

Terms of reference of the Ad Hoc Committee on preventing and combating violence against women and domestic violence

1. **Name of Committee:** Ad Hoc Committee on preventing and combating violence against women and domestic violence
2. **Type of Committee:** Ad Hoc Committee
3. **Source of terms of reference:** Committee of Ministers

4. **Terms of reference:**

Having regard to:

- the Declaration and Action Plan adopted by the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005), in particular concerning the issue related to the security of citizens;
- the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Additional Protocols;
- Resolution Res(2005)47 on committees and subordinate bodies, their terms of reference and working methods;
- Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence;
- the final activity report of the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV);
- the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197);
- the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201);
- the Committee of Ministers' reply of 15 October 2008 to Parliamentary Assembly Recommendation 1847 (2008) on "Combating violence against women: towards a Council of Europe convention".

Under the authority of the Committee of Ministers, and in relation with the implementation of Projects 2008/DG-HL/1432 "Monitoring the operation of conventions on co-operation in the criminal field", 2008/DG-HL/1413 "Protection of women against violence, including domestic violence" and 2008/DG-HL/1414 "Achieving gender equality between women and men in all spheres of society" of the Programme of Activities, and bearing in mind the criteria developed in document CM(2006)101 final "Establishing criteria for projects", the Committee is instructed:

- to prepare one or more legally binding instrument(s), as appropriate,¹ to prevent and combat:
 - domestic violence including specific forms of violence against women;
 - other forms of violence against women;

to protect and support the victims of such violence and prosecute the perpetrators.

When preparing this or these instrument(s), the Committee shall:

- have regard to the definition of violence against women and the examples of domestic violence given in Recommendation Rec(2002)5, bearing in mind that the latter notion is not limited to violence against women;²
- design a comprehensive framework for the protection and assistance of victims and witnesses, including child victims and witnesses, paying particular attention to gender equality aspects, as well as on the effective prevention, intervention, investigation, prosecution and, where appropriate, international co-operation;
- define a monitoring mechanism to ensure compliance of States Parties with the provisions of the instrument(s);
- take into account the relevant standards of the Council of Europe in the fields of human rights, gender equality, criminal law and judicial co-operation, in particular on the basis of existing legal instruments dealing with various forms of violence which are related to it;
- take into account the existing universal and regional international legal instruments relevant to such violence, in particular the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW – 1979).

The Committee shall present, by 30 June 2009, an interim report on its position on the subjects and contents of the proposed instrument(s), its working methods and the time table for its work, in order to allow the Committee of Ministers to take a decision, where necessary, on these matters.

5. Composition of the Committee:

5.A Members

- i. The governments of all member states are entitled to appoint members. The Council of Europe's budget will bear travelling and subsistence expenses for one expert per member state. The Committee should be composed with due consideration to the respect of the principle of gender-balanced representation. The governments of member states are invited to consider the possibility of appointing two experts each, so

¹ The Ad hoc Committee shall first consider from the point of view of standard-setting technique, whether it is feasible to fulfil these terms of reference by drafting a single instrument, or whether it is preferable to draft two instruments (such as a convention and a protocol thereto). In the latter case these two instruments shall be drafted so as to form a coherent whole.

² Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence, which deals exclusively with violence against women, lists the following examples of violence occurring in the family or domestic unit: 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.

as to enable legal and human rights/gender equality expertise (experts from national authorities competent in particular for criminal justice and gender equality aspects) to be represented.

- ii. Qualifications of persons serving on the Committee: senior national officials with an extensive knowledge or expertise in the human rights and gender equality field and/or in the criminal law and procedure area. When appointing their representatives, governments are invited to bear in mind that an equal proportion between members with expertise in human rights and gender equality and with expertise in criminal and prosecution matters is needed.

5.B Participants

- i. Three representatives of the Steering Committee for Equality between Women and Men (CDEG) and three representatives of the European Committee on Crime Problems (CDPC), without the right to vote but with defrayal of expenses at the charge of the budget envelopes allocated to these committees.
- ii. One representative of each of the following committees, without the right to vote but with defrayal of expenses at the charge of the budget envelopes allocated to these committees:
 - Steering Committee for Human Rights (CDDH);
 - European Committee on Legal Co-operation (CDCJ);
 - European Committee on Migration (CDMG);
 - Governmental Committee of the European Social Charter.
- iii. The Parliamentary Assembly, the Congress of Local and Regional Authorities of the Council of Europe and the Commissioner for Human Rights may send (a) representative(s) to meetings of the Committee, without the right to vote but with defrayal of expenses at the charge of their respective Votes of the Ordinary Budget.

5.C Other participants

- i. The European Commission and the Council of the European Union may send (a) representative(s), without the right to vote or defrayal of expenses, to meetings of the Committee.
- ii. The states with observer status with the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America) may send (a) representative(s), without the right to vote or defrayal of expenses, to meetings of the Committee.
- iii. The following international organisations may send (a) representative(s), without the right to vote or defrayal of expenses, to meetings of the Committee:
 - United Nations Development Fund for Women (UNIFEM);
 - United Nations Division for the Advancement of Women (UNDAW);
 - United Nations Children's Fund (UNICEF);
 - Office of the United Nations High Commissioner for Human Rights (UNHCHR);
 - United Nations High Commissioner for Refugees (UNHCR);
 - Organisation for Security and Co-operation in Europe (OSCE);
 - Interpol;
 - Europol;
 - Commonwealth of Independent States (CIS);
 - Conference of INGOs enjoying participatory status with the Council of Europe;

- European Women's Lobby;
- Amnesty International;
- Women against Violence Europe (WAVE).

6. Secretariat:

The Committee should be assisted by a Secretariat composed of staff of the Directorate General of Human Rights and Legal Affairs (DGHL).

7. Working methods and structures:

Three scientific experts may be appointed by the Secretary General to assist the Committee's work.

In the framework of its terms of reference, the Committee may set up working parties and have recourse to consultant experts. It shall have the possibility to have whatever contacts and consultations with governmental and non-governmental organisations or professionals and others that it deems necessary for the implementation of its terms of reference, in particular through hearings or written consultation

Other steering committees may be consulted at an appropriate stage of the drafting work.

8. Duration:

These terms of reference expire on 31 December 2010.