The HELP course: Violence against women and domestic violence

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HELP course on Violence Against Women and Domestic Violence



Created by a group of experts from different countries including an NGO, a supreme Court judge, a prosecutor and a lawyer



It is an interactive course with case studies, quizzes and the opportunity to learn more



The course itself is around 12 hours of learning and consists of 7 modules

The Modules

- 1. Introduction
- Understanding violence against women and domestic violence
- 3. International and European Legal Framework
- 4. Overcoming barriers/access to justice
- Criminal Justice Response I- Investigation and Pre-trial
- 6. Criminal Justice Response II- Trial and Sentencing
- 7. Civil Justice Response
- 8. Alternative Dispute Resolution

Module 2: Understanding violence against women and domestic violence

- Key concepts and definitions
- Violence against women and its different forms
- What is domestic violence?
- Impact on victims
- Consequences for society: costs of violence against women and domestic violence

PHYSICAL VIOLENCE SEXUAL USING COERCION USING AND THREATS INTIMIDATION Making and/or carrying out threats Making her afraid by using to do something to hurt her looks, actions, gestures . threatening to leave her, to · smashing things · destroying commit suicide, to report her property . abusing her to welfare . making USING pets . displaying her drop charges . making weapons. USING **ECONOMIC** her do illegal things. EMOTIONAL ABUSE ABUSE Preventing her from getting Putting her down . making her or keeping a job . making her feel bad about herself . calling her ask for money . giving her an allowance . taking her money . not names . making her think she's crazy · playing mind games · humiliating her letting her know about or have access · making her feel quilty. to family income. **POWER** AND CONTROL **USING ISOLATION** USING MALE PRIVILEGE Treating her like a servant . making all the Controlling what she does, who she sees big decisions . acting like the "master of and talks to, what she reads, where the castle" . being the one to she goes . limiting her outside define men's and women's roles involvement . using jealousy to justify actions. USING MINIMIZING. CHILDREN DENYING Making her feel guilty AND BLAMING about the children . using Making light of the abuse the children to relay messages and not taking her concerns · using visitation to harass her about it seriously . saying the . threatening to take the abuse didn't happen . shifting responchildren away. sibility for abusive behavior . saving she caused it. VIOLENCE SEXUAL PHYSICAL

www.theduluthmodel.org/wheels/

Module 3: International and European Legal Framework

- CEDAW convention and recommendations
- Istanbul Convention
- European Caselaw
- EU framework

Istanbul Convention: Protection Standards and Core Principles

- Due diligence (Art 5.2)
- Gender Equality
- Victim-Centred approach (Arts 18.3, 56)
- Gendered understanding of DV (Art 2)
- Children as victims and witnesses (Arts 26, 31)
- Co-ordinated and multi-agency approach (Arts 7.1, 18.2, 9)
- Comprehensive and co-ordinated policies (Arts 7-11)

Module 4:Overcoming barriers and access to justice

- Principles
- Barriers
- Multiple Discrimination
- Victim Blaming and false perceptions
- Overcoming barriers to justice



What is a victim centred approach?

All policies designed to ensure holistic response to violence against women (Art 7(1)) shall place the rights of the victim at the centre of all measures and be implemented by way of effective cooperation among all relevant agencies, institutions and organisations (Art 7(2))



Measures should place the human rights of all victims at their centre (Art 12)

a systematic focus on the rights, needs, concerns and safety at the forefront of all interventions to ensure the compassionate and sensitive delivery of services in a non-judgmental manner.

Safety is paramount

Why take a victim centred approach?

- ✓ Overcome barriers to justice
- ✓ Facilitate testimony
- ✓ Provides survivors an opportunity to play a role in seeing their abusers brought to justice.
- ✓ Greater chance of conviction of abusers
- ✓ Reduced risk of re-traumatisation
- ✓ Empowers survivors
- ✓ Reduces risk of recurrence

Article 18(3)Protection and support measures should be:

- ✓ based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim;
- ✓ be based on an **integrated approach** which takes into account the relationship between victims, perpetrators, children and their wider social environment;
- ✓ aim at avoiding secondary victimisation;
- ✓ aim at the empowerment and economic independence of women victims of violence;
- ✓ allow, where appropriate, for a range of protection and support services to be located on the same premises;
- ✓ address the specific needs of vulnerable persons, including child victims, and be made available to them.

What is a gendered approach?

- A gendered approach does not mean denying that men and boys do not experience violence or domestic violence but recognises that there are inequalities and significant differences between the way in which the men and women perpetrate and experience violence. Examples include:
 - Differences in income and employment
 - Differences in childcare and domestic responsibilities
 - Differences in access to public space
 - Societal norms governing perceived notions of acceptable behaviours

Secondary victimisation

Additional trauma caused by stereotyping and victim blaming:

- Attitudes
- Behaviours
- Practices
- Processes

Results in:

- Ineffective interventions- e.g. withdrawal of testimony/complaint
- Minimise woman's trust in system
- Minimise belief that someone will help her
- Unlikely to seek help in future

Victim Blaming





Chapter IV Protection and Support measures

Factors that relate to whether the victim will be able to access protection

- Art 18 general considerations
- Provision of information
- General and specialist support services including: legal and psychological counselling, financial assistance, housing, education, training and assistance finding employment, health care, social services
- Counselling
- Shelters
- Rape crisis referral centres
- National telephone helplines
- Reporting by professionals

Module 5: Criminal Justice Response 1: Investigation and Pre-trial

- Specificities of violence against women and domestic violence cases
- The importance of a Victim Centred approach and immediate response
- Pre-trial protective measures
- Preparing a case for trial: evidence gathering

Due Diligence and Effective Investigation

- Must be **prompt** and **thorough** and **'within a reasonable time'** (IC art 5, Halime Kiliç v Turkey (2016) (daughter killed despite three protection orders and injunctions) no 63034/11 (2016), W. v. Slovenia no. 24125/06 (2014), Bălşan v. Romania, no. 49645/09 (2017)
- Take all reasonable steps to secure evidence including forensic evidence. Particular care required in DV cases and specific nature of DV must be taken into account. Are witnesses protected before and during any trial? IC art 56 sets out a series of measures required for victims to access justice
- Co-operation between judicial and non-judicial authorities to ensure relevant and sufficient protection is provided can be required to avoid a breach of articles 8 and 3 (Istanbul Convention Chapter IV- Art 9, 18-28, ECHR articles 3 and 8, EM v Romania (2012) c.f. YC v UK (2012))

Recognising the risk: *Buturugă v. Romania*

In Buturugă v. Romania a case heard prior to the adoption of GREVIO General Recommendation No 1 on the digital dimensions of violence against women, the ECtHR noted that cyberbullying was currently recognised as an aspect of violence against women and girls, and that it could take on a variety of forms, including cyber breaches of privacy, intrusion into the victim's computer and the capture, sharing and manipulation of data and images, including private data. The Court held that articles 3 and 8 had been violated on account of the failure to comply with positive obligations to protect the victim, the investigations into the acts of violence had been defective and in particular that the authorities failed to address the criminal investigation as one of domestic violence.

Kontrova v Slovakia (2007)

- In Kontrova v. Slovakia the ECHR recognised that it was one of the main tasks of the police to protect fundamental rights and freedoms, life and health. The family were known to the local police department and emergency calls had been made.
- In response, under the applicable law the police had been obliged to: register the applicant's criminal complaint, launch a criminal investigation and open criminal proceedings against the applicant's husband immediately; keep a proper record of the emergency calls and advise the next shift of the situation and take action concerning the allegation that the applicant's husband had a shotgun and had threatened to use it.
- The consequence of the police failing in these obligations resulted in the death of the applicant's children who were shot by their father who then killed himself.

Risk assessment

- European Manual of Risk assessment (e maria)
- Violence
- Threats
- Psychological issues
- Possession of firearms
- Drugs/alcohol/substance abuse
- Violation of protection orders

Risk management

- Monitoring and evaluation
- Support service and cooperation between judicial and support services
- Supervision of perpetrator (and supervised contact with children if necessary)
- Safety planning

Facilitating disclosure

- Environment of trust and confidence
- Be aware of non-verbal signals
- Options to come back later In those circumstances it can be useful to try and find out why the woman can't explain herself and/or what she is afraid of.
- Avoid re-traumatisation: Where a woman is clearly traumatised you should try not to further traumatise her through requiring her to tell her story over and over again. In these circumstances it is preferable to refer her to a mental health specialist trained in dealing with victims of trauma who can then taken the initial account in a safe and supportive environment.

Module 6: Criminal Justice Response II: Trial and Sentencing

- Prosecution: the Charging decision
- Type of proceedings
- Trial considerations
- Role of the Judge
- Sentencing

Issues to consider

- Delays in proceedings can result in abuse continuing and lead to a breach of article 3 (D. M. D. v Romania (2017))
- The purpose of effective protection is not achieved where proceedings become time barred as a result of failings by the authorities (*M. S. v Italy* (2022))

Example of victim centred approach during trial

• A victim centred approach and appropriate protective measures should be ensured during any trial to take into account the vulnerability of the victim. An example of an impermissible approach is *Y v Slovenia* (2015) where an applicant was cross examined by her abuser leading to further trauma. Co-operation between judicial and non-judicial authorities to ensure relevant and sufficient protection is provided can be required to avoid a breach of articles 8 and 3.

Module 7: Civil Justice response

- Civil Lawsuuits and remedies
- Family matters: custody, visitation, divorce
- Compensation and redress
- For emergency barring orders and balancing survivor v perpetrator right see: <u>ES190177 Prems</u> 084117 GBR 2574 Convention Istanbul Article 52 WEB A5.pdf (coe.int)

Levchuk v. Ukraine 3 September 2020

- Applicant complained that the dismissal of an eviction claim against her ex-husband had exposed her and her children to the risk of domestic violence and harassment. She alleged that the domestic courts had been excessively formalistic in their decisions and had given her ex-husband a sense of impunity which had exposed her and her children to an even greater risk of psychological harassment and assault.
- The Court held that there had been a violation of Article 8 (right to respect for private and family life) of the Convention. The Court considered in particular that the domestic judicial authorities had not conducted a comprehensive analysis of the situation and the risk of future psychological and physical violence faced by the applicant and her children. Furthermore, the proceedings had lasted over two years at three levels of jurisdiction, during which the applicant and her children remained at risk of further violence. The fair balance between all the competing private interests at stake had therefore not been struck.

Module 8: Alternative Dispute Resolution

- Risks of ADR in criminal matters
- Risks of ADR in family matters
- Safeguards when considering ADR or mediation

Thank You

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