personnes chargées des enquêtes et des poursuites traitent les victimes avec le respect qui leur est dû;
 - la promotion des organismes de soutien aux victimes et la favorisation de leur intervention.
- Le 20 avril 2009, la Commission a adopté un rapport sur les mesures prises par les États membres pour se conformer à cette décision-cadre, dont il ressort qu'aucun État membre n'a adopté de législation spécifique en vue de la transposition. Ils se sont contentés de se référer à des lois existantes qui ne reflètent pas toujours de manière adéquate l'objet de la décision cadre. Certains États membres n'ont indiqué que des mesures de transposition concernant une partie des dispositions de la décision cadre. D'autres se sont fiés à des recommandations ou des circulaires ministérielles établissant une "bonne pratique" mais n'ont pas adopté de mesures contraignantes.
 - La Commission reconnaît dans son rapport que la présente décision cadre est mal classée, avec des obligations relatives à certaines matières, telle que le recueil de la preuve, dans plusieurs dispositions. Le rôle des organismes de soutien aux victimes (des organismes clé pour le bon fonctionnement de la décision cadre) n'est pas bien défini et il n'est pas toujours clair qui (police, procureur, organisme de soutien, avocat) doit faire quoi.
 - La Commission propose donc d'organiser (éventuellement avec la future présidence SE pour qui ce dossier est une priorité) un séminaire de mise en œuvre pour aider les États membres de la transposer et de remplir leurs obligations d'une manière plus ciblée, ce qui rendra son opération plus efficace.

7. Immigration, integration and asylum

Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted: This Directive provides a gender-sensitive interpretation of the refugee definition, so as to facilitate the granting of protection to female refugees. In particular:

- It explicitly includes acts of a gender-specific nature in the definition of acts of persecution,
- It clarifies that a person may face persecution both by state and non-state agents, so that a woman may also be eligible for refugee status where she fears acts of persecution perpetrated by a private individual, if such acts are knowingly tolerated by the authorities, or if the authorities refuse, or prove unable, to offer her sufficient protection in practice (as is often the case of violence against women); and

- provides that, where a person is persecuted because he/she is a member of a particular social group, gender-related aspects might be considered, without by themselves alone creating a presumption for the existence of such a group. In accordance with this provision, and depending on the circumstances in the country of origin, women who are victims of violence may be found to form a particular social group, for instance because they are considered by society or the State as "unworthy of protection", discriminated against in their human rights, and on this basis may be granted refugee status.

Article 4 (5) of **Directive 2003/86/EC of 22 September 2003 on the right to family reunification**, when defining the family members eligible for family reunification, provides that "In order to ensure better integration and to prevent forced marriages Member States may require the sponsor and his/her spouse to be of a minimum age, and at maximum 21 years, before the spouse is able to join him/her".

EMPLOYMENT AND SOCIAL AFFAIRS (EMPL)

8. Gender equality

Roadmap (2006-2010) for equality between women and men

- The eradication of gender-based violence and trafficking is listed as one of the six priority areas for EU action in the **Roadmap for equality between women and men**, adopted by the Commission in March 2006¹. The Roadmap mentions, amongst others, that in the area of gender based violence the Commission will support Member States by promoting the exchange of good practices. A programme of exchange of good practices was launched under the Progress programme. In September 2009, a good practices technical seminar: "Judicial response to gender violence. The case of Spain" will take place in Madrid.
- The Roadmap also mentions that the Commission will promote the use of all existing instruments, including the **European Social Fund**, for the reintegration into society of victims of violence and human trafficking.

Seven **indicators concerning "Domestic violence against women"** were developed by the Danish Presidency in 2002 as a follow-up to the Beijing Platform for Action (After the Beijing Platform for Action (BPfA) Member States have agreed on a programme to its follow-up, through the High Level Group on gender mainstreaming and the work of EU Presidencies.)

HEALTH AND CONSUMERS (SANCO)

9. Public health – Injury prevention

- **Council Recommendation of 31 May 2007 on the prevention of injury and the promotion of safety**. The Commission will do its first impact assessment of the implementation of these recommendations in 2011.

¹ COM (2006)92 final

- **Injury data base** (IDB). The IDB at present contains accident and injury data from selected emergency departments of approximately 12 Member States. This data provides unique and valuable information on issues related to injuries and how they were sustained (although the issue of underreporting of violence affects input into the IDB). When it comes to information on violence, there are codes which allow for registering "intent", including "assault" and "other violence". In case of these being used, there is the possibility of registering additional information, i.e:
 - Relation victim/perpetrator
 - Sex of perpetrator
 - Age group of perpetrator
 - Context of assault (circumstances).
- The Commission has had discussions to link the IDB with **Eurostat**. Eurostat has certain criteria which are set for inclusion in the European Statistical System. At this time the IDB meets some, but not all of these criteria (such as coverage in all 27 Member States). This is one reason why it cannot be incorporated into the European Statistical System at this time.
- A **Green paper on the European workforce for health** was adopted in December 2008. The results of the consultation are currently being analysed, including elements on education and training. We do not know at this stage whether stakeholders suggested taking specific steps on awareness of domestic violence by health care and social care workers or if there are any good practices that could be shared within Member States.
- The Commission (DG SANCO) is also co-funding a project called "**PHASE**", which includes a workpackage on interpersonal violence. The objectives of PHASE are to enhance the injury data exchange and use at Community level for injury prevention programming and actions in the Member States. PHASE will reinforce current health-sector related networks and activities in Member States that address the priority issues of child safety and aim to develop a stronger public health response to interpersonal violence in the EU. The project will deliver, inter alia, statistical fact sheets on interpersonal violence in the EU. Tools for capacity building in view of making violence prevention part of formal public health education and training will be made available and disseminated among interest groups.

EXTERNAL RELATIONS (RELEX, DEV, AIDCO)

10. Human rights

- New "**EU Human Rights Guidelines on violence against women and girls and combating all forms of discrimination against them**" (which underlines the commitment of the EU to prioritise actions to promote and protect women's rights in the overall EU human rights policy in third countries)
 - EU systematically discusses the subject of violence against women and the discrimination from which such violence originates in its human rights dialogues and consultations with third countries.
 - The December 2008 Annual EU-NGOs Forum on Human Rights discussed in depth how the civil society can support the EU in the implementation of these Guidelines.

- The **European Instrument for Democracy and Human rights**² has promoted equal participation of men and women under its Objective 2 "Strengthening the role of civil society in promoting human rights and democratic reform, in facilitating the peaceful reconciliation of group interests and in consolidating political participation and representation". Under this objective, a call for proposals targeting regional and transnational projects has been launched in 2008 giving a specific emphasis on equal participation of men and women in social, economic and political life. Gender equality and equal opportunities are also mainstreamed through calls for proposals launched by the European Instrument for Democracy and Human rights.
- The new "**Comprehensive Approach of the European Union to the implementation of UN Security Council resolutions 1325 and 1820 on women, peace and security**", jointly prepared by the European Commission and the Council Secretariat and adopted by EU Ministers for Foreign Affairs on 8 December 2008, aims at further strengthening the effectiveness of EU work in the area of women, peace and security. It presents a vision of the role and obligations of a regional actor such as the EU in protecting women in conflict situations and in facilitating their pro-active role as peace-builders.
- In March 2008, Commissioner Ferrero-Waldner organised a major international conference in Brussels on the theme "**Women: Stabilising an Insecure World**". As a sequel to this Conference, over 40 women political leaders have joined Commissioner Ferrero-Waldner in proposing to the UN Secretary General that a ministerial level meeting is organised in 2010 to reinforce commitment to the implementation of resolution 1325. Furthermore, the implementation of resolution 1325 has been identified as one of the areas of co-operation between the EU and the African Union in the framework of the Joint Partnership on democratic governance and human rights.

11. Development cooperation

- In the EU development cooperation, the **2007 European Commission Communication on Gender Equality and Women Empowerment** proposes specific actions to empower women including tackling gender-based violence, migration and trafficking. In particular, it calls for legislation on domestic violence, victim protection, and raising awareness through media, education and training.
- **An EU Action Plan on Gender Equality and Women's Empowerment** is currently being developed jointly with Member States as a follow-up to the 2007 Communication. The main objective of the Action Plan is to translate policy into concrete action and to operationalise the 2007 Communication. As part of its approach, it will propose specific strategic actions in different areas including gender-based violence.
- Regarding **female genital mutilation** (FGM), in line with the international commitments, the EU has a strong stance against FGM, and continues to address the issue of FGM through different programmes and actions, both in the developing world and within its borders.
- The issue of FGM is highlighted in the **Cotonou Agreement**, the framework for cooperation between the EU and 79 African, Caribbean and Pacific (ACP countries). Art. 25,1 (c) of the Agreement indicates that the ACP/EU cooperation aims at "the integration

² Regulation (EC) No 1889/2006

of population issues into development strategies in order to improve reproductive health, primary health care, family planning and the prevention of FGM”.

- Under the thematic **EC programme "Investing in People"** there is a special budget line in Sexual and Reproductive Health (SRH) that includes supporting access to "SRH services in **fragile states**; providing services and counselling for **victims of abuse and rape** and supporting their reintegration into society and social acceptance by building on experience of successful humanitarian actions".