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Sexual assaults linked to “date-rape drugs”

Reply to Recommendation¹: Recommendation 1777 (2007)
Committee of Ministers

1. The Committee of Ministers has carefully considered [Recommendation 1777 \(2007\)](#) of the Parliamentary Assembly on sexual assaults linked to “date-rape drugs” and welcomes this initiative by the Assembly, which falls within the overall context of the Council of Europe’s action against all forms of violence against women, who account for the great majority of the victims of these crimes. It has drawn this recommendation to the attention of the governments of its member states and has communicated it to the Steering Committee for Equality between Women and Men (CDEG), the European Committee on Crime Problems (CDPC) and the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group), whose comments are appended hereto.

2. The Committee of Ministers shares the Assembly’s concern about the sexual violence related to “date-rape drugs”. It regards any form of violence against women as a particularly serious violation of human rights.

3. In reply to the proposal contained in paragraph 6.1 of the recommendation, it wishes to point out that Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence, which covers all forms of gender-based violence, proposes a comprehensive and integrated strategy to prevent violence and protect victims. It also covers the legislative aspects raised by the Assembly in paragraph 6.2.6 of its recommendation and provides for measures to care for victims and training programmes for all those involved in this care (see Appendix 1, comments of the Bureau of the CDEG).

4. Recommendation Rec(2002)5 also provides for a monitoring framework to evaluate the progress made by the governments of the member states in implementing its provisions. The replies in the first round of monitoring were reviewed in a recent publication produced by the CDEG, *Combating violence against women – stocktaking study on the measures and actions taken in Council of Europe member states*. This monitoring encourages member states to adopt a comprehensive and integrated approach to violence against women and thus contributes to a harmonised European approach to the issue.

5. Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims also contributes, through an appropriate directive approach, to ensure that the interests of the victims of sexual assaults committed through the use of “date-rape drugs” are taken into account.

6. The Committee of Ministers also acknowledges the importance of information and awareness-raising about the risks associated with “date-rape drugs”, as recommended by the Assembly, while bearing in mind the concerns expressed by the Pompidou Group in paragraph 4 of its opinion. It considers that they could be included within the scope of general measures to prevent drug addiction and reduce at-risk behaviours, such as alcohol or multidrug use, as well as within that of an overall policy for combating violence against women. In this connection, and on other questions raised in [Recommendation 1777 \(2007\)](#), it draws the Assembly’s attention to the comments made by the Pompidou Group (see Appendix 3). The Committee of Ministers would like also to draw the Assembly’s attention to the work currently under way within the CDPC, on the preparation of a possible binding international legal instrument to fight crime concerning counterfeit pharmaceutical products (see Appendix 2).

1. Adopted by the Committee of Ministers on 23 April 2008, at the 1024th meeting of the Ministers’ Deputies.



Appendix 1 – Comments by the Bureau of the Steering Committee for Equality between Women and Men (CDEG)

The CDEG Bureau thanks the Parliamentary Assembly for its [Recommendation 1777 \(2007\)](#) on sexual assaults linked to “date-rape drugs”, and welcomes the Assembly’s initiative.

With regard to paragraph 6.1, recommending that the Committee of Ministers instruct the intergovernmental bodies in the Council of Europe to examine the phenomenon and adopt a harmonised European approach to tackle it, the CDEG Bureau wishes to point out that “date-rape drugs” are one of the means of subduing non-consenting victims and that Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence, which covers all forms of gender-based violence, proposes a comprehensive, integrated strategy for preventing violence and protecting victims.

The CDEG Bureau therefore fully endorses paragraph 6.2.6 of the Assembly’s recommendation on the revision of rape and sexual assault legislation, in particular the question of consent. Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence proposes to “penalise any sexual act committed against non-consenting persons, even if they do not show signs of resistance”, “penalise sexual penetration of any nature whatsoever or by any means whatsoever of a non-consenting person” and “penalise any abuse of the vulnerability of a pregnant, defenceless, ill, physically or mentally handicapped or dependent victim”. Recommendation Rec(2002)5 also advocates measures for the treatment of victims and training programmes for all those involved in such treatment.

The CDEG Bureau also wishes to point out that Recommendation Rec(2002)5 invites governments to inform the Council of Europe of the action taken at national level. With this aim in mind, a monitoring framework to evaluate progress in the implementation of the recommendation was drawn up and sent to member states

for the first time in 2005. The replies were assessed in the recent publication *Combating violence against women – stocktaking study on the measures and actions taken in Council of Europe member states*. This encourages member states to take a comprehensive and integrated approach to dealing with violence against women and helps establish a harmonised European approach to dealing with the problem of violence against women.

The CDEG Bureau also welcomes the fact that the Assembly recommends that member states raise the awareness of both the public and the relevant authorities of member states to the danger of “date-rape drugs” and encourages the national authorities to alert the public that these drugs are increasingly being used to the detriment of both women and men. This approach should be part of a comprehensive strategy for combating violence against women, as advocated in Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence. The CDEG will certainly take into account this form of violence in its future work.

Appendix 2 – Comments by the Bureau of the European Committee on Crime Problems (CDPC)

After the adoption by the Parliamentary Assembly of [Recommendation 1777 \(2007\)](#) on sexual assaults linked to “date-rape drugs”, the Committee of Ministers decided to communicate it to the CDPC and the other competent Council of Europe bodies for information and possible comments by 30 April 2007. Given that the CDPC will not be meeting in plenary before that date, the Bureau of the CDPC has studied the recommendation and decided to submit to the Committee of Ministers the following comments, which apply to its own sphere of competence.

The Bureau shares the view of the Parliamentary Assembly, which is alarmed at the increasingly frequent reports of cases of sexual violence linked to “date-rape drugs”. It is also in agreement as regards the need to raise awareness of drugs of this type in order to prevent sex offences committed through their use and ensure the successful prosecution of such offences.

The Bureau notes that criminal legislation in the Council of Europe member states considers rape and other sexual assaults as very serious offences.

The Bureau agrees that Recommendation Rec(2006)8 on assistance to crime victims could be an effective directive instrument for member states, to ensure that the interests of victims of sexual assaults committed through the use of “date-rape drugs” are taken into account.

The Bureau also notes that any future convention on pharmaceutical crime should improve control over access to “date-rape drugs”, thus preventing their illegal use more effectively.

Appendix 3 – Comments by the Pompidou Group

The Permanent Correspondents stress that rape constitutes a serious criminal offence independently of any limitation of the victim's ability to give his or her consent. Many factors can influence that ability; intoxication by psychoactive substances is one of them.

The Pompidou Group member states are familiar with the problems relating to sexual assaults where the victims are under the influence of psychoactive substances known as "date-rape drugs". However, insufficient data is available for it to be concluded that the number of sexual assaults linked to these drugs is increasing.

Scientific data show that, in the area of sexual violence and abuse, alcohol is the most common cause of problems. It emerges from studies carried out all over Europe that the most common "date-rape drug" is in fact alcohol. The effects of alcohol are exacerbated by multidrug use, that is to say the use of alcohol combined with other drugs. The combination of psychoactive substances increases their impact on a person's ability to give his or her consent, whether they were taken voluntarily or not.

Consequently, when addressing the "date-rape drug" phenomenon, the most appropriate approach at present will be to gear preventive measures to at-risk behaviours, such as alcohol and multi-drug use. "Date-rape drugs" should not be the subject of specific public awareness campaigns for prevention purposes. On the contrary, work on the prevention of drug addiction has proved that this type of campaign can have harmful effects. Specific information campaigns might draw greater attention to the possibility of administering drugs for the purposes of sexual abuse.

Given the paucity of conclusive data and the wide cultural variations which can be seen as regards drug use in Europe, the Permanent Correspondents feel that there is currently a good awareness of the problems relating to "date-rape drugs" in national contexts. Information on the risks associated with "date-rape drugs" should be included in general measures to prevent drug addiction instead of being specifically highlighted, which could have negative consequences. The same applies to special measures to help the victims of sexual assaults linked to "date-rape drugs". They should be offered the same support and the same treatment as other rape victims. All specific measures, such as testing for "date-rape drugs", should be included in the overall process of assistance and care offered to all rape victims. Before any preventive action or measure is applied in respect of rape victims, its impact on individual rights should be carefully considered.

Given that measures are adopted and implemented with due regard to local contexts, the Permanent Correspondents urge national authorities to exchange points of view and share experience and information.