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27th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE

Yerevan (12-13 October 2006)

**VICTIMS:
PLACE, RIGHTS AND ASSISTANCE**

Report presented by the Ministry of Justice of

BELGIUM

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The Belgian Delegation to the 27th Conference of the European Ministers of Justice (Yerevan, 12 – 13 October 2006), presents the following contribution as possible guidelines for the carrying out of future work by the Council of Europe on the issue of intimate partner violence. It considers that any such work should pay particular attention to the following:

1. the necessity for each member State to give a high degree of gravity to intimate partner violence;
2. the importance of specific legislation incriminating any form of intimate partner violence, understood as any act which, for the person who is the target of it, results in or is likely to result in physical, sexual or psychological harm or suffering, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life, and including *inter alia* physical or mental aggression, emotional, psychological and economic abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of honour;
3. the means of bringing criminal proceedings in order to make sure that this can occur at the request of, for example, a public prosecutor, independently of any complaint by the victim because of the mechanism described as the « cycle of conjugal violence » that leads many victims to finally withdraw an initial complaint;
4. the attention paid in order to make sure that cases of conjugal violence are specifically identified as such from the moment they are submitted to the public authority, allowing an appropriate examination of this type of case as well as a statistic analysis of the criminal policy of the member States in this field;
5. the easing of procedures, the facilitation of in camera hearings, the lightening of the burden of the proof, while respecting the rights of the defence;
6. the introduction of appropriate conditions to receive and hear victims or witnesses of violence and in particular the possibility to use audiovisual recording of the victims to avoid entering into a process of secondary victimisation;
7. the designation, at national and local level, of reference magistrates and police officers to deal with these cases as well as the dialogue between those actors;
8. the adoption of specific measures in order to protect efficiently the victims and the people around them against threats and possible acts of revenge but also in order to inform them of the judicial decisions taken against the perpetrator of the acts of violence;
9. the adoption of measures aimed at protecting the victims and their children, such as a ban on access to the family home, the granting of the use of the family home, the taking into account of conjugal violence in decisions regarding the exercise of parental authority;
10. the authorisation for police forces to penetrate the residence of an endangered person in order to intervene against the perpetrator of acts of violence caught in the act with a view to bringing him or her before a magistrate;
11. the authorisation for the victims and for public or private organisations with legal personality to intervene in court proceedings – civil as well as penal – in cases of intimate partner violence;

12. in cases where the facts have been established, the assurance that the victims will receive compensation for the mental and physical damage as well as for the costs of proceedings incurred;
13. the exclusion, as an acceptable justification ground with regard to intimate partner violence, of any act relating to extramarital relationship or comparable relationship and of killing in the name of honour;
14. the taking into account of the problems raised by forced marriages and the search for efficient legal solutions, at civil and penal level, that do not penalise the victim;
15. the establishment of mandatory intervention protocols allowing the police forces and the medical and psychological services to carry out concerted intervention procedures while respecting everybody's role;
16. the effective implementation of training programmes aimed at the police and judiciary personnel in contact with victims of conjugal violence;
17. the creation of programmes aiming at treatment of the perpetrators of acts of violence;
18. the establishment of information programmes for the victims concerning their rights and the possibilities offered in the field of medical, psychological and social support;
19. the gathering of practices about victim-perpetrator mediation with a view of formulating good practices in this matter;
20. the organisation of education programmes based on gender equality, equal opportunities and integrating the international provisions.

