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Monitoring protection of rape victims

Reply to Written question[1]: Written question No. 521 (Doc. 11186)
Committee of Ministers

1. The Committee of Ministers has carefully examined Written Question No. 521 by the honourable parliamentarian concerning issues relating to monitoring the protection of rape victims. The Committee of Ministers considers that rape, since it constitutes an attack on the physical and mental integrity and on the dignity of the victims, is a violation of human rights and reaffirms[2] that the use of rape as an instrument of warfare and within the context of a strategy of ethnic cleansing is a war crime and should be considered a crime against humanity. In this context, the Committee of Ministers recalls that the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Court have jurisdiction to bring to justice persons allegedly responsible for serious violations of international humanitarian law, namely genocide, crimes against humanity and war crimes. The War Crimes Chamber in Bosnia and Herzegovina and other regional courts are also playing an increasingly important role in the delivery of justice for war crimes.

2. The Committee of Ministers recalls that the Council of Europe paid prompt attention to the situation of women in South-East Europe during armed conflicts, in particular during the international Seminars on Men and Violence against Women (1999) and on Participation of Women in the Prevention and Resolution of Conflicts (2001).

3. The Committee of Ministers also recalls that issues relating to the protection of rape victims, *inter alia*, during conflict and post-conflict were examined during the 5th European Ministerial Conference on Equality between Women and Men (Skopje, 22-23 January 2003). This conference was devoted to the following theme: "Democratisation, conflict prevention and peace building: the perspectives and the roles of women". The conference adopted a resolution on "the roles of women and men in conflict prevention, peace building and post-conflict democratic processes – a gender perspective" which takes into account and welcomes "the adoption of the Rome Statute of the International Criminal Court (17 July 1998) and its entry into force on 1 July 2002, which provides that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity are crimes against humanity when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack". In this framework, the resolution proposes to governments a number of measures for protecting women's human rights and providing assistance to victims of conflict. One of the follow-up activities to this ministerial conference was the preparation of a recommendation on the role of women and men in conflict prevention and resolution and in peace building.

4. In this context, the Committee of Ministers wishes to draw the attention of the honourable parliamentarian to its Recommendation Rec(2002)5 on the protection of women against violence which includes expressly and in a detailed manner the violation of human rights of women in situations of armed

1. Adopted by the Committee of Ministers on 12 December 2007 at the 1014th meeting of the Ministers' Deputies.
2. Declaration on the Rape of Women and Children in the Territory of the Former Yugoslavia, adopted by the Committee of Ministers on 18 February 1993 at the 488th meeting of the Ministers' Deputies.

conflict in the definition of violence against women. Besides the general measures on the protection of women against all forms of violence, the recommendation also includes a number of additional measures concerning violence in conflict and post-conflict situations, in particular that states should:

– penalise all forms of violence against women and children in situations of conflict, in accordance with the provisions of international humanitarian law. In this regard, the recommendation takes up literally the relevant provisions of the Rome Statute of the International Criminal Court defining certain forms of sexual violence against women as crimes against humanity or war crimes;

– consider providing refugee status or subsidiary protection for reasons of gender-based persecution and/or providing residence status on humanitarian grounds to women victims of violence during conflicts;

– support and fund NGOs and official institutions in the region providing counselling and assistance to victims of violence during conflicts and in post-conflict situations.

As part of the monitoring of the implementation of this recommendation, a certain amount of information was gathered about follow-up on rape victims in member states. The information was supplied in replies to an indicator-based framework for monitoring the recommendation which was sent to the member states in 2005. The South-East European countries replied to it. The information, which a 2006 study[3] consolidated and analysed (that study being supplemented by a further study in 2007), showed that there were 16 national action plans (40 member states replied) dealing with rape and sexual violence and that seven of them covered violence in conflict and post-conflict situations. The conclusions drawn from the information regarding victims of rape or sexual assault cover all 40 member states that participated in the study and can therefore not provide any specific indication as regards rape victims in South-East Europe.

5. The Committee of Ministers further recalls its Recommendation Rec(2006)8 on assistance to crime victims, directed principally at victims belonging to vulnerable groups, either because of their personal characteristics or because of the circumstances of the crime; victims of rape undoubtedly belong to this category of victims. The recommendation invites member states to provide for a large number of means of action and assistance to victims, aimed at alleviating the negative effects of crime and assisting the victims in all aspects of their rehabilitation, whether into the community, at home or at the workplace. Assistance should include the provision of medical care, material support and psychological health services, offered free of charge, at least in the immediate aftermath of the crime. Another priority of action for member states is to protect victims as far as possible from secondary victimisation. They should promote the introduction of services dedicated to assisting victims, specialised centres for victims of sexual and domestic violence, and specialised centres for victims of crimes of mass victimisation, including terrorism. Member states are also invited to grant compensation to victims of serious, intentional, violent crimes, including sexual violence, and to the immediate family and dependants of victims who have died as a result of such crime. In the light of its conclusion in paragraph 4 above, in monitoring the implementation of this recommendation, the Committee of Ministers would ask the authorities of the member states, in particular in conflict situations, to make provision for specific information on the situation of rape victims.

6. Furthermore, the Committee of Ministers has been informed of the important and active role of the Organization for Security and Co-operation in Europe as well as several non-governmental organisations that have provided and are still providing direct assistance to rape victims in the countries concerned. In this context, it emphasises the importance of further strengthening the regional co-operation of all organisations in this field. The Committee of Ministers also fully recognises the need to provide special assistance to the victims among refugees and internally displaced persons, who are socially and economically the most vulnerable categories.

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3. "Combating violence against women. Stocktaking study on the measures and actions taken in Council of Europe member states", Equality Division, Directorate General of Human Rights, Strasbourg, 2006. "Analytical study on the effective implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe member states", Gender Equality and Anti-Trafficking Division, Directorate General of Human Rights and Legal Affairs, Strasbourg, 2007."