



Directorate-General Internal Policies

**Policy Department C**

**CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS**

**VIOLENCE AGAINST WOMEN**

**NOTE**

**Summary:**

The purpose of this note is to take stock of the problem of violence against women by examining the various forms of violence perpetrated against women **(I)** and the Community programmes relating thereto **(II)**. It also looks into the various means of combating such violence and the positions adopted by the European Parliament on these issues **(III)**.

**IPOL/C/FEMM/NT/2005/12**

**6 December 2005**

This document is published in the following languages: French (original)

Author: Dessislava VELIKOVA, under the supervision of Danièle RECHARD.

Official responsible: Danièle RECHARD  
Subject Unit C  
Remard 03 J 020  
Tel: + 32 2 28 32457  
Fax: + 32 2 28 32365  
E-mail: drechard@europarl.eu.int

Manuscript completed 31 July 2005

To obtain paper copies, please contact: Tel: 32457  
Fax: 32365  
E-mail: drechard@europarl.eu.int

For further information concerning the publications of the Directorate for the Union's Internal Policies: <http://www.ipolnet.ep.parl.union.eu/ipolnet/cms/pid/438>

Brussels, European Parliament, 2005

The opinions expressed are those of the author and do not necessarily reflect the position of the European Parliament.

Reproduction and translation for non-commercial purposes is authorised, subject to acknowledgement of the source, on condition that the editor is informed in advance and provided with a copy.

## CONTENTS

<b>INTRODUCTION</b> .....	<b>3</b>
<b>1 The various forms of violence against women</b> .....	<b>5</b>
1.1 Domestic violence .....	7
1.2 Traditional and cultural practices adversely affecting women's lives .....	8
1.2.1 Female genital mutilation .....	8
1.2.2 Crimes of honour .....	9
1.3 Sexual violence.....	9
1.3.1 Rape and sexual assault .....	9
1.3.2 Trafficking in women for sexual exploitation .....	10
<b>2 Community programmes that address violence against women</b> .....	<b>10</b>
2.1 From the Daphne initiative to the Daphne Community programme .....	11
2.1.1 The Daphne initiative.....	11
2.1.2 Daphne programmes I and II .....	11
2.2 The proposal to include the Daphne programme in the framework programme on 'Fundamental Rights and Justice' .....	12
2.2.1 A political project to address violence on the basis of fundamental rights and the establishment of an area of freedom, security and justice.....	12
2.2.2 A legal basis for addressing the problem of violence which is not an adequate basis for attaining the political objectives set .....	13
<b>3 Means of combating violence against women</b> .....	<b>14</b>
3.1 Different approaches to combating violence against women.....	14
3.2 The position of the European Parliament with regard to the legal basis for action at Community level to combat violence.....	15
<b>Annexes</b> .....	<b>17</b>

## INTRODUCTION

Violence against women is a violation of individual rights: the right to life, to safety, to dignity and to physical and moral integrity. The UN World Conference on Human Rights in Vienna in 1993 declared that the human rights of women and girls were 'An inalienable, integral and indivisible part of universal individual rights'<sup>1</sup>.

The Charter of Fundamental Rights of the European Union<sup>2</sup> reaffirms, among other principles, the right to dignity, equality and solidarity. It contains specific provisions aimed at protecting and upholding the right to physical and mental integrity, the rights of children, non-discrimination on the basis of gender, the prohibition of inhuman and degrading treatment and the prohibition of slavery and forced labour.

However, it has to be recognised that violence<sup>3</sup> against women is a universal phenomenon which transcends frontiers, cultures and social class and affects millions of women. It is estimated that, every day in Europe, one woman in five is subjected to violence<sup>4</sup>, and that such violence has disastrous consequences for the health<sup>5</sup> and welfare of women and their children.

Nevertheless, there are signs that a political awareness of the need to take action to combat such violence is emerging at international level.

The Convention on the Elimination of all Forms of Discrimination against Women adopted by the UN General Assembly in 1979<sup>6</sup> was the first legally binding instrument relating to women's rights. It considers that all forms of violence should be regarded as unlawful and reminds States party to the Convention that they are explicitly required to take measures against perpetrators of violence against women.

In December 1993, the Assembly General of the United Nations adopted the Declaration on the Elimination of all Forms of Violence against Women, the first international instrument solely concerning violence against women<sup>7</sup>.

The Fourth World Conference on Women in Beijing in 1995 included the elimination of all forms of violence against women among its twelve strategy objectives, and listed the practical

---

<sup>1</sup> UN, World Conference on Human Rights, Vienna, 14-25 June 1993

<sup>2</sup> Charter of Fundamental Rights of the EU, OJ C364 of 18/12/2000, p.1

<sup>3</sup> 'An act of violence can be defined as any assault on the physical or mental integrity of an individual involving an element of coercion or danger', Reynaldo Perrone and Martine Nannini, *Violence et abus sexuel dans la famille*, ESF Editor, Paris, 1996.

<sup>4</sup> *Violence against women in Europe*, Report of the Committee on equal opportunity for men and women, Council of Europe, Doc. 8667, 15 March 2000

<sup>5</sup> The World Health Organisation defines health as a state of complete physical, mental and social well-being, not simply the absence of illness or disability. At Community level, pursuant to Article 3(p) of the TEC, the Community should take action to help achieve a high standard of health protection.

<sup>6</sup> Convention on the Elimination of all Forms of Discrimination against Women, adopted by the General Assembly of the United Nations, Resolution 34/180 of 18 December 1979

<sup>7</sup> UN, Declaration on the Elimination of all Forms of Violence against Women, 1993

measures to be taken by States, international organisations and non-governmental organisations to prevent and combat violence against women<sup>1</sup>.

At Community level, in the wake of initiatives by the European Parliament, action was also taken, at the end of the 1990s, with the launch of the Daphne initiative - subsequently the Daphne Programme - to finance projects to prevent violence against women, young people and children.

This growing pressure at international and Community level led to greater understanding of the causes and consequences of violence against women. However, the problem is still topical and was included, in 2005, by the UN on a list of ten subjects the world 'does not want to discuss'<sup>2</sup>.

Despite the fact that international organisations and Member States are paying increasing attention to the problem of violence against women and adopting legally binding provisions, most countries are still desperately short of precise statistics. No such statistics can be drawn up unless the violence in question is first reported and, if it falls within the agreed definition of such violence and is regarded as unlawful<sup>3</sup>, recorded by the authorities.

The purpose of this note is to take stock of the problem of violence against women by examining the various forms of violence perpetrated against women (I) and the Community programmes relating thereto (II). It also looks into the various means of combating such violence and the positions adopted by the European Parliament on these issues (III).

## 1 The various forms of violence against women

There is no internationally recognised definition of violence against women. Certain human rights activists are in favour of a wide-ranging definition which would embrace 'structural violence' such as poverty and unequal access to health or education. Others favour a more restrictive definition in order to avoid lessening the descriptive value of the current definition.

The 1993 United Nations Declaration on the Elimination of Violence against Women defines the term 'violence against women' as **'any act of gender-based violence that results in, or is likely result in, physical, sexual or psychological or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life'**<sup>4</sup>.

---

<sup>1</sup> UN, Fourth World Conference on Women, Beijing, Declaration, 1995

<sup>2</sup> On 19 May 2005, the UN Information Department published a list of priority issues ranging from humanitarian emergencies to conflict situations, covering such vital questions as human rights, health and development.

<sup>3</sup> The French sociologist, Pierre Bourdieu explains that, just as women undergo a process of socialisation which determines their role in society, so 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. How otherwise are we to explain the fact that many violent men do not recognise their own violence as such? Violence against women will persist as long as men regard it as normal or, indeed commendable.

<sup>4</sup> General Assembly Resolution No. 48/104 of 20 December 1993

In 2002, the Committee of Ministers of the Council of Europe adopted a recommendation<sup>1</sup> which reiterated, and expanded, the United Nations definition of violence against women.

The UN Declaration and the Committee of Ministers' Recommendation, which provide a non-exhaustive description of the acts of violence in question, regard violence against women as including - without being restricted to - the following three aspects:

UN Declaration of 1993	Recommendation of the Committee of Ministers of the Council of Europe of 2002
<p><b>1. violence occurring in the family:</b> Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.</p>	<p><b>1. violence occurring in the family or domestic unit:</b> (Inter alia) physical and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of honour, female genital and sexual mutilation and other traditional practices harmful to women, such as forced marriages.</p>
<p><b>2. violence occurring within the general community:</b> Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.</p>	<p><b>2. violence occurring within the general community:</b> Violence occurring within the general community, including, <i>inter alia</i>, rape, sexual abuse, sexual harassment and intimidation at work, in institutions or elsewhere, trafficking in women for the purposes of sexual exploitation and economic exploitation and sex tourism.</p>
<p><b>3. violence perpetrated or condoned by the state:</b> Physical, sexual and psychological violence perpetrated or condoned by the State wherever it occurs.</p>	<p><b>3. violence perpetrated or condoned by the state:</b> Violence perpetrated or condoned by the State or its officials.</p>

The two statements produced by the international bodies, in other words, classify the various acts of violence by type (physical, sexual or psychological) and by reference to the place where it occurs and the perpetrators of the violence (family, the general community, the state).

<sup>1</sup> Recommendation (2002)5 of the Committee of Ministers of the Council of Europe to Member States on the protection of women against violence, adopted 30 April 2002

## 1.1 Domestic violence

The most common form of violence against women is still domestic violence.

Although it is difficult to obtain statistics, it has been estimated that, depending on the country concerned, between 20 and 50% of women are of have been subject to physical violence on the part a partner or family member<sup>1</sup>.

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 its nature and gravity<sup>2</sup>.

Marital violence takes many forms, and may be either physical, sexual, psychological or indeed economic:

- **physical violence** inflicted by a spouse, partner of family member. This includes harmful traditional practices such as female genital mutilation.

- **sexual ill treatment**, such as forcing women to have sexual relations by means of threat, intimidation, or physical force, or forcing women to have sexual relations with third parties.

- **psychological abuse**, which includes behaviour intended to intimidate or coerce by threats of desertion or ill treatment, confinement to the home, supervision, threats against children, isolation, verbal aggression or constant humiliation.

Although the impact of physical abuse is more 'visible' than psychological scars, insults, constant humiliations and threats are also forms of violence, although of a more subtle and insidious kind. Obviously, however, psychological abuse is more difficult to identify and denounce, and often reduces women to a state of insecurity and impotence.

Victims report that constant psychological abuse, in other words living in terror and undergoing emotional torture, is often harder to bear than physical violence, and studies show a close correlation between domestic violence and suicide<sup>3</sup>.

- **economic ill treatment** includes depriving women of money or refusing to make a financial contribution.

Most available data on domestic violence against women is regarded as not only conservative, but unreliable<sup>4</sup>. There are significant differences between the various studies as regards the size of the sample or women studied, and the way in which questions were asked. Moreover, any estimate of the scale of the problem is complicated by the fact that domestic violence is an under-reported, and consequently, under-recorded crime. Shame, fear of reprisals, and ignorance of the protection offered by the law make women reluctant to report painful incidents of violence.

---

<sup>1</sup> WHO, 'Violence against women', Geneva, 1996

<sup>2</sup> United Nations ECOSOC, Special Rapporteur's Report on violence against women, E/CN.4/1996/53

<sup>3</sup> 'Domestic violence against women and girls', UNICEF, June 2000

<sup>4</sup> Op sit, 'Domestic violence against women and girls',

Various studies show that it is extremely difficult for women subjected to violence to leave their husband or partner, for various reasons. Paradoxically, women may love their partners in spite of the violence they suffer. Women are often subject to pressure to stay, not only from their spouse, once the violent episode is over, but also from close relatives. Leaving home and starting a new life also requires financial resources and outside support.

Moreover, even nowadays, society is still marked by the attitudes of the period when domestic violence was regarded as a private affair which was no business of the state, the courts or the police.

## **1.2 Traditional and cultural practices adversely affecting women's lives**

Throughout the world, women and girls suffer the harmful and dangerous consequences of traditional practices which are perpetuated in supposed accordance with religious beliefs or in order to conform with social and cultural conventions. These practices are also found in European Union countries as a result of immigration.

### **1.2.2 Female genital mutilation**

It is estimated that almost 130 million women throughout the world have been subject to sexual mutilation, and that some 2 million are subjected to it every year<sup>1</sup>. Female genital mutilation is practiced in Africa but also in Asia, the Middle East, the United States and Europe<sup>2</sup>.

The main reason cited to justify maintaining these practices are custom and tradition and, in societies where female genital mutilation is practised, girls are not regarded as adults until they have undergone the 'operation'.

Genital mutilation is also regarded as testing girls' ability to endure pain and defining the future role of women in life and marriage by preparing them for the pain of childbirth.

Arguments based on hygiene are also put forward to justify female genital mutilation. A woman who has not been so mutilated is regarded as 'impure'. The justifications put forward include restricting women's sexual desire in order to reduce the risk of extramarital relations and increasing the husband's sexual pleasure, men may also be regarded as entitled to reject women

---

<sup>1</sup> UN 'Integration of women's fundamental rights and the gender-specific approach' Report of the special rapporteur on violence against women, its causes and consequences, Human Rights Commission, 31 January 2002.

<sup>2</sup> Female genital mutilation is a traditional practice which appears to have originated in Egypt around 2000 years ago and, contrary to popular prejudice, did not originate in Muslim countries. The methods and types of mutilation involved vary according to the country and ethnic group. The following four main categories of FSM are found:

**1. female circumcision:** excision of the prepuce (clitoral hood). This operation, which is the most 'benign' form of genital mutilation, only concerns a very small number of women and is practiced in Muslim countries.

**2. excision:** excision of the clitoris with partial or total excision of the labia minora.

**3. infibulation:** excision of the clitoris, the labia minora, and at least the front two-thirds, and possibly all, the outer labia. The vaginal opening is then partially sewn up with silk or catgut, or obstructed with thorns, leaving only a small opening. These 'operations' are carried out with knives, razor blades, etc., after which the girl is bound with rope from the hips to the ankles and kept immobile for several days to allow the tissue to heal.

**4. intermediate excision:** excision not only of the clitoris and part or all of the labia minora, but also of part of the outer labia, at the request of the parents.

who are not mutilated. Despite the various justifications put forward, in reality female genital mutilation has many adverse consequences including a whole variety of short-term and long-term health risks for women.

In its report of 3 May 2001<sup>1</sup>, the Council of Europe declared female genital mutilation to be inhuman and degrading treatment under Article 3 of the European Convention in Human Rights and Fundamental Freedoms. The report notes that the freedom to uphold cultural and traditional practices is constrained by the principle of respect for fundamental rights and the prohibition of practices that can be regarded as torture.

The European Parliament has also taken a very strong line on such practices, which it regards as intolerable criminal acts<sup>2</sup> and a very grave violation of fundamental rights<sup>3</sup>

## 1.2.2 Crimes of honour

Crimes of honour have recently come to the attention of the international community once again. These are crimes committed against women by husbands, fathers, brothers or uncles, on the pretext of defending the family's honour.

It is very difficult to collect accurate statistical data on crimes of honour, which are generally regarded as private family matters. In Europe, this kind of violence against women is mainly perpetrated within immigrant communities. These murders are not based on religious belief but on ancestral cultural traditions. Honour defines the status of the family and, in patriarchal societies, the honour of the family is based on the conduct of its women.

Moreover, in many countries, if a man murders his wife, the counsel for his defence will argue that it was a crime of passion, and place the emphasis not on the nature of the act committed but on whether the husband intended to commit the act, and will successfully argue that there were extenuating circumstances.

## 1.3 Sexual violence

### 1.3.1 Rape and sexual assault

According to Council of Europe statistics, one woman in five will be the victim of sexual assault in the course of her life, with the age of victims varying between two months and 90 years. 98% of assailants are male, and 50% of them are spouses or partners. Moreover, 70% of rape is premeditated and only 3% of rapists are mentally unbalanced<sup>4</sup>.

---

<sup>1</sup> Council of Europe, Female genital mutilation, Doc. 9076 of 3 May 2001.

<sup>2</sup> Resolution of the European Parliament on the need to establish a EU-wide campaign for zero tolerance of violence against women, A4-0250/1997.

<sup>3</sup> Resolution of the European Parliament of 20 September 2001 on female genital mutilation (2001/2035(INI)).

<sup>4</sup> Council of Europe 'Violence against women in Europe', Report of the Committee on Equal Opportunity for Men and Women, 15 March 2000.

In many countries, sexual abuse and rape by a regular partner are not regarded as a crime. However, in a relatively small number of countries, specific legislation has been enacted<sup>1</sup> under pressure from feminist groups.

### **1.3.2 Trafficking in women for the purpose of sexual exploitation**

Recent decades have seen the opening of Europe's frontiers and new patterns of immigration have developed, particularly from the countries of Eastern Europe to Western Europe. This influx of migrants has been accompanied by the establishment of trafficking networks, with women being moved from one place to another and being subject to almost permanent violence. Trafficking in human beings is accompanied by other forms of trafficking, mainly in false documents and drugs. A Europol survey established that only a third of the women involved knew what fate was in store for them in the countries to which they were trafficked. Often, as soon as they leave their country of origin, their papers are confiscated and they enter into long-term agreements under which they are indebted to procurers. The violence to which they are subject is only very rarely reported by them, as they are often illegal immigrants and are afraid of the police and possible reprisals against themselves and their families.

Attention should also be drawn to the link between prostitution and HIV, given that the number of women with AIDS is increasing world-wide<sup>2</sup>.

The International Organisation for Migration (IOM) estimates that, every year, 500 000 people, mainly women and children, are trafficked for the purpose of sexual exploitation in the European Union<sup>3</sup>. Trafficking in women is a complex phenomenon which involves the issues of respect for fundamental rights, action to combat organised crime, police and judicial cooperation in criminal matters and immigration and asylum policies, which the Member States' respective legal systems approach in different ways.

The European Parliament has strongly condemned trafficking in human beings as a contemporary form of slavery which deprives the victims of their elementary rights and legal status and reduces them to a state of extreme dependence<sup>4</sup>.

## **2. Community programmes and violence against women**

Action to prevent and combat violence against women have only been covered by Community programmes in the last few years. The Daphne initiative, subsequently the Daphne Community Programme, followed on from the World Congress against the commercial sexual exploitation of children organised in August 1996 in Stockholm and the declaration and action programme adopted at the Fourth World Conference on Women in Beijing in 1995.

---

<sup>1</sup> According to a UNICEF study in 2001 the countries of the European Union where marital rape was regarded as a crime were: Austria, Cyprus, Denmark, Finland, France, Germany, Ireland, Poland, Spain, Sweden and the United Kingdom.

<sup>2</sup> The report on violence against women, its causes and consequences (E/CN.4/2005/75 by the special rapporteur, Mrs Yakin Ertürk, 2004, contains a study of the link between violence against women and HIV.

<sup>3</sup> Resolution of the European Parliament on the mid-term review of the Daphne Programme 2000-2003, P5\_TA(2005) 0398.

<sup>4</sup> Resolution of the European Parliament of 19 May 2000 on the communication from the Commission to the Council and the European Parliament for further actions in the fight against trafficking in women, C5-0123/1999.

## **2.1 From the Daphne initiative to the Daphne Community Programme**

### **2.1.1 Daphne initiative**

In response to European society's increasing concern about violence against women, the Daphne initiative was launched in 1997 by the Commission, at the instigation of the European Parliament, to finance measures to combat violence against children, young people and women<sup>1</sup>.

The aim was to promote action by NGOs and multisectoral actions with the help of a budgetary line amounting to ECU 11.8 million. Violence was defined in the widest sense, to include: sexual abuse, violence in the family, trafficking in human beings, and violence specifically targeted at the disabled, minorities, migrants or other vulnerable people<sup>2</sup>.

### **2.1.2 Daphne Programmes I and II**

On 24 January 2000, the European Parliament and the Council adopted the Daphne programme, which was intended to carry on from the early initiative. By a decision of the European Parliament and the Council, the Daphne programme was extended in 2004 until the end of 2008<sup>3</sup>.

#### **- *Legal basis***

In the absence of a more appropriate legal basis in Community law, and in accordance with the principle of subsidiarity, the Daphne programme was based on Article 152<sup>4</sup> on public health protection.

Unlike the Daphne initiative, the Daphne programme was not limited to NGOs and associations, but also applied to local authority bodies. It was opened to the candidate countries of Central and Eastern Europe and to EEE/AELE Member States. It made it possible to finance multiannual projects lasting two or three years, whereas the maximum duration of projects covered by the initiative had been one year.

---

<sup>1</sup> Resolution of the European Parliament of 16 September 1997 on the need for a zero tolerance campaign against violence against women, A4-0250/1997.

<sup>2</sup> Between 1997 and 1999, 149 projects were carried out under the Daphne initiative, according to the Commission.

<sup>3</sup> Decision No 803/2004/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 of 30.04.2004, p. 1).

<sup>4</sup> Article 152 of the ECT states: '1. A high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities. Community action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education.'

- *Measures envisaged*

The Daphne programme contains measures aimed to prevent violence against three categories of people: young people, children and women, and to protect them from such violence. The measures comprise:

- \* the establishment of networks at European level and the promotion of cooperation between NGOs and the competent authorities
- \* actions intended to protect the groups at risk and prevent violence against them
- \* studies and research into the causes of violence and means of combating it
- \* exchange of information and good practice
- \* dissemination of information in the field
- \* the organisation of public information campaigns and campaigns to create awareness on the part of victims, potential victims and all those working with them.

Although it is based on Article 152 of the ECT, the Commission noted that the Daphne programme is only one element of the strategy to combat organised crime it had devised in connection with its prime objective of establishing an area of freedom, security and justice. It is, therefore, connected with other programmes aimed at combating specific crimes and offences<sup>1</sup>

New proposals were drawn up to strengthen political commitment and create a genuine area of freedom, security and justice, and these led to significant changes in the future course of the Daphne programme.

## ***2.2 The proposal to include the Daphne programme in the framework programme on 'Fundamental rights and justice'***

### **2.2.1 A political project to address violence on the basis of fundamental rights and the establishment of an area of freedom, security and justice**

In the strategic guidelines for the definition of the Financial perspective 2007-2013, the Commission emphasised the need to establish an area of freedom, security and justice to underpin the European Union and its vision of society.

The 'Hague programme' of November 2004 had already emphasised the importance of a new political project geared to establishing a 'citizens' Europe' based on respect for, and the active promotion of, fundamental rights.

---

<sup>1</sup> The strategy to combat sexual tourism involving children and the action plan (1999-2002) for safer use of the Internet includes action to combat child pornography. The Odysseus programme (common action 98/244/JAI, OJ 199, 31.3.1998), is intended to extend and strengthen existing cooperation between the Member States and the Union in the field of asylum and immigration. It supplements the Daphne programme by addressing violence against immigrant women, young people or children.

It was in this spirit that the Commission presented, in its communication of 6 April 2005<sup>1</sup>, the proposal for the establishment of a general 'Fundamental rights and justice programme' comprising four special programmes including the specific programme 'Fight against violence (Daphne) and drugs prevention and information'.

The main purpose of the 'fundamental rights and justice' general programme is to promote, while according equal importance to, the three aspects of the area of freedom, security and justice by means of a more balanced approach. The framework programme, to which EUR 543 million was allocated for the 2007-2013 period, had four objectives:

1. the promotion of a European society based on European Union citizenship and respect for fundamental rights set out in the Charter of Fundamental Rights of the European Union.
- 2. the establishment of an area of freedom, security and justice while combating violence, preventing drug abuse and informing the public**
3. the promotion of judicial cooperation in criminal, civil and commercial matters
4. the promotion of judicial cooperation with a view to helping to establish a genuine European area of justice in criminal matters.

In this communication, the Commission stressed that *'the fight against violence clearly forms part of the protection of fundamental rights as set out in the Charter of Fundamental Rights, in particular the right to physical integrity. The links between violence and several other fundamental rights (liberty, security, health, employment, etc.) are so strong that the implementation of these rights in general as they concern the physical integrity of individuals should be supported. Specific forms of violence - such as racially-motivated violence and violence related to gender or sexual preference - require specific responses'*<sup>2</sup>.

Moreover, one of the objectives of the 'Fundamental rights and justice' framework programme is to 'simplify and rationalise instruments both in legal and management terms', and to streamline the budget structure. The number of budgetary lines and legal instruments has been reduced, resulting in a greater concentration of Union resources offering greater financial transparency and the possibility to better assess the added value of Union actions<sup>3</sup>.

## **2.2.2 A legal basis for addressing the problem of violence which is not an adequate basis for attaining the political objectives set**

As the four objectives of the general 'Fundamental rights and justice' programme have their legal basis in different articles of the TEC and the TEU, the existing Daphne programme is lumped together with the programme to prevent and combat drug abuse, as both are based on

---

<sup>1</sup> COM(2005) 122 of 6.4.2005, C5-0095(2005).

<sup>2</sup> Annex establishing for 2007-2013 a framework programme 'Fundamental rights and justice', COM(2005) 122 final.

<sup>3</sup> The overall amount envisaged for the Fundamental rights and justice framework programme is EUR 543 million for the period 2007-2013. Within this budget, EUR 93.8 million is allocated to the Fundamental Rights and Citizenship Programme, EUR 106.5 million to the Civil justice programme and EUR 135.4 million to the 'Fight against violence (Daphne) and drugs prevention and information' programme.

Article 152 of the TEC relating to public health protection. This raises the question of whether the means and resources at its disposal match up to the Union's stated ambitions.

Moreover, one wonders what will be the impact of this new specific programme on the objectives pursued by the earlier Daphne programme.

Does combining the two objectives (preventing violence and combating drug abuse) in the same programme not have the effect of depriving the Daphne programme of its main purpose, namely action to combat violence against women, given the particular and complex nature of such violence<sup>1</sup>?

*See, at annex, a table showing the main provisions of the Daphne programme.*

### **3. Means of combating violence against women**

#### **3.1 Different approaches to combating violence against women**

Many European States recognise the importance of protecting the victims of violence against women and punishing the perpetrators. One of the most important problems is the issue of 'criminalising' the perpetrator, particularly in the case of domestic violence where those involved are intimately connected.

- *Criminalisation.* Bringing the full force of the law to bear by arresting, prosecuting, convicting and sentencing perpetrators clearly expresses society's condemnation of the culprits' behaviour.

- *Legislation.* Legislation prohibiting violence against women is a modern development. Civil law remedies may also be used, such as injunctions in connection with divorce proceedings, annulment or legal separation, or actions for damages brought against spouses may be used.

- *Police action.* The power of the police to enter private dwellings is often limited, which can be a major obstacle to dealing with domestic violence.

- *Education and training services and collective support.* Studies show that it is essential for those responsible for enforcing the law, doctors and lawyers to encounter victims of gender-based violence to understand the issues involved. Any assistance offered to victims of violence should include a counselling service both for them and for the perpetrators. If they are to be effective, these approaches should employ both formal and informal methods of educating people about the issues involved and circulating information.

- *Cooperation at all levels.* It is dismaying to see how ineffectual States can be when it comes to drawing up and applying policies to address violence against women. The best option is an integrated multi-disciplinary approach based on close collaboration between lawyers, psychologists, social workers, doctors and other experts, aimed at reaching understanding of the

---

<sup>1</sup> In its resolution of 4.9.2002 on the mid-term review of the Daphne programme, P5\_TA(2002) 0398, the European Parliament stressed the particular nature of the Daphne programme compared to other actions and programmes as a multi-disciplinary instrument addressing several issues and forms of violence.

phenomenon in general as well as the particular case and requirements of each victim. The objective should be to work with the victim to help her develop the ability to decide her own future.

This kind of collaborative approach should also be used within families, in local communities, civil society, the NGOs, the private sector and the media. But cooperation is also required at state level, where strategies must be drawn up in partnership with the law enforcement system (police, judges, lawyers), the health system, Parliament and the education sector, as well as at European level.

Until recently, States refused to interfere in the question of cultural practices or domestic disputes, taking the view that these were 'private' matters. This distinction between the private and the public domain is the main reason why violence against women is rarely prosecuted.

However, since the 1980s, there have been clearly defined international rules prohibiting violence against women and establishing States' obligation to prevent and eradicate this problem. The Declaration on the Elimination of all Forms of Violence Against Women explicitly states that '*States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women*'<sup>1</sup>. It also defines the measures which States should take to eliminate violence in the family: the introduction of the requisite penalties in domestic criminal legislation; drawing up national action plans aimed at eliminating violence against women; providing medical and social services for victims; ensuring that public officials and officers responsible for upholding the law receive appropriate training. However, the Declaration has no binding legal force, with the result that many States ignore their obligations.

### **3.2 The position of the European Parliament with regard to the legal basis for action at Community level to combat violence**

The legal instruments available to the Union for the purpose of combatting violence against women are not really adequate to attain the ambitious objectives set in the Community programmes. Addressing violence against women raises the question of fundamental human rights, police and judicial cooperation in criminal matters, and asylum and immigration policy: concerted action on the part of Member States and Community institutions is required. This being so, the recent proposal to lump together the Community programme to combat violence and the programme to combat drug abuse could jeopardise the objectives pursued by the former Daphne programme.

---

<sup>1</sup> Declaration on the elimination of violence against women by the General Assembly of the United Nations in its resolution 48/104 of 20 December 1993.

The European Parliament has criticised, on several occasions, the legal basis used, namely Article 152 of the ECT on public health. Parliament has stressed, in particular, the principle of 'respect for human rights' in connection with violence against women, for example by citing Article 6 of the Treaty on European Union in its resolution on female genital mutilation<sup>1</sup>. On the subject of violence against female victims of trafficking, the European Parliament called, in its resolution of 19 May 2000<sup>2</sup> for full advantage to be taken of all the possibilities of Articles 29<sup>3</sup>, 30, 31 and 34 of the TEU on police and judicial cooperation in criminal matters.

---

<sup>1</sup> Article 6(2) of the TEU reads as follows: 'The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.'

<sup>2</sup> Resolution of European Parliament of 19 May 2000 on the communication of the Commission to the Council and to the European Parliament 'for further actions in the fight against trafficking in women', A5-0127/2000.

<sup>3</sup> First and second subparagraphs of Article 29 of the TEU: 'Without prejudice to the powers of the European Community, the Union's objective shall be to provide citizens with a high level of safety within an area of freedom, security and justice (...). That objective shall be achieved by preventing and combating crime, organised or otherwise (...) [including] trafficking in persons and offences against children'.

## Annexes

- I : Table summarising the main aspects of the Daphne programme
- II: Bibliography

### Annex I

#### How the 'Fight against violence (Daphne) and drugs prevention and information' specific programme addresses the issue of violence against women

<b>Legal basis</b>	Article 152 of the TEC
<b>Duration of programme</b>	1 January 2007 to 31 December 2013
<b>Target groups</b>	<p>1. victims of violence and groups at risk of violence</p> <p>2. other groups: including teachers and educational staff, police and social workers, local and national authorities, medical and paramedical staff, judicial staff, NGOs, trade unions and religious communities.</p> <p>3. perpetrators of violence: 'It is also relevant to think about treatment programmes for victims on the one hand and for perpetrators on the other<sup>1</sup>.</p>
<b>Specific objective</b>	<p>1. To prevent and combat all forms of violence occurring in the public or private domain against children, young people and women by taking preventive measures and by providing support for victims and groups at risk by the following means:</p> <ul style="list-style-type: none"><li>- assisting and enhancing NGOs and other organisations actively engaged in protecting against and preventing violence, and assisting victims;</li><li>- developing and implementing awareness-raising actions targeting specific audiences ;</li><li>- disseminating the results obtained under the two Daphné programmes including their adaptation, transfer and use by other beneficiaries or in other geographical areas;</li><li>- identifying and enhancing actions contributing to positive treatment of people at risk of violence.</li></ul>

<sup>1</sup> Communication from the Commission COM(2005) 112 final.

	<p>2. To promote transnational actions to:</p> <ul style="list-style-type: none"> <li>- set up multidisciplinary networks ;</li> <li>- ensure the expansion of the knowledge base, the exchange of information and the identification and dissemination of good practice, including through training, study visits and staff exchanges</li> <li>- raise awareness of violence among targeted audiences such as professions coming into contact with victims; encourage victim support</li> </ul>
<p><b>Means to be used</b></p>	<ul style="list-style-type: none"> <li>- dissemination and exchange of information, experience and good practices</li> <li>- promotion of innovative approaches</li> <li>- joint establishment of priorities</li> <li>- development of networking as appropriate</li> <li>- selection of Community-wide projects</li> <li>- motivation and mobilisation of all parties concerned</li> <li>- inclusion within the scope of these actions of children and women brought to the Member States through trafficking in human beings.</li> </ul>
<p><b>Relations between Member States and the European Community</b></p>	<p>The programme is not intended to intervene in areas covered by national programmes set up by individual Member States, but to focus on areas where Europe can provide 'added value'. The majority of the actions can be regarded as supplementary to national actions, and are designed to exploit synergies resulting from actions carried out at both international and regional level.</p> <p>Recital 21: 'The objectives (...) cannot be sufficiently achieved by the Member States because of the need for an exchange of information at EU level (...). Due to the need for a coordinated and multidisciplinary approach and by reason of the scale or impact of the initiative, the Community may adopt measures (...) as set out in Article 5 of the Treaty.'</p>

## Bibliographies:

### 1 Documents du Parlement européen:

Rapport du 16 juillet 1997 sur la nécessité d'une campagne européenne de tolérance zéro à l'égard de la violence contre les femmes, Commission des droits de la femme, Parlement européen, rapporteur: Madame Marianne Eriksson, A4-0250/9

Résolution du Parlement européen du 19 mai 2000 sur la communication de la Commission au Conseil et au Parlement européen "Pour de nouvelles actions dans le domaine de la lutte contre la traite des femmes" (COM(1998) 726-C5-0123/1999-1999/2125(COS)), A5-0127/2000

Résolution du Parlement européen du 15 juin 2000 sur les résultats de la session extraordinaire de l'Assemblée générale des Nations Unies intitulée "Les femmes en l'an 2000: égalité entre les sexes, développement et paix pour le XXIe siècle", B5-0562, 0564 et 0565/2000

Résolution du Parlement européen du 20 septembre 2001 sur les mutilations génitales féminines, 2001/2035(INI)), A5-0285/2001

Résolution Parlement européen du 4/09/2002 sur la révision à mi-parcours du Programme Daphné 2000-2003 (2001/2265(INI)), P5\_TA(2002)0398

Résolution du Parlement européen du 19 novembre 2003 sur la violation des droits de la femme et les relations internationales de l'Union européenne (2002/2286(INI)), P5\_TA(2003)0497

Résolution du Parlement européen du 22 avril 2004 sur les femmes dans l'Europe du Sud-est, 2003/2128(INI)), P5\_TA(2004)0382

Recommandation du Parlement européen du 23 février 2004 pour la deuxième lecture relative à la position commune du Conseil en vue de l'adoption de la décision du Parlement européen et du Conseil adoptant le programme d'action communautaire (2004-2008) visant à prévenir et à combattre les violences envers les enfants, les adolescents et les femmes et à protéger les victimes et les groupes à risques (programme Daphné II)

Résolution du Parlement européen du 10 mars 2005 sur le suivi du Programme d'action de la quatrième conférence mondiale sur les femmes (Pékin +10), P6\_TA-PROV(2005)0073

### 2 La politique européenne et la lutte contre la violence à l'égard des femmes:

Commission européenne, *"L'opinion des européens sur la question de la violence domestique"*, Octobre 1999

Charte des Droits fondamentaux de l'Union européenne du 7 décembre 2000

Décision n° 293/2000/CE du Conseil et du Parlement européen du 24/01/2000 adoptant un programme d'action communautaire (programme Daphné) 2000-2003 relatif à des mesures préventives pour lutter contre la violence envers les enfants, les adolescents et les femmes, JO L 034 du 09.02.2000

Rapport de la Commission au Parlement européen et au Conseil sur le programme Daphné (2000-2003), janvier 2002

Commission Final Report to the European Parliament and the Council on the Daphne Programme 2000-2003, Mars 2004

Décision n° 803/2004/CE du Conseil et du Parlement européen du 21 avril 2004 adoptant le programme d'action communautaire (2004-2008) visant à prévenir et à combattre la violence envers les enfants, les adolescents et les femmes et à protéger les victimes et les groupes à risque (programme Daphné II)

Communication de la Commission au Conseil et au Parlement européen COM(2003) 291 final, Mise à jour semestrielle du tableau de bord pour l'examen des progrès réalisés en vue de la création d'un espace "de liberté, de sécurité et de justice" dans l'Union européenne, Bruxelles, 22 mai 2003

Conseil de l'Union européenne, note du Secrétariat général, *"Le programme de La Haye: renforcer la liberté, la sécurité et la justice dans l'Union européenne"*, Bruxelles, 13 décembre 2004, JAI 559

Communication de la Commission au Conseil et au Parlement européen COM(2005) 122 final établissant pour 2007-2012 un programme-cadre "Droits fondamentaux et Justice", Bruxelles, 6 avril 2005

### **3 Documents des Nations Unies:**

Déclaration universelle des droits de l'homme du 10 décembre 1948, articles 2, 3,4 et 5

Pacte international relatif aux droits civils et politiques du 16 décembre 1966, articles 2, 3 et 26

Convention des Nations Unies du 18 décembre 1979 sur l'élimination de toutes les formes de discrimination à l'égard des femmes

Déclaration et programme d'action de Vienne, Assemblée générale des Nations Unies, Conférence mondiale sur les Droits de l'homme, Vienne, 14-25 juin 1993

Déclaration de l'Assemblée générale des Nations Unies du 20/12/1993 sur l'élimination de la violence à l'égard des femmes

Déclaration des Nations Unies du 15 septembre 1995 à la Quatrième Conférence mondiale sur les femmes à Pékin

UNICEF, *"La violence domestique à l'égard des femmes et des filles"*, Centre de recherche Innocenti, Florence, juin 2000

Organisation mondiale de la santé, *"Priorité aux femmes: principes d'éthique et de sécurité recommandés pour les recherches sur les actes de violence familiale à l'égard des femmes"*, Département genre et santé de la femme, Genève, 2001

Nations Unies, Commission des Droits de l'homme, *"Intégration des droits fondamentaux des femmes et de l'approche sexospécifique, violence contre les femmes"*, rapport de la rapporteuse spéciale Madame Radhika Coomaraswamy du 31 janvier 2002

Organisation mondiale de la santé, *"Rapport mondial sur la violence et la santé"*, Genève, 2002

#### **4 Documents du Conseil de l'Europe:**

Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales du 4/11/1950

Protocole additionnel n°12 à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales du 4 novembre 2000

Recommandation (2002)5 du Comité des Ministres aux Etats membres, *"La protection des femmes contre la violence"*, 30 avril 2002

Rapport de l'Assemblée parlementaire du Conseil de l'Europe, *"La violence domestique"*, 17 juillet 2002, rapporteur: Mme Olga Keltosova

Recommandation 1582 (2002) de l'Assemblée parlementaire du Conseil de l'Europe, *"Violence domestique à l'encontre des femmes"*, 27 septembre 2002