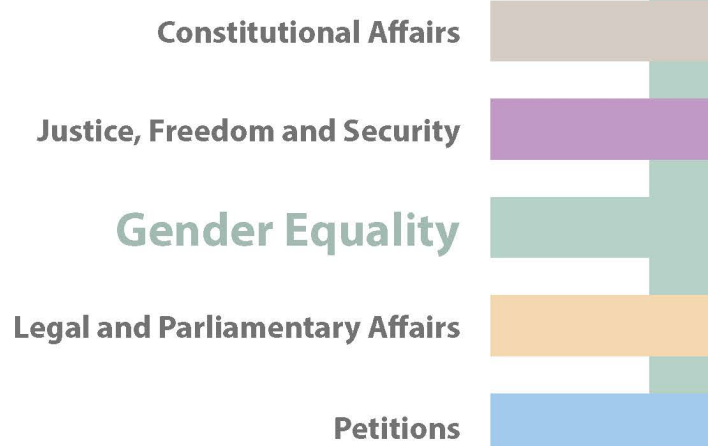


DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



The Issue of Violence Against Women in the European Union

STUDY



DIRECTORATE GENERAL FOR INTERNAL POLICIES

**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS**

WOMEN'S RIGHTS & GENDER EQUALITY

The Issue of Violence Against Women in the European Union

STUDY

Abstract

This study provides an update of the 2011 study on the Issue of Violence against women in the European Union. The different forms and interrelated factors of violence against women are examined. The study also provides an overview of the current international and European political and legal framework on violence against women. Other issues such as the difficulty of the monitoring and gathering of data, the protection of victims, and the prevention of violence against women are also discussed.

This study was prepared by the Policy Department for Citizen's Rights and Constitutional Affairs for the FEMM Committee

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LIST OF ABBREVIATIONS

CAHVIO	Ad hoc Committee on Preventing and Combating Violence against Women and Domestic Violence
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CEDAW Committee	Committee on the Elimination of Discrimination against women
CoE	Council of Europe
CSW	Commission on the Status of Women
ECtHR	European Court of Human Rights
EEAS	European External Action Service
EFTA	European Free Trade Associations
EIGE	European Institute for Gender Equality
EP	European Parliament
EPO	European Protection Order Directive
EU	European Union
FGM	Female Genital Mutilation
FRA	European Union Agency for Fundamental Rights
GRETA	Group of Experts on Action against Trafficking in Human Beings
NAP	National Action Plans
NGO	Non Governmental Organisation
SDG	Sustainable Development Goals
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

- UN** United Nations
- UNDAW** United Nations Division for the Advancement of Women
- UNDESA** United Nations Department on Economic and Social Affairs
- UNESCO** United Nations Education Scientific and Cultural Organisation
- UNFPA** United Nations Population Fund
- UNICEF** United Nations International Children's Emergency Fund
- UNODC** United Nations Office on Drugs and Crime
- VAW** Violence against women
- WHO** World Health Organisation

EXECUTIVE SUMMARY

- Violence against women is considered to be a serious violation of the human rights of women and girls. The issue receives increasing attention at the international and the European level. Following from these actions, States have taken measures in order to act against violence against women.
- There are many different, interrelated and overlapping forms of violence against women such as: domestic violence, sexual violence including rape, human trafficking, physical violence, psychological violence including stalking, female genital mutilation, forced marriage, and honour crimes. In addition, women experience nowadays also violence against women in the virtual space of the Internet with relevant implications for "the real world". Most violence against women is inflicted on them by men.
- Violence against women generates costs for the society as a whole. Causes of violence are often interrelated, with poverty, economic dependency, and being in an unequal position to men facilitates violence against women.
- There are difficulties in the gathering of data on cases of violence against women. Many cases remain unreported. In addition, national systems in the Member States lack information on the sex and the age of the victim and the perpetrator and the relationship between them. The comparison of data between EU Member States is also challenging due to differences in the legal definitions of violence against women. Moreover, not all Member States have criminalised all forms of violence against women.
- Since the 1990's, actions have been taken at international level to combat violence against women. The Council of Europe also played an important role in the prevention and combatting of violence against women. The Istanbul Convention of the Council of Europe became the first international convention on violence against women which, among others, provides minimum common standards for the prevention, detection and criminalisation of violence against women.
- At EU level, there is no legal instrument on violence against women in general. However, legislation such as the Victim's Rights Directive or the Anti-Trafficking Directive address aspects of violence against women and assistance to victims of gender based violence. In addition, the European Parliament, the Council and the Commission have adopted, respectively: resolutions, conclusions and strategies on violence against women and specific types of violence. The European Parliament has requested from the Commission on the one hand a European Strategy for Gender Equality with a strong pillar for the elimination of violence against women and a Directive that addresses violence against women more in general.
- Agencies such as the FRA and EIGE play an important role in monitoring violence against women.
- Not only the FEMM committee but also experts have taken the view that the EU's policy on combatting violence against women could be improved through the adoption of a legally binding instrument addressing violence against women in general terms. It has been assumed that Chapter 4 of the TFEU on judicial cooperation on criminal matters provides possibilities for directives on specific forms of violence against women but also a general directive.

- Furthermore, awareness raising campaigns and national actions plans are essential tools for the prevention of and the fight against violence against women. In order to protect the victim, specific services need to be provided, such as shelters. Law enforcement with regard to reported cases and the prosecution of them are also necessary. Perpetrator programmes can contribute to prevent re-offending by known offenders.

1. VIOLENCE AGAINST WOMEN: WHAT ARE WE TALKING ABOUT?

KEY FINDINGS

- Violence against women is a serious violation of women's human rights.
- Policy makers on the international and the European level are committed to analysing and combating violence against women.

Over the past two decades, violence against women has become understood as a **violation of women's human rights**, such as: the right to life, safety, dignity, physical and moral integrity, as well as being a form of gender-based discrimination¹. It is commonly accepted that "violence deprives women of their ability to enjoy fundamental freedoms and represents a serious obstacle to equality between women and men"². The Council of Europe (CoE) documents regularly reaffirm that violence against women is the result of "power imbalance between men and women" and thus represents "a major obstacle to security and democracy". Lawyers, experts and human rights activists have even argued that the (sometimes lethal) physical and sexual violence and psychological abuse, to which women are subjected, can be compared to torture in both its nature and gravity.

Both researchers and policy makers around Europe appear to be increasingly aware of the need of analysing and combating gender-based violence, particularly domestic violence. At international and EU level, several actions have been taken to combat violence against women. These actions are discussed in more detail in chapter two. The 2014 survey on violence against women (VAW) of the EU Fundamental Rights Agency (FRA) showed that violence against women is a **widespread problem in the EU**.³ There is therefore a need to do more in order to protect women against violence. One of the problems with violence against women is that many cases are unreported. Therefore, since 2009, more attention has been paid to the collection and monitoring of data. The European Institute for Gender Equality (EIGE) plays an important role in the monitoring of violence against women. Besides the lack of data, there are also large differences between the (criminal) legislation of the Member States against violence against women. There is a lack of comparative cross-national studies which compare the legislation against VAW in the Member States.⁴

As concluded in the final activity report of the Council of Europe Task Force to combat violence against women, including domestic violence: "States have an **obligation to exercise due diligence** to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the state or private persons, and provide protection to victims. In order to be able to fulfil this obligation, member states need to have evidence-based,

¹ United Nations, Department of Economic and Social Affairs Division for the Advancement of Women, "Handbook for legislation on violence against women", New York, 2009, p.2. Declaration 19 of the CEDAW, WAVE, "A right for protection and support?", December 2008, pp. 13-15.

² WAVE, "A right for protection and support?", December 2008, pp. 13-15.

³ FRA, Violence against Women: an EU-wide survey, Luxembourg: Publication Office of the European Union, 2014, http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14_en.pdf

⁴ For example, the lack of cross-national studies was already highlighted in 2005 by Wilma Hendrika Smeenk and Marijke Malsch in their article on Family violence and police responses: learning from research, policy and practice in European Countries. In February 2016, the most recent comparative study was an 2014 Analytical study of the Council of Europe on the results of the 4th round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member states. However, the Council of Europe is preparing a new questionnaire for an update of the analytical study., for more information see: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168059990b>

comprehensive and coordinated policies in place, including adequate resources for effective implementation, monitoring and evaluation."

As a result, the **Convention on preventing and combating violence against women and domestic violence** was adopted by the Council of Europe Committee of Ministers on 7 April 2011. It opened for signature on 11 May 2011 at the occasion of the 121st Session of the Committee of Ministers in Istanbul. It entered into force on 1 August 2014. The Convention defines and criminalises the various forms of violence against women as well as domestic violence. This is one of the many achievements of the Convention. To give effect to it, state parties will have to introduce a number of new offenses where they do not exist. These may include: psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage, forced abortion and forced sterilisation. In addition, state parties will need to ensure that culture, tradition or so-called "honour" are not regarded as a justification for any of the above-listed courses of conduct⁵. Currently, all EU Member States, besides Bulgaria, the Czech Republic and Latvia have signed the Istanbul Convention. Not all Member States that signed the Istanbul Convention have ratified it, yet⁶.

The following note sets out the different types of violence against women and provides information on what has been done at international and EU level to address VAW. It highlights the difficulties encountered by different actors involved in the fight against gender-based violence. It is not an exhaustive presentation of all that has been said on the subject but rather a selection of the principal findings developed in academic work.

⁵ http://www.coe.int/t/dghl/standardsetting/convention-violence/brief_en.asp

⁶ <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>, consulted 15 February 2016

2. THE VARIOUS ASPECTS OF VIOLENCE AGAINST WOMEN

KEY FINDINGS

- There are many different types of violence against women: domestic violence, sexual violence including rape, human trafficking, physical violence including forced abortion and forced sterilisation, physiological violence, female genital mutilation, forced marriages, and honour crimes.
- Violence against women has an economic dimension. The costs of violence are high. Women can become less productive and lose their jobs and are in need of health care services and police protection.
- Violence against women is also related to the economic status of a woman. Poverty and economic dependency can increase the risk of violence. Economic dependency also makes it more difficult for women to escape a violent situation.

2.1. Types of violence against women

In order to understand violence against women, it is necessary to discuss and explain the different types of violence against women which can take place. The overview of the types of violence will show again which actions need to be taken to criminalise VAW for which the Istanbul Convention will provide guidance.

It is possible to give violence against women a **wide-ranging definition** which would embrace "structural violence" such as poverty and unequal access to health or education. However, for the purposes of this study, the definition established by the 2011 Council of Europe Convention on preventing and combatting violence against women and domestic violence (Istanbul Convention) will be used which defines the term "violence against women" (VAW) as: a **violation of human rights and a form of discrimination against women** and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.⁷

In order to mark the difference between violence against women and gender-based violence, the following definition is used in this study for **gender-based violence**: "violence which is directed against a person because of that person's gender or one that disproportionately affects persons of a particular gender".⁸

Violence against women is often related to the denial of fundamental rights to women. Violence in this sense is inflicted on them by men to (re)establish women's secondary position compared to men in an individual relationship and in society. For these reasons, violence against women is often sexualised. Furthermore it has to be taken into account that a woman's right to personal freedom and sexual self-determination has only recently gradually entered legislation in Europe, often guided by developments on the international level.

⁷ Council of Europe, Convention on preventing and combatting violence against women and domestic violence (Istanbul Convention), article 3a

⁸ EIGE, Strategic Framework on violence against women 2015-2020, 2015, p.3.

2.1.1. Domestic Violence

Globally, domestic violence is the most common form of violence against women.⁹ This actually explains why most of the legal and political instruments which deal with violence against women focus on this specific type of violence. Domestic violence is in most cases committed by the husband or an intimate partner. This type of violence is therefore also called "**intimate partner violence**". However, it has to be noted that the violence can also be committed by other family members (for example, the father or a brother), women can also be violent, and there are also cases of domestic violence in same-sex relationships.¹⁰ In this study, the following **definition** is used for domestic violence: "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim".¹¹

Domestic violence can take a **variety of forms**. Physical harmful violence (which can have a sexual aspect, see 2.1.2) is commonly accompanied by emotional abusive behaviour, as well as economic restrictions (for instance: depriving women of money or refusing to make a financial contribution).¹²

The extent of domestic violence and its disastrous consequences at several levels (physical and mental health of the whole family) makes it a **public health issue**.¹³ According to the World Health Organisation (WHO), violence has huge human costs and economic costs, including the direct costs of health, legal, police and other services¹⁴. The broader social costs are profound but difficult to quantify. Violence against women is likely to constrain poverty reduction efforts by **reducing women's participation** in productive employment. Violence also undermines efforts to improve women's access to education, with violence and the fear of violence contributing to (lower) school enrolment for girls. Domestic violence has also been shown to affect the welfare and education of children in the family.

The WHO reported that women were more likely to report physical intimate partner violence and resulting injuries than men. In addition, a larger proportion of these women needed mental health services. Women were more likely to use emergency hospital services and needed to take time off from work to recover from their injuries.

Moreover, the average **cost** per person for women experiencing at least one occurrence of physical intimate partner violence was more than twice than the costs for male victims. If the costs of individuals related to the fact that they are not reaching their full productive potential are factored in, the overall costs to society would be even greater¹⁵.

These effects of domestic violence also show the need to prevent and combat this kind of violence. Measures need to be taken to **protect women** who are threatened or have faced domestic violence. In accordance to the Istanbul Convention¹⁶, national legislations need further improvements regarding this issue. The Istanbul Convention has condemned all

⁹ CPS, WRC and UNICEF, Empowered and safe. Economic Strengthening for Girls in Emergencies, 2014, available at: <https://www.womensrefugeecommission.org/component/zdocs/document/1151-empowered-and-safe?catid=247>.

¹⁰ <http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Aboutdomesticviolence.asp>

¹¹ Council of Europe, Convention on preventing and combatting violence against women and domestic violence (Istanbul Convention), article 3b.

¹² Marie Vlachova and Lea Biason, Women in an insecure world: violence against women: facts, figures and analysis, Geneva Centre for the Democratic Control of Armed Forces, 2005, p.55.

¹³ Enrique Garcia, Juan Herrero, Acceptability of domestic violence against women in the European Union: a multilevel analysis", Journal of epidemiology and community health, no. 2 2006. pp.123-129.

¹⁴ Claudia Garcia-Moreno and Charlotte Watts, Bulletin of the WHO: Violence against women: an urgent public health priority, 2011, <http://www.who.int/bulletin/volumes/89/1/10-085217/en/>

¹⁵ Preventing intimate partner and sexual violence against women: taking action and generating evidence / World Health Organization and London School of Hygiene and Tropical Medicine. Geneva, World Health Organization, 2010. http://whqlibdoc.who.int/publications/2010/9789241564007_eng.pdf

¹⁶ Convention on preventing and combatting violence against women and domestic violence, <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>

forms of domestic violence. One of the aims of the Convention is to **prevent, prosecute and eliminate** all domestic violence and to provide protection to victims¹⁷.

2.1.2. Sexual Violence

When talking about sexual violence, it should be taken into account that it physically and emotionally relates to reproduction. For a comprehensive understanding of the effects of sexual violence, it is useful to note that the WHO states that 'reproductive health addresses the reproductive processes, functions and system at all stages of life. It therefore implies that people are able to have a responsible, satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this are the right of men and women to be informed of and to have access to safe, effective, affordable and acceptable methods of fertility regulation of their choice, and the right of access to appropriate healthcare services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant¹⁸.

There is no universally accepted definition of sexual violence. The United Nations (UN) use a broad definition which includes rape, sexual assault, sexual harassment, early and forced marriages but also female genital mutilation (FGM).¹⁹ The CoE Istanbul Convention does not include a definition of sexual violence. However, article 36 lists the following **conducts to be characterised as sexual violence**: engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object; engaging in other non-consensual acts of a sexual nature with a person; causing another person to engage in non-consensual acts of a sexual nature with a third person.²⁰ The Istanbul Convention requires the parties to the convention to **criminalise these types** of sexual violence. In addition, consent must be given voluntarily as the result of the person's free will assessed **in the context of the surrounding circumstances**. Furthermore, the Convention requires that Parties to the Convention also criminalise the above-mentioned acts when committed by current or previous partners or spouses.²¹

According to the World Report on Violence and Health published by the World Health Organisation (the "WHO") in 2010²², women can be victims of sexual violence in different ways, including: "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person's sexuality **using coercion**, by any person regardless of their relationship to the victim, **in any setting** including but not limited to home and work, coerced sex in marriage and dating relationships.²³ This definition includes rape, rape by strangers, systematic rape during armed conflict, sexual harassment, forced prostitution and sexual trafficking, child marriage, denial of the right to use contraception, forced abortion and violent acts against the sexual integrity of women, including female genital cutting and obligatory inspections for virginity.

Sexual violence has a profound impact on physical and mental health. As well as causing physical injury, it is associated with an increased risk of a range of sexual and reproductive health problems, with both immediate and long-term consequences. Its impact on mental

¹⁷ Istanbul Convention, article 1.

¹⁸ Global Policy Committee of the WHO, Position Paper on Health, Population and development for the International Conference on Population and Development, Cairo 5-13 September 1994, p. 24, para. 89. WHO Defining sexual health: Report of a technical consultation on sexual health; 28-31 January 2002, Geneva

¹⁹ EIGE, The Study to identify and map existing data and resources on sexual violence against women in the EU, Luxembourg: Publication Office of the European Union, 2013, p.7

²⁰ Council of Europe, Convention on preventing and combatting violence against women and domestic violence (Istanbul Convention), article 36.

²¹ Istanbul Convention, article 36.

²² Preventing intimate partner and sexual violence against women: taking action and generating evidence / World Health Organization and London School of Hygiene and Tropical Medicine. Geneva, World Health Organization, 2010.

²³ Ibid, pp. 18

health can be as serious as its physical impact, and may be equally long lasting. Deaths following sexual violence may be a result of the violence inflicted, suicide, HIV infection or murder, the latter occurring either during a sexual assault or subsequently, or a murder of "honour" (see 2.1.7). Sexual violence can also profoundly affect the social wellbeing of victims; they may be stigmatized and ostracized by their families and others as a consequence."²⁴

In 2014, the FRA reported that **one in ten women has experienced a form of sexual violence since the age of 15**. One in twenty women has been raped since the age of 15.²⁵ 97% of the perpetrators were male.²⁶

Rape is a very serious form of sexual violence. While all forms of sexual violence against women are serious, rape is especially hurtful and damaging, and can have long-lasting consequences. Some men and boys are victims of rape, though this is much less common than among women and girls²⁷.

Furthermore, in some cultures and religions it has been very difficult to recognise rape within a marital relationship.²⁸ However, also in legislation, **marital rape** has not always been recognised as a crime. In many countries, rape was traditionally defined as forced sexual conduct with someone other than one's wife [or girlfriend]. As a matter of law, rape could not occur within a marital relationship; the consent of the wife to the sexual contact was presumed.²⁹ However, several actions are taken to include marital rape in legislation. For example, the UN Handbook for Legislation on Violence Against Women (UNDAW 2010: 26) recommends that legislation should: specifically criminalise sexual assault within a relationship (i.e. 'marital rape'), either by providing that sexual assault provisions apply 'irrespective of the nature of the relationship' between the perpetrator and complainant; or stating that 'no marriage or other relationship shall constitute a defence to a charge of sexual assault under the legislation'. However, marital rape and rape in a relationship is still exempted from criminal legislation in many countries. In March 2015, marital rape was not recognised as a crime in Lithuania, Estonia, Hungary, Poland, Latvia, Bulgaria and Slovakia.³⁰ The Istanbul Convention also calls upon states to criminalise marital rape.

Sexual assault by an intimate partner is a form of abusive behaviour which is often a way to maintain power and control over the woman. As Kersti Yllo argues "[t]he shock, terror, and betrayal of wife rape are often exacerbated rather than mitigated by the marital relationship."³¹ Raquel Bergen's research indicates that victims of marital rape appear to suffer particularly severe psychological consequences.³² "[I]t is necessary to understand marital rape as a problem distinct from domestic abuse "because for many women who are battered and raped, the sexual violence is particularly devastating and that trauma must be addressed specifically by service providers."³³

Another form of sexual violence is **sexual harassment**. In Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and

²⁴ http://www.who.int/violence_injury_prevention/violence/global_campaign/en/chap6.pdf.

²⁵ FRA, Violence against Women: an EU-wide survey, Luxembourg: Publication Office of the European Union, 2014, p. 9.

²⁶ *ibid.*

²⁷ Sylvia Walby and others, Overview of the worldwide best practices for rape prevention and assisting women victims of rape, European Parliament, Policy Department Citizens' Rights and Constitutional Affairs, Brussels, 2013, p.27.

²⁸ Hagemann-White, C, Bohn, S, Protecting women against violence, Analytical study on the effective implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe member states, Directorate General of Human Rights and Legal Affairs: Strasbourg.

²⁹ The advocates for Human Rights, Marital and Intimate Partner Sexual Assault, August 2013, available at: http://www.stopvaw.org/Marital_and_Intimate_Partner_Sexual_Assault.html

³⁰ <http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=P-2015-004211&language=EN>

³¹ Kersti Ylo, Battered Women's Justice project 1996.

³² Raquel Kennedy Bergen, Marital rape, March 1999

³³ The advocates for Human Rights, Marital and Intimate Partner Sexual Assault

women in matters of employment and occupation, sexual harassment has been defined as: "where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment".³⁴ In the EU law, sexual harassment is seen as a form of discrimination.³⁵ Sexual harassment can take place in several places such as at work. The CoE Istanbul Convention uses the same definition as in the EU Directive and requires states to criminalise sexual harassment.³⁶

2.1.3. Human Trafficking

Human trafficking is a very serious form of violence against women. Victims identified in the European Union came both from third countries and EU Member States. In many cases victims are unaware of what fate is in store for them. Human trafficking can take **several forms**: trafficking for sexual exploitation; forced labour; forced theft, begging; and trafficking for the purpose of domestic slavery. Sexual exploitation and forced labour are the most known and common forms of human trafficking. However, some trafficking victims are also forced to participate in criminal activities such as theft.³⁷ Trafficking for the purpose of domestic slavery is quite unknown because it is performed in the private sphere. Victims are forced to work in someone's household, without pay, with restricted liberty and often face psychological and physical violence.³⁸ In this study, the main focus is put on trafficking for sexual exploitation.

The United Nations Office on Drugs and Crime (UNODC) reported that the **vast majority of trafficking victims globally are female**, this includes also under aged girls. Women and girls also represent a majority of the victims who were trafficked for sexual exploitation. Globally, there is an increase in the trafficking of girls, from 10% in 2004 to 21 % in 2011. In the period 2010-2012, 49% of the detected victims of trafficking were adult women³⁹.

In the EU, 80% of the victims of trafficking in human beings were female in the period 2010-2012. Of all trafficking victims 69% were trafficked for sexual exploitation. 95% of the victims of trafficking for sexual exploitation were female, while 75% of the victims of labour exploitation were male. Victims of other forms of exploitation, including forced begging, theft and selling of children, were 52% female, 38% male and for 10% of the victims the gender was unknown.⁴⁰ In addition, 70% of the traffickers (who were suspects or convicted in trafficking cases) are male.⁴¹ This also shows that 30% of the traffickers are women.

The dividing line between **sexual exploitation and prostitution** is very thin.⁴² Many prostitutes are victim of human trafficking. In academics and in politics, there have been discussions whether the abolition of prostitution reduces the demand for human trafficking.

³⁴ Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, article 2.

³⁵ Ann Numhauser-Henning and Sylvaine Laulom, Harrassment related to Sex and Sexual Harrassment Law in 33 European Countries: Discrimination versus Dignity, 2012, http://ec.europa.eu/justice/gender-equality/files/your_rights/final_harassement_en.pdf

³⁶ Council of Europe, Istanbul Convention article 40.

³⁷ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/index_en.htm

³⁸ OSCE Office of the Special Representative and Co-ordinator for Combatting Trafficking in Human Beings, How to prevent human trafficking for domestic servitude in diplomatic households and protect private domestic workers, 2014. p.13

³⁹ UNDOC, Global Report on Trafficking in Persons, 2014, pp. 5-11, 29., https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf

⁴⁰ Eurostat, Trafficking in Human Beings, edition 2015, p.11. <http://ec.europa.eu/eurostat/documents/3888793/6648090/KS-TC-14-008-EN-1.pdf/b0315d39-e7bd-4da5-8285-854f37bb8801>

⁴¹ Eurostat, Trafficking in Human Beings, edition 2015, p.13

⁴² Erika Schulze, Sandra Isabel Novo Canto, Peter Mason and Maria Skalin, Sexual exploitation and prostitution and its impact on gender equality, European Parliament Policy Department C Citizens Rights' and Constitutional Affairs, 2014, pp. 16-17

So far, research shows that where prostitution and related activities are legal, there are higher inflows of trafficking into the sex market.⁴³ In addition, Member States with a legalised sex industry have difficulties to control the industry due to a lack of resources or flawed legislation. At the same time, human trafficking for sexual exploitation also takes place in Member States where prostitution is illegal or where procuring is illegal. Stricter prostitution laws can lead to a decrease in the trafficking of human beings but it can also lead to an increase in violence against and stigmatisation of prostitutes.⁴⁴ Consequently, the legislation of the prostitution market while protecting victim rights remains a difficult issue for which more research is required.

Over the last few years, a European anti-trafficking policy has been developed, among which the adoption of Directive 2011/36/EU on the preventing and combatting of trafficking in human beings and protecting its victims. Based on the Directive, the Commission also appointed an EU anti-trafficking coordinator to monitor and improve the EU policies against human trafficking. A Strategy towards the eradication of human trafficking 2012-2016 was also adopted by the Commission. Already in 2005, the Council of Europe adopted a Convention on Human Trafficking. Moreover, the provisions in the Istanbul Convention on criminalising physical, psychological and sexual violence can also be applicable in the case of human trafficking. These instruments will be discussed in more detail in chapter 2.

2.1.4. Psychological and emotional abuse, and stalking

Psychological violence and emotional abuse are not always gender-based. Especially in intimate relationships, women can also be the perpetrators. However, taking into account the **high number of cases** of women suffering from such behaviour, especially from intimate partners, it is impossible to properly address violence against women without taking psychological and emotional abuse into account.

The impact of physical abuse is more visible than psychological scars. However, insults, constant humiliations, confinement to the home and various threats are also forms of violence, albeit of a more **subtle and insidious** kind. Psychological abuse is indeed more difficult to identify and denounce, and often reduces women to a state of insecurity and impotence. Victims report that constant psychological abuse, the fact of living in terror and undergoing emotional torture, is often harder to bear than physical violence.⁴⁵

Even though the concept of **stalking** is not defined in precisely the same way in all Member States, it commonly covers a pattern of harassing and/or threatening behaviours. This may include: following a person, making phone calls at all hours of the day and night, sending e-mails, faxes, letters or objects, vandalising a person's property, etc. Stalking is increasingly being condemned in national law of the EU Member States.⁴⁶ On the European level, the European Protection Order (EPO) Directive, addresses 'stalking'. The European Member States had to transpose the Directive into their national legislation before the 11th of January 2015. The Directive allows for the recognition of a protection order in the territory of another Member State. This ensures that, for example, a stalker cannot continue his/her practices to the victim in another EU Member State. For more information on the European Protection Order Directive, see section 4.3.2. The Istanbul Convention also obliges signatories to criminalise the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats.⁴⁷ In addition, the Convention also has a

⁴³ Cho, S., Dreher, A., Neumayer, E. «Does Legalized Prostitution Increase Human Trafficking ?», World Development, Vol. 41 No. 1, 2013, pp. 67-82; Jakobsson, N., Kotsadam, A., «The law and economics of international sex slavery : prostitution laws and trafficking for sexual exploitation », European Journal of Law & Economics, Vol. 35 No. 1, pp. 87-107 and Seo-Young Cho, Liberal coercion? Prostitution, human trafficking and policy, European Journal of Law and Economics, 2015.

⁴⁴ Niklas Jakobsson and Andreas Kotsadam, The law and economics of international sex slavery: prostitution laws and trafficking for sexual exploitation., European Journal of Law and Economics, no. 1, 2013, p. 102.

⁴⁵ UNICEF, Domestic violence against women and girls, June 2000.

⁴⁶ Laura de Fazio, " The legal situation on stalking among the European Member States, European Journal on Criminal Policy and Research, no.3, 2009.

⁴⁷ Istanbul Convention, article 33

provision on the criminalising of stalking: the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety shall be criminalised.⁴⁸

2.1.5. Threats from ICT and social media

Nowadays, the internet allows for new forms of psychological violence against women: cyberstalking and cyber harassment. **Cyberstalking** is stalking by means of email, text messages, social media or other online communication facilities. The FRA reported that 4% of all 18 to 29 year-old women experienced cyberstalking between 2013 and 2014.⁴⁹ In the FRA survey, the following actions were considered to be cyberstalking: sending emails, text messages or instant messages that are offensive or threatening; posting offensive comments about the victim on the internet; sharing intimate photos or videos of the victim on the internet. Besides cyberstalking, women can also be harassed via the internet. **Cyber-harassment** can be defined as receiving unwanted, offensive, sexually explicit emails, text messages and inappropriate offensive advances on social media and in chat rooms. According to the FRA survey, 11 % of the women in the EU have become a victim of cyber-harassment.⁵⁰ Young women are particularly vulnerable for these forms of online psychological abuse, since they make more use of the internet and social media than older women.

On the internet **stereotyped representation** of women are very common, for example in video clips on YouTube. This stereotyped representation of women can contribute to violence against women since it shows women in an unequal position. Social media can also increase the use of gender stereotypes and promote new forms of violence against women. Gender stereotypes can be very easily shared and spread among social media platforms. At the same time, social media can also assist women to overcome the stereotyped portrayal of women in the traditional media.⁵¹

The internet also has become an important tool for traffickers in human beings to find "new recruits" for trafficking in human beings. Traffickers offer jobs abroad via online advertisements for "models, dancers etc.", the internet offers them a broad audience and the advertisements are easily accessible for future victims. Social media, dating sites and online forums are increasingly used for finding potential victims of human trafficking but also for online child sexual exploitation.⁵²

The need to tackle violence against women via the Internet has been addressed on both international and EU level. For example, in the UNESCO Scholarly Agenda for the Global Alliance on Media and Gender, the Istanbul Convention (see the criminalising of stalking, psychological abuse and sexual harassment in article 33, 34 and 40), and the Council of the European Union 2014 Conclusions on the review of the implementation of the Beijing Platform for Action.⁵³ The EU has in particular adopted legislation against the sexual exploitation of children, including via the internet.⁵⁴

⁴⁸ Istanbul Convention, article 34.

⁴⁹ FRA, Violence against Women: an EU-wide survey, Luxembourg: Publication Office of the European Union, 2014, pp. 81-82, 87.

⁵⁰ Ibid, pp. 95, 97.,104.

⁵¹ EIGE, Speech Director Virginija Langbakk, Hellenic Presidency of the EU Council Conference " Women and Girls Go Digital", http://www.womengodigital.eu/files/langbakk_pres.pdf. Regarding stereotype images of women in the traditional media, please see the contribution of Prof Elżbieta H. Oleksy to the [Workshop Proceedings on "Actions for Gender Balance in the European Parliament - EP Elections 2014"](#), European Parliament, Policy Department Citizens' Rights and Constitutional Affairs, 2013. Elisa Giomi, Silvia Sansonetti and Anna Lisa Tota, [Women and Girls as Subjects of Media's Attention and Advertisement Campaigns: The Situation in Europe, Best Practices and Legislations](#), European Parliament, Policy Department Citizen's Rights and Constitutional Affairs, Brussels, 2013.

⁵² Ottavio Marzocchi and Anne Bonewit, Empowering Women on the Internet, European Parliament, Policy Department Citizens' Rights and Constitutional Affairs, Brussels 2015, p. 14

⁵³ Ibid, pp. 20-21.

⁵⁴ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

2.1.6. Physical violence

Physical violence against women can be found in many types of VAW such as domestic violence and honour crimes. According to the FRA survey on VAW, 31% of women in the EU have experienced physical violence by a partner or a non-partner. The most common experience of violence in the survey was being pushed or shoved, followed by other incidents such as being slapped, grabbed or pulled by the hair.⁵⁵ The Istanbul Convention condemns physical violence; States should therefore ensure that physical violence is **criminalised**.⁵⁶

Forced abortion or sterilisation can be seen as a specific type of physical violence against women. Article 39 of the Istanbul Convention states that: "Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised: performing an abortion on a woman without her prior and informed consent; performing surgery which has the purpose or effect of terminating a woman's capacity to naturally reproduce without her prior and informed consent or understanding of the procedure."⁵⁷

2.1.7. Traditional and cultural practices adversely affecting women's lives

Women and girls sometimes suffer from the harmful and dangerous consequences of traditional practices which are carried out in supposed accordance with religious beliefs or in order to conform to social and cultural conventions.

Three of these practices have been particularly targeted by the media and by legislators: female genital mutilation (FGM)⁵⁸, honour crimes⁵⁹ and forced marriages⁶⁰. In Europe, such practices essentially occur within certain migrant communities, emanating rather from cultural and social roots than as parts of a certain religion. International and regional organisations (such as the United Nations, the Council of Europe, and the EU) protect minority cultures but refuse customs that amount to torture or a breach of fundamental rights.

Female genital mutilation refers to all procedures involving the partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons (WHO, 2008). These mutilations are internationally recognised as a violation of the human rights of women and girls, and are a form of gender-based violence. Approximately 100 to 140 million women and girls globally have experienced FGM in their lives.⁶¹ FGM is mostly performed on girls between 0-15 years of age. FGM is **based and sustained by gender inequality**. Women's and girls "honour" is considered to be the property of men. Practitioners consider FGM to be part of raising a girl and a way to prepare a girl for marriage.

There is no information available on FGM prevalence in the EU. The data collated differs from country to country, making comparisons between Member States highly problematic. Additionally, FGM figures are not collated or recorded by the national statistical offices in the EU Member States. The main reasons for this gap are the lack of studies on the subject, the non-use of administrative datasets and the complexity of calculating accurate, up-to-date FGM prevalence figures. In particular, it is very difficult to find numbers of the

⁵⁵ FRA, Violence against Women: an EU-wide survey, Luxembourg: Publication Office of the European Union, 2014, p.39.

⁵⁶ Istanbul Convention, article 35.

⁵⁷ Ibid, article 39.

⁵⁸ EIGE, Female genital mutilation in the European Union and Croatia, March 2013, <http://eige.europa.eu/sites/default/files/documents/eige-report-fgm-in-the-eu-and-croatia.pdf>.

⁵⁹ Report of the Secretary General of the United Nations, "Working towards the elimination of crimes against women in the name of honour", 2002.

⁶⁰ Emma Psaila, Vanessa Leigh, Marilena Verbari and others, Forced Marriage from a Gender Perspective, European Parliament: Policy Department C Citizens' rights and Constitutional Affairs, February 2016, pp. 8-9, 82-83, [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556926/IPOL_STU\(2016\)556926_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556926/IPOL_STU(2016)556926_EN.pdf)

⁶¹ EIGE, Female genital mutilation in the European Union and Croatia, March 2013, p. 21.

girls/women who are victim of FGM and the number of the girls at risk of FGM.⁶² Many victims in the EU are migrants who have undergone FGM in the country of origin before coming to the EU or became victim of FGM while travelling outside the EU.

Actions are taken at international, EU and national level to prevent FGM. The Council of Europe has included FGM in the Istanbul Convention and pressures states to introduce **FGM as a criminal offence**. Article 38 states that the following conducts should be criminalised: excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris; coercing or procuring a woman to undergo any of the acts listed above; inciting, coercing or procuring a girl to undergo any of the acts listed above.⁶³ The European Commission has adopted a **Strategy** against FGM and the European Parliament has adopted a resolution of 14 June 2012 on ending FGM.⁶⁴ These are discussed in more detail in chapter 2. In addition, many Member States have created **national action plans** against FGM.

A so-called "**honour crime**" has been defined by the CoE as "a crime that is, or has been, justified or explained (or mitigated) by the perpetrator of that crime on the grounds that it was committed as a consequence of the need to defend or protect the honour of the family"⁶⁵. Female victims of honour crimes were often "condemned" for behaving in a way that breached traditional family or community norms (such as having a relationship with a man without the consent of the family, the loss of virginity, seeking divorce, and sometimes even for having been raped). However, not all victims are women, some honour crimes are also committed against, for example, the not by the family approved boyfriend.⁶⁶ Moreover, Article 42 of the Istanbul Convention states that honour cannot serve as an acceptable justification for committing violence against women. Honour crimes take place worldwide and are based on a variety of cultural and religious practices, including Christians and Jews, however, honour crimes are mostly associated with the Islam.⁶⁷

There is no internationally agreed upon definition of **forced marriage**. Therefore there are many different definitions of forced marriages. For example, the UN High Commissioner for Human Rights has defined forced marriages as: forced marriage is any marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure⁶⁸.

Forced marriage has been recognised as a form of gender-based violence in the UN Declaration on the Elimination of Violence against women.⁶⁹ Forced marriage can result in physical, sexual or psychological violence or the threat of such acts. The CoE Istanbul Convention also obliges States to take legislative measures in order to ensure that forced marriages are void and can be annulled.⁷⁰ Furthermore, states should criminalise the conduct of forcing a child or an adult to enter into a marriage.⁷¹ The Convention also obliges states to take the legislative measures to criminalise all forms of physical and

⁶² Ibid, p. 28.

⁶³ Istanbul Convention, article 38.

⁶⁴ Commission Strategy, Towards the elimination of female genital mutilation and the European Parliament, Resolution of 14 June 2012 on ending female genital mutilation.

⁶⁵ Committee on Equal Opportunities for Women and men, Report: So-called Honour crimes, March 2003.

⁶⁶ Martina Prnic, Combating "honour" crimes in the EU, European Parliament EPRS, December 2015, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/573877/EPRS_BRI\(2015\)573877_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/573877/EPRS_BRI(2015)573877_EN.pdf)

⁶⁷ Katerina Standish, Understanding cultural violence and gender: honour killings; dowry murder; the zina ordinance and blood-feuds, Journal of Gender Studies, no. 2 2014, p.113.

⁶⁸ [Annual report of the United Nations High Commissioner for Human Rights](#) and reports of the Office of the High Commissioner and the Secretary-General of 2 April 2014, 'Preventing and eliminating child, early and forced marriage', Office of the United Nations High Commissioner for Human Rights, A/HRC/26/22.

⁶⁹ A/RES/48/104, [Declaration on the Elimination of Violence against Women](#).

⁷⁰ Istanbul Convention, article 32.

⁷¹ Ibid.

psychological violence.⁷² Women and girls are particularly vulnerable forced marriage due to stereotyped and traditional practices in which girls are obliged to accept family obligations. The marriage can take place both inside the EU and in a third country. Legislation around forced marriages consists of legislation in criminal and civil law. In civil law, the central issue with forced marriages is the lack of consent. **Not all EU Member States have criminalised forced marriage.** In a number of Member States, force marriage is only criminalised in relation to the trafficking of human beings. There is a lack of data on forced marriages, many cases are unreported or only reported to private organisations and therefore not to public institutions.⁷³

Data shows that forced marriage is in a number of cases linked with honour killings, although it is not a predominant cause for this crime. The attempt to force someone to conclude or uphold a forced marriage can and sometimes does result in honour killing. Honour killing can be a reaction to the victims' resistance against forced marriage or may be committed to prevent a marriage that is considered unsuitable. Even if honour crimes happen only in a small minority of cases, compared to the total number of forced marriage, these cases are of the highest impact⁷⁴.

2.2. The costs of violence against women

In order to make policy-makers more aware about the importance and effectiveness of prevention, some scholars highlight the cost of gender based-violence, not only for the victims but also for the entire society. This contrasts the questions about "costs" of policies or action plans combatting violence against women and domestic violence. **Awareness of the financial impact** of violence against women is helpful when trying to understand the magnitude of the problem and how it affects society as a whole⁷⁵.

Moreover, "adding a financial dimension increases the range of ways in which policy interventions can be articulated, measured and evaluated and may assist in **addressing spending priorities**. This is complementary to the policy framework based on need and justice".⁷⁶

"Women who experience violence suffer a range of health problems and their ability to participate in the public life is diminished. [...] **Violence impoverishes women**, their families, communities and nations. It lowers economic productivity, drains resources from public services and employers and reduces human capital formation".⁷⁷

Here again, such a cost can only be estimated. Most of the time, the information required to calculate cost is based on **estimations** (such as the number of victims and incidents, extent and nature of the impact of violence on victims' lives and society as a whole - the extent to which it leads to use of services, disrupts employment, the cost of the provision of services, of lost economic output and the public willingness-to-pay to avoid the human costs of pain and suffering).⁷⁸

The **cost categories** are: medical care (general practitioner and hospitals), psychosocial care, law enforcement (criminal justice sector and police), employment (sick leave) and

⁷² Istanbul Convention, article 33, 35 and 42.

⁷³ Emma Psaila, Vanessa Leigh, Marilena Verbari and others, Forced Marriage from a Gender Perspective, European Parliament: Policy Department C Citizens' rights and Constitutional Affairs, February 2016, pp. 8-9, 82-83, [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556926/IPOL_STU\(2016\)556926_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556926/IPOL_STU(2016)556926_EN.pdf)

⁷⁴ Prof. Dr. Gerhard Robbers, University of Trier. FORCED MARRIAGES AND HONOUR KILLINGS European Parliament's Committee on Civil Liberties, Justice and Home Affairs 2008.

⁷⁵ Council of Europe, Overview of studies on the costs of violence against women and domestic violence, October 2014, <http://www.coe.int/en/web/genderequality/violence-against-women>

⁷⁶ Sylvia Walby, The Costs of Domestic Violence, February 2004.

⁷⁷ UN Secretary-General, Factsheet Ending violence against women: from words to action, October 2006, available at: <http://www.un.org/womenwatch/daw/vaw/launch/english/v.a.w-consequenceE-use.pdf>

⁷⁸ Ibid.

social security (benefit payments/rent rebate). Direct costs are: health including physician visits, hospital care and medication; shelters, crisis services, social work, therapy; police, trial, prison. Indirect costs are: deaths, the loss of productivity caused by illness and premature mortality due to violence: production losses due to deaths, work stoppages, absenteeism and incarceration, and finally, the costs of rape and serious injuries⁷⁹.

In 2011, the economic costs of violence against women **in the EU were estimated to be 228 billion euro each year**. Of this total, 45 billion euro is needed for services for victims, 24 billion for the loss of economic output and 159 billion on pain and suffering.⁸⁰ The costs of prevention are less than the costs of violence according to the 2014 European Parliament Parvanova report on recommendations on violence against women.

There is a connection between violence against women and **economic dependency**. Women with a lack of financial resources do not have the means to prevent dangerous situations, for example by taking a taxi. In addition, economic resources influence women's ability to leave a violent relationship. Consequently, economic dependent women will have more difficulty to leave their violent family members.⁸¹ Besides economic dependency, VAW can also have an impact on the **economic status** of women. For example, victims can be confronted with unforeseen medical bills, women can experience reduced productivity at work or school and can therefore be threatened with losing their job. Furthermore, victims of VAW can experience **non-monetary losses** such as fear, pain, suffering and lost quality of life.⁸² For women with a weak economic position, these monetary and non-monetary losses can even put them in a still weaker position.

2.3. The causes and dynamics of gender-based violence

It is important to understand the causes and dynamics of gender-based violence in order to prevent violence against women and to protect potential victims. Many of the studies available on the subject focus on domestic violence in developing countries (even though most of the causes of violence are the same everywhere, the difference of cultural contexts must also be taken into account).

2.3.1. Various interrelated factors

Apart from traumatising situations experienced during childhood or alcoholism and drug addiction, which could explain violent behaviour in general, authors agree on a series of inter-related factors which are primarily "manifestations of **historically unequal power** relations between men and women"⁸³. In certain circumstances, **cultural ideologies**, as well as the **patriarchal and sexist structure of society** legitimate violence against women, supporting an inherent and necessary dominance/superiority of males.

Poverty and unemployment are widely seen as contributing factors to domestic violence.⁸⁴ Indeed unemployment is often cited as a factor of domestic violence in two different ways. When the woman is unemployed (which may be the consequence of a vicious circle, whereby due to the threat and fear of violence she does not look for a job), the lack of economic resources creates dependency and often deters the women from

⁷⁹ Council of Europe, Convention on preventing and combatting violence against women and domestic violence (Istanbul Convention).

⁸⁰ European Parliament, Report of 31 January 2014, with recommendations to the Commission on combatting violence against women, (2013/2004/INI), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0075+0+DOC+XML+V0//EN>

⁸¹ Sylvia Walby and others, Overview of the worldwide best practices for rape prevention and assisting women victims of rape, European Parliament, Policy Department Citizens' Rights and Constitutional Affairs, Brussels, 2013, pp. 114-115.

⁸² Ibid, p.116.

⁸³ UNICEF, Domestic Violence against Women and Girls, Innocenti Digest 6, 2000.

⁸⁴ Domestic Violence against Women Report, Eurobarometer 73.2, 2010; http://ec.europa.eu/public_opinion/archives/ebs/ebs_344_en.pdf

leaving. When unemployment affects the man, it can cause violence against the woman especially in the cases where she is the bread-winner, where her economic independence and social life may be seen as a threat.

Moreover, according to the last survey undertaken by UNICEF, an **economic crisis** leads to an increase in violent behaviour against women.⁸⁵ According to Rachel Jewkes; "poverty increases risk through effects on conflict, women's power, and male identity".⁸⁶ Violence against women is thus seen not just as an expression of male powerfulness and dominance over women, but also as being rooted in male vulnerability stemming from social expectations of manhood that are unattainable because of factors such as poverty experienced by men. Financial independence of women is protective in some settings, but not all circumstances in which the woman, but not her partner, is working convey additional risk.

To conclude, we can cite the same author who affirms that: "women who are more empowered educationally, economically, and socially are most protected, but below this high level the relation between empowerment and risk of violence is nonlinear. Violence is frequently used to resolve a **crisis of male identity**, at times caused by poverty or an inability to control women. Risk of violence is greatest in societies where the use of violence in many situations is a **socially-accepted norm**. Primary preventive interventions should focus on improving the status of women and reducing norms of violence, poverty, and alcohol consumption".⁸⁷

In the EU, most Member States have implemented national action plans with measures intended to combat violence against women⁸⁸. Nevertheless, **most countries still lack precise statistics** on violence against women, in spite of the fact that international organisations and Member States are paying increasing attention to the problem. It should therefore be underlined that as long as the violence in question is not reported and recorded by the authorities in a structured manner as being unlawful and falling within the agreed definition of such violence, no official statistics can be drawn up.⁸⁹

2.3.2. The difficulty of escaping a violent situation

Another issue which has been highlighted in several studies is the fact that many of the women that fall victim of (domestic) violence do not leave their household or leave and then return after a short while. There are **various reasons** for staying or returning, including: fear (for themselves or their children), economic dependency, nowhere to go, family or community pressure, shame, emotional dependency, or the inadequate practices of the criminal justice system.⁹⁰

The **economic dependence** of women is pointed to be one of the main indicators of structural gender inequality which affects the odds of leaving a violent relationship. The psychological impact of an abusive relationship must also be taken into account: the complete loss of self-esteem can create a feeling of culpability and women can begin to think that they are responsible of the situation or they can suffer of a form of **Stockholm syndrome** towards their partner.

⁸⁵ Maria Floro, Annika Tornqvist and Emcet Oktay Tas, The Impact of the Economic Crisis on Women's Economic Empowerment, Swedish International Development Agency : Working Paper Series, December 2009, pp.45-47.

⁸⁶ <http://ethicsinhealth.org/wp-content/uploads/2012/01/intimate-partner-violence-jewkes.pdf>

⁸⁷ Rachel Jewkes, Intimate partner violence: causes and prevention, Lancet, vol 359, 2002, pp. 1423-142.

⁸⁸ <http://eige.europa.eu/sites/default/files/Violence%20against%20women-Victim%20support-Main%20Findings.pdf>

⁸⁹ Sociologist Pierre Bourdieu explains that, just as women undergo a process of socialisation which determines their role in society, men are also subject to pressure from their peers to play a dominant role. Consequently, resort to violence is the consequence of the power structure between men and women. Men are continually obliged to prove that they deserve the dominant position by affirming their virility.

⁹⁰ Ola W. Barnett, Why Battered Women Do Not Leave, Part 1: External Inhibiting Factors Within Society Trauma, Violence and Abuse, October 2000, pp. 343-372.

The FRA survey included also questions to women who had been victims of physical or sexual violence regarding the **need for advice, practical help or just someone to talk to** following the most violent incident. Their answers led to the conclusion that, on the one hand, the need for help from the police or from medical services was rather likely to be met, meaning that victims were apparently better informed about where to go when they need the help of the police or some form of medical assistance. On the other hand, they apparently felt less certain where to turn to for other types of support⁹¹.

It has also been noted that woman's **participation in social networks** (informal or formal) is a critical factor in lessening their vulnerability to violence and in their ability to resolve domestic violence⁹². We can therefore draw the conclusion that an isolated woman, without a strong family support or social network will hesitate to leave. For about one quarter of victims, feeling ashamed or embarrassed about what has happened is the main reason for not reporting the most serious incident of (sexual) violence by a partner or a non-partner to the police or any other organisation⁹³.

Finally, the **lack of legal protection** may also be "a strong factor of perpetuating violence against women".⁹⁴ Regarding the latter observation, international organisations and Member States have made efforts to address this weakness and developed political and legal instruments to protect women and combat gender-based violence.

⁹¹ FRA, Violence against women: an EU-wide survey. Main results, 2014

⁹² Domestic Violence against Women and Girls, Innocenti Digest 6, UNICEF, 2000.

⁹³ Fra, Violence against women: an EU-wide survey. Results at a glance, 2014

⁹⁴ Ibid.

3. THE DIFFICULTY OF GATHERING DATA ON VIOLENCE AGAINST WOMEN

KEY FINDINGS

- 33% of women in the EU have experience physical and/or sexual violence since the age of 15. 31% of women have experienced physical violence while 11% has been victim of sexual violence.
- Many cases of violence against women remain unreported. Shame, fear and lack of knowledge about rights make women reluctant to report incidents to the police. In addition, even nowadays, there are still people who think that certain violence against women is acceptable and a private matter.
- There is a lack of comparable data on violence against women. At EU level, this is caused by differences in the legal definitions of forms of violence against women and the way data is collected. EIGE plays an important role in monitoring and improving the data collection on violence against women.

3.1.1. Current data on violence against women

Violence against women is a **universal phenomenon**, which is visible in all regions, countries, cultures and social classes, affecting millions of women worldwide. According to the FRA survey on violence against women, one in three women has experienced physical and/or sexual violence since the age of 15. Of 31% of women in the EU experienced one of more acts of physical violence. 11% has been a victim of sexual violence. 5% has been raped since the age of 15.⁹⁵

There is a lack of comprehensive and comparable data on violence against women. However, FRA survey and the involvement of EIGE in data collection start to make a difference. However, more needs to be done to get a proper overview of violence against women, especially on national level. **Differences** in definitions and criminalising forms of violence against women, creates differences in the collection of data of violence against women in the Member States.⁹⁶ These differences make it also more difficult to compare data. It is therefore difficult to calculate the exact number of women suffering from the different forms of violence mentioned above.

3.1.2. The problem of unreported cases

In practice, it is very difficult to estimate the cases of violence against women. Many cases are not reported. Shame, fear of reprisals, and ignorance of the protection offered by law or the social network make women reluctant to report painful incidents of violence. It can be particularly difficult for migrant women to report the violence to which they are subject because they are often **socially and economically dependent** upon their partner or family. Moreover, migrant women can be dependent on their husbands or family for their residence status in a EU Member State. In addition, they may not have any family or social network in the country in which they live (some may not even speak the language of that country).

⁹⁵ FRA, Violence against Women: an EU-wide survey, Luxembourg: Publication Office of the European Union, 2014, p.22.

⁹⁶ Ibid.

Moreover, it seems that, even nowadays, there are still some people who think that certain behaviour towards women is acceptable. For example, some people consider "not very serious or inevitable" violence as acceptable, this includes: insulting, hitting, controlling and even forced sex. There is also still an attitude amongst some people that violence against women is a private matter.⁹⁷

3.1.3. A lack of proper statistics on violence against women

It is commonly accepted that measuring the scope of the phenomenon is an essential precondition to the prevention of violence against women. Data on violence against women can be gathered via two ways: **population surveys**, such as the FRA survey, and **administrative data**. This is information gathered by organisations that work with victims and or perpetrators on VAW. Presently, they gather the information for their own purposes. Besides, administrative data is often not complete since many cases of VAW remain underreported. Official country statistics are based on both surveys and the administrative data.⁹⁸

The **UN also noted the need for relevant data**. In the case of women, this data is often missing. Many countries worldwide do not report data on intimate partner violence and the quality of the data on this issue is often not consistent. In addition, data collected from women over 49 is very rare. Different national systems towards violence against women make it difficult to compare this data.⁹⁹

In August 2014, an Independent Expert Advisory Group on the **Data Revolution for Sustainable Development** was appointed by the UN Secretary-General Ban Ki-moon.¹⁰⁰ This group must provide data which can help to shape the future development agenda beyond 2015 for the UN Millennium Development Goals. The empowering of women and girls is one of the UN's sustainable development goals. For this reason, and for the lack of data on women, the collection of data on women has been included in the work of the Data Revolution Group.

In the EU, the obligation to collect and to share data of victims of crime has been included in the Victims' Rights Directive. In recital 64 of the preamble, the importance of systematic and adequate statistical data collection is mentioned, naming it an essential competent of policy-making in the field of victim rights. Data on the crimes committed, and the age and sex of the victim and perpetrator should be known and shared. Article 28 of the Directive requires Member States to share data on "how victims have accessed the rights set out in this Directive".¹⁰¹

EIGE's study on the **collection of administrative data** on violence against women of 2014 showed that administrative data on VAW is mainly collected for internal use or to monitor activities of the respective organisation. Therefore, many cases of VAW remain unreported. The majority of the records collect information on intimate partner violence, rape and sexual assault. Less administrative sources gather information on cases of sexual harassment and stalking. Data on intimate partner violence is collected in most Member States by police administrations, the judicial and the social sector. Half of the Member

⁹⁷ Enrique Gracia and Marisol Lila, Attitudes towards violence against women in the EU, European Commission, Directorate-General for Justice and Consumers, Luxembourg: Publication Office of the European Union, 2015, pp.108-109, http://ec.europa.eu/justice/gender-equality/files/documents/151125_attitudes_eneg_report_en.pdf

⁹⁸ EIGE, Administrative data sources on gender- based violence against women in the EU: Current status and potential for the collection of comparable data – technical analysis, December 2014, p.21.

⁹⁹ Independent Expert Group on the Data Revolution for Sustainable Development, Report A World that Counts: mobilising the data revolution for sustainable development, 2014, p.14, <http://www.undatarevolution.org/wp-content/uploads/2014/12/A-World-That-Counts2.pdf>

¹⁰⁰ <http://www.undatarevolution.org/about-ieag/>

¹⁰¹ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, supports and protection of victims of crime, preamble recital 64 and article 28.

States' police administrations record the age and sex of both the victim and perpetrator, and their type of relationship.¹⁰²

The **difficulties** related to the comparability of data in the EU relate on the one hand to differences in the definitions of types of VAW in the Member States. Moreover, in gender-neutral legal systems, information on the sex of the victim and perpetrator are not always provided making it challenging to identify cases of gender-based violence. Criminalised incidents of VAW are more likely to be recorded by administrative data sources, while forms of VAW that are not criminalised are not recognised or reported as cases of VAW.¹⁰³ However, EIGE has seen good results or an improvement of the gathering of data on VAW when Member States had national action plans on violence against women.

Disaggregated data by age and sex of the victim and perpetrator, and the type of relationship between them (partner/non-partner) would contribute to the identification of violence against women cases. In this respect, EIGE has cooperated with Eurostat with the view **to improve the data collection** and consequently the overview on violence against women in the EU..

Consequently, EIGE published several **recommendations** to improve the collection of data of VAW in EU Member States. A regulation which makes the collection of data on VAW mandatory in the Member States could improve the data collection on this issue.¹⁰⁴ More regulation on administrative data collection on VAW at national level would be important to achieve greater comparability of data between the EU Member States. The collection of data would also improve if each Member State had a single national institution responsible for collecting data on VAW. In decentralised systems, it is already more difficult to get an overview of the data within one Member State. In addition, the collection of data can become more challenging due to confidentiality rules in the healthcare sector when patient details on VAW cannot be shared.¹⁰⁵

¹⁰² <http://eige.europa.eu/gender-based-violence/eiges-studies-gender-based-violence/mapping-current-status-and-potential-administrative-data-sources-gender-based-violence-eu>

¹⁰³ EIGE, Administrative data sources on gender-based violence against women in the EU: current status and potential for the collection of comparable data, p.12

¹⁰⁴ EIGE, Administrative data sources on gender-based violence against women in the EU: current status and potential for the collection of comparable data, 2014, p.69

¹⁰⁵ Ibid, pp. 68-71.

4. POLITICAL AND LEGAL FRAMEWORK

KEY FINDINGS

- The UN has been active in the field of violence against women since the 1990. Important instruments are, amongst others, the CEDAW, declarations on violence against women adopted by the General Assembly, the Beijing Declaration and Platform for Action and the 2015 Sustainable Development Goals.
- The Council of Europe has adopted several instruments to combat violence against women such as Recommendation REC(2002)5 and a Convention addressing human trafficking. The Istanbul Convention became the first treaty providing minimum standards on criminalising violence against women.
- At EU level several actions have been taken. Directives against trafficking in human beings, on victims' rights, and the European Protection Order are applicable to victims of violence against women. The Parliament, Council and Commission have adopted resolutions, conclusions and strategies on the topic. However, both the Council and the Parliament have urged the Commission to take more steps to combat violence against women. In addition, FRA and EIGE also play an important role in monitoring violence against women.

International and regional organisations played an important role in promoting and ensuring substantive changes in the defence of women's fundamental rights in cases of violence. They undertook initiatives which improve national efforts such as monitoring activities and pressure states to adopt national action plans. Moreover, international agreements and conventions can have the effect that national legislation needs to be changed in order to criminalise or to take actions against forms of violence against women

4.1. The United Nations

At UN level, several actions have been taken to combat violence against women. Important actors at UN level have been UN Women, the Committee on the Elimination of Discrimination against women (CEDAW), The Commission on the Status of Women, and the United Nations Population Fund (UNFPA).

Within the UN Framework, the World Health Organisation (WHO) has also been an important actor. The WHO has been involved in the monitoring of, providing information and programmes on (the health aspects) of violence against women.¹⁰⁶ The UNFPA tries to improve gender equality and women's empowerment. In addition to promoting the rights of women and girls to live free of violence, its programmes offer "psychosocial assistance, medical treatment and rape kits to survivors". UNFPA also publishes studies on gender-based violence.¹⁰⁷

The UN General Assembly was the first entity to adopt a legally binding instrument relating to women's rights which considered that all forms of discrimination against women should be regarded as unlawful: the [Convention on the Elimination of all Forms of](#)

¹⁰⁶ http://www.who.int/topics/gender_based_violence/en/

¹⁰⁷ <http://www.unfpa.org/gender-based-violence>

Discrimination against Women (CEDAW), which was adopted in 1979.¹⁰⁸ Although the document does not refer to violence against women, it is still an important instrument because it requires States to ensure that men and women have equal rights and it is a legally binding instrument. General Recommendation No 19 of 1998 of the CEDAW committee. The Recommendation states that the definition of discrimination of Article 1 of the Convention includes gender-based violence, not only if it is committed by states but also when committed by private actors as states have the responsibility to protect their citizens.

Later, in December 1993, the General Assembly adopted the **Declaration on the Elimination of all Forms of Violence against Women**. This represents the first international instrument that solely concerns violence against women¹⁰⁹. However, it was still only a declaration and therefore not legally binding.

The 1993 **Vienna Declaration and Program for Action** on the protection of human rights also condemns gender-based violence and all forms of sexual harassment and exploitation.¹¹⁰

The United Nations Commission on Human Rights decided to appoint a **Special Rapporteur on violence against women** with the adoption of resolution 1994/45 in 1994. The Special Rapporteur's mandate allows the Rapporteur to seek and receive information on violence against women, to make recommendations on local, national and international level to combat violence against women, to integrate women's rights in the work of the Human Rights Council and to continue to adopt a comprehensive and universal approach to the eradication¹¹¹ of violence against women. The Rapporteur publishes **annual reports** on violence against women. The latest report was published in 2015.¹¹²

In 1995, the Fourth World Conference on Women in Beijing and its **Beijing Declaration and Platform for Action** included the elimination of all forms of violence against women among its twelve strategy objectives, and listed practical measures to be taken by States, international organisations and non-governmental organisations to prevent and combat violence against women.

In addition, in May 2008, the UN Division for the Advancement of Women (UNDAW), in collaboration with the UN Office on Drugs and Crime (UNODC), organized a meeting of an **expert group on the topic of good practices in legislation on preventing and criminalising violence against women**. This meeting developed a model framework for legislation on preventing violence against women, which emphasises the importance of adopting a comprehensive and human rights-based legislative approach to all forms of violence against women. The legislation should encompass not only criminalisation and the effective prosecution and punishment of perpetrators, but also the prevention of violence, the empowerment, support and protection of survivors, and the creation of mechanisms to ensure its effective implementation.¹¹³

In 2009, the UN Division for the Advancement of Women stated in a "**Handbook for legislation on violence against women**" that legislation on violence against women should be "in conformity with the United Nations General Assembly Declaration on the Elimination of Violence against Women [...], read together with article 1 of the Convention

¹⁰⁸ UN General Assembly, Convention on the Elimination of all Forms of Discrimination against Women, Resolution 34/180 of 18 December 1979.

¹⁰⁹ UN, Declaration on the Elimination of all Forms of Violence against Women, resolution 48/104 of 1993.

¹¹⁰ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>

¹¹¹ <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx>

¹¹² <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AnnualReports.aspx>

¹¹³ Report available at: www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Report%20EGM%20harmful%20practices.pdf. See also the background document for the expert group, available at: [http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Background%20paper%20EGM%20\(10.06.09\)%20FINAL.pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Background%20paper%20EGM%20(10.06.09)%20FINAL.pdf)

on the Elimination of All Forms of Discrimination against Women, and general recommendations No. 12 (1989) and 19 (1992) of the Committee on the Elimination of Discrimination against Women."¹¹⁴ In the same year, the UN Secretary General Ban Ki-moon launched a **campaign called "UNiTE to end violence against women"**. It "brings together a host of UN agencies and offices to galvanize action across the UN system to prevent and punish violence against women"¹¹⁵.

In 2010, the United Nations Department of Economic and Social Affairs (UNDESA) Commission adopted a Declaration where Governments reaffirmed the 1995 Platform for Action and pledged to undertake further actions towards its full implementation. The UNDESA Commission adopted new resolutions on issues such as maternal mortality, **women's economic empowerment**, and the composite gender equality entity. It also adopted resolutions on issues that are regularly on its agenda, such as female genital mutilation, HIV and AIDS, women taken hostage, and the situation of Palestinian women.

The UN General Assembly adopts **bi-annual resolutions on the issue of violence against women**. The most recent resolution was adopted in December 2014 and includes the intensification of efforts to eliminate all forms of violence against women and trafficking in women and girls¹¹⁶.

During the [57th session of the Commission on the Status of Women](#) (CSW) in 2013, the priority theme was the elimination and prevention of violence against women. In the [conclusions](#), it was decided that: all forms of violence against women were condemned as a violation of human rights. Custom, tradition or religion may not be invoked to justify this violence. In addition, the conclusions call upon governments and stakeholders to take actions to improve legal and policy frameworks against violence against women, including prevention, the response to violence against women and girls and improving the collection of evidence.¹¹⁷ The conclusions represented a historic outcome as there had been no agreed conclusions on these issues when it was last considered by the CSW in 2003. The 2013 conclusions will be reviewed in the **upcoming Commission on the status of women session in March 2016**. A delegation of the FEMM committee will be present at this session and will also organise a side-event.

The 2015 UN **Sustainable Development Goals** (SDG) also include a reference to violence against women. Goal 5 of the SDGs is to achieve gender equality and to empower all women and girls. This goal includes the elimination of all forms of discrimination against women; the elimination of all forms of violence against women, including human trafficking and all forms of (sexual) exploitation. The elimination of harmful practices for women and girls such as female genital mutilation (FGM), child, early and forced marriage.¹¹⁸

A UN instruments which is more focused on a specific type of violence against women is the **Palermo Convention**. The United Nations adopted this Convention in 2000. The Convention consists of three protocols on cross-border organised crime, including [the Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children](#). The protocol aims at preventing and combating human trafficking.

¹¹⁴ United Nations, Department of Economic and Social Affairs Division for the Advancement of Women, "Handbook for legislation on violence against women", New York, 2009, p.2.

¹¹⁵ See: <http://www.un.org/en/women/endviolence/>.

¹¹⁶ Resolution A/RES/69/147, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/69/147

¹¹⁷ Commission on the Status of Women, Elimination and Prevention of Violence against women and girls: agreed conclusions, 2013, p.2.

¹¹⁸ UN General Assembly, Draft outcome document of the United Nations summit for the adopted of the post-2015 development agenda, 12 August 2015, p.18, article 5.1 to 5.3, http://www.un.org/ga/search/view_doc.asp?symbol=A/69/L.85&Lang=E

4.2. The Council of Europe

The Council of Europe has always been extremely active in the fight against gender-based violence. The adoption and entry into force of the Istanbul Convention on violence against women has been one of the major achievements of the Council of Europe in the fight against violence against women.

In 2002, the Council of Europe adopted **Recommendation Rec(2002)5 on the protection of women against violence**. In this Recommendation, the Committee of Ministers called upon the Member States to ensure the human rights of women. Member States should therefore take several actions, such as: introduce, develop and improve national action plans; collect data about violence against women; start awareness campaigns against violence against women; include VAW in criminal and civil law; ensure that police authorities deal in a proper manner with violence against women cases; and Member States must ensure that perpetrators are prosecuted.¹¹⁹ Despite its non-binding character, this Recommendation offers a common framework for the CoE member states (bearing in mind that all the EU Member States are also members of the CoE).

In May 2005, in **the Warsaw Declaration**, the Heads of State and Government of the Council of Europe reaffirmed their commitment to combat violence against women in all its forms, including domestic violence. As a result, a pan-European campaign was launched in November 2006 in Madrid and a Task Force to Combat Violence against Women, including Domestic Violence, was set up. Gathering eight international experts, the task force was mandated to evaluate measures for preventing and combating violence against women adopted at the national and international levels and make proposals for revising these measures or for adopting new measures. Over the course of two years, the Task Force has studied developments at the national and international levels to prevent and combat violence against women. The **Final Activity Report** contains an assessment of these measures and that of the impact of the campaign, as well as proposals for future action in this field.¹²⁰ The Task Force chose four core objectives in which member states of the CoE are urged to make significant progress during the campaign: legal and policy measures; support and protection for victims; data collection; and raising awareness. The recommendations at the international level include: the drafting of a new legally binding instrument and establishing a European rapporteur on violence against women.

An ad hoc **Committee on Preventing and Combating Violence against Women and Domestic Violence** (CAHVIO) was created in response to the need for a new legal instrument. According to the terms of reference of the Ad hoc Committee, it was instructed to prepare one or more legally binding instrument(s), as appropriate, to prevent and combat: domestic violence including specific forms of violence against women and other forms of violence against women; and to protect and support the victims of such violence and prosecute the perpetrators. In December 2010, the final draft of the: **"Convention on preventing and combating violence against women and domestic violence"**, was presented by CAHVIO. The Convention was adopted in April 2011 by the Committee of Ministers in Istanbul. On the 23rd April 2014, when Andorra became the 10th country to ratify it, the so called Istanbul Convention entered into force on 1 August 2014. The Convention is considered as the most important and comprehensive legally binding instrument on violence against women in Europe.

¹¹⁹ Council of Europe Committee of Ministers, Recommendation Rec (2002)5 on the protection of women against violence,

[https://wcd.coe.int/ViewDoc.jsp?Ref=Rec\(2002\)5&Language=lanEnglish&Ver=original&Site=CM&BackColorIntranet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=Rec(2002)5&Language=lanEnglish&Ver=original&Site=CM&BackColorIntranet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

¹²⁰ Hagemann-White, C, Bohn, S, Protecting women against violence, Analytical study on the effective implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe member states, Directorate General of Human Rights and Legal Affairs: Strasbourg, p.7.

In addition, The Council of Europe has been very active in the field of **trafficking in human beings**. Three conventions have been adopted on the topic: The Council of Europe Convention on Action against Trafficking in Human Beings (2005); the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual abuse (2007) and the Istanbul Convention. The 2005 Convention obliges State parties to criminalise trafficking in human beings and related offences.¹²¹ It also states that legislation must ensure that the offences are punishable by "effective, proportionate, and dissuasive sanctions"¹²², including measures to assist victims in their recovery, and providing compensation for them.¹²³

On 15 April 2014, the Anti-Trafficking Division of the Council of Europe, in co-operation with the Unit against Trafficking in Human Beings of the Ministry of the Interior of Poland, organised a **round-table meeting in Warsaw** for some 30 representatives of relevant ministries and public agencies, non-governmental organisations, trade unions and research centres¹²⁴.

The Group of Experts on Action against Trafficking in Human Beings (GRETA) is responsible for **monitoring the implementation** of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. GRETA regularly publishes reports evaluating the measures taken by the Parties and those Parties which do not fully respect the measures contained in the Convention will be required to step up their action.

Furthermore, the European Court of Human Rights (ECtHR) has given some **landmark decisions** on human rights violations in cases on trafficking in human beings cases (Rantsev v Cyprus and Russia, Siliadin v France).

The conventions and the case law from the ECtHR provide minimum standards for the preventing and combatting of human trafficking and the protection of victims in Europe. These minimum-standards have to be taken into account by the EU in providing legislation about human trafficking.

4.2.1. The Istanbul Convention

The Istanbul Convention was the first European Convention on violence against women including domestic violence which is also **legally binding**. The Convention is not only focused on members of the Council of Europe. Any State is allowed to accede the Convention. The EU is also mentioned among the list of actors which can sign the Convention.¹²⁵

The Convention sets out **minimum standards** for Member States of the Convention on the prevention of VAW, the protection of victims and the prosecution of perpetrators. Signatories must take the appropriate legislative steps to this end. For example, in the field of prevention, Member States should start awareness raising campaigns and include the non-tolerance of violence against women in education programmes. At the same time, member states should also create programmes for offenders of VAW in order to prevent re-offending. The Convention obliges Member States to offer specific services to victims: specialised victim support such as shelters and hotlines should be available. Furthermore, the victim should be able to find remedies and compensation via civil law. The types of violence against women included in the Convention should be recognised in criminal law as criminal offences. Justifications for these offences based on culture, custom, religion, tradition or honour shall not be regarded as acceptable justifications for VAW offences. Member States should also ensure that protection for victims can be offered via judicial

¹²¹ Council of Europe, Convention on Action against Trafficking in Human Beings, 2005, article 18-20.

¹²² Ibid, article 23

¹²³ Ibid, article 12 and 15.

¹²⁴ http://www.coe.int/t/dghl/monitoring/trafficking/Docs/activities/PR_POL_round_table_en.asp

¹²⁵ Council of Europe, Convention on preventing and combatting violence against women and domestic violence, article 81.

tools such as restraining orders in their legislation. Moreover, states should take into account gender-based asylum claims and ensure an independent residence status for victims of VAW in order to ensure that they do not remain dependent on the spouse or family members.

The Istanbul Convention has a **broad scope** since it applies to all forms of violence against women, including domestic violence.¹²⁶ However, specific attention is given to the following types of violence against women: psychological violence, stalking, physical violence, sexual violence including rape, forced marriage, FGM, forced abortion and forced sterilisation, sexual harassment and any aiding, abetting or attempt to VAW.¹²⁷ For each of these types of violence, the Convention provides minimum standards on how to tackle them and on which actions states need to take. These minimum standards are described in chapter 2. Consequently, the Istanbul Convention as the first European treaty condemning so many forms of violence against women plays an important role in the combatting and prevention of violence against women. The monitoring of the implementation by the signatories also provides insight in the VAW situation in different member states and how the situation can be improved. In addition, the Convention can have a positive harmonising effect regarding the protection of women since there are a lot of differences between the national legislation of Member States in the field of VAW. The Convention requires states to take the legislative measures to criminalise the above mentioned forms of violence against women. National legislations that do not comply with the Istanbul Convention therefore need to be changed. For these reasons, it can be said that the Istanbul Convention provides an important modern legal instrument which can improve the situation of women in Europe. The Istanbul Convention therefore fills an important gap in the international law on violence against women.

4.3. The EU

4.3.1. The Treaties

Violence against women made its first meaningful appearance on the EU agenda in the mid-90s, when the adoption of the Maastricht and Amsterdam Treaties strengthened the EU institutions and placed a greater emphasis on fundamental rights. For example, the respect for gender equality has been included in what nowadays is article 2 of the Treaty on the European Union (TEU). This created a new political space for issues such as violence against women.¹²⁸

The Lisbon Treaty provides the scope for the EU to introduce common provisions in the field of criminal law, with the objective of harmonisation. Chapter 4 of the Treaty on the Functioning of the European Union (TFEU) on judicial cooperation in criminal matters has been regarded by experts as providing possibilities to develop legal instruments to combat violence against women. These possibilities are discussed in more detail in chapter 5. Furthermore, **Declaration no. 19 on article 8 TFEU** has been added to the TFEU. In this declaration Member States committed themselves to ensure that, in order to diminish inequality between men and women, the Union will aim to combat all kinds of domestic violence. Member States shall take the necessary acts to prevent and prosecute these acts while providing protection to victims.¹²⁹

Moreover, the Charter of Fundamental Rights of the EU¹³⁰, which is legally binding when implementing EU law, contains specific provisions aimed at protecting and upholding the right to physical and mental integrity, the rights of children, non-discrimination on the basis

¹²⁶ Ibid, Article 2.

¹²⁷ Ibid, article 33-41.

¹²⁸ Celeste Montoya, International Initiative and Domestic Reforms: European Union Efforts to Combat Violence Against Women, Politics and Gender, no.5 2009, p.332.

¹²⁹ Treaty on the Functioning of the European Union, Declaration no. 19 on article 8 TFEU.

¹³⁰ Charter of Fundamental Rights of the EU, OJ C364 of 18/12/2000, p.1.

of gender, the prohibition of inhuman and degrading treatment and the prohibition of slavery, forced labour and human trafficking.

4.3.2. Legal actions

A number of relevant directives have been created which apply in certain cases of violence against women and to protect victims:

A first important legal instrument in the field of violence against women is [Directive 2011/36/EU](#) on preventing and combatting trafficking in human beings and protecting its victims. This Directive includes provisions on law enforcement with regard to perpetrators of human trafficking, the prevention of human trafficking and the protection of victims. This Directive targets specifically VAW in connection with trafficking in human beings.

In the same sense, [Directive 2004/81/EC](#) on the residence permit issued to third-country nationals who are victims of human trafficking specifically offers support to third-country national who became victims of human trafficking and who are willing to cooperate with the national authorities against their traffickers. These third-country national victims are offered temporary legal residence and protection in order to recover from their traumatic experiences.

A more general legal instrument which is nevertheless very important for victims of VAW is [Directive 2012/29/EU](#) (The Victims' Directive) on common minimum standards on the rights, support and protection of victims. This Directive obliges Member States to support the victim and/or their family members, to protect the victim but also to give victims the right to be informed during, for example, the prosecution of the perpetrator. Member States must also provide training to officials who deal with victims in order to ensure that they are capable to address the specific needs of the victim. Protection and support for women who have become victim of violence against women has been specifically included in the Directive. Article 9 ensures the support for victims of sexual and gender-based violence and article 22 offers protection to victims of human trafficking.

Furthermore, [Directive 2011/99/EU](#) on the European Protection Order (EPO) also provides protection for victims of VAW. This Directive sets out rules allowing a judicial or equivalent authority in a Member State in which a protection measure has been adopted with a view to protecting a person against a criminal act by another person which may endanger his life, physical or psychological integrity, dignity, personal liberty or sexual integrity, to issue an EPO enabling a competent authority in another Member State to continue the protection of the person in the territory of that other Member State, following criminal conduct, or alleged criminal conduct, in accordance with the national law of the issuing State¹³¹. A 'European Protection Order' means a decision, taken by a judicial or equivalent authority of a Member State in relation to a protection measure, on the basis of which a judicial or equivalent authority of another Member State takes any appropriate measure or measures under its own national law with a view to continuing the protection of the protected person. As this Directive covers all victims of crime, its scope goes beyond sexual and gender based violence.

In addition to Directive 2011/99/EU, [Regulation \(EU\) No 606/2013](#) on mutual recognition of protection measures in civil matters also provides protection to victims of VAW. This regulation provides a mechanism for the recognition of protection measures in civil matters. Protection can be given in cases where there is a threat to the physical, psychological or sexual integrity of a person. Gender-based violence and violence in close relationships such as physical and sexual violence, harassment and stalking are named as examples for protection measures in the Directive (preamble, recital 6).

¹³¹ Directive 2011/99/EU, article 1, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:338:0002:0018:en:PDF>

Besides, EU legislation aiming at equality between men and women in genera also provides for a few relevant provisions in relation to VAW: [Directive 2006/54/EC](#) on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) and [Directive 2004/113/EC](#) on implementing the principle of equal treatment between men and women in the access to and supply of goods and services. Both provide for a definition of and condemn harassment and sexual harassment.

Finally, [Directive 2010/41/EU](#) on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity should be mentioned because it furthers, like the previous two Directives, the respect for the general principle of equal treatment in the EU. As has been shown in chapter 2 of this study, this is also important because they allow women to have a stronger economic position which will make them less dependent from violent relationships. This can be beneficial in cases of violence against women because it offers women the change to escape the violent situation if they are economically independent.

4.3.3. The European Parliament

The European Parliament, on the basis of the work by its committee on Women's Rights and Gender Equality, has actively contributed to the prevention of violence against women and adopted a number of resolutions. The first resolution was [of 11 June 1989 on violence against women](#) in which the Parliament asked the Council and the Commission to step up to take action but also to research violence against women in both the public and the private sphere and addressed issues such as sexual harassment, human trafficking, the protection of women in minority groups, and female refugees.

The [resolution on elimination of violence against women of 26 November 2009](#) refers to several important issues. It called upon the Commission to propose a Directive on action to prevent and combat all forms of violence against women. The Parliament called upon the Member States to collect statistics about cases of VAW, to raise more awareness about violence against women, to financially support organisations supporting victims and to recognise in national criminal law sexual violence and rape within the marriage or partnership as a crime which results in automatic prosecution.¹³²

In the [Resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women](#), the Parliament proposed to create a new and comprehensive policy approach towards gender-based violence. The Parliament stated that prostitution was a form of gender-based violence. In addition, it called upon the Commission to gather annual data and to continue its efforts to combat violence against women via EU programmes like the former Daphne programme.¹³³

In the [resolution of 6 February 2013](#) on the 57th session on the United Nations CSW: Elimination and prevention of all forms of violence against women and girls, the Parliament again expressed the wish for the Commission to propose a strategy against violence against women and to propose a directive which contains minimum standards to prevent violence against women. Moreover, the Parliament called upon the Member States to sign and ratify the CoE Istanbul Convention.¹³⁴

In January 2014, the Committee on Women's Rights and Gender Equality adopted a **report with recommendations for the Commission on violence against women** (the so called Parvanova report). In this report, the Committee listed a number of actions which should be taken by the Commission and the Member States. The Commission was

¹³² European Parliament, Resolution of 26 November 2009 on elimination of violence against women.

¹³³ European Parliament Resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women.

¹³⁴ European Parliament, Resolution of 6 February 2013 on the 57th session on UNCSW: Elimination and prevention of all forms of violence against women and girls, point 4.

requested to submit a proposal for an act on the basis of article 84 TFEU, establishing measures to promote and support action in Member States in the field of violence against women, by the end of 2014. The Commission was also asked to revise its proposal for a Regulation on European Statistics in order to include VAW as a crime listed in the statistics. Moreover, the Commission should present a Strategy and Action plan to combat VAW. The Council was requested to include violence against women, including FMG in the list of crimes in Article 83 (1). Furthermore, the Commission and the Member States were asked to promote further ratification of the Istanbul Convention and the Commission had to find out whether the EU can access the Convention. The Committee also asked the Commission to establish an EU Year to end violence against women.¹³⁵ The report was adopted in plenary through the [resolution of 25 February 2014](#).¹³⁶

Last year, in the [resolution of 9 June 2015](#), the newly elected Parliament repeated the aims of the previous resolution requesting from the Commission a proposal for a strategy and action plan against VAW, for the Council to include gender-based violence in article 83 (1) TFEU and accession of the EU to Istanbul Convention. In this resolution, the Parliament also added a call on the Commission to start zero-tolerance awareness raising campaigns for violence against women.

The Parliament has also adopted a resolution on FGM: [Resolution of 14 June 2012 on ending female genital mutilation](#). In this Resolution, the Parliament called upon the UN General Assembly to adopt a resolution to end FGM worldwide. Member States were pressured in this resolution to adopt legislation which criminalises FGM. Furthermore, the Commission was asked to pay special attention to the combatting of FGM and to support programmes which fight against violence against women.

4.3.4. The European Council

In 2009, the European Council adopted the Stockholm programme for the period of 2010-2014. This programme addressed the need to protect victims of gender-based violence. It stated that victims of gender-based violence and FGM have to be considered to be vulnerable groups which are in need of protection. Appropriate financial aid should be provided in order to support these groups. Besides, the Stockholm programme tried to strengthen the prevention and combatting of trafficking in human beings.¹³⁷

4.3.5. The Council of the European Union

In 2008, the Council adopted [EU guidelines on violence against women and girls](#) and combating all forms of discrimination against them. In these guidelines, the Council has set three aims for the EU to contribute to: the prevention of violence, protection and support of victims and the prosecution of perpetrators.¹³⁸ These guidelines were meant to provide guidance in EU external actions and the actions are therefore directed at the cooperation with third countries to reduce violence against women outside the EU.

In March 2010, the Council adopted the [first Council conclusions on the eradication of violence against women](#). In this document, the Council called upon the Member States to develop strategies against violence and to spend sufficient resources for preventing and combating violence, including awareness raising campaigns. The Council asked the Commission, just like the Parliament, to propose a strategy on violence against women and

¹³⁵ European Parliament, Report of 31 January 2014, with recommendations to the Commission on combatting violence against women, (2013/2004/INI), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0075+0+DOC+XML+V0//EN>

¹³⁶ European Parliament, Resolution of 25 February 2014 on combating Violence Against Women, point 1-5.

¹³⁷ European Council, Stockholm Program, 2009, pp. 16 and 44, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the_stockholm_programme_-_an_open_and_secure_europe_en_1.pdf

¹³⁸ Council, EU guidelines on violence against women and girls and combating all forms of discrimination against them, p.2.

to include the eradicating of violence in the next Roadmap for equality between men and women.¹³⁹

In December 2012, the Council adopted [conclusions on Violence against Women and the Provision of Support Services to Victims of Domestic Violence](#). Member States were asked to adopt and implement national action plans against gender-based violence. The Council also called again, upon the Commission to propose an EU Strategy against violence against women, and asked the Parliament and the Commission to contribute to the signature and ratification of the Istanbul Convention. In addition, awareness raising campaigns should be launched and Member States should implement the Victims' Directive on time.

In June 2014, [the Council Conclusions on preventing and combating all forms of violence against women and girls, including female genital mutilation](#) were adopted. In these conclusions attention was paid to several actions. National action plans should be developed and national legislation should be checked on whether they prohibit all forms of gender-based violence, including new forms such as cyber bullying. It was recognised that more data needed to be collected about violence against women, and on FGM in the EU in particular. The conclusions also pressured the Member States to ratify the CoE Istanbul Convention. Moreover, support programs should be offered to victims and more attention needed to be paid to vulnerable groups. In addition, the Council called upon the Commission to publish a handbook with all EU actions which try to combat violence against women and girls.¹⁴⁰

Several **Council presidencies** also contributed to the topic of violence against women. The 2002 Danish presidency was the first presidency which discussed the topic of violence against women. During this presidency it was agreed that Member States should take measures to eradicate and prevent violence against women and to establish appropriate indicators.¹⁴¹ In 2010, the Spanish Presidency paid much attention to the topic of violence against women. The Spanish presidency was the leading actor behind the March 2010 Council Conclusions on violence against women. Furthermore, the Spanish presidency asked the EU Fundamental Rights Agency (FRA) to conduct a survey on violence against women. The Spanish Presidency also made the proposal for a European Protection Order Directive¹⁴². This proposal has resulted in Directive 2011/99/EU. The Greek Presidency cooperated with EIGE on this topic in the framework of the revision of the implementation of the BPfA in the EU and organised a conference on violence against women in March 2014. At this conference, the FRA's survey about violence against women was presented.¹⁴³

4.3.6. The European Commission

The European Commission has been quite active in the field of violence against women and has adopted a number of instruments.

The prevention of gender based violence has been part of the **Strategy for Equality between Women and Men 2010-2015**. Previously, gender-based violence had been included for the first time in the **Roadmap for equality between women and men 2006-2010**. The strategy for equality included the aims to adopt a strategy on combating violence against women, to ensure that gender-based violence is taken into account in the EU asylum legislation and to draw up a men's health report besides the women's health report.¹⁴⁴ However, the Commission has not managed to publish a strategy on combating violence against women in the period 2010-2015.

¹³⁹ Council, Council Conclusions of 8 March 2010 on the Eradication of Violence against Women in the European Union.

¹⁴⁰ the Council Conclusions of 5 and 6 June 2014 on preventing and combating all forms of violence against women and girls, including female genital mutilation

¹⁴¹ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/misc/69841.pdf

¹⁴² <http://www.womenlobby.org/The-Spanish-Presidency-of-the-EU-and-Male-Violence-against-Women-June-2010>

¹⁴³ <http://www.gr2014.eu/events/parallel-events/launch-conference-violence-against-women>

¹⁴⁴ European Commission, Strategy for Equality between women and men, 2010-2015, pp.8-9, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0491&from=EN>

In December 2015, the Commission published a **staff working document on the strategic engagement for gender equality 2016-2019**. This document will replace the strategy for equality 2010-2015. This staff working document does not have the same legal status as the strategy but does refer to combating gender-based violence and offering support to victims. A number of key actions has been set: EU accession to the CoE Istanbul Convention and to encourage Member State to ratify the Convention; enforce the Victim's Rights Directive and the EPO Directive in order to ensure support and protection for victims of gender-based violence; improve the availability and quality of data on gender-based violence via cooperation with Eurostat, EIGE and FRA; continue to raise awareness about gender-based violence; promote changes in behaviour and attitudes towards women; continue the implementation of the communication towards the elimination of FGM; assess Member States' compliance with Directive 2011/36/EU and ensure that the gender dimension of trafficking in human beings is addressed.¹⁴⁵

In 2010, the European Commission adopted a **Women's Charter** which must strengthen the Commission's commitments to gender equality. In this charter it is stated that gender-based violence is a violation of fundamental rights. Rights such as the right to human dignity, the right to life and the integrity of the person are violated by gender-based violence. In the Charter, the Commission promises to step up efforts to eradicate all forms of violence and to provide support to victims, to put in place a comprehensive and effective policy framework against gender-based violence and to strengthen, within the limits of the EU competences, via means of criminal law their action to eradicate FMG.¹⁴⁶

Besides these general documents about gender-based violence, the Commission has also taken action for specific types of violence against women such as FGM and human trafficking. In November 2013, the Commission adopted a **communication on eliminating female genital mutilation** (FGM). The communication includes a number of goals: a better understanding of FGM practices in the EU, including the number of women and girls who become victims of FGM; the promotion of effective prevention and victim support; support the law enforcement of FGM in the Member States; ensure protection for women at risk, who apply for international protection, in the EU legislative asylum framework and lastly to promote the elimination of FGM worldwide and improve protection for women at risk in third countries.¹⁴⁷

The Commission has also adopted the **EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016**. In this strategy five priorities are laid down: A identifying, protecting and assisting victims of trafficking; B stepping up the prevention of trafficking in human beings; C increased prosecution of traffickers, D enhanced coordination and cooperation among key actors and policy coherence, E Increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings.¹⁴⁸

Violence against women has also been included in the Commission's external action policies. Together with the European External Action Service (EEAS), the Commission adopted a new **framework for Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020**. This framework also includes violence against women since one of the goals is ensuring girls' and women's psychical and psychological integrity. Violence against women has been included in this framework in order to reduce the number of violations of women's

¹⁴⁵ European Commission, Staff working document on the strategic engagement for gender equality 2016-2019, p. 10, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/151203_strategic_engagement_en.pdf

¹⁴⁶ European Commission, Communication from the Commission, A strengthened Commitment to Equality between Women and Men, March 2010, p.4, http://ec.europa.eu/archives/commission_2010-2014/president/news/documents/pdf/20100305_1_en.pdf

¹⁴⁷ European Commission, Communication on eliminating female genital mutilation, November 2013.

¹⁴⁸ European Commission, The EU Strategy towards the Eradication of Trafficking in Human Beings 2010-2016, p.5.

rights in third-countries, such as child marriages and sexual violence. The EEAS and the Commission aim at eliminating all forms of gender-based violence and the eradication of human trafficking.¹⁴⁹

For the International Day of the Elimination of Violence against Women 2015, the Commission made a **Joint Statement**. In this statement, the Commission strongly condemned all forms of violence against women. The Commission also expressed that special attention should be given to refugee women who have become victim of gender-based violence.¹⁵⁰

4.3.7. The EU Fundamental Rights Agency

In March 2014, the EU Fundamental Rights Agency (FRA) presented [a survey on violence against women in the EU](#). The **survey** was based on 42.000 interviews with women about the experiences of gender-based violence. The survey showed that one in three women has experienced physical or sexual violence since the age of fifteen. In addition, two in five women have experienced psychological violence by a partner and more than 70% of professional women have experienced sexual harassment at the work place. These figures show that violence against women is widespread in the EU. The FRA also notes that many women do not report violence to the police and even have the feeling not to be taken seriously by the police when they do report. Due to the fact that many women do not report attacks, many cases of sexual and gender-based violence remain unknown. The internet has also become a common used tool for cyber harassment, cyber stalking and cyber bullying. Based on the report, the FRA made a number of recommendations, these include amongst others: the findings of the survey need to be included in future strategies on equality between women and men; the EU's justice and home affairs policy should include violence against women in its framework of the EU's responses to crime and criminal victimisation; Member States should apply the Victims' Directive to victims of gender-based violence; Member States should ratify the Istanbul Convention and the EU should try to sign and ratify the Istanbul Convention. The FRA's survey is an important contribution to the gathering of data and information on violence against women in the EU.

4.3.8. The European Institute for Gender Equality

The EIGE has become very active in the field of the prevention of violence against women. EIGE has an important task to **monitor and gather information** about the number of cases of gender-based violence. In addition, EIGE has published a number of studies on gender-based violence.¹⁵¹ One of these studies is the report on the review on the implementation on the Beijing Platform for Action in the EU Member States: "Violence against women, victim support" in which national policies and legislation against domestic violence were compared. EIGE also published a strategic framework on violence against women 2015-2018 with actions to be taken by the EU institutions and the Member States. Consequently, EIGE has an important role by monitoring and giving information about violence against women.¹⁵²

4.3.9. From the Daphne programme to the Rights, Equality and Citizenship Programme 2014-2020

Actions to prevent and combat violence against women have only been covered by the EU programmes at the end of the 1990s with the launch of the **Daphne initiative**, subsequently the Daphne Programmes, as an answer to a resolution of the EP on the need to establish an EU-wide campaign for zero tolerance of violence against women¹⁵³.

¹⁴⁹ EEAS and European Commission, framework for Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020.

¹⁵⁰ http://europa.eu/rapid/press-release_STATEMENT-15-6149_en.htm

¹⁵¹ For more information on the different studies see: [http://eige.europa.eu/rdc/eige-publications?a\[0\]=619](http://eige.europa.eu/rdc/eige-publications?a[0]=619)

¹⁵² See the studies: <http://eige.europa.eu/sites/default/files/documents/Violence-against-Women-Victim-Support-Report.pdf> and <http://eige.europa.eu/sites/default/files/documents/mh0215481enn.pdf>

¹⁵³ European Parliament, Resolution of 16 September 1997.

On 24 January 2000, the EP and the EU Council adopted the first Daphne programme to **prevent and combat violence** against children, young people and women covering the following three years, which was intended to carry on from the early initiative.¹⁵⁴ The programmes were very successful. Consequently, the programme has been renewed twice, in both 2004 and 2007. In the meantime, its budget increased from the equivalent of EUR 20 million to almost 120 million for Daphne III.

The aim of the programme was to **support organisations** (from all the Member States, candidate countries, European Free Trade Association (EFTA) states and the countries of the Western Balkans) to develop measures and actions to prevent or to combat all types of violence against women and children.

In 2007, the Daphne III programme became part of the General Programme of Fundamental Rights and Justice. For the period 2014-2020, the Daphne programme has been incorporated in the Rights, Equality and Citizenship Programme.

The **Rights, Equality and Citizenship Programme 2014-2020** finances projects aimed to achieve gender equality and ending violence against women (article 4).¹⁵⁵ The Programme replaced three earlier programmes which expired in 2013: the Fundamental Rights and Citizenship Programme, the Daphne III Programme and the Progress Programme on Anti-discrimination and Gender Equality strands. The budget for the Rights, Equality and Citizenship Programme is 439 million euro for seven years.¹⁵⁶ Consequently, the Daphne programme does not exist anymore as a single programme but has been included in a larger programme with a larger budget overall but less money available than for the three previous programmes which still finances projects which try to end violence against women.

4.3.10. The Member States

While Member States and the EU have shared competences in eliminating violence against women at the work place, regarding serious cross border crimes like trafficking in human beings and the protection of victims of crime, Member States so far have sole competence in fighting violence against women in general, including domestic violence. Although the ratification of the Istanbul Convention might bring about closing gaps in national legislations and implementation measures, the exchange of best practices between the members of the CoE and the CoE's monitoring mechanisms cannot be compared to the legal obligations of and cooperation under EU instruments.

The Commission has a certain possibility to motivate Member States in closing their legislative gaps and in providing guidance regarding promising practices to prevent and combat VAW under the Open Method of Coordination in the social field and in public health. This, however, cannot prevent **different policies** regarding combatting and preventing violence against women with the resulting protection gaps for women in many Member States.

Some examples of these different policies were already shown in previous sections such as that not all EU Member States have ratified the Istanbul Convention and that not all EU Member States recognise sexual violence within a marriage as a crime. In addition, Member States use different legal definitions on different types of gender based violence.¹⁵⁷ There are also differences in the criminalisation of different types of gender-based violence. Based on a 2014 Council of Europe study on the protection of women against violence, it can be shown that there were differences, at that time, between the criminalisation of types of

¹⁵⁴ Decision No 803/2003/EC of the European Parliament and of the Council of 21 April 2004, adopting a programme of Community action (2004-2008) to prevent and combat violence against children, young people and women and to protect victims and groups at risk, OJ L 143, p.1.

¹⁵⁵ http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_5.10.8.html

¹⁵⁶ http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm

¹⁵⁷ <http://eige.europa.eu/gender-based-violence/regulatory-and-legal-framework/legal-definitions-in-the-eu>

gender-based violence in EU Member States. For example, psychological violence irrespective of the nature of the relationship was not considered to be a crime in Estonia, Latvia and Luxembourg. Furthermore, forced marriages for both adults and children are not criminalised in many Member States. In addition, sexual assault in other places than work is not registered as a crime in a number of Member States.¹⁵⁸ It has to be noted that this data is from 2014, so Member States might have made changes to their criminal law in the meantime.

Most EU Member States have **national action plans** (NAP) against violence against women. These action plans do not always contain several types of violence against women but some of them are focused on specific topics such as forced marriages, domestic violence or FGM. For example, most Member States have made NAPs on domestic violence but not on FGM, forced marriages and honour crimes.¹⁵⁹ Even with these differences, it can be noted that adoption and execution of national action plans is a positive development to prevent violence against women.

Furthermore, besides differences in criminal law and national action plans, the **protective measures** taken by Member States in cases of violence against women do also differ. In some Member States, the police can immediately intervene in a case of violence while in other Member States, the police needs approval by a court in order to act. In most Member States, competent authorities have the power to issue emergency barring orders if a person is in risk of violence. An example of a good practice is Austria, where police officers are allowed to act on site in a violent situation and can give a person a two-week ban for return to the residence or any other attempts to make contact with the victim.¹⁶⁰

Moreover, many EU Member States provide specialist services to victims of gender-based violence. Besides the specialist services, policy officers and in some Member States also judges, receive training on how to deal with cases of violence against women. Most member states have shelter places for women who have become victim of violence. These shelters are quite often used for victims of human trafficking and victims of domestic violence.¹⁶¹

¹⁵⁸ Council of Europe, Analytical study of the results of the 4th round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member states, 2014, p.61 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680465f71>

¹⁵⁹ Ibid, p.58.

¹⁶⁰ Ibid, p.21 and 65.

¹⁶¹ Ibid, ,pp. 23-28.

5. THE NEED FOR AN INTEGRATED, HARMONISED AND COORDINATED POLICY

KEY FINDINGS

- In order to ensure a more efficient EU policy on combatting and preventing violence against women, actions need to be taken. The EP took the view that an EU Directive on violence against women or specific directives on forms of violence against women, based on the judicial cooperation in criminal matters in the TFEU, could contribute to eliminate violence against women.
- Member States should use awareness raising campaigns as a means of prevention of violence against women.
- While self-defence has been regarded as a means of prevention of VAW, it is Member States' responsibility to prevent VAW and to ensure the conviction of perpetrators. Victims of VAW have specific needs which have to be addressed through specialised services. Moreover, victims should be able to rely on assistance and support of the police. Perpetrator programmes can also contribute to the prevention of re-offending by known offenders.

The EP took the view that, in order to efficiently tackle violence against women, more actions need to be taken by the EU institutions and the Member States. There is especially a need for more legally binding instruments on VAW at EU level. So far, the Council of Europe Istanbul Convention is the only broad legal instrument addressing gender-based violence and domestic violence. On the basis of legal instruments, measures also need to be taken on the ground to ensure the prevention of violence against women and the assistance of victims.

5.1. Actions that need to be taken on EU level

5.1.1. The need for a legally binding instrument

At the moment, the EU policy against violence against women at large is based on Council conclusions, resolutions of the Parliament, and Commission strategies. However, none of these documents are legal instruments which bind the Member States to make a change for women. The Directives that are applicable in the field of violence against women have a broader scope than just violence against women and therefore only make references to this topic. They are not specific enough. For example, in the field of victims' rights, the EU has the Victims' Rights Directive, the European Protection Order Directive and the Mutual Recognition of Civil Protection Regulation allow at least for common minimum standards regarding victim support in all EU Member States, including for victims of VAW. In the same sense, Directive 2011/36/EU on the elimination of human trafficking also addresses a specific type of violence against women.

However, there are large differences between the Member States in the definition of different types of VAW and consequently there are also differences in criminalising VAW. Achieving similar prevention, protection and assistance to women in the EU Member States regarding combatting and preventing VAW remains therefore difficult. Although, the European Parliament called upon the Commission several times to publish a proposal for a European legislation on combatting violence against women, and the call upon the Council to include violence against women in the list of cross-border crimes in Article 83 (1) TFEU,

no concrete steps have been taken so far on the EU level to adopt common standards to ensure the physical and mental integrity of all women in the EU.

However, experts take the view that the Treaty offers possibilities to adopt Directives about violence against women in the field of judicial cooperation in criminal matters. **Article 81 TFEU** provides for the mutual recognition of judgements. This article was the legal basis for the Protection Order Directive. Furthermore, **article 82 TFEU** allows for judicial cooperation in criminal matters based on the mutual recognition of judgements. In order to facilitate this mutual recognition and police and judicial cooperation in criminal matters, the European Parliament and the Council can establish minimum rules. These minimum rules can have an effect on the rights of individuals in the procedure, the rights of victims and the admissibility of evidence.¹⁶² Moreover, **article 83 TFEU** also provides possibilities to combat VAW via judicial cooperation in criminal matters. This article allows the Council and the Parliament to adopt minimum rules concerning the **definition of criminal offences** and sanctions in the areas of serious crime with a cross-border dimension. Some forms of gender-based violence such as trafficking in human beings and sexual exploitation of women and children have already been included in paragraph one of this article.¹⁶³ **Article 84** provides the Council and the European Parliament with the possibility to establish measures to promote and support actions by Member States for crime prevention. However, this article cannot lead to harmonisation of criminal law.¹⁶⁴

Professor Sylvia Walby and Philippa Olive argue in their paper on the European Added Value of a directive on combatting violence against women, that **directives against specific types of violence against women** and **a general directive about violence against women** are possible.¹⁶⁵ Certain types of violence against women can be considered to have a cross-border element.

For example, **a Directive on the eradication of rape** would be possible. EU Member States do not use a common definition on rape. Most definitions are based on the use of force and not on the giving of consent, as required by the Istanbul Convention. The differences in the definitions create a situation of legal uncertainty. Rape can have a cross-border element if the victim was at that moment in another Member State or when the perpetrator moves to another Member State before having been prosecuted. In addition, rape is mentioned in the Council Framework Decision on the European arrest warrant as one of the crimes for which dual criminality is not required in a European arrest warrant.¹⁶⁶ Consequently, a directive against rape can be based on article 82 (2) TFEU since there is a need for legal clarity to be established through a European definition of rape. This is necessary in order to ensure that the perpetrator can be prosecuted under the same grounds in all EU Member States.¹⁶⁷

In the same sense, the experts think that the EU could also adopt a **Directive on preventing female genital mutilation**. FGM often includes a cross-border element. Victims can be refugees who went to the EU or women and girls have become victims during their stay outside the EU. FGM is also reported to take place in the EU.¹⁶⁸ Furthermore, FGM is considered to be a crime by the EU and has been criminalised in a number of Member States. FGM can also be considered to be a form of sexual exploitation

¹⁶² Treaty on the Functioning of the European Union, article 82.

¹⁶³ Treaty on the Functioning of the European Union, article 83.

¹⁶⁴ Treaty on the Functioning of the European Union, article 84.

¹⁶⁵ Sylvia Walby and Philippa Olive, the European Added Value of a Directive on combatting violence against women, Annex II: Economic aspects and legal perspectives for action on EU level, European Parliament: Brussels, 2013.

¹⁶⁶ Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, article 2 (2)

¹⁶⁷ Sylvia Walby and Philippa Olive, the European Added Value of a Directive on combatting violence against women, Annex II: Economic aspects and legal perspectives for action on EU level, European Parliament: Brussels, 2013, pp. 62-63.

¹⁶⁸ European Commission, Eliminating female genital mutilation, http://ec.europa.eu/justice/gender-equality/gender-violence/eliminating-female-genital-mutilation/index_en.htm

since it is used as a way to control women's virginity and sexuality. Article 82 (2) and 83 TFEU can therefore be used to create a Directive since there is a need for a minimum standard, firstly because there are differences in the criminal laws of the Member States, secondly there is a cross-border element, and thirdly FGM can be considered as a form of sexual exploitation.¹⁶⁹

The experts think that it would be more difficult to adopt a **Directive against domestic violence** since there is no cross-border element. However, domestic violence has been recognised as a criminal act in Declaration 19 of the TFEU. For domestic violence, different definitions are also used in the Member States. In order to ensure that the perpetrators are prosecuted in a similar manner, or to ensure the mutual recognition of judgements, minimum rules about what falls in the scope of domestic violence are required. On this ground, the EU institutions can use article 82 (2) TFEU to establish these minimum rules¹⁷⁰. Article 84 could also be used to pressure Member States to take action on national level to prevent domestic violence. In that case, there will not be harmonisation of criminal law. However, the Directive can provide the additional pressure to make changes to national legislation.

However, there are also possibilities to adopt a **general Violence against Women Directive**. In the 2014 resolution, the European Parliament called upon a Directive or Regulation establishing measures to promote and support the action of Member States in the prevention of violence against women and girls. This Act should be based on article 84 TFEU. As discussed above, article 84 TFEU does not provide harmonisation but can put additional pressure on Member States to take action. Moreover, article 82 (2) TFEU also provides possibilities. The Council and the Parliament may propose minimum rules to ensure the mutual recognition of judgements. As seen in the paragraphs above and in section 1.2, there are a lot of different definitions of different types of VAW in the EU Member States. Consequently, the experts think that the EU could provide a Directive on VAW which includes definitions of the different types of violence.¹⁷¹ The experts also take the view that violence against women has a cross-border dimension due to the free movement of people. For example, a woman from one Member State can be living in a second and/or working in a third EU Member State. VAW is not bound to a specific location and therefore women in the EU need to be protected against violence in the entire EU.¹⁷²

5.1.2. Actions by EU Institutions and the EU Member States

Apart from the adoption of legal instruments, the EU institutions can also take other actions which contribute to the combatting and prevention of VAW in the EU.

The **European Parliament** could keep on pressuring the Commission to adopt a strategy and to propose directives on VAW. Moreover, it can use its role in the legislative process to ensure that the rights for victims of VAW are taken into account. In addition, the Parliament's role as one arm of the budgetary authority can also be of importance in order to ensure the prevention of VAW via programmes such as the Rights, Equality and Citizenship programme.

The **Council** of the European Union could take several actions. As requested by the Parliament, the Council could include VAW in the list of cross-border crimes in article 83 (1) TFEU. The Council can do so following an unanimous decision. Furthermore, the Council

¹⁶⁹ Sylvia Walby and Philippa Olive, the European Added Value of a Directive on combatting violence against women, Annex II: Economic aspects and legal perspectives for action on EU level, European Parliament: Brussels, 2013, p.64.

¹⁷⁰ Ibid, p.64.

¹⁷¹ Ibid, pp. 64-65.

¹⁷² European Parliament, Report of 31 January 2014, with recommendations to the Commission on combatting violence against women, (2013/2004/INI), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0075+0+DOC+XML+V0//EN>

could continue to pressure Member States to ratify the Istanbul Convention and to promote the sharing of experience and best practices among Member States.

The **Commission** could support the fight against violence against women in several ways. The adoption of a Strategy against violence against women would be of key importance to raise awareness for the importance of this topic at EU and national level. A general strategy on VAW would also show that the entire problem is taken into account and not just specific types of VAW such as FGM and human trafficking. Both the Parliament and the Council asked the Commission to present such a strategy. The Commission could also take steps to examine whether the EU can become a signatory of the Istanbul Convention. Furthermore, The Commission could establish a European Observatory on Violence against Women and Girls. This European Observatory should become part of EIGE and should contribute to the gathering of data on violence against women.¹⁷³

The **Member States** have an important role to play in combatting violence against women. This is partly due to the fact that the EU has only a limited competence in this field, especially when it concerns criminal law. Member States therefore have to take measures to ensure the protection of women and girls in practice. Member States should create, execute and monitor national action plans that integrate and coordinate their activities combatting violence against women. The exchange of information, experience and best practices can contribute to the Member States national policies and action plans. In addition, Member States should conduct more research on VAW and gather more data. In order to ensure proper protection for victims, officials working with victims should receive training about how to deal with cases of VAW. There should also be sufficient facilities for victims such as shelters and access to medical and psychological aid. Furthermore, awareness raising campaigns can contribute to the prevention of VAW cases in the future.

5.1.3. Exchange best practices

The exchange of best practices will help in order to further improve actions taken in the Member States to prevent violence against women. Member States can learn from these practices and if successful implement them in their own policies. The **Mutual Learning Programme in Gender Equality** provides for the exchange of best practices on, amongst others, violence against women. Two to three sessions are held each year in different Member States. The topic of violence against women was discussed in February 2012 in the UK. During this session the use of national action plans, the need for more awareness raising campaigns and more awareness about how men and women are portrayed in the national action plan is necessary.¹⁷⁴ Another summit on violence against women took place in Spain in April 2013. This session came to the conclusion that more efficient NAPs are necessary, NGO's must be involved in the policymaking, ICT measures can contribute to the policy against violence against women, perpetrator programmes are useful to prevent new cases of violence.¹⁷⁵ EIGE also publishes best practices on their website, mostly about FGM and campaigns against domestic violence.¹⁷⁶ In addition, EIGE has published a study on good practices preventing domestic violence.¹⁷⁷ It is important that these practices are exchanged in order to improve the efficiency of national action plans and other actions which prevent violence against women.

¹⁷³ European Parliament, Report of 31 January 2014, with recommendations to the Commission on combatting violence against women, (2013/2004/INI).

¹⁷⁴ http://ec.europa.eu/justice/gender-equality/files/exchange_of_good_practice_uk/summary_report_uk_2012_en.pdf

¹⁷⁵ http://ec.europa.eu/justice/gender-equality/files/exchange_of_good_practice_es/es_2013_summary_report_en.pdf

¹⁷⁶ <http://eige.europa.eu/gender-based-violence/good-practices>

¹⁷⁷ [http://eige.europa.eu/sites/default/files/documents/MH0114678ENN WEB.PDF](http://eige.europa.eu/sites/default/files/documents/MH0114678ENN_WEB.PDF)

5.2. Measures to prevent violence against women and to provide protection to victims in practice

The adoption of instruments at EU level and actions taken by the different EU institutions would be a good step to improve the current EU policy on violence against women. However, any legal measure has to be executed in practice to have a real effect on the lives of women and girls. Measures should be taken to prevent violence against women, to assist victims, and to ensure that perpetrators are prosecuted. While the state is responsible for the safety of women and girls, it is not the only actor playing a role for the prevention of violence against women; NGO's, civil society, the media and citizens also have a role to play.

5.2.1. Prevention of violence against women

In order to prevent that violence against women takes place, potential offenders should become aware that VAW is not tolerated and potential victims should know their rights. **Awareness raising campaigns** are a useful tool to reach this goal. Awareness raising campaigns are recognised as efficient and effective means of communicating information to the general public¹⁷⁸. They can meet some aims such as changing attitudes, behaviours and beliefs that normalise and tolerate VAW among the general public; preventing men and women from becoming victims or perpetrators of abusive relationships; and informing wider public and especially victims and perpetrators about the resources available to tackle the problem, emphasizing the fact that VAW is not a private matter, but an unacceptable violation of human rights. Some NAPs also include self-defence courses for women as a form of preventive measure.

Some types of violence against women are rooted in cultural and religious practices, FGM, honour crimes but also the keeping in place of gender inequality and a dominant position of men can be considered to be part of these practices. To stop these crimes from happening, changes need to be made in these cultural and religious beliefs and practices. However, in practice, this is easier said than done, especially in the case of FGM, it has been demonstrated that a **mentality shift** is necessary which is difficult to accomplish.¹⁷⁹ Criminalising these practices and awareness raising campaigns can have a positive influence to let this mentality change happen.

Education and campaigns can be powerful tools in drawing attention to the dimension of and changing public attitudes about violence against women. There are a number of ways that information can be disseminated to the public: through press conferences, media campaigns, public service announcements, distribution of informational leaflets, documentary films, and the Internet, for example.

Awareness raising campaigns on VAW have to fulfil a number of **requirements** in order to be successful. Firstly, the campaign must condemn violence against women and make sure that it is not tolerated. Secondly, the campaign must promote gender equality, since gender inequality is a cause of violence against women. Thirdly, victims need to be aware of their rights in order to escape the violent situation and need to be aware where they can find help.¹⁸⁰ The European Women's Lobby has registered a number of successful campaigns on their website.¹⁸¹

At international level, the UN is also involved in awareness raising campaigns against VAW. The most important campaign is **UNITE** against violence against women. The goal of the campaign is not only to raise awareness among the general public, but to create the

¹⁷⁸ <http://eige.europa.eu/sites/default/files/EIGE-DOMESTIC-VIOLENCE-AWARENESS-RAISING.pdf>

¹⁷⁹ International Women's Space, In our own words, pp. 87-99, <https://iwspace.wordpress.com/in-our-own-words/#DIGITAL>

¹⁸⁰ <http://www.endvawnow.org/en/articles/1151-lessons-on-key-messages.html?next=1152>

¹⁸¹ <http://www.womenlobby.org/Raising-awareness-to-end-violence-against-women-successful-campaigns>

political will to act and to find the resources to prevent and eliminate all forms of violence against women in the world. The campaign operates on international, national and regional level and tries to address governments, women's rights organisations, other NGO's but also the media and citizens to stop violence against women.¹⁸² The UN Secretary-General's, has proclaimed **every 25th of the month as "Orange Day"**: a day to take action to raise awareness and prevent violence against women and girls. Initiated and led by the UNiTE campaign Global Youth Network, Orange Day calls upon activists, governments and UN partners to **mobilize people and highlight issues relevant to preventing and ending violence against women and girls**, not only once a year, on 25 November (International Day for the Elimination of Violence against Women), but every month¹⁸³.

Besides, **codes of conducts for the media** can also contribute to the prevention of VAW. The media often still uses a stereotyped representation of women. This stereotyped representation can support traditional and cultural practices which put women in an unequal position. These circumstances might lead to violence against women.¹⁸⁴

5.2.2. Assistance of victims

Victims of violence against women are in **need of assistance**. They often need help to escape a violent situation, for example via a telephone helpline or via police support. Afterwards, victims need medical and psychological help and time and space to recover from their traumatic experiences. In cases where victims cannot live safely in their own home, they must also be granted the right to safe accommodation and adequate help through specialised women's shelters. Shelters are generally permanent structures with facilities that provide a place for women to live (with their children) while they decide what to do about a violent situation. Victims should be free to decide whether to turn to the police or to the courts in order to get legal protection or to a woman's shelter to plan their next steps with the shelter's assistance.¹⁸⁵

Victims are therefore in need of **specialised services**. These services are provided by both governments and NGO's. Specialised services include, amongst others: 24-hour telephone helpline, shelters, legal advice, trauma support and counselling, emergency centres.¹⁸⁶ The Council of Europe noted in a study from 2014 that in 2013, the number of specialised services, especially shelter facilities has remained the same in Member States, even with the austerity measures taken as from 2008.¹⁸⁷

The EIGE study on 'Collection of **methods, tools and good practices** in the field of domestic violence'¹⁸⁸ showed that in 2012, 83% of EU-27 and Croatia included victim support service methods and tools in relation to domestic violence in their national action plans; and 42% in national legal provisions. Victim support services are present in almost all Member States (96%) at both the programming and implementation level. In almost three-quarters of EU-27 and Croatia (71%) national and/or local standards for victims' support services are also available.

There are large differences between the services provided in the EU Member States. For example, Poland, Slovakia, Latvia, Lithuania and Estonia did not provide specialised services to VAW victims with regard to immediate medical care, forensic examination and

¹⁸² <http://www.un.org/en/women/endviolence/about.shtml>

¹⁸³ <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/take-action>

¹⁸⁴ Hagemann-White, C, Bohn, S, Protecting women against violence, Analytical study on the effective implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe member states, Directorate General of Human Rights and Legal Affairs: Strasbourg, pp. 39-40.

¹⁸⁵ WAVE, Country Report 2008: a right for protection and support?, December 2008, p.12

¹⁸⁶ http://eige.europa.eu/sites/default/files/documents/support_for_women_victims_of_domestic_violence_in_the_eu.pdf

¹⁸⁷ Council of Europe, Analytical study of the results of the 4th round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member states, 2014, p. 48.

¹⁸⁸ <http://eige.europa.eu/sites/default/files/EIGE-GOOD-PRACTICES-SUPPORT-SERVICES-Domestic-Violence.pdf>

documentation, and trauma support and counselling in 2014.¹⁸⁹ In addition, there are also differences between Member States whether these services are free of charge for VAW victims. These services were **not free of charge** in most EU Member States in 2014.¹⁹⁰ In addition, professionals dealing with victims of violence against women also receive more **training** about how to deal with these victims. This type of training is mostly provided to police officers but also other professions like lawyers, judges, physicians, social workers and teachers receive this training.¹⁹¹ Training must make these professionals more qualified to help VAW victims. Specialised services are important in order to ensure a speedy recovery of victims.

Proper **law enforcement** is also necessary to protect and to assist victims of VAW. When victims of violence call for help, or report an incident, the police services are most often the first point of contact with the criminal justice system. The police should have the possibility to provide protection to (possible) victims. To protect victims, police officers should be able to take emergency measures, such as entering a house without approval by a court, the possibility to give the perpetrator a restraining order or to ban someone from entering a certain area. Some Member States have specialised police forces or units who provide emergency or crisis safety support to protect women. These units also need to provide a clear indication to perpetrators that violence is taken seriously by the authorities; this has an impact on the success of any investigation and prosecution. Both specialists and front-line police officers have a role in holding perpetrators accountable¹⁹².

In addition, women should be able to **trust the police** and to have the certainty that their complaints are taken seriously.¹⁹³ A lack of trust in and a lack of action taken by the police in previous reported cases is a reason why many women do not report their case to the police. It is therefore important that the police create trust among women in order to ensure that women notify their complaints.

The **prosecution of perpetrators** is also important, as victims must experience that offenders will be brought to justice. After reporting a case, it should lead to an investigation and a prosecution by a public prosecutor. Some victims find it difficult to start prosecutions or to testify against their own family members or husbands. Member States should therefore ensure that there are possibilities to testify behind closed doors and that the victim will enjoy sufficient support before, during and after the prosecution of the perpetrator, which is also guaranteed by the Victims' Rights Directive. Furthermore, services provided to victims of VAW should not be depended on the victim's willingness to cooperate in the prosecution of the perpetrator. Consequently, Member States must show that the national police actively supports women who have become victim of violence against women, and that a complaint can result in the prosecution of the perpetrator.

Once violence against women is condemned as a crime by a national law, perpetrators may be sanctioned. However, in order to effectively prevent perpetrators from re-offending, it is also important that programmes dedicated to their social reintegration are implemented. **Perpetrator programs** are used to prevent repetition of violence against women by known offenders. The programs contribute to a change in behaviour but also a mentality shift since perpetrators are taught that violence against women is unacceptable. There are three types of programs. Firstly, programs which are part of the prison sentence where especially offenders of sexual violence are evaluated to prevent that they will commit the crime again. Secondly, a program which is part of the probation service for men who have

¹⁸⁹ Council of Europe, Analytical study of the results of the 4th round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member states, 2014, p.69

¹⁹⁰ Ibid.

¹⁹¹ Ibid, p. 38.

¹⁹² <http://eige.europa.eu/sites/default/files/Violence-against-Women-Victim-Support-Report.pdf>

¹⁹³ United Nations, Department of Economic and Social Affairs Division for the Advancement of Women, "Handbook for legislation on violence against women", New York, 2009, p.39

been convicted to a probation sentence. Thirdly, behavioural and attitude change programmes developed by NGO's.¹⁹⁴ Consequently, perpetrator programs can be part of criminal sentences but also a substitute of a sentence.

Perpetrator programs are emerging since 2007. In 2014, all EU Member States, except Hungary, had perpetrator programmes for men who committed violence against women. There were programs for men who committed domestic violence and for those who committed sexual violence. Most of these programmes are part of the criminal justice system. In some Member States, the offenders would be sent to a perpetrator program after referral of the criminal justice system. However, this could still be on a voluntary basis.¹⁹⁵ In 2012, perpetrator programmes were offered by NGO's in eleven Member States. Most programmes included psychological or psychiatric treatment, counselling and therapy.¹⁹⁶ In order to ensure the effectiveness of the programmes, close cooperation with victim services is necessary. However, this is not the case in all Member State.¹⁹⁷

¹⁹⁴ Council of Europe, Analytical study of the results of the 4th round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member states, 2014, p.33

¹⁹⁵ Ibid, pp. 73-74.

¹⁹⁶ EIGE, Review of the Implementation of the Beijing Platform for Action in the EU Member States: Violence against Women - Victim support, Luxembourg: Publication Office of the European Union, 2012, pp.25-26

¹⁹⁷ Council of Europe, Analytical study of the results of the 4th round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member states, 2014, pp. 73-74.

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[https://wcd.coe.int/ViewDoc.jsp?Ref=Rec\(2002\)5&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=Rec(2002)5&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)
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NOTES

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