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Children who witness domestic violence

Reply to Recommendation[1]: Recommendation 1905 (2010)
Committee of Ministers

1. The Committee of Ministers notes with interest Parliamentary Assembly Recommendation 1905 (2010) on "Children who witness domestic violence". It has been brought to the attention of their governments and communicated to the Ad hoc Committee on preventing and combating violence against women and domestic violence (CAHVIO) and to the Council of Europe "Building a Europe for and with children" transversal programme. The recommendation has also been sent to the European Committee on Legal Co-operation (CDCJ) and the European Committee on Crime Problems (CDPC) for comments.

2. The Committee of Ministers welcomes the Assembly's initiative aiming at a reinforcement of multi-disciplinary action to recognise and address the situation of children witnessing domestic violence which, as contended, is too often neglected.

3. It draws attention to the CDCJ's 2008 report on non-criminal remedies for crime victims, within which chapter 3 addresses vulnerable victims including children and victims of domestic violence. This chapter also recalls that Resolution No. 2 on child-friendly justice adopted at the 28th Council of Europe Conference of Ministers of Justice (Lanzarote, 2007) states that "special attention and guarantees are required for child victims or witnesses of crime to protect their welfare" and that this is in line with the United Nations Guidelines on justice regarding child victims and witnesses of crime, which specifically aim to ensure that children who have been harmed by crime or who have witnessed crime are adequately protected and treated fairly in courts.

4. The Committee of Ministers further notes that as a follow-up to Resolution No. 1 on preventing and responding to domestic violence adopted at the 29th Council of Europe Conference of Ministers of Justice (18-19 June 2009, Tromso, Norway), the CDPC is currently examining possible Council of Europe action regarding the status and rights of victims in criminal proceedings.

5. The Committee of Ministers notes that the CAHVIO has paid attention to the situation of child victims and children who witness domestic violence within the limits of the scope of its terms of reference.

6. The Committee of Ministers notes that the Assembly's recommendation was brought to the attention of the Group of Specialists on Child-Friendly Justice (CJ-S-CH) which took it into consideration when finalising the draft Council of Europe Guidelines on child-friendly justice. It underlines that one of the aims of these guidelines is to prevent secondary victimisation that may arise from giving evidence or testimony. As a means of achieving this, great importance is given to the need for the police, social services and courts to work together in order to prevent children from experiencing multiple trauma.

7. The Committee of Ministers also stresses the utmost importance of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201) which provides for relevant measures, including preventive measures that could provide a strong basis in the development of initiatives to protect children from domestic violence. On 29 and 30 November 2010, the Council of Europe launched its campaign to stop sexual violence against children at a high-level event in Rome, Italy. The

1. adopted at the 1103rd meeting of the Ministers' Deputies (19-20 January 2011)

campaign will run for four years and will pursue the objective of promoting the signature, ratification and implementation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. It will further raise European societies' awareness of the full extent of sexual violence against children and provide children, parents and professionals with knowledge and tools to prevent and to respond to sexual violence.

8. Finally, the Committee of Ministers recalls the Council of Europe "Building a Europe for and with children – 2009-2011 Strategy" and its five objectives:

i. to promote the mainstreaming of children's rights in all Council of Europe policy areas;

ii. to enhance children's access to justice at both national and international levels;

iii. to eradicate all forms of violence against children at all times and in all settings;

iv. to promote child participation and increase children's influence in society; and

v. to safeguard the rights of vulnerable groups of children (i.e. children without parental care, children with disabilities, children in or at risk of poverty and social exclusion).

9. The Council of Europe Platform on Children's Rights established pursuant to the aforementioned strategy and composed, amongst others, of a Network of government appointed focal points on the rights of the child and violence against children, had the problems experienced by child victims and witnesses of domestic violence high on its agenda. The platform elaborated a text which was adopted as the Committee of Ministers' Recommendation CM/Rec(2009)10 to member states on Council of Europe Policy Guidelines on Integrated National Strategies for the Protection of Children from Violence. The recommendation contains a set of measures specifically designed to assist child witnesses of domestic violence.

10. The focal points are contributing to raising the visibility and to improving implementation of this recommendation at national level. It has been translated into five non-official languages and co-operation programmes are being developed to promote it in member states

Appendix 1 to the reply

Comments of the European Committee on Crime Problems (CDPC)

1. Following the adoption by the Parliamentary Assembly of Recommendation 1905 (2010) on "Children who witness domestic violence", the Committee of Ministers decided to communicate it to the European Committee on Crime Problems (CDPC) for information and possible comments. The CDPC examined the above recommendation and decided to contribute to the response of the Committee of Ministers by providing the following comments concerning matters within its fields of competence.

2. The CDPC welcomed the initiative of the Parliamentary Assembly to reinforce multi-disciplinary actions to recognise and address appropriately the situation of children witnessing domestic violence which has potentially severe consequences on the child who is still too often neglected in such cases where adults are at the forefront.

3. The CDPC fully supported the Assembly's invitation to the Committee of Ministers to call on the Ad hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) to include in its future Council of Europe convention provisions:

3.1. addressing the consequences at all levels on children who witness domestic violence, in particular, the recognition of their specific needs and interests throughout criminal proceedings in accordance with the best interests of the child;

3.2. on the importance of making available to children who witness domestic violence comprehensive social services to ensure, notably, that authorities assess the detrimental effects of domestic violence on the child while recognising and protecting fully his or her interests and needs;

3.3. insisting on the need to develop educational strategies and specific measures to prevent the intergenerational transfer of domestic violence.

4. The CDPC also confirmed the importance of protecting children having witnessed domestic violence from any additional burden of criminal proceedings by including adequate measures in respect of the taking of evidence during criminal proceedings in the Council of Europe guidelines on child-friendly justice which already addresses interviewing mechanisms for children which should be used and considered valid whenever possible.

5. The CDPC stressed the utmost importance of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, opened for signature in November 2007 and so far ratified by five Council of Europe member states), which contains important and relevant measures, including preventive measures, which could serve as a strong basis when developing strategies to protect children effectively from domestic violence.

6. Moreover, as a follow-up to Resolution No. 1 adopted at the 29th Council of Europe Conference of Ministers of Justice (18-19 June 2009, Tromso, Norway), the CDPC wished to inform the Assembly that it is currently examining possible Council of Europe actions regarding the status and rights of victims in criminal proceedings.

7. Finally, the CDPC recalled that children's rights is a priority topic of the Council of Europe and it further agrees that Council of Europe activities in this area should be better coordinated and promoted to assist in an appropriate manner member states to implement European standards to improve all children's lives.

Appendix 2 to the reply

Comments of the European Committee on Legal Co operation (CDCJ)

1. Following the adoption by Parliamentary Assembly, on the occasion of its Standing Committee (Paris, 12 March 2010), of Recommendation 1905 (2010) on "Children who witness domestic violence", the Committee of Ministers[2] decided to send this recommendation to the European Committee on Legal Co-operation (CDCJ) for information and possible comments by 30 June 2010.

2. The Bureau of the CDCJ took note of the Parliamentary Assembly recommendation and decided to comment, within the deadline set by the Committee of Ministers, on domains which are of particular interest to the CDCJ.

3. The Bureau of the CDCJ welcomes the recommendation as a whole and, to begin with, wishes to draw the attention of the Committee of Ministers to the CDCJ's 2008 report on non-criminal remedies for crime victims,[3] in particular to its chapter 3 which deals with vulnerable victims including children and victims of domestic violence. In this chapter, it is recalled that Resolution No. 2 on child-friendly justice adopted at the 28th Council of Europe Conference of Ministers of Justice (Lanzarote, 2007) states that "special attention and guarantees are required for child victims or witnesses of crime to protect their welfare", and that this is in line with the United Nations Guidelines on justice in matters involving child victims and witnesses of crime[4] which are specifically aimed at ensuring that children who have been harmed by crime or who have witnessed crimes are protected and treated fairly in courts.

4. More references to witnesses are to be found in the report (see in particular in paragraphs 143 to 147 which address the specific needs of protection for victims and witnesses subject to intimidation), as well as examples of good practice (see in particular paragraph 228 presenting the Swedish system where "a child who witnessed a crime without being considered as a victim *stricto sensu* will thus be entitled to compensation if this crime harmed the safety, confidence or trust of the child").

5. The Bureau of the CDCJ furthermore welcomes the invitation made to the Committee of Ministers in paragraph 2 of the recommendation to instruct the Ad hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) to give particular attention to the situation of children witnesses of domestic violence who should be considered as secondary victims. On 31 March 2010, the Bureau of the CDCJ submitted its observations on the draft Convention on preventing and combating violence against women and domestic violence. In paragraph 8 of these observations, the Bureau of the CDCJ reaffirmed its proposal that the scope of the convention encompass not only women but also boys and girls victims and witnesses of domestic violence.[5] The CDCJ participates actively in the meetings of the CAHVIO as an observer.

6. In that respect, the Bureau of the CDCJ recalls Resolution No. 1 on preventing and responding to domestic violence adopted at the 29th Council of Europe Conference of Ministers of Justice (Tromsø, 2009) and inviting the Committee of Ministers to entrust the CDCJ in co-operation with other committees[6] and, in the light of the results of the work by the CAHVIO, "to examine, taking into account the need to protect both the rights of victims and those of perpetrators:

a. forms of domestic violence directed in particular against children and the elderly, and propose responses to them;

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2. 1080th meeting, 24 March 2010.
3. http://www.coe.int/t/dghl/standardsetting/victims/victims%20final_en%20with%20cover.pdf.
4. http://www.ibcr.org/editor/assets/thematic_report/2/2004_un_resolution_en.pdf.
5. Observations of the CDCJ Bureau on the draft Convention on preventing and combating violence against women and domestic violence (Document CDCJ-BU (2010) 10), par. 8:

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8. A new article on "the scope of the convention" would permit the target groups of the convention to be identified. This would be the opportunity to re-establish the fact that women are the principal victims of domestic violence, without excluding other categories of victims of domestic violence, even minority ones, from the safeguards set out in the convention. Hence women and a non-exhaustive list of all other possible victims of domestic violence, including children and the elderly would be covered by the convention. The corresponding part of the explanatory memorandum could also shed light on the fact that women and girls may be the victims of violence perpetrated not only by men but also by other women (in particular in the case of genital mutilation, but also possibly in same-sex couples) and that men and boys are not only possible perpetrators but could also be the victims or witnesses of domestic violence in particular as children or elderly people."

b. challenges faced by victims of domestic violence and propose targeted solutions to increase their protection and reduce their vulnerability;

c. the effectiveness of existing civil and administrative legal remedies and measures and propose further ones aimed at preventing domestic violence or responding to it".

7. When the work of the CAHVIO is completed and the time is ripe for the CDCJ to reflect on the follow-up to be given to Resolution No. 1 in this light, the Bureau of the CDCJ shall also bear in mind Parliamentary Assembly Recommendation 1905 (2010) and thereby consider the situation of children witnesses of domestic violence.

8. Finally, following the invitation made in its paragraph 3.1, the recommendation was brought to the attention of the Group of Specialists on Child-Friendly Justice (CJ-S-CH) which, at its last meeting (Strasbourg, 25-28 May 2010), took note of it and took it into consideration when finalising the draft Council of Europe Guidelines on child-friendly justice.[7]

9. The final draft of the Council of Europe Guidelines on child-friendly justice recall the aforementioned United Nations Guidelines on justice in matters involving child victims and witnesses of crime, and entail specific provisions concerning child witnesses, including children witnesses of domestic violence.

10. In addition, one of the objectives of the Council of Europe Guidelines is to prevent secondary victimisation arising from giving evidence or testimony. The draft text foresees practical measures and presents examples of good practice to prevent children and young people from the harshness of the justice systems, in particular the traumatising effects of repeated interviews and testimonies. The draft text presents in its explanatory memorandum the children's' houses in Iceland and Sweden as an example of good practice in this area. Children are interviewed by trained professionals within a safe child-friendly environment where they can receive all the protection, psychological and medical care that they may need, under one roof. This avoids having to repeat several times what has happened to them before different people, in different institutions, and in different locations over a long period of time. It is important for the police, social services and courts to work together in raising awareness and ensuring that children do not have to go through a second trauma that can be worse than what they have already experienced.

6. The European Committee on Crime Problems (CDPC), the Steering Committee for Human Rights (CDDH) and the Steering Committee for Equality between Women and Men (CDEG).

7. See Document CJ-S-CH(2010)12 – Final draft Council of Europe Guidelines on child-friendly justice.