THE ISSUE OF VIOLENCE AGAINST WOMEN IN THE EUROPEAN UNION
FOREWORD: this note gathers the data and findings collected from various recent and relevant academic works (in English and French) on the issue of gender-based violence. It aims to help MEPs to design the EU policy for a better protection of women against gender-based violence.
The issue of violence against women in the European Union

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Introduction

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 note we will use the definition established by the 1993 UN Declaration on the Elimination of Violence against Women which defines the term "violence against women" as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (the same definition has been used by the Council of Europe (the "CoE") in its recommendation (2002) see below in 2.2).1

Over the past two decades, violence against women has come to be 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 discrimination.2 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."3 The 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 interested in analysing and combating gender-based violence, particularly domestic violence. However, regarding research, there is lack of comparative cross-national studies on this issue in Europe.4 A major problem in the area of family violence is that there is rarely consensus on how the problem should be measured or the precise subject matter of the issue.5 In terms of legislation, we have observed a process of convergence in policy on the issue across the European landscape and Member States have all improved their legal framework on the paper. However, there is still a need for a better implementation of the provisions aimed at combating gender-based violence.

As concluded in the final activity report of the CoE 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, comprehensive and coordinated policies in place.

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1 General Assembly Resolution No. 48/104 of 20 December 1993.
5 Ibid., p. 4.
including adequate resources for effective implementation, monitoring and evaluation”.

The following note sets out what comes under the term "violence against women", provides information on what has been done at politically and legally to handle this plague (at both the transnational and local levels) and 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 recent academic work (published in English and French) and main statements which are relevant and useful for MEPs in the framework of their attempts to combat gender-based violence.

1. Gender-based violence: What are we talking about?

1.1 The various aspects of violence against women.

The issue of definition is important when dealing with violence against women. The concept is capable of covering extremely diverse situations and it is thus necessary to be clear in order to handle this plague comprehensively.

- **Domestic violence**

Globally, the most common form of violence against women is violence perpetrated by the husband or an intimate partner. This actually explains why most of the legal and political instruments which deal with violence against women focus on that specific type of violence. However, in this regards, the terminology used is important. The terms "domestic violence" as "violence within the family" are gender-neutral and can cover violent behaviour perpetrated by any member of the family. In the framework of this note we will use domestic violence as meaning violence against women perpetrated by her husband or intimate partner.

This kind of violence can take a variety of forms and physical harmful violence (which can have a sexual aspect, see 1.3) 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).

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 priority.

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6 According to statistics from police evidence in Vienna, a majority (more than 90 %) of women's abusers who commit acts of violence are male family members, usually husbands or intimate partners.). see fn 7 or 8
As we will see further, there legislation has developed dynamically in order to address domestic violence even if further improvements are still needed regarding this issue.

- **Sexual violence**

According to the World report on violence and health published by the World Health Organisation (the "WHO") in 2002, women can be victims of sexual violence in different ways, including: "coerced sex in marriage and dating relationships, 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 health can be as serious as its physical impact, and may be equally long lasting. Deaths following sexual violence may be as a result of suicide, HIV infection or murder – the latter occurring either during a sexual assault or subsequently, as a murder of "honour"(see 1.2.2). 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."  

9 According to the CoE statistics, one in five women (aged between 2 months and 90 years) will be the victim of sexual assault in the course of her life. Moreover, according to the data, 98% of assailants are male, and 50% of them are spouses or partners, furthermore 70% of rape is premeditated and only 3% of rapists are mentally unbalanced.10

- **Rape, sexual assault and intimate partner violence**

Women’s right to personal freedom and sexual self-determination has only gradually entered legislation. Furthermore, rape within a marital relationship sometimes appears not to be recognised yet as a crime by a part of the society.  

11"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."12 However, things are changing and specific legislation has been enacted in several EU Member States (often under pressure from feminist groups)."  

Sexual assault by an intimate partner is a form of abusive behaviour which is often engaged in to maintain power and control over the woman. As Kersti Yllo

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12 "Marital and Intimate Partner Sexual Assault", The Advocates for Human Rights, available at: [http://www.stopvaw.org/Marital_and_Intimate_Partner_Sexual_Assault.html](http://www.stopvaw.org/Marital_and_Intimate_Partner_Sexual_Assault.html)

13 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. See also: Prof. Dr. Hagemann-White, C., Bohn, S., University of Osnabrück, Germany, 2007. 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.
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argues "[t]he shock, terror, and betrayal of wife rape are often exacerbated rather than mitigated by the marital relationship."14 Raquel Bergen's research indicates that victims of marital rape appear to suffer particularly severe psychological consequences15. "[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."16

- Trafficking in women for the purpose of sexual exploitation17

Although it is difficult to establish reliable statistics, the International Organisation for Migration (the "IOM"), estimates that, every year, 500,000 people, mainly women and children, are trafficked for the purpose of sexual exploitation in the European Union (the "EU")18. 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.

Over the last few years, there has been increasing interest in developing a specifically European or EU anti-trafficking policy (see below in part 2).

Regarding the issue of trafficking, it must be noted that women are also victims of trafficking for the purpose of domestic slavery (the Committee on Women's rights and Gender Equality is expecting a study related to this issue).

- Psychological, emotional abuses and stalking.

Psychological violence and emotional abuse are not always gender-based. Especially in intimate relationships, women can also be perpetrators. However, taking into account the frequency of the cases of women suffering at the hands of 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 violence19.

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 States20.

- **Traditional and cultural practices adversely affecting women’s lives**

Women and girls sometimes suffer 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 the legislators: female genital mutilation (FGM) 21, honour crimes 22 and forced marriages. In Europe, such practices essentially occur within certain migrant communities, emanating from cultural and social roots (although some perpetrators argue that this practice is a religious one, it has been condemned by several religious, namely Islam leaders, as been cultural and social but with no religious basis). Even if the international and regional organisations (the United Nations (the "UN"), the CoE, and the EU) which protect minority cultures, refuse to ignore customs that amount to torture or a breach of fundamental rights.

**Female genital mutilation** is a procedure that intentionally alters or injures female genital organs for non-medical reasons. These mutilations are internationally recognised as representing a violation of the fundamental human rights of women and girls.

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"23. Female victims of honour crimes were often "condemned" for behaving in a way that breached traditional family or community norms (such as a relationship with a man without the consent of the family, loss of virginity, seeking divorce, and sometimes even for having been raped).

19 See 'Domestic violence against women and girls', UNICEF, June 2000.


1.2 The scope of the scourge: the difficulty in collecting reliable and comparable statistics.

Violence against women is a universal phenomenon, which is visible in all regions, countries, cultures and social classes, affecting millions of women worldwide. It is estimated that every day in Europe, one in five women are subjected to violence. “According to prevalence studies in this field24, approximately 20 % to 25 % of all women have suffered physical violence, and more than 10 %, sexual violence, during adult life. If all forms of violence against women are taken into account, around 45 % of women have experienced violence. This means that in the 27 Member States of the European Union, with a total of almost 500 million inhabitants, about 100 million women are estimated to become victims of male violence in their lifetime and 1 to 2 million women are victimized every day.”25

Most of the documents dealing with violence against women only estimate the scope of the phenomenon. It is therefore fairly difficult to calculate the exact number of women suffering from the different forms of violence mentioned above.

Any estimation 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 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. In addition they may not have any family or social network in the country in which they live (any may not even speak the language of that country).

Moreover, it seems that, even nowadays, there are still some people marked by the attitudes of the period in which domestic violence was regarded as being a private affair which was no business of the state, the courts or the police.

It is commonly accepted that measuring the scope of the phenomenon is an essential precondition to prevention of repression. 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. Unless the violence in question is reported and, recorded by the authorities as being unlawful and falling within the agreed definition of such violence, then no official statistics can be drawn up.26

26 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..
In the framework of the seminar organised by the Spanish Presidency (see below), experts insisted on the need for Member States to conduct victimisation and satisfaction surveys, in addition to the systematic collection of official data (by the police, judicial and penitentiary services). In relation to the establishment of data, the Spanish experts presented an interesting methodology for assessment of the risk of violent behaviour and the way to adapt the solution to reduce such a risk. Experts from Portugal, the UK, France and Germany also presented a comprehensive overview of what is being done in their countries in terms of data collection and analysis.

- **The issue of the cost 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 the gender based-violence, not only for the victims but also for the entire society. Moreover, "adding a financial dimension increases the range of ways in which policy interventions can be articulated, measured and evaluated. [...] it may assist in addressing spending priorities. This is complementary to policy framework based on need and justice".

"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. It has been also added that "[t]he costs - to women and girls and the public purse- of ineffective responses represent a waste of potential in both individual lives and for the community as a whole".

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).

1.3 The causes and dynamics of gender-based violence.

The issue of causes and the dynamics of violence is underdeveloped in academic work. However, it is nonetheless extremely important to understand the causes and dynamics of gender-based violence in order to handle the victimisation process. Most of the studies available on the subject focus on domestic violence and more especially in the developing countries (even though most of the causes are applicable to all communities).
of violence are the same everywhere, the difference of cultural contexts must also be taken into account).

- **Various inter-related 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"33.

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.

**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 dependence and often deters the women from leaving. When unemployment affects the man, it can cause violence against the woman especially in the cases where she works, where her economic independence and social life may be seen as a threat. Moreover, according to the last survey undertaken by Unifem, economic crisis leads to an increase in violent behaviour against women34. According to Rachel Jewkes, "poverty [...] increases risk through effects on conflict, women's power, and male identity".

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"35.

- **Why don't they leave?**

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, the inadequate practices of the criminal justice system...36 The economic dependence of women is pointed to as being 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

34 see: http://www.unifem.org/news_events/story_detail.php?StoryID=901
partner,...). 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 violence. We can therefore draw the conclusion that an isolated woman, without a strong family support or social network will hesitate to leave.

Finally, the lack of legal protection may also be "a strong factor of perpetuating violence against women". 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.

38 Ibid.
2. Political and legal framework: from rhetoric to practice.

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 (with dissemination of norms, practice suggests, monitoring activities, the request for national action plans,...). As a good example, according to Hagemann-White, National Plan of Action recommended by the CoE in its Recommendation of 2002 has been the most important instrument of policy convergence. However, according to the European Women's Lobby, "[v]ery often national action plans have not addressed violence against women in a comprehensive, holistic way or been provided with sufficient financial and other resources to ensure their effective implementation"[39].

Legislation a necessary policy instrument. "It is the social and symbolic recognition of what a given society allows, tolerates or not and what it decides to be an unacceptable behaviour or act". 40

Under international law, states have a responsibility to act with due diligence to prevent acts of violence, protect women from violence and punish perpetrators and to provide remedies and redress to women who have experienced violence. However, "[w]hile international organisations and transnational activism have been credited with increasing global awareness and prompting a wave of wide spread reform, large gaps remain between policy adoption and policy implementation". The UN and the CoE have both adopted mechanisms to monitor and evaluate their member states but they are limited in their coercive authority in the cases where a state fails to implement their provisions correctly. The capacity of Member States to implement provisions to fight violence against women must be addressed.41

Additionally it must be noted that the implementation of a binding instrument created in the framework of the UN or the CoE presupposes a ratification process. There is therefore no guarantee that it will be applied in all Member States. European legislation could therefore be an important asset to help to combat violence against women.

2.1 The United Nations (UN).

The UN supports a higher level of protection of women against all kinds of violence in two ways: first, through the adoption of binding instruments within its various organisations (UNIFEM[42], OHCHR[43], WHO[44], UNFPA[45]...) and, second,
through the implementation of specific policies and the conduct of numerous surveys.

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 violence against women should be regarded as unlawful - the *Convention on the Elimination of all Forms of Discrimination against Women* (CEDAW), adopted in 1979\(^46\). It reminds States parties to the Convention that they are explicitly required to take measures against perpetrators of violence against women. 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 women\(^47\). However, it was still only a declaration.

In 1995, the Fourth World Conference on Women in Beijing 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.

More recently, in May 2008, the UN Division for the Advancement of Women (UNDAW/DESA), 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 violence against women. This meeting developed a model framework for legislation on 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.\(^48\)

In 2009, the Department of Economic and Social Affairs 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 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.\(^49\) 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

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45 see: [http://www.unfpa.org/gender/](http://www.unfpa.org/gender/)
47 UN, *Declaration on the Elimination of all Forms of Violence against Women*, resolution 48/104 of 1993.
galvanize action across the UN system to prevent and punish violence against women\textsuperscript{50}.

2.2 The Council of Europe (CoE): on the way to a new Convention.

The CoE has always been extremely active in the fight against gender-based violence (see the list of the resolutions and recommendations adopted by the Parliamentary Assembly of the CoE in the bibliography). Recently, a new initiative has been taken and the CoE is accordingly preparing a Convention specifically targeting the eradication of violence against women\textsuperscript{51}.

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, up until the closure of the campaign, 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.\textsuperscript{52} 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, establishing a European rapporteur on violence against women and setting up femicide watch. 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 (expiring in December 2010), 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 October 2009, the CAHVIO agreed on a "Draft Convention on preventing and combating violence against women and domestic violence"\textsuperscript{53}. NGOs have been consulted and one of the remarks raised regards the distinction, in the title, of violence against women and domestic violence. For instance, the European

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\textsuperscript{50} See: http://www.un.org/en/women/endviolence/
\textsuperscript{51} "Council of Europe on Violence Against Women - Genesis of the Convention", Monica Ksieniewicz, Law and Gender, Women’s Right Center in Poland, Special Edition, December 2009, p.47.
\textsuperscript{53} Available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/steering_committees/cdpc/Documents/1CAHVIO%20(2009)%2032_prov_en.pdf
Women Lobby would prefer that it be a Convention on preventing and combating male violence against women.

The new Convention would represent an opportunity to have the measures and standards set out in the Recommendation Rec(2002)5 on the protection of women against violence becoming legally binding. This recommendation has is the first international legal document adopting a comprehensive approach towards overcoming violence against women. Despite its non-binding character, this Recommendation offers a common framework for most of the CoE member states (bearing in mind that all the EU Member States are also members of the CoE) "because it articulates guiding principles and cites practical challenges without defining obligations and procedures". (As noted by Carol Hagemann-White, "it corresponds to the Open Method of Coordination" introduced by the European Council of Lisbon in March 2000 to help Member States progress jointly in the reforms to reach the Lisbon goals).

In accordance with this recommendation, special Plans of Action addressing violence against women have been established across Member States. It also calls upon member states to ensure that "all acts of violence are punishable, swift and effective action is taken against perpetrators and to redress, compensation and protection and support is provided for victims." Finally, Member States should also: "create appropriate criminal legislation, review and revise existing laws and policies; as well as, monitor the manner in which legislation is enforced."

In addition, the CoE already has a Convention on Action against Trafficking in Human Beings which entered into force in February 2008. It obliges State parties to criminalise trafficking in human beings and related offences. It also states that legislation must ensure that the offences are punishable by "effective, proportionate, and dissuasive sanctions" including measures to assist victims in their recovery, and providing compensation for them.

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54 Adopted by its Committee of Ministers in April 2002.
55 Ibid. p.168
56 "Measuring Progress in Addressing Violence Against Women across Europe", Carol Hagemann-White, International Journal of comparative and applied criminal justice, fall 2008, vol.32, n°2. In this article she also criticises some aspects of this recommendation, see p.149.
57 Ibid.
60 Council of Europe Convention on Action against Trafficking in Human Beings, Articles 18-20.
61 Ibid., Articles 23(1).
2.3 The diversity of national legislation.

Whether it be a result of the pressure of social activism or a result of following the guidelines of international bodies, from the end of the 90s, Member States began to progressively recognise violence against women as being a human rights breach, as well as a public health issue. Accordingly, they began to implement legal reforms aiming at the criminalisation of violence against women. While there is policy compliance, some Member States still fail to comply in practice. In addition, the Members States adopt different approaches (and therefore obtain different results) in their fight against gender-based violence. - See annexed tables-

The situation in the different Member States varies in the areas of violence that are addressed, the extent to which the protection of women is at the centre of the efforts, the level of priority attached to such efforts, and the resources allocated. There are also different patterns in criminal or civil justice system responses. Such differences can actually have an important impact: "[t]here is a significant difference between empowering the police to act on site when called to a violent situation, and making removal from the home a court decision, although there is some overlap. While police measures are usually subject to court revision when challenged, they can ensure a woman’s safety immediately, while the request for a court order of removal is usually subject to delay, during which time the woman may be subject to threats, intimidation or acts of revenge." Carol Hagemann-White also draws an interesting comparison: "Protective measures mean that a woman can call the police before she is actually injured [...] A policy of arrest and punishment is hard to apply until violence has occurred or been directly threatened. Arrest policies may be more effective in protecting women from highly violent women. Police barring-orders [like used in Austria, Germany, Czech Republic, Luxembourg, Netherlands, Slovakia and Slovenia] will offer protection that is more uncertain, but meet a wider range of circumstances, and may prevent violence". To deal with cases of stalking, the question of whether to opt for civil or criminal law is particularly relevant.

Some Member States do not have specific legislation penalising domestic violence, considering that it is covered by general provisions of the criminal law. This is especially the case for marital rape. Others have adopted specific legislation focusing on the gender dimension of the offence as opposed to its domestic nature (ex.: the law in Sweden, and the special jurisdiction provided in Spain). Therefore such crimes are not considered to be any more severe than others, but are simply different in nature.

In terms of sanctions, in some judicial systems, offences committed by an intimate partner are considered to be equivalent to those committed by an "external" person (but as remarked by Carol Hagemann-White, "a serious attempt..."

63 Ibid., p. 17.
64 See the presentation of the Austrian Law in " National and International Measures to Prevent Violence Against Women and Children", Rosa Logar, Law and Gender, Women's Right Center in Poland, Special Edition, December 2009
66 Moreover, "in some countries, while marital rape is not excluded from the definition of sexual assault, prosecutions for marital rape can be commenced only on a complaint by or with the approval of the victim, even when such complaint or approval is not otherwise required", in: "Marital and Intimate Partner Sexual Assault", The Advocates for Human Rights, available at: http://www.stopvaw.org/Marital_and_Intimate_Partner_Sexual_Assault.html
to sanction intimate partner violence cannot ignore gender inequality") while in other systems the domestic dimension is considered to be an aggravating factor (like in Luxembourg or Cyprus for instance)\textsuperscript{67}. Sometimes it is the gender dimension which leads to a higher penalty (ex.: Spanish law). Moreover, in countries which consider that violence against women is a crime with a public dimension, sentencing is determined by the seriousness of the offence and not by the wishes of the victim (which is particularly relevant in the context of the large proportion of battered women who do not leave a violent partner).

Carol Hagemann-White concludes by saying that "there is an overall trend towards legislation that punishes intimate partner violence more strongly than in the past, and which expects the public prosecutor to initiate proceedings ex officio". She also mentions that criminal law measures by themselves are insufficient, unless other relevant fields of law (such as family law, labour law, and social welfare) are included.\textsuperscript{68}

There are also differences in the forms of violence which are criminalised by national law. A lot of European countries adopt legislation penalising only domestic violence, which is the most common indeed but not the only kind of violence performed against women.\textsuperscript{69}

For example, psychological violence is not always clearly defined in national legislation. An understanding of what constitutes psychological violence is necessary, as this form of violence against women is almost always present in all forms of physical abuse.

In 2007, only France, Spain, Slovenia and Sweden reported that psychological violence against women had been given a legal definition and had recognised legal repercussions within the general community.\textsuperscript{70} A similar trend is seen in relation to harmful practices carried out in the name of religion, culture and/or traditions, [...] where only 8 Member States have legislation against one or more specific form of cultural/religious practice (Austria, Belgium, France, Italy, Netherlands, Portugal, Sweden, and the UK). Legislation against protection and prosecution of FGM is the most prevalent. Only some countries report that they have legislation against forced/early marriages.\textsuperscript{71}

The variety of the legal systems and social institutions regarding the violence against women has several explanations, in the most part relating to the historical and cultural backgrounds of the Member States. For instance, in some Member States, feminist activism has been more developed and powerful than in others. In addition, Germany and Austria, for historical reasons, are reluctant to give greater powers to the police to arrest (instead relying on eviction of the perpetrator from the house). Furthermore, some Member States have chosen to implement specific courts or procedures to fast-track these kinds of cases (as is the case in the UK and Spain).

\textsuperscript{67} See the very interesting example of the solution provided by the UK Sentencing Guidelines Council\textsuperscript{67} considering that offences committed in domestic context are no less serious than the same offences elsewhere but including aggravating factors characteristics of abusive relationships without defining the abuse by sex. See Carol Hagemann-White, "Measuring Progress in Addressing Violence Against Women across Europe", International journal of Comparative and Applied Criminal Justice, Fall 2008, Vol32, n°2, p. 163.
\textsuperscript{68} Ibid. p.164-165
\textsuperscript{70} Ibid., p. 23.
\textsuperscript{71} Ibid., p. 28.
Several Member States were the subjects of case studies during the conference organised by the Swedish Presidency in November 2009. This represented an occasion to exchange ideas on best practices.72

2.4 The action of the European Union.

"The European Union has proven to be an important venue for women's transnational activism" but, for a long time it was limited to gender equality in labour issues. Despite the intervention of the European Parliament (the "EP") as early as 1986, getting gender-based violence on the EU's agenda took a while. In 1986, the Committee on Women's rights and gender Equality issued a report on violence against women. Although the EP adopted a resolution on the basis of this report, nothing more was done. At that time, the issue was considered to be outside the competence of the EU. The EP has since been a fervent supporter of the fight against gender-based violence and had a leading role in this issue.

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 human rights. This created a new political space for issues such as violence against women73.

Regarding the fight against gender-based violence, the EU has acted in two different ways. First, it sought to help reform policy towards an increased protection of women in its Member States. For that purpose, it used soft law (communications, recommendations...) to provide guiding principles and insisted on the exchange of best practices74. Secondly, the EU took initiatives aimed at building capacity, mainly through the Daphne programme. More recently, still on the initiative of the EP, and supported by the Spanish Presidency, the idea of a European binding instrument is gathering force.

It must also be noted that the recent adoption of the Lisbon Treaty could offer a new opportunity to develop instruments to combat violence against women, bearing in mind that the political importance of the issue of domestic violence has been underlined in the declaration on Article 8 of the Treaty on the Functioning of the European Union75. For instance, the Charter of Fundamental Rights of the EU76 , which is now legally binding, 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. Moreover, bearing in mind the leading role of the EP in the fight against gender-based violence, its growing power as a co-legislator may also play a role in the development of new instruments on this specific issue.

74 However, as interestingly noted by Celeste Montoya, ibid., in the frame of the accession process, candidate countries "are required to adopt not only binding legislation but also the entire acquis communautaire, the larger body of legislation that includes soft law measures."
75 "The Conference agrees that, in its general efforts to eliminate inequalities between women and men, the Union will aim in its different policies to combat all kinds of domestic violence. The Member States should take all necessary measures to prevent and punish these criminal acts and to support and protect the victims."
The EU institutions support policy reform: a very active European Parliament.

From 1998 onwards, the different EU Presidencies have generated several recommendations, proposed indicators (see DK/NL), and other non-binding documents suggesting how to make progress in addressing violence against women. Recently, the Guidelines on violence against women and girls and combating all forms of discrimination against them77, adopted in December 2008, clearly confirm the EU’s political will to treat the subject of women’s rights as a priority and to take long-term action in that field.

The European Commission, through various political instruments, also contributes towards highlighting the need for the better protection of women against gender-based violence. For instance, in a communication of 1 March 2006 it presented a Roadmap for equality between women and men 2006-201078 which outlined six priority areas among which the eradication of all forms of gender-based violence.

As already mentioned, and highlighted later in this note, the EP has been an extremely supportive actor in the fight against gender-based violence (see details on its resolutions in the bibliography). Notably, it regularly condemns the trafficking of women and female genital mutilation and has adopted several resolutions focusing on the fight against gender-based violence in general. For example, in a resolution adopted in February 2006 on the current situation in combating violence against women and any future actions, recommends that Member States adopt a zero-tolerance approach towards all forms of violence against women, and calls upon Member States to take appropriate measures to ensure better protection of and support to actual and potential victims. In general, the main ideas supported by the EP are the following: it is important and necessary to gather and exchange comparable statistical data and to promote the exchange of good practices between Member States; violence against women is one of the main obstacles to handle gender inequality in our societies; the impact of domestic violence against women on children must be taken into account; the right to assistance for all victims of violence including a proper access to legal aid and to protection must be guaranteed. In one of its latest resolutions, in November 2009, it asks the Member States to recognise sexual violence against women and rape, including within marriage and intimate informal relationships and/or where committed by male relatives, as a crime in cases where the victim did not give consent, and to ensure that such offences result in automatic prosecution. It also insists on the necessity of investigating and penalising the extreme human rights abuses perpetrated against Roma women. It additionally calls for records concerning gender-based violence to play a central role within the European Criminal Records Information System (ECRIS).

Furthermore, the EU has developed a specific legislation and policy against the trafficking of women, for instance: the Council framework decision on combating trafficking in human beings, the EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings, as well as legislation that is relevant to victim assistance and protection.79. On that issue the legal basis was indeed clearly provided by the Treaties.

The issue of violence against women in the European Union

- **The Daphne Programmes: the EU capacity-building effort.**

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 a EU-wide campaign for zero tolerance of violence against women80 (it also followed on 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). With the Daphne programme, the EU facilitates transnational cooperation to combat violence against women through resource distribution.

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 women81 covering the following three years, which was intended to carry on from the early initiative. In her final report on the first Daphne programme, the Commission mentioned that several conclusions were derived from the Daphne programme. "Firstly, the Initiative and Programme objectives were and remain relevant to the needs at their origin, which is supported by the fact, that the level of response is high (more than 2200 proposals received) and, as a result, Daphne clearly meets a deeply felt need within society. Furthermore, funded projects have provided an initial response and have seriously contributed to raising awareness among the target groups concerned. Also, what is important, the programme has had an impact on the slowly changing social perceptions of violence, as well as, the development of EU and national policies".82

As a consequence of its success, the programme has been renewed twice, in both 2004 and 2007. In the mean time, its budget increased from the equivalent of EUR 20 million to almost 120 million for Daphne III.

The aim of the programme is to support organisations (administrations, local municipalities, NGOs, research centres and other related bodies from all the Member States, candidate countries, EFTA states and the countries of the Western Balkans) that develop measures and actions to prevent or to combat all types of violence against women and children. It encourages NGOs to create or strengthen European networks and helps them to implement innovative projects, whose results can be disseminated in other Member States and regions.

"The Daphne objectives were defined in general terms so that they would be valid for many different types of violence."83 Violence is 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. The programme promotes projects with a European dimension, which means that in order to be financed a project must come from at

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80 Resolution of 16 September 1997
least two different organisations from two different Member States. The funding from the programme can go up to 80% of the total budget of a project.

The EP has constantly supported this programme. In April 2005, the European Commission proposed the establishment of a general 'Fundamental rights and justice programme' comprising of four special programmes, including one which combines the fight against violence (Daphne) and drug prevention and information (both of these issues having their legal basis on Article 152 of the TEC relating to public health protection). The EP rejected this idea arguing that this combination could have the effect of undermining the impact and efficiency of the Daphne programme.

Finally, by decision No 779/2007/EC of 20 June 2007, the EP and the Council established for the period 2007-2013 the Daphne III programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk as part of the General Programme "Fundamental Rights and Justice".

Since its launch, the Daphne programme had helped to finance over 500 projects. The Commission also initiates its own actions under the programme, such as studies, conferences and publications. In 2009, the Daphne co-financing included a study of the Commission on harmful traditional practices (publication expected by the end of this year) and a conference on men's violence against women organised by the Swedish presidency.

Although Daphne can be considered to be a successful capacity-building initiative, Celeste Montoya, in an article published in 2009, remarks that "not all countries have been able to take advantage of these opportunities. Increased bureaucratisation and the competitiveness of the process make it harder for smaller developing advocacy organisations to initiate their own project and compete for funding. Thus special initiatives might become necessary to make sure that the countries with the least prospect for internally driven reform are able to benefit from these capacity-building endeavours".

- **Gender-based violence as a priority of the Spanish EU Presidency**

The Spanish Government chose the fight against gender-based violence as one of its priorities for its EU Presidency. It made several propositions to improve the EU

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86 European Commission, Prevent and combat violence against children, young people and women and to protect victims and groups at risk.
action on that issue: a European protection order for victims of violence; the creation of a European gender violence monitoring centre/observatory, the activation of a common EU-wide telephone helpline for victims.

Regarding the European protection order, an initiative for a Directive of the European Parliament and the Council was already presented in mid-January 2010 by the Spanish presidency, together with Belgium, Bulgaria, Estonia, Spain, France, Italy, Hungary, Poland, Portugal, Romania, Finland and Sweden.89 As mentioned in the explanatory statement annexed to the proposed initiative,90 current measures to protect victims from their aggressor are effective only on the territory of the State which adopted them and they leave victims unprotected when they cross borders. However, considering the freedom of movement that the EU is supposed to guarantee to its citizens, victims should be protected wherever they go. The proposed directive would therefore provide a forceful and effective response to this need to prevent further offences against victims in the State to which they have moved. The European protection order does not provide any new tools, it is simply based on the mutual recognition of measures that are taken at the national level. Even if this new legal instrument would prove to be very useful for women victims of violence, it must be noted that it is not specifically dedicated to women.

The proposed text has been sent to the EP. The Civil Liberties, Justice and Home Affairs Committee, together with the Women's rights and Gender Equality Committee, have asked for a new rule of procedure (rule 51) to be applied. According to the said rule, there would be joint meetings of both committees and a joint vote on a single draft report. (Carmen Romero López has been already appointed as rapporteur for the LIBE committee).

In addition, the Ministry of Internal Affairs in Spain organised an international seminar on best practices in preventing and protecting women victims of gender-based violence. This seminar gathered experts in gender-violence and police officers from different Member States and was concluded by the presentation of a Manual of best Police Practices. The authors of this Manual aim to provide a tool to help governments, legislators and police services of all Member States in improving the results of their fight against gender-based violence. Among the main concerns discussed during this seminar was notably the collection and analysis of reliable and comparable data (with as a good practice the example of Portugal) -see part 1.2. Moreover, it was underscored that since one of the crucial roles of police services is gathering evidence, the way that they obtain testimonies is of importance. Therefore, the conditions in which the victims are interviewed by the police services are essential. In addition, victims must indeed feel confident enough to officially ask for help.

They have also insisted on the need for improvement of the training given to the police services to handle the gender-based violence situations.

- **Towards a specific EU binding legislation on gender-based violence?**

Bearing in mind what has been previously said as regards the scope and consequences of the phenomenon of gender-based violence, the fact that is common to all Member States as well as the diversity of national laws mean that there is a clear interest for legislation at an EU level.

The EP has asked the Commission to implement a preparatory action to embody the efforts which the EU has made to promote preventive measures to combat violence against children and adolescents of both sexes and against women, with a view to standardising national legislations in this area. Through this preparatory action, the EP would like the Commission to start a process of European-level harmonisation of legislation against gender-based violence by proposing provisions to combat and reduce it within the EU. In that framework, in March 2009, the Commission launched a call for tender for a feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on gender violence and violence against children. The study should be available by the last quarter of this year.

Recently, the EP called for a clear legal instrument (a directive) on violence against women (the Committee for Women's rights and gender equality organised a public hearing on that subject in December 2009)\(^91\).

Some experts have already formulated wishes regarding the scope of this possible directive and it is hoped, for example, that it will provide for the establishment of minimum standards of quality in police practices.

3. The need for an integrated and coordinated policy.

In order to efficiently tackle this plague, international bodies and experts repeatedly underscore the need for coordinated action to be taken between all actors and stakeholders likely to be involved in the fight against gender-based violence.

There are several actors who are likely to play an important role in the issue of combating violence against women: the family, the local community, state authorities, civil society, the media, international organisations, etc. In the following section we will focus on three of these: police services, NGOs and the media. By way of example, the Recommendation (2002) 5 of the CoE strongly emphasises the importance for all Member States to cooperate with non-governmental or civil society organisations ("NGOs"), including giving them logistic and financial support for their work against violence.

Furthermore, there is also consensus on the idea that a sustainable policy should do more than momentarily protect the victim and should provide measures covering gender-based violence as a whole, including: measures of prevention, sanctions of the perpetrators and their social reintegration, measures regarding the children witnesses of a violent situation, etc.\(^92\) The Spanish Organic Law of 2004 is often cited as an illustration of an integrative and comprehensive approach\(^93\). For the majority of scholars and legislators, considering the various interconnected factors explaining the gender-violence, the best option is to draw up and apply policies to address it in an integrated multi-disciplinary way, which

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\(^92\) See for example "What a waste: the case for an integrated violence against women strategy", Liz Keely in cooperation with Jo Lovett, Law and Gender, Women's Right Center in Poland, Special Edition, December 2009, p.27

\(^93\) See for ex.: Carol Hagemann-White, ibid. p.164
is based on close collaboration between lawyers, psychologists, social workers, doctors and other experts. This approach aims at achieving an understanding of the phenomenon in general, as well as the particular situation and requirements of each individual victim and perpetrator. This kind of collaborative approach should also be adopted within families, local communities, civil society, NGOs, private sector bodies, and the media. However, cooperation is also required at national 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 the European level.

3.1 Prevention: information and education through public-awareness campaigns.

"Education and awareness-raising campaigns can be powerful tools in raising awareness 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 email and the Internet, for example. Female victims of violent crimes can benefit tremendously [from the promotion of] phone numbers of local, state, and national hotlines. [Not only media, but also local, community and national campaigns could be used in order to inform victims of sexual assault, domestic violence, and stalking about available services]. Public awareness-raising campaigns can also be used in order to communicate that violence against women is wrong, and to promote behavioural change among the general public and in specific communities.94

It is common knowledge that the media can significantly influence societal perceptions of acceptable behaviour and attitudes. As such, journalists and other media personnel should systematically receive training on women’s human rights and the root causes of violence against women. This could be an effective way of influencing how the issue is reported and thereby influencing societal attitudes. Article 14 of The Spanish Organic Act on Integrated Protection Measures against Gender Violence (2004) states that “the communications media shall work for the protection and safeguarding of sexual equality, avoiding any discrimination between men and women” and that “reports concerning violence against women, within the requirements of journalistic objectivity, shall do the utmost to defend human rights and the freedom and dignity of the female victims of gender violence and their children.”95

Taking into account the aforementioned potential influence of the media, it is important to pay attention to the way that it portrays gender behaviour and gender-related violence. There are only few codes of conduct for media professionals concerning violence against women in EU Member States. The body serving as media watch should receive guidelines related to the fight against gender-based violence. When it is possible and relevant, civil society organisations should challenge films or advertisements in which women seem to

deserve abusive treatment or the stereotyped masculine ideals of violent behaviour.\footnote{Prof. Dr. Hagemann-White, C., Bohn, S., University of Osnabrück, Germany, 2007. 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. 39-40.}

NGOs have positive results in awareness-raising campaigns and are currently very active in organising such events\footnote{According to StopVAW reports, activists in the region of central and eastern European countries have made raising awareness about domestic violence issues a priority}. While if the majority of public awareness-raising campaigns are organised by NGOs, it is worth mentioning a good example of an official attempt to introduce awareness-raising. Article 3 of the Spanish \textit{Organic Act on Integrated Protection Measures against Gender Violence} (2004) "provides for the launch of a National Sensitization and Prevention Plan regarding Violence against Women targeting both men and women in order to raise awareness of values based on respect for human rights and the equality of men and women. The Plan will be overseen by a Commission whose members will include survivors, members of relevant institutions, professionals working to address violence against women, and experts on the issue."\footnote{United Nations, Department of Economic and Social Affairs Division for the Advancement of Women 2009. Handbook for legislation on violence against women. New York, p. 31. Available at: \url{http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf}}

Finally, celebrities, such as Nicole Kidman, who supports the UN "Say NO to violence against women" campaign, often contribute to the scale and publicity of awareness-raising campaigns and events. This is a means of reaching society which should also be supported by the EU and the governments of Member States.\footnote{European Parliament, 2009. Nicole Kidman joins MEPs to say NO to violence against women. Available at: \url{http://www.europarl.europa.eu/news/public/story_page/014-50234-068-03-11-902-20090224STO50178-2009-09-03-2009/default_en.htm}}

\section*{3.2 Protecting and empowering the victims: the necessary cooperation between police and NGOs.}

Many of the needs of the female victims of violence are met through the activities of specialised NGOs and associations. Skilled organisations have often proved to be the most responsive and effective in enabling women to realise their rights to live free from violence and to overcome its debilitating effects. Some countries in Europe provide a range of services for victims such as: women’s shelters, national and regional help-lines, counselling and advocacy centres, outreach services, rape crisis centres, intervention programmes and others.

Cost-free phone help lines are important for providing the first point of contact for urgent information about victims’ rights and for initial professional counselling.

Women should have the right to live safely in their own homes and to be protected from the perpetrators (for example on the basis of expulsion or barring orders by the police or protection orders by the court). Where this is not possible (for legal or practical reasons), victims must also be granted the right to safe accommodation and adequate help through specialised women’s shelters. (Shelters are generally permanent structures with living 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 women’s shelter to plan their next steps with the shelter’s assistance."  

However, in Europe there is still a need to enlarge and ameliorate the system of adequate services for victims of violence. Due to a lack of resources (sometimes linked to a lack of political will), the goal of providing an exhaustive network for survivors is still far from being reached, and the quality of appropriate services varies and is at different stages of development and acceptance. For instance, rural areas are still often neglected. The European Women’s Lobby (EWL) Observatory on Violence against women identified the most widespread problem in service provision as insufficient and insecure funding. Shelters and hot-lines are under-funded and often managed by NGOs on a voluntary basis\textsuperscript{101}.

In monitoring surveys\textsuperscript{102}, nearly all countries say that they make national funding available for combating violence, and that they give funding to NGOs for such work to be carried out. However, according to the information gathered by the CoE services in the Analytical study on the effective implementation of Recommendation Rec(2002)5 on the protection of women against violence in CoE Member States, in 2007 there were still cases where there was no funding from the government for the work of NGOs (like in Bulgaria, Estonia, Greece, Latvia, Romania) and more frequently funding was described as unpredictable, interrupted for months at a time (in Croatia, Cyprus or Hungary for example), or as seriously inadequate (in Ireland, Italy, Finland, Poland, Malta, Portugal or Slovakia)\textsuperscript{103}.

During its Stop Violence Against Women campaign, the CoE published a study on "Minimum standards to support services". This study aims to achieve the development of a consensus on minimum standards: their range and extent, core principles and practices. It divides these standards into two sections: basic standards which all services must achieve, and aspirational standards which require more time and additional resources to make real\textsuperscript{104}.

Following these remarks, the essential role played by NGOs, and their need for better financial support must be noted. In addition, in some Member States, statutory agencies are more directly involved in providing these services. Denmark can be used an example for this, where public institutions such as

\textsuperscript{102} As precised by Carol Hagemann-White, "Because the monitoring process is voluntary and the Council of Europe has no supranational competencies, all information provided by governments had to be taken at face value in the first instance","Measuring Progress in Addressing Violence Against Women across Europe", International Journal of comparative and applied criminal justice, fall 2008, vol.32, n°2.
clinics provide certain services (for example the “one-stop crisis centres” in hospitals for victims of rape or assault), while counselling services for victims of crime are set up and maintained by the police, but run by volunteers.\textsuperscript{105}

Moreover, there are elements of any effective support system which are the responsibility of the state, and without which NGOs cannot operate effectively. The two most emphasised elements in the Study on Minimum standards to support services are law enforcement and health services in the aftermath of sexual violence.\textsuperscript{106}

The main actor involved in law enforcement is the police. 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. Attention has been drawn to the role of the police as the 'gatekeepers' since so few victims of family violence report the violence to the police, and as a result of reports of negative experiences of some of those that did report the violence.\textsuperscript{107} Survivors/complainants of violence often hesitate to call police because they fear that they might not be taken seriously or be considered to be lying and may have little confidence in the justice system.\textsuperscript{108} According to the findings presented in the Handbook for parliamentarians a mere 2\% to 20\% of women victims file complaints, or do so only when repeatedly subjected to violence\textsuperscript{109}. It is becoming more and more visible that over the last years, the police in many Member States have become very active in combating domestic violence. This improved police response is being attributed to the extent to which domestic violence is recognised as a public offence instead of a private crime.\textsuperscript{110}

Furthermore, they are expected to take action immediately to afford security to the threatened individuals, who are usually women and children. The practice of pro-active support services in close co-operation with the police is very effective in this connection and it is of vital importance that the police has information and contact to local providers of support, practical information and psychological counselling, in order to be able to refer to them.\textsuperscript{111} In addition, bearing in mind the particularities of the situations where violence against women takes place, intervening police officers should be well-trained in order to know how to handle them effectively.

Pro-active counselling missions are typically based on co-operation between the police and specialised women support services (i.e. intervention centres) who contact the victim of domestic violence after a police intervention. Through initial contact,

\begin{flushright}
\textsuperscript{106} ibid.
\textsuperscript{109} Parliaments united in combating violence against women.
\textsuperscript{111} Ibid.
\end{flushright}
which is then maintained over time, women can be drawn into support services early and in this way can be empowered to make changes that enhance their safety. Evaluation studies in Austria and Germany have shown that the vast majority of women reached who were by proactive counselling reacted positively, and that it enabled reaching out to vulnerable groups\footnote{Responses were not received from Albania, Moldova, Poland, Russian Federation, Ukraine; the United Kingdom sent a written report instead. In: Prof. Dr. Hagemann-White, C., Bohn, S., University of Osnabrück, Germany, 2007. 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. 26}. 

3.3. Beyond the criminalisation and sanction of perpetrators: actions to avoid second offences.

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. Some authors underline the unfortunate result of an overly punitive approach that relies on retribution rather than rehabilitation and reconciliation where this is possible\footnote{See for example: “Violent Partners: a Breakthrough Plan for ending the Cycle of Abuse”, L.G. Mills, 2008.}. 

The Daphne II programme, together with the German Ministry of Family Affairs, financed a project on Work with Perpetrators of Domestic Violence (WPD project)\footnote{Details of the project available at: http://www.work-with-perpetrators.eu/en/index.php?languageselect=%2Fen%2Findex.php&languagesubmit=Go}. The project aims to establish the necessary conditions for a Europe-wide exchange of best practices as regards work with perpetrators of domestic violence. To facilitate this exchange, the project developed a questionnaire and conducted a survey about the variety of practices, approaches, and conditions in working with perpetrators in EU countries. The experts received answers from 19 countries, presenting 192 programmes (this number of programme is not representative of the global situation in the EU since there exists almost 200 perpetrators programmes alone in the UK). They pointed out the big difference between the situation in West and North Europe and the one in East and South Europe. While there is widespread implementation of programmes in the first regions, there are very few in the latter and almost no nation-wide strategies of intervention to provide treatment measures for perpetrators. Many of the programmes dedicated to perpetrators are fairly recent (they have increased in number since 2000). These programmes have various sources of funding, but only 1/3 of those analysed in this survey received governmental funds. The majority (three-quarters) of the perpetrator programmes that were reported, worked with men that had been referred by a court or justice officer. Four-fifths reported to work also with men who were attending voluntarily. However, less than a quarter of the programmes work with perpetrators exclusively on a voluntary basis.

Finally, according to the findings of this survey, it seems that cognitive behaviour therapy is the most common approach adopted in European perpetrator programmes. 

In 2003 and 2004, the CoE held two seminars on measures dealing with men as perpetrators. During the second seminar, the need for a European network was
identified. As a result, standards and proven methods emerged. However, the extent of behavioural change brought about by such programmes remains modest. Such programmes are much more likely to exist in states that already provide substantial services for victims. Moreover, the programmes are generally small, and few countries have undertaken to ensure their availability across the country.115

On this issue, as before, coordination between the police, penitentiary services and civil society is sometimes essential to achieving the best results possible.

## ANNEX


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**European Parliament**


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Citizens’ Rights and Constitutional Affairs

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