



Strasbourg, 21 December 2010

CAHVIO (2010) 27

**AD HOC COMMITTEE ON PREVENTING AND COMBATING
VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE
(CAHVIO)**

REPORT OF THE 8th MEETING

**Strasbourg
13 - 17 December 2010**

Document prepared by the
Directorate General of Human Rights and Legal Affairs

ITEM 1 OF THE AGENDA: OPENING OF THE MEETING

1. The eighth meeting of the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) was opened by Ms Dubravka Šimonović as Co-Chair. Due to his involvement as judge with court cases at the national level, Mr Eric Ruelle was not able to be present during the first day of the meeting.

ITEM 2 OF THE AGENDA: ADOPTION OF THE AGENDA

2. The Committee adopted the agenda as it appears in Appendix I.

ITEM 3 OF THE AGENDA: INFORMATION BY THE CO-CHAIRPERSONS

3. The Co-Chair informed the Committee that the aim of the meeting was to finalise and approve the text of the draft convention. It was explained that the Committee would continue with the examination of the remainder of articles that had not been finalised during the seventh meeting. The Committee would then proceed with the few articles which had been previously discussed at the last meeting in view of their approval but that still raised some concerns. The Co-Chair further explained that in cases where provisions did not meet with agreement from all delegations, the Committee would proceed as it did during its seventh meeting, with an indicative vote in order to have a clearer picture of delegations' positions in relation to these provisions. Furthermore, it was explained that if time allowed it, the Co-Chairs planned to devote the remaining meeting time to the finalisation of the draft Explanatory Memorandum.

ITEM 4 OF THE AGENDA: INFORMATION BY THE SECRETARIAT

4. Mr Carlo Chiaromonte, Secretary to the Committee, provided the Committee with additional practical information on the meeting. Mr Chiaromonte informed the Committee of the decision taken by the Committee of Ministers Deputies at their 1101st meeting that the CAHVIO could, if necessary, hold an additional meeting in January 2011.

ITEM 5 OF THE AGENDA: EXAMINATION OF THE DOCUMENT “FOURTH DRAFT CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE” (CAHVIO (2010)20)

5. The Committee continued with the examination of the remainder articles of the draft convention that had not been finalised, article by article¹. Aside from changes in terminology and the decision to elaborate on the content of some articles in the Explanatory Memorandum, all articles met with general agreement from delegations. The Committee agreed to include an additional article on data protection (Article 65) and the storing and use of this data pursuant to the obligations undertaken by the Parties under the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108). Moreover, a proposal made by one delegation led to the re-draft of Article 11 on data collection and research.

6. The Committee then decided to come back to particular issues that still raised concerns. Delegations agreed that the term “all forms of violence covered by the scope of this Convention” would replace the term “violence against women and domestic violence” throughout the text, with the exception of some specific articles where a particular reference

¹ Reference to articles in the present meeting report are based on the numbering of the approved final draft convention.

to the latter was deemed necessary. With regard to a reference to “as recognised by internal law” in relation to partners, delegations agreed that it should be kept in the provisions on sexual violence, including rape (Article 36, paragraph 3), aggravating circumstances (Article 46, lit.a) and residence status (Article 59, paragraphs 1 and 2), but that it was to be deleted from the definition of domestic violence (Article 3, lit.b). Delegations also supported the re-introduction of the notion of so-called “honour” in Article 42 in order to give more visibility to these types of conducts. Moreover, a provision on dispute settlement (Article 74) was also included in the text. Finally, the Committee decided on the name “GREVIO” in order to refer to the group of independent experts responsible for the monitoring of the implementation of the future convention.

7. The Committee considered that a few reservations in relation to specific provisions needed to be introduced. Delegations decided not to weaken the level of obligations, but rather allow for the possibility of reservations with regard to some problematic provisions. It was therefore agreed to include the possibility to reserve the right not to apply or to apply only in specific cases or conditions the provisions laid down in: Article 30, but only with regard to paragraph 2 on state compensation; Article 44 paragraphs 1 lit. e, 3 and 4 regarding jurisdiction; Article 55 paragraph 1 on *ex parte* and *ex officio* proceedings, but only in respect to minor offences of physical violence (Article 35); Article 58 paragraph 1 on statute of limitation, but only in respect of Articles 37 (forced marriage), 38 (female genital mutilation) and 39 (forced abortion and forced sterilisation); and Article 59 (residence status). In particular, the representative from the European Union pointed out that Article 59 should not be amended since it corresponds to existing standards in European Union legislation in this field. In view of this, the German delegation proposed to allow reservations on the whole article without weakening the level of obligations, which gathered the support of all delegations. The Committee also decided to include the possibility to reserve the right to provide for non-criminal sanctions, instead of criminal sanctions, in the case of psychological violence (Article 33) and stalking (Article 34). It was however agreed that the Explanatory Memorandum would need to include an explanation that sanctions must be effective, proportionate and dissuasive regardless of the type of sanctions Parties decide to provide for. As a result of discussions, the Committee agreed to amend Article 78 on reservations in order to regroup, under one article, the provisions where reservations would be possible, thus shortening and simplifying the text of the draft convention. Finally, in order to limit the number and the duration of reservations expressed by Parties, it was decided to introduce a provision on the validity and review of reservations (Article 79).

8. The Committee undertook a final consistency review of the draft convention on the basis of a “clean” version of the text reflecting decisions taken during the meeting as well as the restructuring of the text and the renumbering of articles. The Co-Chairs invited delegations which at the time of the meeting still could not accept or could only partly accept some provisions to express their reservations. The reservations would be included in the report of the meeting which would be forwarded to the Committee of Ministers together with the text of the final draft convention. Below is the list of reservations expressed by delegations by article:

- Article 3 on “Definitions”: Denmark (on the reference to psychological violence in lit. a and b); Russian Federation (lit.c); Spain (on the inclusion of “against women” in the term gender-based violence in lit d.);
- Article 4 on “Fundamental rights, equality and non-discrimination”: Russian Federation (on the reference to sexual orientation and gender identity in paragraph 3); Lithuania (on the reference to gender identity in paragraph 3).
- Article 17 on “Participation of the private sector and the media”: the United Kingdom.

- Article 21 on “Assistance in individual/collective complaints”: Poland and the Russian Federation.
- Article 30 on “Compensation”: Cyprus and Ireland.
- Article 33 on “Psychological violence”: Denmark (in relation to the reference to “impairing a person’s psychological integrity”).
- Article 37 on “Forced marriage”: Estonia and the United Kingdom.
- Article 38 “Female genital mutilation”: United Kingdom (lit. b and c).
- Article 46 on “Aggravating circumstances”: Estonia (lit. a).
- Article 48 on “Prohibition of mandatory alternative dispute resolution processes or sentencing”: Estonia (paragraph 1).
- Article 56 on “Measures of protection”: Spain (lit.i).
- Article 59 on “Residence status”: Switzerland and the Netherlands (although the delegation from the Netherlands did not express a reservation during the meeting, a reservation could be expressed in relation to this article in the future).
- Article 60 on “Gender-based asylum claims”: Russian Federation.
- Chapter IX on “Monitoring mechanism”: Russian Federation.
- Article 74 on “Dispute settlement”: Azerbaijan.
- Article 79 on “Validity and review of reservations”: Ireland and the Russian Federation.

9. The Committee ended its meeting with a final indicative vote and approved by consensus the final draft convention to be transmitted to the Committee of Ministers. The delegations from Poland, Spain and the United Kingdom abstained.

ITEM 6 OF THE AGENDA: PLANNING OF THE FUTURE WORK OF THE COMMITTEE

10. Before concluding the meeting, delegations were informed that the same day after the end of the meeting, the English and French version of the approved draft convention would be forwarded to the Editorial Unit and the Legal Advice Department and Treaty Office for comments. These two services will provide their comments and/or legal advice in early January. Furthermore, the Committee discussed how to proceed in relation to the draft Explanatory Memorandum, which still needs to be finalised. The Secretariat of the Parliamentary Assembly indicated that it wished to receive the finalised text by the 24th January. Delegations agreed that the text should be considerably reduced. It was decided that the Secretariat, together with the Co-Chairs, will prepare a revised version of the Explanatory Memorandum that will be forwarded to Committee members by January 10th. On the basis of this revised document, delegations were invited to indicate which paragraphs raise concerns or problems and provide concrete written proposals accordingly. The Secretariat will prepare a list of paragraphs which need to be discussed, allowing delegations to focus, during the next Committee meeting, only on the paragraphs that are problematic.

11. On the basis of information provided by the Secretariats of the Committee of Ministers and the Parliamentary Assembly, the CAHVIO Secretariat informed the delegations about the planned schedule:

- 18th January: Meeting of the Rapporteur Group on Legal Co-operation (GR-J) for the transmission of the draft convention to the Parliamentary Assembly for opinion.
- 24th January: Adoption of the opinion by the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly.
- 11th March: Adoption of the opinion by the Parliamentary Assembly.
- Adoption by the Committee of Ministers and opening for signature.

ITEM 7 OF THE AGENDA: OTHER BUSINESS

12. Several congratulations were expressed by the Committee during the meeting. The Committee congratulated Mr. José Mendes Bota, Chairperson of the PACE Committee on Equal Opportunities for Women and Men, for his appointment as the Parliamentary Assembly's rapporteur to give an opinion on the draft convention. Delegations also wished the representative from Lithuania, Mr Kęstutis Zaura, a Happy Birthday on the 16th of December. Finally, the Committee wished Ms. Johanna Nelles all the best in the upcoming birth of her baby.

ITEM 8 OF THE AGENDA: DATE OF NEXT MEETING OF THE COMMITTEE

13. The Secretariat proposed to hold the next meeting during the week of the 10th January. However, this proposal was rejected by the Committee for different reasons, one of which was the dates of the Orthodox holidays. The next meeting of the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) will be held on 18 – 21 January 2011.

APPENDIX I: AGENDA

1. Opening of the meeting
2. Adoption of the agenda
3. Information by the co-Chairpersons
4. Information by the Secretariat
5. Examination of the document “Fourth Draft Convention on preventing and combating violence against women and domestic violence”
6. Planning of the future work of the Committee
7. Other business
8. Date of next meeting of the Committee

APPENDIX II: LIST OF PARTICIPANTS

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Apologised/ Excusé

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Co-Chair/ Co-président

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INTERPOL

EUROPOL

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Apologised/Excusé

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**SECRETARIAT OF THE COUNCIL OF EUROPE /
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**Directorate General of Human Rights and Legal Affairs /
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Ms Paula KROL	Gender Equality Division / Division pour l'égalité entre les hommes et les femmes
Mr Jonathan BOURGUIGNON	Criminal Law Division / Division du droit pénal
Ms Lucy ANCELIN	Principal Assistant / Assistante principale Criminal Law Division / Division du droit pénal
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**Parliamentary Assembly of the Council of Europe /
Assemblée parlementaire du Conseil de l'Europe**

Ms Sonia SIRTORI-MILNER	Head of the Secretariat, Committee on Equal Opportunities for Women and Men / Chef de Secrétariat, Commission sur l'égalité des chances pour les femmes et les hommes
Mr Giorgio LODDO	Co-Secretary, Committee on Equal Opportunities for Women and Men / Co-secrétaire, Commission sur l'égalité des chances pour les femmes et les hommes

**Congres of local and regional authorities /
Congrès des pouvoirs locaux et régionaux**

Ms Muriel GRIMMEISSEN	Co-Secretary of the Current Affairs Committee / Co-Secrétaire de la Commission des questions d'actualité
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INTERPRETERS / INTERPRETES

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Ms Chloé CHENETIER
Mr Didier JUNGLING
Ms Julia TANNER