



# Implementing a Comprehensive and Co-ordinated approach

**An assessment of Poland's response to  
prevent and combat gender-based  
violence**

COUNCIL OF EUROPE



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# **IMPLEMENTING A COMPREHENSIVE AND CO-ORDINATED APPROACH**

***An assessment of Poland's response to  
prevent and combat gender-based violence***

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The opinions expressed in this work are the responsibility of the authors and do not necessarily reflect the official policy of the Council of Europe.



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## I. Introduction

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Gender-based violence is a complex and multifaceted phenomenon. As a result, any attempt to successfully prevent and combat gender-based violence requires well-designed and effectively implemented measures, which address all its dimensions. Research and best practice show that a comprehensive and co-ordinated response to preventing such violence, protecting the victims and prosecuting the perpetrators is most effective. Implementing policies or dealing with the different forms of violence against women in isolation is not sufficient to tackle such a deeply entrenched problem. Achieving the right balance between prevention, protection and prosecution, while prioritising victims' rights and needs, is therefore essential. Building on this recognition, the *Council of Europe Convention on preventing and combating violence against women and domestic violence* (Istanbul Convention) requires States parties to devise and implement comprehensive and co-ordinated policies and measures which, combined, offer a holistic response to all forms of violence against women (Article 7).

The international normative framework has given rise to multiple forms of comprehensive and co-ordinated action. Among the Council of Europe member States, many different models and approaches exist for implementing such interventions. This study attempts to determine a comprehensive and co-ordinated response to gender-based violence, by examining its different, interrelated aspects more closely and by showcasing practical examples from Council of Europe member States. In light of these practices, the study identifies the strong points and deficiencies of comprehensive action taken to address violence against women in Poland. Poland ratified the Istanbul Convention on 27 April 2015; its subsequent implementation requires a comprehensive and co-ordinated approach. This study aims to facilitate this process by offering points for consideration in future policy debates.

### Structure and methodology

This study will proceed in three stages, each building on the previous stage. Firstly, comprehensive and co-ordinated policies and measures will be discussed in light of the standards established by the Istanbul Convention (Section II), illustrating their practical application through examples of best practice from Council of Europe member States (Section III). The research concerning examples of best practice has been desk-based, drawing on existing studies carried out in the field.

Secondly, the study will assess the current Polish legal, policy and institutional framework in the field of violence against women with a particular focus on identifying elements for a comprehensive and co-ordinated approach (Section IV). Information on the Polish framework has been obtained through a combination of desk-based research, policy analysis and expert advice. The authors of this study also participated in an expert meeting in Warsaw on 19 November 2014, organised by the Ministry of Family, Labour and Social Policy, under the EEA and Norway Grants funded project "Polish Family – Free from Violence".

Finally, the study will return to what comprehensive and co-ordinated interventions mean in a European context, so as to provide a model approach and a set of recommendations to support the Polish authorities in their efforts to ensure a holistic response to addressing violence against women in all its forms (Section V).

The opinions expressed in this work are the responsibility of the authors and do not necessarily reflect the official position of the Council of Europe, nor do they bind in any way the future work of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) or that of the Committee of the Parties to the Istanbul Convention. It should further be noted that this report has been drafted in English and is based on English translations of Polish laws and policy documents. It may consequently include some translation errors.

## II. Normative framework for a comprehensive and co-ordinated response to violence against women

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### A. From isolated interventions to a holistic approach

A comprehensive and co-ordinated approach looks at and addresses the causes, manifestations and consequences of violence against women and girls. A review of past national and international efforts shows, however, that such an approach has only recently been recognised as a vital element for eradicating this serious violation of human rights. Until the 1980s, violence against women was regarded mainly as a private act between individuals, the result of a person's deviant behaviour, undeserving of State intervention. In Europe, it was women's rights organisations that first identified the need and began supporting female victims, for example by setting up shelters and helplines and providing specialised support. These organisations, backed by findings from research in the field of women's and gender studies, were the driving force behind increased prominence of the issue on the international agenda in the 1990s. The issues raised by these organisations and in the research were also reflected in a growing body of case-law from the European Court of Human Rights and other international bodies relating to the right of women not to be subjected to violence.<sup>1</sup> Cases only reach these courts and bodies when domestic remedies at the national level have failed. Consequently, these cases provided a strong illustration of State failure to respect, protect and fulfil human rights from the point of view of the victim and her appraisal of how her human rights had been affected. The emerging case-law also revealed a need for co-ordinated and comprehensive responses and placed the responsibility on the State to effectively and diligently prevent and combat gender-based violence.

Over the last three decades these developments have resulted in the adoption of several key international instruments: General Recommendation 19 to the Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter CEDAW) in 1986, and other decisions and recommendations adopted by the CEDAW Committee; the UN Declaration on the Elimination of Violence Against Women, in 1993; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, in 1994; the Beijing Declaration, in 1995; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, in 2003; and Council of Europe Recommendation (2002)5 of the Committee of Ministers to member States on the protection of women against violence; to name only a few.

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<sup>1</sup> See for example: Equal access to justice in the case-law on violence against women before the European Court of Human Rights. Council of Europe, September 2015. Available at: [http://www.coe.int/t/DGHL/STANDARDSETTING/EQUALITY/03themes/access\\_to\\_justice/Court%20doc%20eng.pdf](http://www.coe.int/t/DGHL/STANDARDSETTING/EQUALITY/03themes/access_to_justice/Court%20doc%20eng.pdf)

These efforts have certainly had an impact in Council of Europe member States and have contributed to increased intervention on the part of State authorities. State interventions range from the adoption of laws, including the introduction of criminal offences covering different forms of violence against women, and national action plans to the provision of specialised services and access to effective protective measures under civil and criminal law. As member States have increasingly developed more sophisticated intervention systems, the best practice examples have revealed that a comprehensive approach to preventing and combating all forms of violence against women is essential in any attempt properly to address the issue. Dealing with violence against women through the criminal justice system alone will yield few results, and the same applies to investing in support infrastructure without adopting substantial legislative changes. Similarly, no intervention to reduce gender-based violence can be effective without a change in mentalities and without tackling harmful stereotypes and attitudes towards women and victims.

Drawing on international and European standards and case-law, as well as on best practices and lessons learned at national level, the Istanbul Convention is the most recent and far-reaching development in this long line of initiatives. The Convention provides a condensed and detailed blueprint for action, to prevent violence against women, prosecute perpetrators and protect women and girls.

## **B. The Istanbul Convention's requirement for comprehensive and co-ordinated policies and measures**

A comprehensive and co-ordinated approach to violence against women is a key requirement of the Istanbul Convention, stemming from the principle of due diligence which establishes the positive obligation for States to respond effectively to all acts of violence (Article 5). The Convention organises measures and policies around three main pillars: the prevention of acts of violence against women, protection against such acts and the prosecution of perpetrators. Given that these are interlocking and interdependent pillars, an integrated and well-functioning intervention system must be put in place taking into account how each of them contributes to the overall structure.

Article 7, paragraph 1 of the Convention therefore explicitly requires under that comprehensive and co-ordinated policies should be adopted and implemented so as to permit a holistic response to all forms of violence against women and domestic violence covered by the treaty. These include domestic violence, psychological violence, sexual violence and rape, forced marriage, female genital mutilation, stalking, forced sterilisation, forced abortion and sexual harassment.

As the explanatory report to the Istanbul Convention points out, Article 7, paragraph 1 requires States parties to “devise and implement policies (comprising) a multitude of measures to be taken by different actors and agencies and which, taken as a whole, offer a holistic response to violence against women”.<sup>2</sup>

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<sup>2</sup> Paragraph 64 of the Explanatory Report.

### *Article 7 – Comprehensive and co-ordinated polices*

**(1)** Parties shall take the necessary legislative and other measures to adopt and implement State-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention and offer a holistic response to violence against women.

**(2)** Parties shall ensure that policies referred to in paragraph 1 place the rights of the victim at the centre of all measures and are implemented by way of effective co-operation among all relevant agencies, institutions and organisations.

**(3)** Measures taken pursuant to this article shall involve, where appropriate, all relevant actors, such as government agencies, the national, regional and local parliaments and authorities, national human rights institutions and civil society organisations.

A holistic response also entails looking at the “full picture” and establishing a well-functioning intervention system that allows victims to access protection and support regardless of where they reside. For this reason, paragraph 1 introduces the obligation to ensure that policies and the ensuing measures are applied throughout a State’s territory.

Another key element in responding holistically is ensuring that all relevant authorities, institutions, and professionals involved in preventing and combating violence participate in the intervention systems established by States parties. Due to the complexity of the issue of violence against women, the Istanbul Convention is based on the premise that no single agency or institution can deal with violence against women and domestic violence on its own. Best practice shows that the results are enhanced when the police, the judiciary, women’s non-governmental organisations, child protection agencies and other relevant partners join forces to work on a case or work together to develop or deliver services. For this reason, paragraph 2 establishes the obligation for States parties to ensure that all relevant agencies, institutions and organisations implement comprehensive polices and measures by way of effective multi-agency co-operation. This implies that strategies, protocols and guidelines should be adopted across a broad spectrum of institutional and professional cultures, as well as at different levels. But also that, an effective framework be set up in order to ensure proper co-ordination so that all sectors and levels are appropriately engaged.

Paragraph 3 of Article 7 expands upon the requirement for effective co-operation by calling for an inclusive approach to the process of adopting and implementing comprehensive policies and measures. Where appropriate, States parties must ensure that the expertise and perspective of all relevant stakeholders is taken on board. The paragraph includes a non-exhaustive list of actors such as government agencies, national, regional and local authorities, and civil society organisations. Involving women’s and victims’ rights organisations or non-governmental organisations working with specific groups of victims such as migrant or disabled women, is an effective way to include the victim’s perspective in all policies and measures. The obligation to involve and support the work of non-governmental and civil society organisations is further specified in Article 9.

One final, yet essential, requirement of Article 7 is the obligation laid down in its paragraph 2 to adopt a victim-centred approach when implementing comprehensive and co-ordinated policies and measures. Such policies and measures can only be effective if they are based on the premise that the victim's needs and rights should remain at the centre of attention. This obligation targets professionals coming into contact with victims, but also seeks to ensure that there are effective measures in place empowering victims to avail themselves of the rights to which they are entitled.

### III. Criteria for a comprehensive and co-ordinated response

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This section outlines what is meant by “comprehensive and co-ordinated” and how to ascertain whether steps being taken to ensure such an approach. For this purpose, four criteria have been identified on the basis of international norms, as well as the standards established by the Istanbul Convention. In the process, this section provides a tool for: i) identifying best practice examples, and ii) identifying strengths and deficiencies in the Polish legal, policy and institutional framework. The four criteria are:

- ☞ ***A gender sensitive approach to violence against women:*** all forms of violence against women are addressed simultaneously as a manifestation of gender-based discrimination against women, rather than providing a separate and fragmented approach to the different forms, with no explicit link being made between them.
- ☞ ***A three-tiered approach (prevention, protection and prosecution):*** all three main pillars of action are duly covered. The three pillars are interlinked and complement each other. At the same time, each individual pillar follows a comprehensive approach.
- ☞ ***Multi-sectoral, multi-agency and multi-level co-ordination:*** an integrated approach is developed and implemented allowing all relevant sectors and actors to co-ordinate effectively and systematise action at all administrative levels.
- ☞ ***Instruments and tools for ensuring an effective response in practice:*** a consistent response is ensured through the introduction of instruments and tools that effectively implement, monitor and review existing legislation and policies including: shared standards, guidelines, protocols and by-laws across the sectors and actors that respond to violence against women; adequate and systematic training; regular monitoring, evaluation and review of legislation, policies and practice; regular and system-wide data collection; and allocation of sufficient financial resources.

The following sub-sections will discuss the meaning and implications of each criterion and will illustrate these using selected best practice examples. On the basis of these examples, a series of indicators will be identified at the end of each sub-section for use in assessing conformity with the identified criteria. Selected examples of best practice have been prioritised on the basis of two considerations: a) European and international recognition of the practice, and b) regional, socio-cultural/religious and political resonance with the Polish situation.

## A. A gender sensitive approach to violence against women

A gender sensitive approach addresses the characteristics of each form of violence against women, while recognising the connection between all these forms as a manifestation of gender-based discrimination. This dual approach is essential in effectively tackling such a complex problem.

The Istanbul Convention, for example, defines violence against women as including domestic violence, stalking, physical and psychological violence, sexual violence including rape, female genital mutilation, forced marriage, forced abortion, forced sterilisation, and sexual harassment.<sup>3</sup> It is important to have specific policy interventions for each of these forms of violence. The impact – both physical and psychological – that an act of violence has on a victim’s life, as well as the specific needs of the victim, will vary depending on the form of violence. However, bringing all forms under the common umbrella of violence against women is instrumental in addressing the continuum of multiple, interrelated, and sometimes recurring, forms. The Convention draws a link between these different forms of violence in its definition of violence against women:

*“a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;” (Article 3 (a))*

This umbrella concept of violence against women, including all forms of violence, is based on the common root of discrimination against women and recognises that such violence is both a cause and a consequence of an imbalance of power between women and men. In other words, violence against women in all its forms is deeply rooted in gender inequality. As such, it should not be considered as abuse experienced individually by women: it needs to be understood as a social problem, a means of enforcing the subordination of women in all spheres of society. The lower socio-economic status of women in society, patriarchal attitudes and customary practices aimed at controlling women and their sexuality help to perpetuate such violence. Widespread impunity and significant disparities in State responses to such violence compared with other forms of violence leave many women unprotected and without recourse to justice. As a result, significant numbers of women are barred from fully enjoying their human rights, developing their full potential and leading independent lives.

One possible way of incorporating a gender sensitive approach in policy interventions is to address all forms of violence against women under one set of legal and policy instruments, so that they are treated as a single policy problem. Another possibility is to adopt “single-issue” legislation and policies for each specific form of violence, subsequently linking these forms by means of an integrated strategic plan on violence against women. Setting up a strategic enforcement body might further reinforce this solution (See Section III.C).

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<sup>3</sup> Article 3, paragraph 2, and Articles 33 to 40 of the Istanbul Convention.



Regardless of the preferred approach, policy interventions should focus on gender-based discrimination and recognise the common features of the different forms of violence against women and the interventions addressing them. If one looks at comprehensive interventions along these lines, the Swedish model emerges as a key best practice.

### *The Swedish Model*

Sweden's response to violence against women has been influenced by two waves of reforms. The first wave was launched by the entry into force in 1998 of the *Government Bill on the Protection of Women's Integrity* (1997/1998:55). The Bill recognises men's violence against women, particularly in close relationships, as a "serious social problem" resulting from an imbalance of power between women and men. It defines violence against women as an umbrella term covering: physical, sexual and psychological violence occurring in the family and in society, as well as violence perpetrated or tolerated by the State. It also focuses specifically on intimate partner violence, female genital mutilation, sexual harassment in the workplace, trafficking in women and forced prostitution. The Bill established a comprehensive programme of measures across a wide variety of policy and legal fields aimed at combating violence against women and tackling the roots and social structural causes of this problem. Proposed action was based on mutual respect, consideration and tolerance between independent women and men in the home, on the streets and in the workplace, as the foundation of an equal society. The recognition of the common and gender-specific nature of violence against women served as a guiding principle for amending several pieces of legislation and policies including the Criminal Code, the Social Services Act and the Equality Act. In addition to legislative improvements, extensive preventive measures and improved treatment of women victims by public authorities were also introduced by the Bill.

In 2007, a similarly comprehensive reform package was introduced by the *Action plan for combating men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships* (Skr. 2007/08:39).<sup>4</sup> The Action Plan extended protection and support to gay, lesbian, bisexual and transgender (LGBT) people exposed to violence perpetrated by their partners. The plan indicated that "action to combat men's violence against women must proceed from a judicial, social, economic and health-related perspective, and also from a gender equality perspective." Given that the legal framework has largely been established by the previous reform, the Action Plan concentrates on victim support and protection, as well as awareness-raising and enhancing knowledge and competence in society at large and among relevant stakeholders. The basic premise of the Plan was to "work across all areas of policy, overriding ministry and agency lines, with the perspective of those at risk as the point of departure and based on the knowledge available concerning the areas concerned."

<sup>4</sup> <http://www.regeringen.se/content/1/c6/09/86/53/eeacc54.pdf>

Sweden's two waves of reforms have clearly brought the element of gender equality to the forefront: firstly, by linking different forms of violence against women through their mutual gender sensitive analysis and, secondly, by linking the different interventions to the common gender equality framework. Both reforms maintain separate laws and policies for the distinctive forms of violence, yet they identify a common and specific discrimination framework.

Another noteworthy approach has been taken by Slovakia, a country which, as compared to Sweden, entered into the process of developing policies to combat violence against women much later. Slovakia has been addressing violence against women since 2004 through the adoption of three consecutive national action plans.

### *Slovakia's National Action Plan for the Prevention and Elimination of Violence against Women (2014-2019)*

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Slovakia's recently adopted National Action Plan (NAP) stands out as a promising best practice, although it is too early to assess whether it will produce the expected results. The NAP adopted the definition of violence against women under Article 3(a) of the Istanbul Convention, regarding it as a form of discrimination and a human rights violation covering acts of physical, sexual, psychological and economic violence. By recognising such acts of violence as gender-based, it established a framework of action that takes into consideration the social structural roots of the problem. It draws an explicit link between the phenomenon and the existence of stereotypes concerning the role of women and men in the family and in society. The actions included in the Plan focus on general violence against women, and its specific forms, primarily domestic violence and rape, while also covering sexual harassment to some extent. The Plan does not address all victims of domestic violence (in particular violence against children), which are considered to be sufficiently covered by other strategic documents. Restrictions of reproductive rights, crimes committed in the name of so-called "honour" and female genital mutilation are mentioned as additional forms that may need to be addressed. Although the Plan notes that no cases of these forms of violence are known in Slovakia, it recognises the need to pay attention to them in relation to specific vulnerable groups of women such as migrants.

In terms of specific measures, legal, administrative and institutional changes and awareness-raising measures are expected to be introduced. Preventive and protective actions will be developed, mostly focusing on domestic violence and rape but also contributing to addressing other forms of violence against women. For example, raising public awareness, and training service providers to develop a gender sensitive understanding of domestic violence, will also help develop gender sensitive understanding of other forms of violence such as stalking or sexual harassment.

The Slovakian NAP effectively illustrates the possibility of introducing a comprehensive gender equality approach to violence against women through an umbrella NAP. The weakness of the Slovakian plan, however, is its vulnerability to poor implementation possibly deriving from its extremely wide scope of application.<sup>5</sup> In order to ensure effective implementation, such comprehensive plans need to include a very precise determination of responsibilities, precise allocation of resources and close co-ordination and monitoring mechanisms to ensure that they are comprehensive in both their wording and implementation.

A third possible approach would be to include specific objectives to combat violence against women in policy interventions that deal separately with specific forms of violence, such as, for example, in domestic violence, sexual harassment and stalking legislation, in sexual violence and rape policies, or in policies addressing cultural forms of violence such as forced marriages or female genital mutilation. Consequently, although these laws and policies may be separate from each other, when implemented together they recognise and respond to the deeply gendered dynamics of violence against women as a whole.

### *The Spanish framework*

Spain's Organic Act 1/2004 of 28 December on Integrated measures against Gender Violence adopted a gender sensitive approach to addressing male domestic violence against women (referred to as "gender violence" in the Act). As such, the Act focused specifically on the rights of female victims of domestic violence occurring between current or former spouses or partners, regardless of whether they share a residence or not. At the level of the measures it implements, the Organic Act also reflects a structural gender sensitive approach. It not only addresses the symptoms of intimate partner violence against women, but also tackles the traditional, differentiated manner in which women and men are socialised, with a view to achieving greater gender equality.

The Act thus introduces prevention and protection actions such as awareness-raising measures and interventions in formal education, with a strong focus on the empowerment of women. Helping women to enjoy their rights fully and increasing their capacity to make real decisions about their lives are cornerstones of the Act. While the law primarily tackles intimate partner violence, evaluations have shown that the law has helped increase social awareness in relation to violence against women in general.

<sup>5</sup> Some precautionary remarks have already been made by the Slovak National Centre for Human Rights in its Observations to the Fifth and Sixth Periodic Reports of the Slovak Republic to the UN Committee on the Elimination of all Forms of Discrimination against Women (2014). Available at: [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SVK/INT\\_CEDAW\\_IFN\\_SVK\\_19377\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SVK/INT_CEDAW_IFN_SVK_19377_E.pdf)

Spain's most recent National Strategy on Violence against Women (2013-2016) complements and goes beyond the scope of the Organic Act by addressing the elimination of violence against women more broadly. The Strategy devotes a specific general objective (No. 4) to providing assistance regarding and raising the visibility of other forms of violence against women such as forced marriage, female genital mutilation, trafficking women and girls for sexual exploitation, and sexual harassment and sexual violence. In this respect, the measures comprise the inclusion of information on different manifestations of violence against women in several key regulations, awareness-raising among service providers, increasing collaboration with migrant associations, and promoting the implementation of sexual and gender-based harassment prevention measures at the central administration level.

As mentioned, two main aspects emerge with respect to ensuring a gender sensitive approach: covering all forms of violence against women, while explicitly addressing them as a form of discrimination reinforcing gender inequality. The promising best practices discussed in this sub-section point to two possible ways of achieving a gender sensitive approach to violence against women. The Swedish approach tackles violence against women as a form of gender discrimination, with all its different manifestations, at the highest possible legal level. In this context, all the regulations on different forms of violence against women link back to this legal framework. What is characteristic of the Swedish model is the very early introduction of a gender sensitive approach, as from the 1980s.

The other approach, which is much more widespread throughout Europe, is built on the process of gradually addressing different forms of violence against women, particularly domestic violence, sexual violence and rape, as well as sexual harassment, and only later identifying them as gender-based violence. In this case, the introduction of overarching strategic plans and co-ordination mechanisms combining different forms of violence, while highlighting their common cause, seems more feasible. It is from such a strategic level that all existing regulations on different forms of violence can be linked together and be reviewed and connected with a gender perspective in mind.

#### *Indicators for assessing a gender sensitive approach to violence against women*

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- ✓ Explicit link made between different forms of violence against women, discrimination against women and structural gender inequality;
- ✓ Existence of interventions targeting structural and thus de facto gender equality;
- ✓ Existence of an umbrella policy on violence against women covering all forms of violence against women;
- ✓ Inclusion of specific measures aimed at empowering victims and women in general.

## B. A three-tiered approach: prevention, protection and prosecution

Addressing prevention, protection and prosecution simultaneously represents another criterion of comprehensiveness. As discussed under Section II.B, the Istanbul Convention follows international norms and best practice at national level in proposing action along the three “Ps”: **prevention of violence, protection of victims, and prosecution and punishment of perpetrators**. These three pillars of action complement each other: none of them is sufficient on their own to address violence against women. Each pillar serves a different purpose and has a different logic behind it.

**Prevention** is a key element in addressing violence against women and domestic violence. While protection and prosecution deal with the symptoms of violence once it has occurred, prevention focuses on the root causes of the problem at societal level in order to stop violence from happening in the first place. In general, prevention programmes are aimed at transforming social perceptions of violence against women and the power relations that lead to or reinforce such violence. Violence against women is a deep-rooted problem, and addressing it entails changing mind-sets and ultimately behaviours that support discrimination and violence against women. The message must be conveyed to potential perpetrators and victims, as well as to society as a whole, that such violence is not tolerated. It is also necessary to train all the relevant professionals to recognise and effectively handle such violence when they encounter it in their work.

The second pillar, **protection**, focuses on the provision of safety and support to victims. Protection places the victims – their rights and needs – at the centre of all interventions, and consists in implementing both emergency and long-term measures. Such measures may include legal, psychological, and economic assistance, as well as providing safe. An essential component of protection is establishing the necessary conditions for the victim’s independence from the perpetrator by assisting victims in escaping situations of violence through, for example restraining orders or emergency barring orders, and empowering victims and keeping them safe throughout investigation and judicial proceedings.

**Prosecution** is meant to deter violence, end impunity and prevent recidivism by the force of law. Criminalising all forms of violence against women is crucial: it signals State recognition of the existence of such violence, the characteristics and aggravated nature of such crimes, as well as the importance of making perpetrators accountable. Some forms of violence against women, such as psychological violence and sexual harassment are often not perceived as serious in comparison with murder, assault or rape. However, these forms of violence severely limit the ability of women and girls to lead their lives, and particularly, to exercise their right to freedom of movement, association and expression, and their right to work and access education. If women and girls see that these “lower level” forms of violence are not addressed, this undermines their faith in society and in the State to take action to stop the violence and to support them. It also sends a strong message to perpetrators that their behaviour is tolerated and will go unpunished. Criminal law provisions on domestic violence, rape, stalking, and other forms of violence against women are key to comprehensive action. The aggravating circumstances of criminal acts should also be taken into consideration during sentencing, for example, if the offence was

committed repeatedly, if it was committed through abuse of authority, or if it was committed in the presence of a child. Beyond developing substantive legislation, due care also needs to be devoted to the procedural aspects of prosecution. This means that investigations and judicial proceedings should be carried out without undue delay and in an effective manner, enhancing effective sanctioning and ending impunity for perpetrators. At the same time, respecting the rights of victims, preventing repeat and secondary victimisation during investigations and judicial proceedings, and providing victims with assistance are equally important. For example, Article 56 of the Istanbul Convention lists a series of protective measures for victims, particularly in their role as witnesses. These measures not only ensure victims' safety and prevent secondary victimisation, but also – as research shows<sup>6</sup> – have a great potential to increase the efficiency of investigations and judicial proceedings, and increase victims' confidence and trust in law enforcement agencies and the justice system.

Responses that do not address all of these three pillars fail to address violence against women as a whole. One problem often observed is that laws addressing violence against women or domestic violence cover prosecution but fail to introduce elements of protection. In some cases, prosecution and protection are covered, but systematic prevention is lacking. In yet other cases, although widespread awareness-raising campaigns and training programmes are provided for, neither comprehensive prosecution nor effective protection is guaranteed. There are different ways to ensure a well-functioning, three-tiered approach. Adopting comprehensive national strategies on all forms of violence against women is one possible way of ensuring that all three pillars are covered. Comprehensive laws on specific forms of violence against women, such as domestic violence, represent another solution. Such fragmented approaches can also achieve comprehensiveness in these terms, as long as they duly cover all the pillars.

### *Spain's three Ps approach*

The *Organic Act 1/2004 of 28 December* provides a legal framework for comprehensiveness as regards prevention, protection and prosecution, in so far as domestic violence is concerned.

The Spanish **prevention** pillar places equality, respect for human dignity and individual liberties at the centre of the actions taken. Under the Act, authorities are to be provided with effective instruments for preventive public awareness-raising in the fields of education, social services, health, and advertising and the media. The *education* system has the duty, by law, to incorporate the principles of equality between women and men in its objectives from the pre-school level to that of adult education.

<sup>6</sup> Research from the United Kingdom and the Netherlands shows that advocacy is an effective means of supporting women victims of domestic violence in the criminal justice system and helping to prevent attrition. Women receiving support from specialised advocacy services are “more likely to give evidence and [be] more satisfied with legal proceedings.” The research results are quoted by Hagemann-White, Carol, Judith Katenbrink and Heike Rabe (2006) *Combating violence against women – Study to assess the measures and actions taken in Council of Europe member States*. Council of Europe: Strasbourg. Available at: [http://www.coe.int/t/dghl/standardsetting/equality/03themes/violence-againstwomen/CDEG%282006%293\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/equality/03themes/violence-againstwomen/CDEG%282006%293_en.pdf)

Educational inspection services and authorities oversee compliance with this obligation and are mandated to ensure that sexist, discriminatory stereotypes are removed from all educational materials. The role of *advertising and the media* is also addressed by the Organic Act. All advertising materials must respect the dignity of women and their right to an image that is neither stereotyped nor discriminatory. Legal initiatives for the removal or rectification of media content may be taken by a number of actors, including gender equality organisations. Journalistic coverage of violence against women in specific cases is expected to be respectful of the human rights, the freedom and dignity of the victims, while ensuring due respect of journalistic objectivity. The various authorities are also obliged to promote self-regulation agreements, as well as to promote *information, awareness-raising and prevention campaigns*.

**The protection and support** measures provided for under the Spanish system guarantee the right of victims of intimate partner violence to information, integrated social assistance and legal aid; they also secure their rights in relation to employment and social security, and their economic rights including social aid and access to housing for the elderly. Victims have the *right to receive tailor-made comprehensive information and advice* from authorities concerning their rights and the assistance available to them. Victims are entitled, by law, to receive *care, crisis support and shelter, and integrated recovery services* based on the principles of 24-hour attention, urgent action, specialised care and professional multidisciplinary care. Multidisciplinary care in all cases involves the provision of information to victims, psychological assistance, social assistance, monitoring of women's rights related claims, educational support for the family unit, preventive training on equality, as well as support in employment, training and integration matters. Minors under the authority or custody of the victim are entitled to integrated assistance through these services. Measures are in place for early detection and assistance to victims in healthcare facilities. Attention is also paid to multiple discrimination.

The system also gives specific heed to the *economic independence and empowerment* of victims: support measures exist in terms of employment and social security. Women victims who work are entitled to a reduction or reorganisation of working hours, geographical mobility, change of workplace, suspension of employment, and the termination of their employment contract. Special assistance is available for victims lacking sufficient economic resources or unemployed victims. Women victims are also considered a priority group for *access to subsidised housing and residences* for the elderly. *Judicial victim protection and security measures* are also an integral part of the system.<sup>7</sup> Protection orders have to be issued within 72 hours of reporting. The judge may order the perpetrator to leave the family unit's residence and prohibit their return. The judge may also order the perpetrator not to approach the protected person, or go near her home, workplace or any other place that she frequents. Technological means may be used to alert authorities of non-compliance with such orders. Breaching the order constitutes a criminal offence punishable by imprisonment. The judge may suspend the alleged perpetrator from exercising their parental authority, custody or guardianship, or visitation rights.<sup>8</sup>

<sup>7</sup> Based on the Organic act 27/2003 (OL 27/2003) of 31 July 2003 on Protection Orders for victims of domestic violence and the Organic Act of 1/2004.

<sup>8</sup> For effective establishment of support services see: Kelly and Dubois (2008) Combating violence against women: minimum standards for support services, Council of Europe.

The Spanish framework also foresees a series of measures that are aimed at supporting women through legal proceedings. Women victims of gender-based violence who have insufficient means to initiate legal action, have the *right to free legal representation* in all administrative proceedings with the same counsellor handling all processes. Victims are guaranteed free, specialist legal services, available immediately.

The Organic Act also covers **prosecution**. Both substantive and procedural criminal provisions are in place to ensure accountability and criminal liability of perpetrators and protection of victims. Under the *substantive legislation*, the Criminal Code prescribes that whoever causes mental damage or injury not defined as a crime to another person, or strikes or mistreats a current or former wife or partner, with or without cohabitation, or a specially vulnerable person living with the perpetrator, shall receive a custodial sentence of six months to one year or shall complete thirty-one to eighty days of community service. Offences of injury, minor threats and minor coercion against such women are treated as punishable offences carrying increased penalties. Specific rules of procedure are in place allowing *fast-track summary trials* in criminal and misdemeanour proceedings for domestic violence cases. Furthermore, the judge may order the *suspension of the right to possess, carry and use weapons* in the case of those accused of offences related to “gender violence”. In addition, the Organic Act lays down a *prohibition of mediation* for all cases coming under its scope.<sup>9</sup>

### ***Austria's protection and support system***

Established by the Protection against Violence Act that entered into force in 1997 (subsequently amended in 2009 and 2013), the Austrian system is built around and places special emphasis on the **protection and support of victims**, making it a good example of a comprehensive response in this specific ‘P’ pillar. One of the key elements of the Austrian model is the police eviction/emergency barring order. It is accompanied by a civil court protective temporary injunction. The third element of the system is a network of intervention centres providing proactive and comprehensive assistance to victims. In the Austrian system *risk assessment* is a central part of police intervention for every domestic violence case. If the assessment concludes that the life, health and liberty of the person(s) is in danger, the police evict the perpetrator from the dwelling with immediate effect. The duration of the police order is 14 days, and it may be extended for up to four weeks if the affected person requests a civil law injunction. As a next step, the police inform the competent intervention centre immediately and the Youth Department in cases where children are involved. The police monitor compliance with the barring order, and violation of such an order is sanctioned by a fine, removal of the perpetrator by force, or arrest in the event of a repeated violation. A *court injunction* may be requested by the person affected by violence and by the Youth Department if children are involved. If related procedures (for example, divorce) are taking place, the order remains in effect until the termination of the procedure. Generally speaking, the system has been developed in such a way as to guarantee that the protection chain is uninterrupted.

<sup>9</sup> For a co-ordinated and integrated criminal justice response to violence against women, see: UNODC (2014) Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women.



*Intervention centres* are an indispensable part of the system. They are operated by women's non-governmental organisations in all nine provinces of Austria and financed from the State budget. The centres use a proactive approach in their work: when notified by the police, they actively contact victims to offer their assistance and ensure proper follow-up. The centres provide comprehensive assistance for victims, including safety planning, legal aid in both civil and criminal cases, medium- and long-term counselling, financial and housing support, as well as anti-violence training for men. They play a key role in multi-agency co-operation, by co-ordinating the intervention and working processes to improve co-operation between the relevant authorities and institutions. In addition, a 24/7 free, national women's *helpline* is also operated.

Initially, at the time of the adoption of the law, **prosecution** was identified as a missing element for a comprehensive response. The offence of stalking has since been included in the Criminal Code, and civil law measures aimed at deterring perpetrators from committing further acts are also provided for. The Criminal Code covers the serial perpetration of violence as a specific offence if the perpetrator repeatedly commits acts of violence against another person over an extended period of time.

This ensures a substantive criminal law response to the specific nature of domestic violence. *Measures under criminal procedural law* are also available. Victims – as well as dependent witnesses – of violence, dangerous threats or sexual violence are entitled to free psychosocial and legal assistance, as well as being guaranteed sensitive questioning. Finally, in order to facilitate prosecution and collection of evidence on acts of violence against women, professionals have access to a documentation form for the court.<sup>10</sup>

The essence of this criterion is that prevention, protection and prosecution are to be addressed comprehensively and separately, but also in relation to each other. Spain also offers a good example of introducing a three-tiered approach in one single legal document, the Organic Act, for one specific form of violence (domestic violence). It is also quite unique in that it includes specific obligations and measures in the field of prevention. On the other hand, the Austrian example, where the prosecution element was originally not given due attention, illustrates State reforms to help overcome gaps in victim protection and support by guaranteeing an uninterrupted intervention chain. Comprehensive protection and support also mean that a wide range of help and support measures are available to victims. The best practice cases demonstrate this effectively. Spain should be commended for its outstanding inclusion of economic empowerment for victims. In the case of Austria, psychosocial and legal assistance for victims of violence during criminal and civil procedures not only helps to protect and empower victims, but also has the potential to bring perpetrators to justice, thus reinforcing the element of prosecution.

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<sup>10</sup> Sources: Logar, Rosa (2005). The Austrian model of intervention in domestic violence. Paper prepared for the Expert Group Meeting: "Violence against women: Good practices in combating and eliminating violence against women", organised by the UN Division for the Advancement of Women; Logar, Rosa (2014). Mapping the Legislation and Assessing the Impact of Protection Orders in the European member States (POEMS), National report Austria; European Institute for Gender Equality (2014). Eliminating Violence against Women in Europe -Intersectoral Approaches and Actions. Conference report Vienna, 25-26 November, 2013.

Finally, State responses can only be considered to fully comply with a three-tiered approach if they provide protection to *all* victims of violence against women. In the case of domestic violence, victims should have access to preventive, protective and supportive measures if the violence has occurred in their family or domestic unit. According to Article 3 (b) of the Istanbul Convention, this also covers former or current spouses or partners, whether or not the perpetrator and the victim share a common residence. The provision of protection and support should be ensured without discrimination on any ground (for example, family status, the nature of the relationship between the victim and the perpetrator, or a shared residence). In this context, the special needs of vulnerable victims should also be addressed, thus taking into consideration multiple discrimination.<sup>11</sup> Spain sets a good example for being comprehensive in this sense as well.

### *Indicators for assessing a three-tiered approach*

- ✓ Due consideration is taken of all three pillars, prevention, protection, prosecution, in the legislative and policy framework;
- ✓ Application of a comprehensive approach in each of the three pillars;
- ✓ In the field of prevention, existence of clear roles and responsibilities for all relevant actors, including the public education sector and the media;
- ✓ Existence of comprehensive protection and assistance measures for victims, including measures applicable in cases of immediate danger, and ensuring long-term protection - guaranteeing a continuous protection chain -, as well as measures targeting the economic empowerment of victims;
- ✓ Existence of both substantive and procedural measures in criminal legislation for all forms of violence against women and domestic violence, guaranteeing accountability of perpetrators and effective sanctioning of crimes, while at the same time providing protection and empowerment for victims in investigations and judicial proceedings;
- ✓ Providing protection and support for all victims of violence; and addressing the specific needs of vulnerable victims affected by multiple discrimination.

<sup>11</sup> See for example the Istanbul Convention's Articles 3 and 43 regarding wide personal scope, Article 4, paragraph 3 regarding non-discrimination in the provision of help and support, and Article 18, paragraph 3 regarding addressing the specific needs of vulnerable persons.

### C. Multi-sectoral, multi-agency and multi-level co-ordination

Violence against women is a complex social issue. Addressing such complexity requires an intervention system to be established that involves all relevant policy sectors, administrative levels and actors. The purpose of multi-sectoral, multi-agency and multi-level interventions is to ensure the effectiveness and consistency of measures addressing all forms of violence. When co-ordination of this system is lacking, different and diverging priorities, principles and standards are applied, resulting in the duplication and sometimes contradiction of actions. As each sector pursues its own priorities, tensions may arise and may hinder these sectors from keeping their primary focus on the victim's rights and interests.

Effective multi-sectoral and multi-agency interventions require that all policy sectors and actors are engaged and accountable, namely law enforcement, the judiciary, health, social welfare and child services, employment, education, and general and specialised services for victims. Extensive research and evaluation of existing co-ordinated interventions also demonstrate the importance of involving – in addition to sectoral stakeholders - autonomous victims' rights advocates and other relevant NGOs working in the field of violence against women.<sup>12</sup> Developing a shared understanding of violence against women, as well as improving information-sharing and risk assessment through the development of common standards, guidelines and protocols can greatly contribute towards pooling valuable resources and establishing systematic co-operation. Such tools are also instrumental in securing active commitment from all stakeholders.

Co-ordination across the national, regional and local levels is also a key element for ensuring a cohesive response and for providing support to victims across geographical locations. Co-ordination at the national level mainly affects the formulation, monitoring and review of the violence against women policy regime as a whole. It improves consistency and effectiveness of action across all policy sectors by aligning interventions across jurisdictions, and helps to prioritise violence against women across political agendas. Co-ordinated approaches may also facilitate effective monitoring and evaluation of policies and practice, and have the potential to bring consistency to data collection and analysis across sectors.

Effective co-ordination at the regional and local levels is particularly important in terms of providing support and assistance to victims of violence against women. One benefit of facilitating local and regional co-operation is the potential to localise and contextualise responses to violence against women. Responses will often vary depending on local contexts and community needs. For example, site-specific stakeholders can be involved, such as representatives of minority organisations, where there is a significant minority

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<sup>12</sup> See for example: Allen, Nicole E. (2006). "An Examination of the Effectiveness of Domestic Violence Coordinating Councils." *Violence Against Women* 12: 1 (January): 343-360; Mallios, C., Markowitz J. (2011). Benefits of a coordinated community response to sexual violence. *Strategies in Brief* (issue 7), AEquitas, Washington, DC.; Martin, P. Y. (2007), "Coordinated community services for victims of violence", in O'Toole, L. L., Schiffman, J. R. and Kiter Edwards, M. L. (eds) *Gender Violence: Interdisciplinary Perspectives*, 2/e. New York, New York University Press.

population, or representatives of organisations or institutions that may be particularly relevant for a given community (for example, university delegates in the proximity of university campuses). Local level co-ordinated responses are best at addressing the fragmentation of interventions and providing one-stop-shop services to victims. Furthermore, such responses are also more feasible in terms of applying national policies to local contexts, adapting to changes, and keeping the interests of victims with different backgrounds at the centre of the process throughout all activities.

Multi-sectoral, multi-agency and multi-level co-operation is best facilitated through the coexistence of well-designed national policy documents, such as comprehensive strategies or action plans, and operative co-ordinating institutional mechanisms at the national, the local and possibly the regional level. Article 10 of the Istanbul Convention, for example, requires the establishment of one or more co-ordinating bodies tasked with the co-ordination, implementation, monitoring and evaluation of all policies and measures that are being taken in a State party in order to tackle all forms of violence against women.

Finally, including victims' advocates and non-governmental organisations among the actors responsible for co-ordination is crucial for prioritising the victim's perspective throughout all interventions. The involvement of autonomous women's rights advocates and non-governmental organisations at the local level of co-ordination is particularly important: it provides services closest to the experiences of victims and facilitates communication and mutual learning between women's groups' services and public services. The experience and expertise of non-governmental and civil society organisations is also recognised by the Istanbul Convention. Article 9, for example, requires States parties to establish effective co-operation with such actors and involve them not only in service delivery but also in the formulation and evaluation of policies and responses.

### *Co-ordinated action in Belgium at national level*

In Belgium the main instruments for facilitating co-ordination are inter-ministerial conferences, the Minister for Equality between Women and Men, and the National Action Plan (NAP).

The interventions under the 2010–2014 Belgian National Action Plan to Combat Intimate Partner Violence and other Forms of Domestic Violence, adopted in 2010, were designed according to a co-ordinated approach. The actions were based on the idea that addressing intimate partner violence is a horizontal issue, which requires an integrated approach. This calls for collaboration among all partners, facilitated by the co-ordination carried out by the Institute for Equality between Women and Men, which plays a key role in implementing the NAP. Actions cover intimate partner violence and forced marriage, honour-related violence and female genital mutilation. A support centre was established within the Institute for Equality between Women and Men to assist and assess the implementation of the NAP and encourage the participation of all parties concerned. The objective is that all the measures developed by the different levels of power should be consistent and monitored. An interdepartmental group fulfils this co-ordination role within the institute. Twice a year, the group drafts a progress report and plan for the attention of the Federal Minister for Equal Opportunities, who then takes action.

The group's purpose is also to facilitate the exchange of information between the different parties involved in the implementation of the NAP. The group consists of administrative and federal representatives as well as representatives from the community and regional ministries involved in the fight against intimate partner violence and other forms of domestic violence. The authority for facilitating action to combat these forms of violence is not only shared between several Federal ministerial departments, but also between the Communities and the Regions. These different levels of power are also combined at inter-ministerial conferences at which the main decisions related to this issue are made.

### ***Complex co-ordination in a large federal State: the case of Spain***

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Comprehensive co-ordinated action is a central element of Spanish intervention in the field of violence against women, given the size and multi-level governance structure of the country. The 2004 Organic Act on Gender Violence established the dual structure of the Government Delegation on Gender-based Violence and the State Observatory on Violence against Women, both sharing a remit to promote and co-ordinate policies in this field. These institutions guarantee the effectiveness of the measures taken and make unified proposals for action, ensuring institutional co-operation and co-ordination.

The Government Delegation is based within the Ministry of Employment and Social Affairs. Its functions include the drafting of government policies on violence against women, and co-ordinating and promoting all actions taken in this area. The head of the Delegation is entitled to intervene in court to promote victims' rights and interests. The State Observatory, on the other hand, is a collegiate body attached to the Ministry of Employment and Social Affairs, and serves as a centre for diagnosing and analysing trends in violence against women, as well as advising and collaborating with the Government Delegation in drafting proposals and measures to eradicate violence. The State Observatory is formed by the General Council of the Judiciary (GCJ), which holds the presidency, the Ministry of Justice, the Ministry for Equality, the Office of the State Public Prosecutor, autonomous regional governments of competent jurisdiction, represented through a yearly rotation system, and the General Council of Spanish Lawyers. Tasks include improving co-ordination between the different institutions through involvement in the preparation of action protocols, through studying and analysing judicial decisions and proposals for the improvement and reform of legislation, and through providing specialised training to judges, public prosecutors and other personnel working within the justice system. Since 2007 the State Observatory has adopted annual reports, which provide an analysis of violence against women and intervention measures in the country.

At the regional level, plans are established by Autonomous Communities in order to co-ordinate their activities in preventing and combating gender-based violence. All the Autonomous Communities have established observatories, regional councils for women, specific commissions, monitoring commissions, foundations, offices or councils to tackle gender-based violence. It should be noted that the law defines an obligation for co-ordinated action. Article 32 of the 2004 Organic Act requires authorities to draw up plans for collaboration which facilitate co-ordinated deployment of initiatives for the prevention and prosecution of domestic violence against women and care for victims, involving health authorities, judicial authorities, national law enforcement and security agencies, social service departments and equality organisations.

The National Strategy for the Eradication of Violence against Women (2013–16) also serves as a co-ordinating tool in Spain. One of its main objectives is to align the measures implemented by the different actors and to “gain coherence and consistency and make them part of a harmonious whole.” The Strategy is a manifestation of State commitment by “combining two hundred and eighty-four measures in a single document”. Actions proposed by the Strategy include: the adoption of protocols for inter-institutional co-ordination against gender-based violence in each Autonomous Community, covering all the Departments and Regional Ministries with jurisdiction in this area, as well as all other public and private institutions and entities intervening in cases of gender-based violence (Measure 117).

While national co-ordination is aimed primarily at achieving a coherent, consistent, well monitored and regularly reviewed intervention system between sectors and across levels, local-level co-ordination targets coherent intervention individually at the level of the victim.

Co-ordinated action at the local level is widespread in the United States, but has only been established in a few European countries such as the United Kingdom (MARAC) and Austria for domestic violence, or Northern Ireland, as well as Ireland, for rape and sexual violence (SARC, SATU). Albania is one of the few countries of the Central and Eastern European region that has also set up a network for co-ordinated community intervention.

#### *The United Kingdom’s Multi-agency Risk Assessment Conference (MARAC)*

The MARAC model has helped police in the UK to develop a comprehensive response to domestic violence. A MARAC is a monthly meeting of local agencies including local police, health and housing practitioners, shelter workers and other governmental and non-governmental specialists, including Independent Domestic Violence Advisors (IDVAs), which provide services to domestic violence victims identified as being most at risk.

Having first been organised in 2003 in Cardiff, there are now over 200 MARACs across the UK. MARACs are based on the working assumption that no single agency or individual can see the complete picture of the life of a victim, but all may have insights that are crucial to ensuring her safety. MARAC is not an agency – the responsibility to take appropriate action remains with individual agencies and is not transferred to the MARAC.

The Conference operates at the local level, with meetings chaired by the police. Each meeting deals with 20-30 high-risk cases at a time. Cases are referred for a one-off discussion to a MARAC. IDVAs are trained specialists responsible for managing all MARAC cases. They are responsible for representing the views of the victim at the meeting, and liaising between the woman or girl and partner agencies to ensure that the proposed course of action is safe and appropriate. IDVAs secure important single-entry points to the process for victims, thus preventing secondary victimisation caused by having to retell their story multiple times. The aims of MARACs are to share information, increase the safety, health and well-being of victims, and to determine whether the perpetrator poses a significant risk to any individual or to the general community. MARACs provide a platform for working together to develop and implement a risk management plan that provides professional support to all those at risk and that reduces the risk of harm and repeat victimisation. Improving agency accountability and support for staff involved in high-risk domestic abuse cases is another purpose of a MARAC.

One positive aspect of the MARAC model is that its costs are relatively low. The police and/or the local authority fund the position of the MARAC Co-ordinator or the Domestic Violence Project Officer. This is the only direct cost for the MARAC. The IDVAs, who are also central to the process, may be funded from a variety of agencies. Advisory services may also be provided by a non-governmental organisation that receives funding from grant-providing trusts and foundations. All MARAC representatives attend meetings, track progress on action, and raise institutional awareness of the MARAC as part of their mandates within their respective agency/organisation. As such, each agency contributes to the mechanism and it requires no additional funding. The Co-ordinator and Advisors provide free training as part of their role to all participating agencies, eliminating on-going training costs resulting from staff turnover.

More research is needed to determine the contexts in which the MARAC is the most effective co-ordination mechanism, but other countries such as Austria have re-adapted the model. Practice so far confirms the strengths of the MARAC model, but also shows a series of weaknesses. For example, it shows that consistent participation of members is critical for the MARAC to function effectively, that establishing focal points or designated representatives within each agency is good practice, and that, even if these conditions are fulfilled, domestic violence training is still needed for those who participate. Assessment has also pointed out that the victim-centred approach requires the participation of women's rights advocates in the process and consistent monitoring of practice. Lack of informed consent of victims whose cases are taken before MARACs is one of the main criticisms put forward, as well as the focus placed on extremely severe criminal cases, and a lack of appropriate attention to other cases deemed less serious.<sup>13</sup>

### ***Local co-ordination for sexual violence interventions in Northern Ireland (SARC)***

Northern Ireland's first Sexual Assault Referral Centre (SARC) was established in 2013 to provide victims with a safe, secure and confidential environment with one point of entry. The service is jointly funded by the Department of Health, Social Services and Public Safety (DHSSPS) and the Police Service for Northern Ireland (PSNI). The centre, called "the Rowan", is located at Antrim Area Hospital, and its objective is to give comprehensive support to victims of rape and sexual violence under one roof. It delivers a 24/7 service, 365 days/year by police referral or by self-referral. The Rowan offers a range of services to victims including comprehensive needs assessment, emotional and psychological support, forensic medical examinations, emergency contraception, screening and treatment for sexually transmitted infections, support for reporting to the Police, referral for counselling and/or other support services, follow-up support and a 24-hour advice and information helpline. Special attention is given to the needs of child victims, disabled people, and migrant victims.

<sup>13</sup> <http://www.standingtogether.org.uk/> UN Women Security Sector Module (2011). Case Study: The Multi-agency Risk Assessment Conference between London police, local authorities and service providers (United Kingdom). Available at: [http://www.endvawnow.org/uploads/browser/files/security\\_marac\\_case\\_study.pdf](http://www.endvawnow.org/uploads/browser/files/security_marac_case_study.pdf)

The Rowan was built on the SARC model that is relatively widely used in England and Wales. In 2012, there were 12 SARCs operating in England and Wales. SARC services are delivered by a range of public and civil society providers at premises owned by the police or the national health authorities. Leadership of SARCs is provided by local steering groups, which feed into a national steering group. SARCs can be accessed through self-referral or through referral by police or health or social services. SARCs ensure that treatment of sexual assault victims is co-ordinated and efficient, without unnecessary waiting times or repeat statements and examinations through a crisis worker in charge of the case. Crisis workers act as advocates of victims, thus ensuring proper co-ordination between different intervening actors. An Independent Sexual Violence Advisor takes over after the victim leaves the SARC, and co-ordinates follow-up care and support. Although with SARCs service providers do not meet to discuss each case, Harm Reduction Forums organised at regular intervals involving all concerned service providers afford the opportunity to discuss issues surrounding service provision and to develop strategies.<sup>14</sup>

### *Community Co-ordination in Albania*

Albania's National Strategy on Gender Equality and for the Reduction of Gender-based Violence and Domestic Violence 2011–2015 includes as its objective, nation-wide effective, comprehensive and co-ordinated policies and measures to prevent and combat all forms of violence against women. Co-operation between State and non-State actors is provided for, and, for this purpose, inter-institutional co-ordinating mechanisms are established both at the local and the national levels. At the local level, community co-ordinated responses (CCR) are implemented in 24 municipalities, with a plan to extend this to 250 municipalities before 2020. CCRs have been piloted since 2007, and are composed of representatives from municipalities, the police, the courts, including prosecutors and bailiffs, health offices, employment offices, educational offices and non-governmental organisations specialised in gender-based violence. Victims must contact one of these representatives in order to initiate the process. The representative who has been contacted will initiate the process by informing at least the representatives of the health services, the police and the municipality. The services provided span both short-term and long-term solutions, including healthcare support, shelter, protection including procedures for emergency protection orders. Long-term interventions include psychotherapy, assistance with children and with divorce procedures and reintegration. Albania's costing study for the ratification of the Istanbul Convention notes weaknesses in the vitality of these CCRs as well as their limited coverage, extending to only 24 municipalities.

<sup>14</sup> <http://www.nidirect.gov.uk/the-rowan-sexual-assault-referral-centre-sarc>  
<http://www.cph.org.uk/wp-content/uploads/2013/07/24150-COSAI-CASE-STUDY-24pp-for-web.pdf>



The best practice examples of co-ordinated action we have examined lead to a number of conclusions that go beyond the need to establish co-ordinating bodies and co-ordination strategies. Functional regularity can be seen to constitute an important element: in order for co-ordination to work, regular meetings are necessary, if possible at set time intervals. Allocating responsibility, supported by a dedicated budget for conducting the co-ordination exercise, is another element that is crucial for success. Another crucial factor is regulating co-ordination, including the tasks, membership, responsibilities, operating protocols, regularity of meetings, reporting and budgets.

At the local level, the role of independent victim advocates or crisis workers in direct contact with victims is essential not only for ensuring co-ordination but also for preventing secondary victimisation and re-victimisation. Victims' access to local multi-disciplinary teams is facilitated through multiple channels including healthcare as well as third-sector organisations, which are most often the first entry points for victims. On-going discussions between service providers (including independent victims' rights advocates) either on a case-by-case basis or at regular intervals emerges as another key element of local co-ordination.

#### *Indicators for assessing co-ordinated action*

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- ✓ Regulating co-ordination including membership, tasks and responsibilities, budget and operational protocols in relevant policies both at national and local and/or regional levels;
- ✓ Existence of a national action plan for preventing and combating violence against women, bringing consistency to different interventions;
- ✓ Existence of one or more national-level co-ordinating bodies for violence against women that unite all relevant stakeholders, including State and non-State actors, as well as actors invested in promoting gender equality;
- ✓ Existence of local-level co-ordination units for different forms of violence against women that provide single-entry support for victims. Such units should also include local-level autonomous victim support groups;
- ✓ Existence of independent violence advisors or counsellors assigned to each case at the local level, to function as advocates of the victim and as facilitators of a co-ordinated response.

#### D. Instruments and tools for ensuring an effective response in practice

The development of a proper legislative, policy and institutional framework is necessary – as discussed in previous sub-sections – but not sufficient on its own to comprehensively address violence against women in all its forms. State responses as proposed by international norms, including the Istanbul Convention, should go beyond preventing and combating violence against women and domestic violence *de jure* and on paper. These responses should include a variety of instruments, measures and tools aimed at ensuring a *de facto* response, and at guaranteeing the effective and efficient implementation of existing laws, policies, and other measures.

Legal interventions, including criminal law provisions, laws addressing specific forms of violence, or legislation on emergency or protection orders are certainly important, but represent only the first step towards achieving a comprehensive response. In order for laws to become operational, relevant stakeholders should be identified explicitly, and their tasks should be specified in national policy documents, along with the necessary allocation of budgetary resources. Other than legislation, comprehensive interventions to combat violence against women should include implementation documents such as guidelines, protocols and by-laws for all relevant stakeholders, professionals and service providers. Such tools are essential for the effective handling of cases, for determining general principles of intervention, clarifying the roles and responsibilities of the respective professionals, providing mechanisms for case referral, and enhancing multi-agency co-operation.

Institutional and staff specialisation also help guarantee an appropriate professional response. Specialisation can be achieved either by appointing designated individuals, or establishing special bodies or specific units to deal with cases of violence, ideally covering all relevant policy sectors and professions. Specialisation facilitates the organisation of staff training, thereby ensuring the acquisition of specific knowledge and skills for effectively handling cases. This not only increases effectiveness and ensures a professional response, but also facilitates more efficient use of resources, contributing towards long-term cost-effectiveness.

The provision of systematic and obligatory initial and in-service training, with qualified and experienced training staff and with the involvement of non-governmental and civil society organisations working in the field, is also a precondition for an adequate professional response, as stipulated in Article 15 of the Istanbul Convention. The incidence of violence against women and domestic violence can partly be attributed to their taboo nature and to the ignorance, passivity, or even prejudices and victim-blaming attitudes of those who are in a position to detect violence and act against it. This is why training on the nature, dynamics and consequences of the phenomenon, as well as on how to apply a human rights-based and victim-centred approach can greatly reduce secondary victimisation. In order to yield results in practice, training should be systematic, targeting all sectors and delivered at multiple levels, and be provided to all professionals with a role in the intervention chain or in regular contact with victims.

It is fundamental to sustainably, continuously and periodically monitor and review existing laws and policies so as to ensure they provide an adequate response to violence. Monitoring and evaluation play an important role in revealing shortcomings and gaps in the intervention system, and in identifying possible directions and a potential basis for future development and reform. According to Article 6 of the Istanbul Convention, monitoring and evaluation also imply that gender impact assessments should be conducted when designing and evaluating any policy or measure targeting violence against women. Such assessments are not only crucial to ensure that the measures adopted are conducive to gender equality (see Section III.A), but also to assess the effectiveness of those measures in responding to violence. The availability of bodies or institutions responsible for such monitoring and review, as well as their openness towards non-governmental and civil society organisations, is key to securing the sustainability of the monitoring and review process.

Comprehensive interventions also require the availability of relevant, gender-disaggregated data collected on a regular basis.<sup>15</sup> As Article 11 of the Istanbul Convention also emphasises, data collection and research should cover the prevalence of violence, and should assess the usage and effectiveness of existing legal and policy measures. Population-based surveys, for example, are not only useful in assessing the scale and nature of victimisation, but also for raising the visibility of the problem. Collecting statistical administrative and judicial data can also help governments discern general trends in preventing and combating violence against women and plays an essential part in informing future strategy and policy development. Such data are likewise crucial for keeping track of cases where multiple agencies are involved. In order for governments to receive clear feedback, the administrative and judicial data collected should cover all relevant sectors and actors. Although developments in information technology have certainly facilitated the task, data collection still requires sufficient financial resources and co-ordination to make sure that data from different sectors feed into a common database and are comparable. As previously discussed in this report, specific tasks in relation to monitoring, evaluation and data collection may either be included in relevant national laws and policies, or be assigned to national co-ordination mechanisms.

The allocation of appropriate financial resources – as also provided for in Article 8 of the Istanbul Convention – is essential in order to put into practice the legal, policy and other measures. It further serves as evidence of a true commitment by governments to tackle the problem. Financial resources should be both carefully planned and adequate in order to implement the necessary measures. It is also important for the services' funding – both governmental and non-governmental – to be continuous, in order to ensure high-quality support. Earmarking financial resources in a document with legal effect can greatly contribute to ensuring such continuity. In some cases, budgetary concerns unfortunately take precedence over the fact that prevalence rates for the different forms of violence against women continue to be alarmingly high, conviction rates remain low, and the State and public response to the problem is often inadequate. However, as recent studies of the

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<sup>15</sup> Ruuskanen, E. and Aromaa, K. (2008). Administrative data collection on domestic violence in Council of Europe member States. Strasbourg: Council of Europe.

costs of violence show, governments should bear in mind that the costs of inaction are significantly higher.<sup>16</sup>

### *Austria*

The case of Austria illustrates the importance of *adequate planning of both legislation and its implementation*. The implementation of the Protection against Violence Act was planned and secured by the introduction of several measures, and was conducted in a spirit of multi-agency co-operation. The implementation of barring orders, and co-operation between the police, the courts, intervention centres and the youth welfare department, are *regulated in a clear and detailed manner*, ensuring that intervention is not dependent on the commitment and discretion of the individuals acting in the cases.

Several sources note that the success of the Austrian system relies on the *training* of law enforcement personnel.<sup>17</sup> Systematic, wide-scale, top-down training was organised for police officers after the Act was adopted and before it entered into force. Training was also made available for family court personnel. However, as an evaluation conducted in 1999 pointed out, the “application of the Protection from Domestic Violence Act strongly depends on the persons involved in the intervention process, on their commitment and on their attitudes”.<sup>18</sup> Therefore, it is important that the issue of violence against women becomes an integral part of police training. Furthermore, the prevention of violence, laws on protection against violence, and multi-agency co-operation are covered in the exams sat by candidates for judicial office. Candidate judges have to attend practical training at a victim protection or welfare institution. In addition, seminars for the advanced training of judges and prosecutors cover “violence directed at women and domestic violence” as subjects. Finally, in recent years, training activities have also been extended to the health sector: a training curriculum on domestic violence has been developed, and training programmes are organised for healthcare personnel.<sup>19</sup>

<sup>16</sup> EIGE (2014). Estimating the costs of gender-based violence in the European Union. Luxembourg: Publications Office of the European Union.

<sup>17</sup> See for example: Rosa Logar (2005) The Austrian model of intervention in domestic violence cases; Expert paper prepared for the Expert group meeting “Violence against women: Good practices in combating and eliminating violence against women”, organised by the UN Division for the Advancement of Women in collaboration with: UN Office on Drugs and Crime 17 to 20 May 2005 Vienna, Austria. Available at <http://www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/logar.dv.pdf>

<sup>18</sup> See: Birgit Haller: The Austrian Legislation against Domestic Violence. Available at: [http://www.ikf.ac.at/english/austrian\\_legislation\\_against\\_domestic\\_violence.pdf](http://www.ikf.ac.at/english/austrian_legislation_against_domestic_violence.pdf)

<sup>19</sup> Sources: Logar, Rosa (2005) The Austrian model of intervention in domestic violence. Paper prepared for the Expert Group Meeting: “Violence against women: Good practices in combating and eliminating violence against women”, organised by the UN Division for the Advancement of Women and Logar, Rosa (2014) Mapping the Legislation and Assessing the Impact of Protection Orders in the European member States (POEMS), National report Austria. European Institute for Gender Equality EIGE (2014) Eliminating Violence against Women in Europe -Intersectoral Approaches and Actions. Conference report, Vienna, 25-26 November, 2013.

## Ireland

Ireland is an example of how to respond to rape and sexual violence in a comprehensive way through the implementation of a varied set of instruments. In addition to substantive criminal legislation,<sup>20</sup> the “National Strategy on Domestic, Sexual and Gender-based violence 2010-2014” includes a number of measures – actions and activities with responsible actors and progress indicators – covering prevention, protection and prosecution. Both mid-term and final reviews of the strategy have taken place. The development of the new strategy is informed by the results of the previous strategy’s review, as well as the consultation process and forums organised to discuss the new strategy directly.

In order to guarantee an effective *institutional response*, the An Garda Síochána, the national police service, has a “*policy on the investigation of sexual crime, crimes against children and child welfare*”, which was adopted following a review of the relevant existing norms. The policy provides extensive guidance in relation to the procedure (for example, interviewing, forensic medical examination, early evidence kit), barring/protection orders, reporting and recording, cultural issues, sexual crimes and disability, as well as the risk assessment of convicted males, among other matters. Furthermore, the “Recent Rape/Sexual Assault: National *Guidelines on Referral and Forensic Clinical Examination in Ireland*” provides detailed guidelines on the roles and duties of professionals. Based on an inter-agency approach, the document covers An Garda Síochána guidelines, forensic clinical examinations, psychological support, screening for sexually transmitted diseases, forensic science laboratories and general practitioners’ guidelines.

*Police specialisation* is supported by the Domestic Violence and Sexual Assault Investigation Unit at the National Bureau of Criminal Investigation. The Unit’s tasks include: co-ordinating and assisting in the investigation of particularly serious cases of sexual violence, providing assistance in training and policy implementation, promotion of best practices in the investigation of sexual crime, providing advice and assistance to other Garda units, and liaison with governmental and non-governmental agencies. Within this structure, a Sexual Crime Management Unit conducts State-wide yearly evaluations of sexual crime investigations, to ensure a quality response.

Apart from specialisation at the level of different authorities and professions, there are several *specialised services* available for victims. Sexual Assault Treatment Units (SATU) that provide specialist care for victims of sexual violence operate in six hospitals throughout Ireland. The SATU team provides accessible, holistic, free services, addressing medical, psychological and emotional needs and appropriate follow-up care for victims. SATUs also have a role in the collection of forensic evidence. Rape Crisis Centres (RCC) also provide direct support to survivors of sexual violence. Rape Crisis Network Ireland (RCNI) is a representative body of members of RCCs, supporting best practice standards and using its expertise to influence policy and social change. *Data collection* is strengthened by an administrative data collection system developed and co-ordinated by RCNI, which contains anonymous information from survivors and those attending RCCs.<sup>21</sup>

<sup>20</sup> For further detail, see *EWL Barometer on Rape in the EU 2013*. European Women’s Lobby, June 2013.

<sup>21</sup> Sources: Cosc – The National Office for the Prevention of Domestic, Sexual and Gender-based Violence <http://www.cosc.ie/en/COSC/>, An Garda Síochána (<http://www.garda.ie/Index.aspx>), Rape Crisis Network Ireland

## Spain

The Spanish framework also stands out for its comprehensive set of instruments and tools to ensure a de facto response. Besides the Organic Act and the National Strategy on Violence against Women, as discussed earlier, Spain has a variety of other instruments which guarantee the implementation of the stipulated measures.

In Spain, specialisation is guaranteed by the law: the Organic Act stipulates that effective service delivery shall be organised by means of staff specialisation and comprehensive skills coverage. Within the justice system specialisation is ensured through specific Violence against Women Courts. These Courts rule on criminal cases involving violence against women and any related civil cases. Moreover, the supervision and co-ordination of the actions of the Public Prosecutor's Office in this area is entrusted to the Public Prosecutor for cases of Violence against Women. All Prosecutor's Offices in the Regional High Courts, as well as the County Courts, have a Violence against Women Section with specialist prosecutors. These prosecutors act in criminal proceedings on offences within the jurisdiction of the Violence against Women Courts, and intervene in civil processes of alleged abuse towards wives or children (for example, divorce, custody of minors). Furthermore, dedicated units must be set up within law enforcement and security agencies specialising in the prevention of domestic violence and supervising the enforcement of legal measures. The actions of the national law enforcement and security agencies are guided by the Protocol for National Law Enforcement and Security Agency Action and Co-ordination with the Courts for protection against gender-based and domestic violence. In the field of education, the National Schools Council must by law include representatives from the Institute for Women's Issues and organisations defending women's interests, in order to ensure that School Councils promote educational measures in favour of equality between women and men. The health authorities, through the Interterritorial Council of the National Health Service, are obliged to promote and facilitate actions among health professionals for the early detection of "gender violence",<sup>22</sup> and to work to optimise the health sector's response to the problem. The Interterritorial Council has set up a Commission against Gender Violence to provide technical support and guidance in implementing measures and to evaluate and propose measures for the application of the health service protocol, and other measures to combat domestic violence. The Government and Autonomous Communities also manage integrated forensic evaluation units in charge of designing codes of conduct and *protocols* for dealing with cases of domestic violence. The healthcare authorities are required to promote the application, regular updating and dissemination of protocols setting uniform procedures for healthcare providers, in both the public and the private domains, especially the Protocol approved by the Interterritorial Council of the National Health Service.<sup>23</sup> These protocols detail the procedures to be followed, and stipulate the need to make referrals to the judicial authorities if there is any suspicion of abuse.

(RCNI) ([www.rcni.ie](http://www.rcni.ie)), European Institute for Gender Equality EIGE (2014) *Eliminating Violence against Women in Europe - Intersectoral Approaches and Actions*. Conference report, Vienna, 25-26 November, 2013.

<sup>22</sup> The Spanish use of the term "gender violence" denotes mainly domestic violence against women. See Organic Act 1/2004 on Gender Violence.

<sup>23</sup> See Common Protocol for a Healthcare Response to Gender Violence. Commission Against Gender Violence of the National Health System's Interterritorial Council. Spain. Available in English at <http://www.msssi.gob.es/organizacion/sns/planCalidadSNS/pdf/equidad/commonProtocol.pdf>

In relation to *training*, the Organic Act prescribes that a comprehensive supplementary training programme must be introduced for different professionals dealing with domestic violence. Education authorities have to ensure that basic and on-going training for teaching staff includes specific training on equality issues. It must also be ensured that degree and diploma programmes, and specialisation courses for social workers and healthcare professionals, incorporate content on the prevention and early detection of domestic violence, case management and victim support. Similarly, training courses for judges and magistrates, prosecutors, court clerks, national law enforcement and security agents, and coroners, have to include specific training on gender equality, non-discrimination based on sex and gender-based violence and to address the vulnerability of victims, in particular. The bar associations also require future lawyers to follow specialisation courses and must ensure that these include specific training on effective professional defence for domestic violence victims.

The implementation of this complex web of legal and policy measures goes hand in hand with systematic *monitoring and evaluation*, as well as *data collection*, in order to assess implementation and effectiveness and to help design new policies and legislative measures and/or modify existing ones. The Annual Reports of the National Observatory on Violence against Women from 2007, 2009, 2011, 2012 and 2013 provide an analysis of intervention measures based on comprehensive data gathered and standardised across all data sources. In addition, the Units on Co-ordination and Violence against Women operating in Government Delegations and Sub-Delegations compile data from each case handled by law enforcement agencies, regional police forces, the courts and the Public Prosecutor's Office.

Spain also allocates *a designated budget* to the objectives and tasks defined in policies on violence against women. The latest National Strategy for the Eradication of Violence against Women (2013-2016) clearly allocates responsibilities for each and every action that is planned. Section 4 of the Strategy links budget figures to every objective. Budget allocations clearly indicate the incoming amount from the central administration and the incoming amount from regional governments.<sup>24</sup>

The best practice examples examined under this criterion bring to the fore some important lessons. In terms of general principles, they show that appropriate preparation and consultation mechanisms involving all relevant actors, including women's rights non-governmental organisations working in the field, are important instruments for the adoption of quality legislative and policy measures which are more likely to be effective in practice.

In the best practice examples that have been presented, appropriate legislation, policy measures and co-ordination mechanisms establish a key framework for additional tools, instruments and measures ensuring a *de facto* response to all forms of violence against women. None of these instruments can work effectively without the other.

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<sup>24</sup> Organic Act 1/2004 of 28 December on Integrated Protection Measures against Gender Violence.

A comprehensive response is also achieved when specialisation is a legally established principle that is further fleshed out for specific professions. Spain offers a good example of best practices in this area. The existence of protocols is crucial; Spain and Ireland offer particularly telling demonstrations of the importance of covering all relevant sectors and professionals. As regards training of professionals, the Spanish example highlights the importance of addressing gender equality under all the key themes in order to be comprehensive. At the same time, the Austrian example shows the importance of focusing on systematic and wide-scale training efforts whenever new measures are introduced.

***Indicators for assessing the existence of tools and instruments ensuring an effective response in practice***

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- ✓ Availability of a set of instruments and tools ensuring effective implementation at multiple levels including legislative and policy measures;
- ✓ Existence of measures facilitating staff specialisation for all relevant professions;
- ✓ Existence of systematic, appropriate training programmes for professionals in all relevant sectors and at all levels;
- ✓ Availability of by-laws, protocols and guidelines for all the different sectors and actors concerned with violence against women and domestic violence, and also addressing multi-agency co-operation;
- ✓ Availability of comprehensive and consistent, publicly available, national-level, disaggregated, cross-sectoral data on the prevalence of and policy (institutional) responses to violence against women and domestic violence, as well as the systematic collection of administrative and judicial data;
- ✓ Availability of measures ensuring continuous systematic monitoring, evaluation and review of existing policies and laws on violence against women and domestic violence, and, at the same time, ensuring the availability of appropriate preparatory and participatory mechanisms for introducing new measures and policies;
- ✓ Allocation of adequate budgets for addressing violence against women and domestic violence at multiple levels, including the national level, in both rural and urban contexts.



## IV. Comprehensive and co-ordinated policies and measures in Poland

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Having presented examples of European best practice, this section assesses the current state of interventions in Poland in light of the indicators identified in Section III.

Violence against women and domestic violence was first introduced into the agenda of Polish policymakers in the late 1990s, both as a gender equality and human rights issue, and as an issue linked to alcohol abuse. For the most part, policy and legislative changes have focused on domestic violence. In this regard, Poland adopted both the Act on Counteracting Domestic Violence and a National Programme on Counteracting Domestic Violence (NPDV), in 2005 and 2006 respectively. Further developments took place in 2010, when the 2005 Act was amended, and more recently in 2014, when the most recent NPDV for 2014-2020 was adopted. Sexual harassment has also been addressed within the framework of anti-discrimination policy reforms connected to harmonisation with EU law, resulting in the introduction of legislative changes in 2010. In the past few years, the issues of sexual violence, rape and stalking have also gained prominence on the Polish policy agenda.

Despite much progress, violence against women, including domestic violence, is still widespread in Poland. According to the European Union Fundamental Rights Agency (FRA) representative survey on violence against women,<sup>25</sup> 19% of the women interviewed in Poland had experienced physical and/or sexual violence perpetrated by a current or previous partner since the age of 15. 11% of women had experienced sexual harassment in the 12 months preceding the interview. Yet the findings also show that only 28% of women reported the most serious incident of partner violence to the police. In terms of attitudes towards violence, 16% of the women surveyed believe that violence against women is very common, and 45% think it is fairly common. Although the survey indicates violence levels that are somewhat below the European average, it is important to be aware that the disclosure of violence during survey interviews may be hindered by several factors. This is particularly the case in countries where there is a lack of systematic awareness-raising about violence, of a strong public endorsement for zero tolerance to violence, and of sufficiently developed legal and policy responses. Furthermore, in countries with higher levels of gender equality, where it is culturally acceptable to speak about violence, women may be more inclined to recognise and report or to speak about violence.<sup>26</sup> The results for Poland nevertheless still raise concerns and indicate the need for a serious response to address such findings. An additional incentive for addressing violence against women comprehensively is the cost of violence in Poland. According to a costing study prepared by

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<sup>25</sup> European Union Fundamental Rights Agency (2014). Violence against Women: A EU-wide Survey. Main results report. Available at:

<http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>

<sup>26</sup> European Union Fundamental Rights Agency (2014). Violence against Women: A EU-wide Survey. Results at a glance; pp. 16. Available at:

[http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14_en.pdf)

the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), the total direct cost of domestic and sexual violence against women in the criminal justice, healthcare and social sectors in Poland is €98 821 700, while the cost of lost economic output due to domestic and sexual violence against women is more than three times higher at €327 869 000.<sup>27</sup> Another study, based on a recent estimate by extrapolation from a UK case, calculates that the annual cost of intimate partner violence is €9 331 561 527 in Poland, of which intimate partner violence against women accounts for €8 334 672 930. The cost of gender-based violence in Poland stands at €19 760 906 259, of which the cost of gender-based violence against women is €17 248 761 680.<sup>28</sup> Furthermore, the biggest share of the costs in all of the four categories results from the physical/emotional impact – for example, a reduction in the quality of life – while the provision of specialised services represents the smallest share of the costs.

The ratification of the Istanbul Convention by Poland on 27 April 2015 was a major first step towards recognition of the seriousness of violence against women at the national political level and represented a commitment to improve the Polish response.

The following sub-sections take a closer look at Poland's legal, policy and institutional response to all forms of violence against women. The four criteria of comprehensive and co-ordinated interventions presented in the previous parts of this report constitute the basis for the analysis.

## A. Gender sensitivity in Poland

As discussed in Section III, a gender sensitive approach to violence against women requires that interventions address such violence in its integrity and specificity, as a manifestation of gender-based discrimination, rather than focusing on its distinct forms separately. Such an approach entails not only tackling the different forms of violence against women in unison, but also drawing a link between them, identifying commonly applicable interventions, as well as actions specific to each form of violence.

A review based on this criterion reveals that the concept of violence against women as a form of discrimination is only marginally part of the official Polish policy terminology. Poland has a variety of interventions covering different forms of violence against women, particularly domestic violence, however, these forms are not discussed under a common umbrella and in connection with each other. In addition, these forms of violence are also not addressed in relation to discrimination against women and based on gender.

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<sup>27</sup> PLN 441 917 600 and PLN 1 466 189 000 respectively. Source: Kervinen, E., Heiskanen, M., and Lietonen A. (2014). Estimating the costs of domestic and sexual violence against women in Poland. Unpublished manuscript, quoted with permission from the Council of Europe.

<sup>28</sup> Estimating the costs of gender-based violence in the European Union. European Institute for Gender Equality EIGE (2014). Estimating the costs of gender-based violence in the European Union. Luxembourg: Publications Office of the European Union. P. 142. Available at: <http://eige.europa.eu/sites/default/files/MH0414745EN2.pdf>

Poland is among the countries that address a series of forms of violence against women through a set of different policies and pieces of legislation. The forms of violence addressed in Poland include domestic violence, sexual harassment, sexual violence and rape, and stalking. Domestic violence is the form of violence that has been regulated most extensively, through the 2005/2010 Act on Counteracting Domestic Violence, the NPVD and several complementary policies.<sup>29</sup> These developments have been followed by initiatives in the fields of sexual harassment and sexual violence and rape. For example, the Criminal Code was recently amended to comply with the standards established by the Istanbul Convention, by guaranteeing *ex officio* prosecution of rape cases. Forced marriage, crimes committed in the name of so-called “honour” and female genital mutilation are currently not covered by Polish policies,<sup>30</sup> and not addressed directly in substantive criminal legislation. Gaps can be identified from the perspective of a gender sensitive approach. Not only is no link drawn between different forms of violence against women, as discussed above, but another gap is the absence of a gender sensitive understanding of interventions that target each specific form of violence against women. Domestic violence, for example, was until very recently discussed as a gender-neutral issue.<sup>31</sup> Sexual harassment is connected to the anti-discrimination agenda and, as such, unrelated to violence against women. The law on stalking introduced in June 2011 also does not link this issue to gender equality.<sup>32</sup> Sexual violence and rape are the only forms which, in recent discussions, have been associated with violence against women.

In the absence of a comprehensive law or national strategy on violence against women within the current Polish policy framework, the different forms of violence are addressed under a separate headings. When addressing violence against women, Poland places the main emphasis on domestic violence policies, and to some extent on sexual violence, including rape, and sexual harassment. These fields are best covered by laws and policy, and also by co-ordination mechanisms in the case of the first two. However, in these existing policies the link to gender inequality is very weak and rarely directly specified. This study’s analysis of domestic violence policy developments in Poland indicates that domestic violence has not been discussed in any policy document as a form of violence against women. Neither does the recently adopted National Programme on Counteracting Domestic Violence for 2014–2020 make an explicit link between domestic violence and gender inequality. Nevertheless, the Programme recognises that a large proportion of victims of

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<sup>29</sup> Among others the Charter of Rights of Persons Affected by Domestic Violence, the Regulation of the Minister of Labour and Social Policy of 22 February 2011 on the standard of basic services provided by specialist support centres for victims of domestic violence (...), or the Regulation of the Council of Ministers of 13 September 2011 on the “Blue Cards” procedure and the model “Blue Cards” forms.

<sup>30</sup> Both sterilisation and abortion are heavily regulated in Poland. Sterilisation is only available if medically required. Access to lawful abortion on therapeutic and criminal grounds is practically non-existent. Source: Karat Coalition (2014). Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Poland 2014. Submitted to the UN Committee on the Elimination of Discrimination Against Women.

<sup>31</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding Observations of the Committee on the Elimination of Discrimination against Women: Poland, 8 April 2008, CEDAW/C/POL/CO/6, paragraph 18.

<sup>32</sup> Penal Code Article 190a § 1, 2, 3 and 4.

domestic violence are women, and that this is linked to public attitudes about the tolerance of domestic violence against women and children. The document also makes reference to key international instruments on gender equality such as the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the UN Declaration on the Elimination of Violence against Women, and the Istanbul Convention. Moreover, the Programme includes a specific action to establish a nationwide 24-hour helpline (2.3.4) that is identified as an action on domestic violence as well as gender-based violence more generally. This signals the recognition of gender-based violence as a related policy problem. Overall, the Programme remains disconnected from other government policies and programmes related to gender equality and violence against women and is not seen as complementing the actions foreseen in the National Programme on Equal Treatment 2013-2016.

The National Programme on Equal Treatment is the main equality policy document currently in force in Poland. It covers gender equality alongside a variety of other equality categories. This document illustrates the fragmented notion of violence against women that prevails in Polish policy thinking. The Programme does not contain a comprehensive concept of violence against women or gender-based violence against women as included in international norms such as the Istanbul Convention. Although the Equal Treatment Programme set out in its Section III addresses violence - mostly domestic violence and sexual violence - to some extent, it does not make an explicit link between such violence and discrimination against women. It relates these two forms of violence against women to forms of violence against members of other vulnerable groups covered by equal treatment law: lesbian, gay, bisexual and transgender persons, disabled persons, the elderly and children. Moreover, this section does not cover all forms of violence against women, as it omits stalking, and other forms of violence covered by the Istanbul Convention. Sexual harassment, addressed as a separate and unrelated item within the section "Equal treatment in the labour market", is not linked in any way to gender-based violence, neither in this programme nor in any other policy framework.

The bill ratifying the Istanbul Convention<sup>33</sup> makes a leap forward by stating in the very first paragraph of its Explanatory Memorandum:

*"Violence against women, including domestic violence, is a form of discrimination based on sex and constitutes a serious threat to fundamental human rights and freedoms, such as the right to life and health, the right to respect for private and family life. Crime statistics clearly indicate that the victims of certain categories of the offences are predominantly women and girls."*<sup>34</sup>

The Explanatory Memorandum discusses the evolution of the Istanbul Convention and its scope, including its approach to violence against women and the ways in which it is connected to gender inequality. It also projects a series of actions for Poland with reference to definitions, data collection, prevention, protection and support for victims, and in terms of substantive as well as procedural law. Among the objectives set by the Explanatory

<sup>33</sup> Dz. U. of 8 July 2015, item 961.

<sup>34</sup> Unofficial translation.

Memorandum, structural transformation is also deemed necessary: the aim is the recognition of violence against women as a policy problem and the adoption of a gender perspective particularly in the field of preventive action. The forms of violence discussed in the Explanatory Memorandum include domestic violence, rape, and sexual harassment as a criminal and a labour issue. Although the Explanatory Memorandum is not binding in nature and is mainly aimed at facilitating decisions by Parliament, the inclusion of references to violence as a result of discrimination against women can be regarded as a shift in government policy discourse.

Overall, Polish policy on violence against women is fragmented. Different forms of violence are recognised separately, but gender inequality or discrimination against women is not perceived as a common denominator or a causal structural factor underpinning the phenomenon. As such, these forms of violence are seen as separate issues without inherent connections being made between them, and the need for comprehensive and transformative actions promoting equality between women and men is only rarely expressed. These expressions are mainly located in the National Programme on Equal Treatment (NAPET) 2013-16. The programme states the need to:

*“...popularise the issues related to the prevention of violence, taking into account the gender perspective. For this purpose, an extensive public debate with the active participation of both women and men is necessary. Because of the relationship between gender stereotypes and the phenomenon of violence, it is important to undertake awareness activities in this regard addressed to men and boys. In order to improve the quality of activities in the area of prevention, response and evaluation of tasks related to the prevention of violence, it is necessary to examine the beliefs and attitudes of people working in institutions combating violence. From the point of view of the quality of performance of services related to the prevention of violence, it is important to create programmes and conduct training of the above-mentioned services which will include a gender perspective in relation to violence.”<sup>35</sup>*

Recognition of a need for heightened gender awareness is apparent only in these provisions on preventive action including gender sensitivity in public debates, training sessions, campaigns and helplines. In the field of domestic violence, where a more extended list of interventions is in place, an absence of sensitivity to gender equality is particularly visible.

The most recent changes in Poland, as described above, represent a shift towards a more gender sensitive approach. These recent developments have the potential to become a source and a catalyst for transformation in Poland with respect to this first criterion of comprehensiveness.

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<sup>35</sup> Within the specific objectives 1.4 and 1.5.

## B. Applying a three-tiered approach in Poland

Overall, analysis of the current Polish legislative and policy framework shows that a three-tiered approach can be identified for domestic violence interventions. As previously mentioned, domestic violence is the form of violence against women that is most extensively covered in Polish policies and legislation. The Act on Counteracting Domestic Violence was adopted in 2005 and amended in 2010. In addition, national programmes have been introduced since 2006; the most recent was adopted for the period 2014–2020. Both substantive and procedural criminal law provisions are also in place with regard to cases of domestic violence. Upon closer inspection, however, some gaps can still be identified, showing in particular that uneven weight has been given to each “P”.

The four specific objectives and basic areas of the National Programme on Counteracting Domestic Violence for 2014–2020 (NPDV) cover prevention, including increasing the competence of relevant professionals working in this field, and protection and support for victims. However, prosecution is not directly addressed in the NPDV as a specific objective, only the “effectiveness of actions towards people using domestic violence” is mentioned.

The Act on Counteracting Domestic Violence, as amended in 2010, provides a comprehensive and co-ordinated framework for the protection and support of victims of domestic violence. The Act introduces a system of multi-agency co-operation and co-ordination from the local to the national level, as well as protection measures (services and support) available to victims (see Section IV.C below for details). However, the Act does not address (primary) prevention. Similarly, measures for effective prosecution, namely holding perpetrators accountable through the criminal justice system while at the same time empowering victims during judicial proceedings and preventing their secondary victimisation, are missing from the Act.

The other comprehensive policy document relating to the field of violence against women and domestic violence is the National Programme on Equal Treatment (2013–2016) (NAPET), and particularly its section entitled “Preventing violence, including domestic violence, and increasing protection of people experiencing violence.” In the NAPET, protection and assistance for victims are accorded greater importance than prevention and prosecution measures.

More recently, a series of developments have focused on sexual violence. In this field, again, elements of the three Ps can be discerned, even if they are not always well developed. Recent changes in criminal legislation have improved the prosecution pillar, whereas new professional and public awareness-raising activities have been added to the prevention and protection pillars. Similarly – as already mentioned – sexual harassment has received more attention in recent years and legislation on stalking has been introduced. However, a comprehensive response to prevent and combat sexual harassment and stalking is still lacking in the legal and policy framework. Further forms of violence against women – covered by international documents, including the Istanbul Convention – such as forced marriage, female genital mutilation, forced sterilisation, forced abortion and crimes

committed in the name of “honour” are not addressed by the existing legal and policy framework, with respect to any of the three pillars of action.

The need for improvement in the Polish response as regards prevention, protection and prosecution is also supported by research. A study commissioned by the Ministry of Family, Labour and Social Policy in 2014 contains several important conclusions in this regard.<sup>36</sup> The vast majority of respondents to the survey did not agree with the statement that domestic violence can be justified in any circumstances. Yet, 14.4% of respondents asserted that there are situations in which violence can be justified. A large proportion, almost 20% of respondents, considered only (severe) physical violence as violence. Every fourth person believed that verbal abuse and insulting a partner were normal during marital disputes. Moreover, a relatively high number of respondents did not perceive sexual violence in a relationship as a problem that should be addressed. 16.5% of the respondents agreed with the statement that “when it comes to sex, a wife should agree to what a husband wants”, and 18.3% with the statement that “there is no such thing as rape within marriage”. When it comes to the institutional response, the vast majority (almost three quarters) of the respondents stated that families affected by violence did not get enough help, and 72.6% of the respondents believed that Polish law fails to offer sufficient protection for victims of domestic violence. About three quarters of those affected by domestic violence (78.0% for sexual violence, 77.5% for economic violence, 74.7% for psychological violence, and 73.7% for physical violence) never asked for help from outside the family.

## **Prevention**

Until recent years preventive action in Poland was quite fragmented and weak. However, prevention has been increasingly recognised as an important aspect of tackling violence. The 2014 Polish report on the implementation of the Beijing Platform for Action points out:<sup>37</sup> “The effective counteraction of violence against women requires, *inter alia*, changing the cultural and social patterns of behaviour of both men and women so as to eliminate prejudice, customs, traditions and other practices based on the idea of inferiority of women or on the stereotypical roles of men and women.” The report also acknowledges that “{t}he main barrier to exerting an effective influence on policies, laws and attitudes is the prevalent phenomenon of gender stereotyping”. The 2005/2010 Act on Counteracting Domestic Violence does not address primary prevention. The Act does not recognise the role and responsibilities that the education sector, the media, the private sector or the information and communication technology sector play in preventive action. In the NPDV,

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<sup>36</sup> Monika Miedzik, Justyna Godlewska-Szurkowska in cooperation with Jakub Rutkowski: Comparative studies and the diagnosis of the incidence of domestic violence among adults and children divided into the various forms of violence with a description of the characteristics of victims and perpetrators. Summary. The study is a part of a nationwide survey entitled “Diagnosis and comparison of the prevalence of domestic violence and assessment of the effectiveness of measures taken to prevent domestic violence” implemented within the pre-defined project “Polish Family - free from violence”.

<sup>37</sup> Report on the implementation of the Beijing Declaration and Platform for Action (1995) and the outcomes of the twenty-third special session of the General Assembly (2000) Poland, the Government Plenipotentiary for Equal Treatment. April 2014.

however, one of the four basic areas of action is prevention and social education. The NPDV envisages several measures in this field, including raising awareness among the general public and professionals working in this area. The proposed actions include social campaigns at both national and local level, as well as educational programmes for those at risk.

In the prevention and social education chapter of the NPDV a series of measures are aimed at “reducing domestic violence in the media”. Two types of action are proposed: “promoting programmes addressed at children and young people devoid of violent content”, and “reducing domestic violence in the mass media”. The second type of action is linked to the work of the National Broadcasting Council and its complaints procedure. While these actions are an important step forward in terms of prevention, it should be noted that they fail to place domestic violence in the context of promoting equality between women and men, and combating gender stereotypes. The NPDV also does not include related measures addressing the private sector or the information and communication technology sector. A systematic review procedure seems to be lacking.

The prevention and social education actions of the NPDV do not address the role of the public education system in promoting gender equality, non-stereotyped gender roles, and non-violent conflict resolution. National experts report that issues of gender equality and violence against women are not given due attention in the field of public education:<sup>38</sup> inclusion of such issues in the curriculum depends on the commitment of individual teachers or local authorities (*gminas*). In 2011, the Minister of National Education organised training sessions to sensitise textbook reviewers regarding discriminatory content, addressing gender stereotypes among other matters.<sup>39</sup> However, this constituted a one-off project-based initiative, rather than a systematic monitoring exercise with preparation of the reviewers to carry out this task.

The NAPET more explicitly includes a gender perspective in preventive action under the objective “popularisation of issues related to the prevention of violence, taking into account the gender perspective”. Within this objective, the key measures are popularising prevention and combating sexual violence in school curricula and/or prevention programmes in schools and educational institutions. However, the action seems to be limited to sexual violence, failing to address the general context of gender equality and prevention of violence against women. However, no concrete measures are provided for in the document. Preparing and disseminating educational materials on violence and its prevention using different media outlets is another measure that is included, but it has a general scope and lacks a gender perspective.

In recent years there have been several, mainly one-off and project-based, awareness-raising measures and activities, including campaigns and national or regional conferences. Some of these were organised by non-governmental organisations working in the field. A series of State-funded provincial conferences were organised in 2013 entitled “National and

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<sup>38</sup> Information obtained during the expert meeting on 19 November 2014.

<sup>39</sup> See the Replies of Poland to the List of issues and questions in relation to the combined seventh and eighth periodic report of Poland, pp. 19.



regional policies for counteracting domestic violence and gender-based violence”,<sup>40</sup> as well as non-governmental-led programmes during the 16 Days of Activism against Gender-based Violence campaign. At the time of writing, prevention of sexual violence is also covered by two on-going projects, the first supported by the EU Progress Fund and the second by the EEA and Norway Grants. The first project concerns the training of police personnel and medical staff.<sup>41</sup> The second project is aimed at raising awareness by developing leaflets targeting specific audiences and a government information website, as well as conducting awareness-raising campaigns.<sup>42</sup>

While the aforementioned initiatives are important and certainly make a difference, they seem to be one-off, to be dependent on available (project) funding and to prioritise certain areas over others. A systematic, State-funded and co-ordinated approach, covering different forms of violence against women in this area would be desirable in order to conform to the criterion of comprehensive action in the field of prevention.

### *Protection and support*

Comprehensive protection and assistance to victims requires a number of measures and services, from emergency protection to long-term assistance, available to all victims, regardless of their background and relationship to the perpetrator. If a human rights-based and victim-centred approach is to be implemented, the safety and needs of victims should be at the centre of all services and assistance provided to victims.

Over the last decade the Polish legal and policy framework has undergone considerable development with respect to protection and support measures for victims of domestic violence. Along the lines of the relevant, promising international best practices discussed above, the Polish system is based on multi-agency co-operation and related co-ordination at different levels.

The Polish multi-agency intervention system and procedure for domestic violence is called the Blue Cards Procedure.<sup>43</sup> The Blue Cards Procedure was originally used by the police, but was extended to other sectors in 2010. The legal basis is the Act on Counteracting Domestic Violence (Article 9d), and the procedure may be initiated by any of the following institutions: police, social services, healthcare system (e.g., doctors, nurses, paramedics), education system (e.g., teachers, counsellors) and local government committees for the prevention of alcohol abuse. The procedure is initiated by filling out Card A whenever there is any suspicion of domestic violence. The pertinent regulation of the Council of Ministers describes in detail the procedure, the tasks of different professionals (members of the

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<sup>40</sup> See Poland's report on the implementation of the Beijing Declaration and Platform for Action.

<sup>41</sup> “Rights for the victims of sexual violence: a new systematic approach. Comprehensive informative and training actions”, implemented by the Office of the Government Plenipotentiary for Equal Treatment in partnership with the Ministry of Interior and the Prosecutor General.

<sup>42</sup> PL14 “Polish Family- Free from Violence”.

<sup>43</sup> For more details on the Blue Cards Procedure, see Section IV.C on co-ordinated action in Poland.

interdisciplinary teams), and the model Blue Card forms.<sup>44</sup> Card A contains information about the circumstances of the case, forms of violence used, health conditions of the victim(s), criminal, or other records of the perpetrator, actions taken by the police and other interventions undertaken. Card B contains basic information about domestic violence, the obligations of the police, the relevant criminal legislation in force, and ensures that the victims receive information on available support services, including local facilities. Card C guarantees that the family, professional, economic, and health situation of the victim, and, if relevant, the situation of children is assessed, and an individual plan is developed to help the victim. The Blue Cards Procedure not only provides a platform for multi-agency co-ordination, but also sets the framework for a relatively comprehensive protection system for domestic violence victims.

The weaknesses in the Polish protection system can primarily be ascribed to a lack of provision of protection for all victims and against all forms of violence. In the case of domestic violence, for example, the legislative and policy framework restricts the scope of protected persons to family members, close relatives and other persons sharing a residence or household. This fails to provide protection for those who are not close relatives and not sharing a residence, as well as former partners.<sup>45</sup>

The Istanbul Convention enshrines the objective – well established in the international normative framework and in practice – that both women and their children must be protected and given support. For example, Article 31 of the Istanbul Convention requires States parties to ensure that, when determining the custody and visitation rights of children, incidents of violence are taken into consideration. Furthermore, the exercise of visitation rights should not jeopardise the rights and safety of victims and their children. The 2010 amendment of the Act on Counteracting Domestic Violence introduced a new provision for the protection of children. However, although provision is made for the removal of the child from the family in the event that his/her safety should be at risk, the Act does not differentiate between the abusive and non-abusive parent and does not contain measures to ensure the safety and protection of the child(ren) and the non-abusive parent. Existing policy documents do not address this issue either. If there is a non-abusive parent, providing protection to the child(ren) together with this parent is not only important for the best interests of the child but also guarantees the exercise of that parent's parental rights. Usually the non-abusive parent is also the victim of domestic violence, so the right of that person to live free from violence – including the right to life, liberty and security etc. – should also be protected. This protection is not secured at present in Poland.

A further limitation of the protection afforded in Poland stems from the fact that economic violence is not included among the forms of violence covered by legal and policy measures. It is nonetheless a positive step that one of the specific objectives defined by the NAPET is to extend regulation to also cover economic violence.

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<sup>44</sup> See the Regulation of the Council of Ministers of 12 September 2011 on the “Blue Cards” procedure and the “Blue Cards” form.

<sup>45</sup> See the definition of domestic violence in Article 3, paragraph 2 of the Istanbul Convention.

Providing protection against immediate danger to victims or those at risk is crucial for an effective response to violence against women, and for securing the safety of the victims. The introduction of emergency barring orders is one effective means to ensure this (Article 52, Istanbul Convention). It is also important for measures to guarantee a continuous protection chain, as indicated in Section III. In recent years there have been positive developments in Poland in this field: preventive and restraining orders have been introduced in both criminal and civil law. The 2010 amendment of the Act on Counteracting Domestic Violence changed the penal and probation measures, allowing for the possibility of evicting the perpetrator from a joint residence with the victim, or prohibiting the perpetrator from approaching the victim. In addition, according to Article 11a of the Act, the victim may now apply for a civil court order that obliges the perpetrator to leave the residence if acts of domestic violence make the joint residence particularly burdensome. Penal measures, however, are conditional on the existence of an on-going criminal procedure and cannot be ordered without a hearing. Civil court orders are also not immediate measures: the court is obliged to hold the first hearing within 30 days and there is no time obligation for the court to make a decision. Consequently, the legislation as it stands does not provide victims with immediate protection by emergency order. Furthermore, experts report that the restraining order is not widely used in practice, mostly because of uncertainties as to its implementation and because some forms of violence are not considered serious.<sup>46</sup>

International norms, including the Istanbul Convention, provide that protection and support measures should be grounded on a gender-based understanding of violence against women, including domestic violence (Articles 18 and 49), and services are required to adopt an approach which recognises the gendered dynamics, impact and consequences of such violence. In Poland, important developments have taken place since 2005 in terms of providing services for victims. In accordance with the Act on Counteracting Domestic Violence, victims are entitled to comprehensive assistance covering medical, psychological, legal, and social help, crisis intervention and support, and places in shelters, among other measures. It is positive that access and provision of a variety of services to victims are coordinated at the local level. The Blue Cards Procedure – especially Blue Cards B and C, as presented above – is a valuable framework for the provision of support and assistance to domestic violence victims.

One deficiency in the system is that the vast majority of available services do not follow a gender-based approach. Moreover, gender impact assessments for the services and assistance provided are not available. Accordingly, there is no systematic assessment whether the victims – the women – are provided with the support they need in practice. For other gaps and difficulties identified regarding the Blue Cards Procedure and interdisciplinary teams, see Section IV.C of this study.

Since 2005 the institutional system for service provision has undergone substantial changes. These include, for example, the establishment of 35 specialist support centres for victims of domestic violence. At the same time, the Explanatory Report of the Istanbul

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<sup>46</sup> Information obtained during the expert meeting on 19 November 2014.

Convention makes reference to a recommendation on shelter places to the effect that one family place per 10 000 heads of population should be made available in specialised women's shelters. Based on the Polish population of 38 484 000 inhabitants, at least 3 848 women's shelter places should be available in the country. The fourth round of monitoring of Recommendation Rec(2002)5<sup>47</sup> reported 368 shelters in Poland, but official data is not available on how many of these shelters are dedicated exclusively to victims of violence against women. . Moreover, official data on the number of available places is also not available. At the same time, the Women Against Violence in Europe (WAVE) Report 2014<sup>48</sup> indicated that there were 26 shelter places and pointed out that only one specialised women's shelter was available.

Rape crisis or sexual violence referral centres are another important element of the protection pillar. The Explanatory Report of the Istanbul Convention indicates the need for one women's centre for survivors of sexual violence or rape crisis centre per 200 000 inhabitants. Based on this recommendation, 191 such centres should be available in Poland. The 2014 Analytical study on the implementation of Recommendation Rec(2002)5 mentions 35 centres, meaning that specialist support centres for domestic violence victims are also open to victims of sexual violence. However, importantly, the study (which is based on the information provided by the Polish authorities) indicates that those centres do not provide immediate medical care, forensic examination and documentation, and counselling and trauma care for all women free of charge, and their geographical distribution is insufficient.<sup>49</sup> All of these constitute significant gaps. The WAVE country report from 2012<sup>50</sup>, which used an explicit gender sensitive approach and criteria, concluded that there were no such centres in Poland. At the same time, the lack of such specialist centres is a reality not just in Poland, but in many Council of Europe member States.

Poland also operates a national helpline (Blue Line) for victims of domestic violence. However, it does not formally cover other forms of violence against women.<sup>51</sup> While it is available seven days a week, it is not accessible during the night, and is not free of charge, as required by international norms including Article 24 of the Istanbul Convention. A positive step, however, is the establishment of a 24/7 helpline in 2017, included in the actions to be taken under the NPDV and also referred to in the NAPET. The helpline will cover different forms of violence against women along with domestic violence.

Promising international best practice examples – including the ones discussed in Section III – show that economic empowerment, particularly measures providing preferential access to housing, employment and social assistance for victims of violence, is an important element of comprehensive assistance to victims.<sup>52</sup> This component is currently largely

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<sup>47</sup> Hagemann-White, C. (2014). Analytical study of the results of the fourth round of monitoring the implementation of Recommendation Rec(2002)5 on the Protection of Women against Violence in Council of Europe member States. Strasbourg: Council of Europe.

<sup>48</sup> <http://www.wave-network.org/content/wave-report-2014>

<sup>49</sup> See Analytical study, *ibid.*, pp. 69.

<sup>50</sup> <http://www.wave-network.org/sites/default/files/WAVE%20COUNTRY%20REPORT%202012.pdf>

<sup>51</sup> Experts report that victims of other forms of violence against women are not turned away in practice.

<sup>52</sup> See, for example, the Spanish case study.

missing from the Polish system. The Act on Counteracting Domestic Violence does not mention economic empowerment among the assistance measures that should be provided to victims. Economic empowerment of victims is not included in the four specific objectives and the related action directions of the NPDV. It is nonetheless an important step that the creation of conditions to provide social housing for victims of domestic violence has been included in the Programme as one type of action (2.3.9).

As noted above, beyond domestic violence, sexual violence, stalking and sexual harassment and, to a much lesser extent, other forms of violence against women such as forced marriage, female genital mutilation, forced sterilisation/abortion are not addressed by the existing legal and policy framework. This is particularly true regarding special protection and services for victims suffering such forms of violence.

### **Prosecution**

Implementing a comprehensive approach requires an integrated criminal and civil justice response to all forms of violence against women and domestic violence – in addition to preventive measures and the provision of support and protection. This means that both substantive and procedural legal measures should be in place to ensure the accountability of perpetrators, while giving due consideration to the rights, needs and safety of victims, including through the procedures in place. In general terms, prosecution is the “P” which has received the least attention in the relevant policy documents in Poland.

Progress with regard to the criminalisation of different forms of violence against women and domestic violence varies in Poland. In the case of rape, the Criminal Code (Article 197) goes beyond the use of force and prosecution is sought where the offence involved unlawful threats (physical or psychological) and duress. This is in line with the definition of sexual violence in the Istanbul Convention (Art. 36, paragraph 2). An important step was also taken in 2013 with the introduction of *ex officio* prosecution in the Criminal Code (in effect since 2014). The amendment was introduced in order to further reconcile the legislation with the requirements of Article 55 of the Istanbul Convention, which provides that investigations of offences should not be wholly dependent on the report or complaint filed by the victim. Such a requirement places the burden to initiate action on the State, instead of the victim.

Poland introduced stalking into its national law as a specific criminal offence in 2012, in line with the Istanbul Convention. Article 190a criminalises acts causing a justified sense of threat or significantly violating the privacy of a person, with a penalty of deprivation of liberty for up to three years. The offence is aggravated when the victim attempts to commit suicide as a consequence of stalking, but this is not the case in cases of domestic violence between spouses and partners, which is the most frequent context for the occurrence of stalking. Furthermore, prosecution of stalking requires a complaint from the victim (*ex parte* prosecution), except in cases when the victim attempts to commit suicide. This raises concerns that this requirement may place the responsibility for coming forward with the case on the victim.

Currently, the majority of EU countries recognise domestic violence either as a specific crime or a specific aggravating circumstance in case of other relevant offences.<sup>53</sup> In Poland, domestic violence may fall under different offences, such as grievous bodily harm (Article 156 of the Criminal Code), threats (Art. 190), insult (Art. 216), or mistreating another person mentally and physically (Art. 207). Moreover, committing certain criminal offences in the context of domestic violence does not constitute an aggravating circumstance as such. Currently, the majority of EU countries recognise domestic violence either as a specific crime or a specific aggravating circumstance in the case of other relevant offences.<sup>54</sup> No evaluation/assessment is available as to how this fragmented legislative framework in Poland secures the accountability of perpetrators for all acts/incidences of domestic violence, taking into consideration the specific nature and characteristics of the phenomenon, including the pattern of repeated behaviour and its different manifestations. Moreover, experts report that domestic violence is still very much considered a private issue in Poland.<sup>55</sup>

Other forms of violence against women covered by the Istanbul Convention, such as female genital mutilation, forced marriage, and forced sterilisation and forced abortion are also not considered specific offences under criminal law, but in principle may be punishable under certain related general offences.<sup>56</sup> To date, no legislative or other policy documents are available to ensure that the judiciary and law enforcement professionals have clear guidance on the interpretation and application of the law to respond to such forms of violence. This fact, especially when combined with a lack of other measures – such as awareness-raising and protection measures – addressing those forms of violence, signals a weak prosecution pillar, and indicates that perpetrators may not be brought to justice and therefore may go unpunished.

An important initiative regarding cases of domestic violence is the Blue Cards Procedure. Card A, which may also be filled in by the police, is particularly relevant to the field of prosecution. Although the documentation requirements are different under the Blue Cards Procedure and criminal procedure, Card A is a useful tool for recording such acts and may also serve as evidence in subsequent criminal proceedings.

A number of positive steps have been taken in Poland towards ensuring the protection and safety of victims, and the prevention of their secondary victimisation in criminal proceedings. The development of the Charter of Rights of Persons Affected by Domestic Violence,<sup>57</sup> initiated in 2011 by the Ministry of Justice, is worth mentioning, as it is consistent with international norms such as Article 56 of the Istanbul Convention and previously mentioned best practices. Furthermore, in 2013, risk assessment instruments – a

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<sup>53</sup> See for example: European Commission (2010), Feasibility Study.

<sup>54</sup> See, for example, European Commission (2010), Feasibility Study.

<sup>55</sup> Information obtained during the expert meeting on 19 November 2014.

<sup>56</sup> For example, female genital mutilation may be prosecuted under Article 156 or 157 of the Criminal Code which penalises bodily harm and grievous bodily harm.

<sup>57</sup> Available at:

[http://ms.gov.pl/Data/Files/\\_public/pokrzywdzeni\\_przestepstwem/charter-of-rights-of-a-person-affected-by-domestic-violence-eng.pdf](http://ms.gov.pl/Data/Files/_public/pokrzywdzeni_przestepstwem/charter-of-rights-of-a-person-affected-by-domestic-violence-eng.pdf)

questionnaire, procedures and a practical guidebook – were introduced for use by the police in domestic violence cases. The risk assessment, which was first introduced in one region (voivodeship), is obligatory for police throughout the country. Nobody’s Children, a non-governmental organisation dealing with children’s rights, contributed to this process. The improvement of the rules on interviewing victims of sexual crimes is also an important step forward. The Charter of Rights prescribes a single interview with victims of sexual offences, to be carried out in a special room in the presence of a psychologist. The potential to make use of these “Blue rooms” for interviewing other vulnerable victims of violence against women has, however, not been utilised.

Despite efforts to improve its effectiveness, it is still too soon to qualify the Polish prosecution pillar as comprehensive, particularly due to weaknesses in empowering victims during investigations and judicial proceedings. As regards sexual violence, a recent research report points to “an increase in the number of procedures requiring the involvement of rape victims, which may lead to secondary victimisation.”<sup>58</sup>

The Act on the Protection of Victims and Witnesses<sup>59</sup> does not specifically mention victims of gender-based violence or violence against women. However, vulnerable victims are referred to within the provisions, which indicate that measures could potentially be applied to victims of violence against women. The development of application guidelines could facilitate this option. The necessary systematic review and extension of existing measures in this field will be facilitated by the overlap between the measures of the Istanbul Convention and the European Union’s Victims’ Directive.<sup>60</sup> The directive introduces special measures with respect to victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships. Accordingly, the transposition of the directive into national law is one of the key measures proposed by the NAPET. The law on the protection of victims and witnesses of crimes moreover aims to ensure compliance with the directive.

Effective, proportionate and dissuasive sanctions ensuring the accountability and punishment of perpetrators of violence against women and domestic violence, is another key element of comprehensive interventions. Mandatory alternative dispute resolution processes, including mediation and conciliation, are generally seen as unacceptable under international norms (Article 48 of the Istanbul Convention, for instance) and the best practice examples previously discussed.<sup>61</sup> In Poland, on the basis of the Code of Criminal Procedure, mediation is only applicable if initiated by a victim or with their consent. However, many resources treat mediation *per se* – even if it is not mandatory – as problematic for criminal offences or other legal proceedings related to violence against

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<sup>58</sup> See [http://www.rownetraktowanie.gov.pl/sites/default/files/raport\\_wersja\\_ostateczna.pdf](http://www.rownetraktowanie.gov.pl/sites/default/files/raport_wersja_ostateczna.pdf) H6 DZ.U. 2015 poz. 21, adopted on the 21st of November 2014. The act has been in force since 8 April 2015.

<sup>60</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

<sup>61</sup> See, for example, UNODC (2014) Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women.

women or domestic violence.<sup>62</sup> It is argued that mediation undermines the perpetrator's accountability, and presumes that both parties have equal bargaining power and are equally at fault for the violence. In Poland, family therapy and mediation appear in State documents dealing with prevention and response to domestic violence. The legislative and policy documents, however, fail to establish a clear prohibition, and no information is available on the mechanisms in place to assess and filter cases in order to avoid resorting to alternative dispute resolution mechanisms when domestic violence has occurred.

The Act on Counteracting Domestic Violence contains provisions for corrective and educational programmes targeting perpetrators. Behavioural change and educational interventions for perpetrators of domestic violence are also addressed in regulations issued by the Polish Ministry of Social Affairs and Labour. Unfortunately, neither of these, nor any other document, address minimum standards established for perpetrator programmes.<sup>63</sup>

Comprehensive legal and policy interventions jointly addressing prevention, protection and prosecution in Poland are limited to domestic violence, sexual violence and rape. No other forms of violence against women are covered by actions embracing all three pillars. While significant progress has been noted both in the field of domestic violence and in the field of rape and sexual violence, deficiencies are evident even in these two fields as regards the weight given to each of the three pillars, and with respect to some of the key components covered by the pillars.

### C. Co-ordinated action in Poland

In Poland co-ordinated action is regarded as a procedural element of interventions tackling domestic violence and sexual violence. Co-ordination is discussed, as necessary, between stakeholders and service providers from different policy sectors, between State and non-State actors, and across multiple levels of governance. Co-ordination is provided for in the Act on Counteracting Domestic Violence as amended in 2010, and the National Programme on Counteracting Domestic Violence, and has been a key component of more recent initiatives addressing sexual violence. Poland is a large country with multiple administrative levels, making co-ordination across sectors and between administrative levels is particularly important. Co-ordination is best developed in Poland in the field of domestic violence, where institutional structures are in place both at the national and at the local level to cover tasks relating to co-operation, monitoring and review, and victim support.

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<sup>62</sup> See, for example, the UN Handbook for legislation on violence against women, pp. 38.

<sup>63</sup> For minimum standards see Domestic violence and sexual violence perpetrator programmes: article 16 of the Istanbul Convention. A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence, prepared by Marianne Hester and Sarah-Jane Lilley, Council of Europe, 2014.



## ☞ *National level*

National-level co-ordination for responding to domestic violence is regulated in the Act on Counteracting Domestic Violence. Article 10 provides for a Monitoring Team for the Prevention of Domestic Violence, which is an advisory and counselling body for the Minister for Labour and Social Policy. Members of the team are appointed by the minister in charge. These include: the National Co-ordinator for the Implementation of the National Programme on Counteracting Domestic Violence (having the rank of State Secretary); seven representatives of the government administration units concerned;<sup>64</sup> representatives of regional self-governments selected from a group of candidates nominated by local government authorities, and representatives of non-governmental organisations including churches and religious organisations appointed from among the persons shortlisted by these entities. As can be seen from the composition of the Monitoring Team, its aim is to serve as a consultative body incorporating various service providers, State and non-State actors and multiple levels of governance.

The Monitoring team's duties, as defined by the law, include the most important tasks identified in Section III of this study. These include: initiating measures against domestic violence; monitoring anti-domestic violence policy and law (as well as its implementation) and suggesting subsequent amendments; mediating communication and conflicts between public administrative institutions and non-governmental organisations implementing tasks related to preventing domestic violence; development of standards for victim support and work with perpetrators of domestic violence, and communicating these standards; and disseminating the results of monitoring of prevention measures. The main element which is still lacking is the commissioning of research and co-ordinating data collection efforts on the prevalence of domestic violence, as well as data on administration and services related to domestic violence. Team meetings take place at least once every six months. Throughout its term, the team has been particularly active in developing standards on training (including gender sensitive aspects) and facilitating legislative changes in light of the Istanbul Convention ratification and implementation process. Their work is currently focused on amending the Act on Counteracting Domestic Violence to include a broader definition of domestic violence and the introduction of restraining orders independently from on-going judicial procedures, to be issued by the police. The work carried out by the team is transparent: minutes of all meetings are published on the website of the Ministry of Family, Labour and Social Policy. The Provincial Co-ordinators for the Implementation of the Programme appointed by the province (voivodeship) governors ensure that the National Programme on Counteracting Domestic Violence is implemented at the local level.

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<sup>64</sup> The representatives of the Ministry of Justice, Ministry of Interior, Ministry of Education, Office of the Government's Plenipotentiary for Equal Treatment, the Police, and the State Agency for Prevention of Alcohol-related Problems are members of the Monitoring Teams. The representative of the Prosecutor General has observer status within the Monitoring Team.

In addition to the Monitoring Team for the Prevention of Domestic Violence, a second co-ordination body has been set up for policies addressing sexual violence. Established in 2009 by the Declaration “*Stop sexual violence in Poland. Platform for action*”, the inter-ministerial and intersectoral *Platform for Action to Stop Sexual violence in Poland* comprises the following members: Ministry of Justice, Ministry of Family, Labour and Social Policy, Ministry of Health, Ministry of National Defence, Ministry of the Interior and Administration, Police, Prosecutor's Office, National Broadcasting Council as well as non-governmental organisations. The Platform's objective is to ensure institutions and enterprises are monitored in terms of their observance of the principle of equal treatment, including the prevention of sexual harassment of women; the implementation of efficient anti-violence educational programmes; the implementation of a system providing immediate protection to women who report sexual violence; raising awareness of the 24-hour helpline among the general public; and training for the relevant services on standards in dealing with victims of sexual violence. Initiatives which have already been taken include establishing procedural rules for the police and healthcare centres for victims of sexual violence, and extended training on domestic violence including sexual violence included in the training programme of the National School of Judiciary and Public Prosecution.<sup>65</sup> The Platform is a remarkable multi-agency initiative with an ambitious set of objectives; regrettably, expert sources report that it is currently only working on a task-related basis rather than continuously.

While institutional developments in terms of national level co-ordination for tackling domestic violence and sexual violence are impressive, a close examination reveals that weaknesses exist in how co-ordination is implemented in practice. Moreover, there is some overlap between tasks performed under the Platform for action to Stop Sexual Violence in Poland and the expertise of the Monitoring Team working on preventing domestic violence. Eliminating such redundancies would result in a more cost-efficient and more comprehensive approach to violence against women and domestic violence. This combined approach to co-ordination might also be useful in addressing other weaknesses of national level co-ordination, such as the lack of coverage of other forms of violence beyond domestic violence and sexual violence.

Comprehensive national-level strategic documents set the context for co-ordination of both sexual violence and domestic violence: the Stop Sexual Violence in Poland Platform for Action and the National Programme on Counteracting Domestic Violence. Co-ordination and intersectoral action towards more efficient monitoring and evaluation are central to Poland's strategic action.

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<sup>65</sup> Committee on the Elimination of Discrimination against Women, Consideration of reports submitted by States parties under Article 18 of the Convention - Combined seventh and eighth periodic reports of States parties due in 2010 – Poland, CEDAW/C/POL/7-8, 11 March 2013.

## ☞ *Local level*

As mentioned in the previous sub-section, Poland has also established local-level (*gmina*) co-ordination mechanisms for domestic violence interventions, following the 2010 amendment of the Act on Counteracting Domestic Violence (Article 9). These interdisciplinary teams provide local-level co-ordinated access and intervention for victims of domestic violence. Appointed by municipality heads, the interdisciplinary teams must include representatives of social services, municipal committees for solving alcohol-related problems, the police, educational institutions, healthcare institutions, court-appointed guardians, and non-governmental organisations. Prosecutors, and other professionals and practitioners engaged in the field of prevention of domestic violence may also be invited to participate.

With organisational and technical support from social services institutions, interdisciplinary teams have to meet at least once every three months, and their members perform their tasks as part of their professional duties. The tasks of interdisciplinary teams are determined in line with the respective *gmina* programme for counteracting domestic violence. Tasks include: diagnosing the domestic violence problem at local level; work on prevention of domestic violence; initiating interventions where domestic violence occurs; disseminating information on existing domestic violence services, and initiating criminal procedures against perpetrators of domestic violence.

While the interdisciplinary teams work locally on more systemic level issues, working groups have been formed in parallel to ensure co-ordinated intervention in individual cases of domestic violence. The working groups' tasks include: the development and implementation of support plans for individual cases of domestic violence, monitoring the situation of families where domestic violence occurs and of families at risk of such violence, and documenting activities undertaken targeting such families and the results of these activities. Individual support plans are developed together with the victim, including, where necessary, the provision of psychological, legal and social support. Rules for co-ordinating information and for interventions in cases of domestic violence have been established under the Blue Cards Procedure.<sup>66</sup>

The Blue Cards Procedure has existed in Poland since 1998. Initially, it was used only by police officers in cases of domestic violence, following reports from family members or witnesses of domestic violence. Since 2004, the Blue Cards Procedure has been extended to social workers, and, since the 2010 amendment, the procedure now covers five public services: the police, social workers, the education sector, the healthcare sector and local committees for alcohol-related problems. The interdisciplinary teams, on the other hand, may include non-governmental organisations working in the field of domestic violence, but the latter do not have the authority to initiate the procedure. The victim's consent is not required to initiate the procedure. In addition to their multi-agency mode of operation, the

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<sup>66</sup> Regulation of 13 September 2011 on the "Blue Cards" procedure and model forms of "Blue Cards" Journal of Laws No. 209, item 1245.

interdisciplinary teams are regarded throughout Europe as a best practice due to their proximity to victims of domestic violence and their country-wide coverage<sup>67</sup>.

The interdisciplinary teams and working groups operating in Poland are well in line with the criteria identified through the promising best practices discussed above, particularly on account of their capacity to offer co-ordinated support and protection to victims of domestic violence. An evaluation following the teams' first year of activity<sup>68</sup> identified directions for further improvement according to the objectives set by the new 2014–2020 Strategy. Operational weaknesses were also identified by the NAPET. These included difficulties “in developing effective co-operation within the interdisciplinary team associated with the mode of appointment of the team, its composition and organisation and the scope of tasks and powers”. As a result of these weaknesses, the teams could not “keep up with performing a careful analysis of cases assigned to them.”<sup>69</sup> Furthermore, the results of an audit by the Supreme Audit Office assessing the steps taken by public authorities to address domestic violence indicated that the legal reform introducing the Blue Cards Procedure, “failed to significantly improve the situation of domestic violence victims, in part because the procedure was overly bureaucratic”.<sup>70</sup> Difficulties were also identified in delivering rapid responses in emergency situations, as well as in funding the activity of these groups in the absence of specifically allocated budgets for their work. Although the regulation of the Blue Cards Procedure requires an immediate response, the law allows 10 days for transferring the initial documentation (Blue Card A) to the team members. Another weakness of the system emerges from the previous discussion of promising best practices. Case managers or victim advocates, such as Independent Domestic Violence Advisers in the case of a Multi-Agency Risk Assessment Conference (MARAC), are key actors in handling cases in our best practice examples. Using case managers facilitates a victim-centred procedure. It minimises re-victimisation by pre-empting the need to meet representatives from all the relevant services, and by acting as an advocate for the victim within the system. In Poland, the victim is requested not only to meet with a case manager, but also to meet with the representatives of the working group; this may often lead to insensitive treatment and re-victimisation. Equally, perpetrators are not obliged to meet with the interdisciplinary teams, which may compromise the effectiveness of safety plans. A further weakness of the system is that the Blue Cards Procedure does not provide a standardised tool for risk assessment, in order to assess and manage risks, which may lead to inconsistencies in its operation.

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<sup>67</sup> According to information provided by the Ministry of Family, Labour and Social Policy, in 2014 there were 2 512 interdisciplinary teams in Poland.

<sup>68</sup> Review undertaken by the Institute for Market and Public Opinion Millward Brown SMG/KRC Research at the request of the Ministry of Family, Labour and Social Policy.

<sup>69</sup> National Programme on Equal Treatment for the years 2013-2016.

<sup>70</sup> See Fundamental rights: challenges and achievements in 2013, EU Agency for Fundamental Rights.

While the inclusion of non-governmental organisations in such co-operative work is a key principle established by the Istanbul Convention (Article 18, paragraph 3), the aforementioned evaluation survey of the first year of activity<sup>71</sup> shows that only 48% of all these interdisciplinary teams included such organisations. The survey also indicated that these working groups' actions are mainly initiated by the police and to some extent by social services. A review of similar co-ordinated community exercises in international practice showed that healthcare institutions and non-governmental organisations for victim support are usually the first to come into contact with victims.<sup>72</sup> The absence of action initiated by these stakeholders may be indicative of a weakness in the system. Empowering non-governmental organisations to initiate action, and providing extensive training and guidance to healthcare personnel who are likely to come into contact with victims, are two possible ways of improving and directing more cases towards the intervention system.

A significant shortcoming of the local-level co-ordination approach in Poland is its exclusive focus on domestic violence. The absence of similar coverage particularly for sexual violence and rape, but also for other forms of violence, is an important aspect that should be addressed in the actions aimed at implementing the Istanbul Convention. Similarly, there is an overlap between co-ordinated approaches applied to domestic violence and sexual violence, particularly in terms of the stakeholders involved, the centrality of victim protection, and the key role of non-governmental organisations for victims' rights. Using and further developing the existing infrastructure and expertise available for domestic violence through the institutional network at local level may be a viable option for moving towards better coverage for other forms of violence against women.

Databases could further ensure that the implementation of the National Programme on Counteracting Domestic Violence is co-ordinated; these databases could be maintained by the relevant government and self-government institutions, as well as by non-governmental organisations responsible for providing assistance, including shelter and other services, to those affected by domestic violence (2.1.4, 2.1.5). Creating such databases would be conducive to networking and co-ordinated action between different stakeholders.

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<sup>71</sup> Review undertaken by the Institute for Market and Public Opinion Millward Brown SMG/KRC Research commissioned by the Ministry of Family, Labour and Social Policy .

<sup>72</sup> See Mallios, C., Markowitz J. (2011) Benefits of a coordinated community response to sexual violence. Strategies in Brief (issue 7), AEquitas, Washington, DC. Martin, P. Y. (2007), 'Coordinated community services for victims of violence', in O'Toole, L. L., Schiffman, J. R. and Kiter Edwards, M. L. (eds) Gender Violence: Interdisciplinary Perspectives, 2/e. New York, New York University Press.

## D. Instruments and tools for ensuring an effective *de facto* response in Poland

Poland has come a long way in a relatively short period of time: from having no policies on violence against women, it now has a relatively complex system for dealing with domestic violence, sexual violence and rape, and sexual harassment. Developments have been fast-tracked, especially since 2010. An inevitable outcome of such rapid progress is that the implementation of law and policies can lag behind. This sub-section looks at the comprehensiveness of Polish interventions in terms of the available tools and instruments required for an effective and efficient response. These include: protocols and guidelines for professionals dealing with all forms of violence against women; specialisation and training of different professionals; comprehensive and systematic data collection; systematic monitoring and evaluation of interventions; and availability of a budget earmarked for actions aimed at preventing and combating all forms of violence against women.

In a similar way to the other three criteria of comprehensiveness identified in this study, the Polish interventions examined from this perspective focus on domestic violence and, to some extent, on sexual violence in the absence of a comprehensive legal and policy framework for addressing all forms of violence against women. While a comprehensive State-level response exists for domestic violence, ensuring the intervention of relevant sectors and actors occurs in a co-ordinated way, problems arise in implementation. An examination of the existing instruments and tools is especially important in ensuring that effective and efficient implementation takes place.

*Protocols and guidelines* have a key role in strengthening a unified, effective response to violence against women and domestic violence. In the field of domestic violence, the Act on Counteracting Domestic Violence aims to establish the roles and tasks of different sectors. The standards for basic services provided by specialist support centres for victims of domestic violence are also regulated by law.<sup>73</sup> In addition, guidelines for the prosecution service on best conduct for the prevention of domestic violence were adopted in 2011.<sup>74</sup> In December 2015, the Prosecutor General also issued guidelines for the prosecution service on the principles of conduct in cases of rape.<sup>75</sup> However, recent research draws attention to a failure to observe the guidelines in practice, concluding that “it is necessary to make prosecutors and police officers more aware of their duties under the applicable guidelines”.<sup>76</sup>

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<sup>73</sup> See Regulation 259 of the Minister of Labour and Social Policy of 22 February 2011, on the standard of basic services provided by specialist support centres for victims of domestic violence, qualifications of personnel hired in these centres, detailed directions for conducting corrective and educational interventions directed at people using domestic violence, and the qualifications of persons conducting corrective and educational interventions.

<sup>74</sup> Guidelines of the Attorney General, dated 21 December 2011 on the principles of conduct for the general organisational units of the prosecution service with respect to the prevention of family violence.

<sup>75</sup> [www.przemoc.gov.pl/uploads/84/Wytyczne%20Prokuratora%20Generalnego%20z%2018%20grudnia%202015%20r.\\_1452690395.pdf](http://www.przemoc.gov.pl/uploads/84/Wytyczne%20Prokuratora%20Generalnego%20z%2018%20grudnia%202015%20r._1452690395.pdf)

<sup>76</sup> See: [http://www.rownetraktowanie.gov.pl/sites/default/files/raport\\_wersja\\_ostateczna.pdf](http://www.rownetraktowanie.gov.pl/sites/default/files/raport_wersja_ostateczna.pdf)

Neither a specific legislative framework, nor protocols or guidelines for the effective handling of domestic violence cases have been adopted for justice personnel, however. Furthermore, no protocols are available for healthcare professionals, and no information is available on the existence of protocols and guidelines for other professionals. This is evident from the fact that, among the five actors of the Blue Cards Procedure, it is the health care sector that least frequently initiates the procedure.

“Procedures for the police and healthcare facilities on how to treat a victim of sexual violence” were elaborated with input from civil society stakeholders in 2010, and updated in 2015. The procedure for the police has been formally adopted.<sup>77</sup> Furthermore, there have been other related initiatives to strengthen the responses of the police and the healthcare system. One example is the development of a forensic package to secure evidence of sexual crimes for the purpose of criminal proceedings. The “Procedures for the police and healthcare facilities on how to treat a victim of sexual violence” specify how the package should be used in practice. The procedures include guidance on the report for the examination of a victim of an offence against sexual freedom and decency, a person suspected of such an offence and a form for securing forensic evidence, all of which are part of the forensic package.

*Specialisation* of the relevant sectors, either by means of specialised units or specialised personnel, is a preferred method for strengthening the response to all forms of violence. The importance of specialisation is not only recognised by international standards such as the Istanbul Convention, but also emerges as an important element from the best practice examples reviewed in this study. Although the composition of the interdisciplinary teams and working groups has a strong potential for providing a framework in Poland, specialisation as such is not guaranteed in the legislative and institutional context. No specialised courts or prosecution units have been set up, and no clear police specialisation is taking place. It is also unclear to what extent the members of interdisciplinary teams achieve specialisation over time, and how constant the membership of these teams is.

While in recent years different professionals have been offered training in domestic violence, a national training framework for standardised knowledge on violence against women, domestic violence and sexual abuse covering both pre-service and in-service (initial and further) *training* for all relevant professionals is still lacking in Poland. In general, training is often available on either an optional or on an ad-hoc basis within the framework of different programmes or projects, but the financial resources are lacking.

One-off, mostly project-based, training programmes have been organised for lawyers, prosecutors and police officers, while a module on domestic violence has been included in basic police training since 2012 and in police management courses since 2013.<sup>78</sup> A module on domestic violence has also been developed for judges and prosecutors. Nevertheless, violence against women is not part of general legal education, and there is a lack of systematic and obligatory training on violence against women and domestic violence for

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<sup>77</sup> The Chief of Police introduced this into the Guidelines on investigative measures and actions by police, see Official National Police Headquarter Journal 59, paragraph 58 point 12.

<sup>78</sup> See, for example, the Polish report on the implementation of the Beijing Declaration and Platform for Action.

other professionals such as health personnel and social workers. Importantly, however, competence building for various institutions and entities to facilitate the performance of tasks related to the prevention of domestic violence is one of the specific objectives of the NPDV (2014–2020). Training programmes are envisaged in the document for a range of relevant sectors/professionals, including organisational units of social assistance, municipal boards for the prevention of alcohol-related problems, the police, education and healthcare personnel, judges, public prosecutors and probation officers, the prison service, and other entities which can be included in the interdisciplinary teams/working groups. It is of special importance that the NPDV should include a separate task on developing and issuing guidance for conducting training. In addition to the NPDV, the NAPET also prescribes training programmes for interdisciplinary teams. It should also be mentioned that, at the time of writing, the Ministry of Family, Labour and Social Policy was carrying out a training programme for 500 interdisciplinary teams under Programme PL14 “Domestic and Gender-based Violence” funded by the EEA and Norway Grants, in order to improve the response of these teams when handling cases of domestic violence and to ensure effective multi-agency co-operation.

Training for police, prosecutors and health services on how to treat victims of sexual violence in order to prevent secondary victimisation is included as a specific measure in the NAPET. Furthermore, training of police personnel and medical staff in relation to sexual violence is also conducted through an on-going project supported by the EU PROGRESS programme.<sup>79</sup> Systematic training on other forms of violence, such as stalking and sexual harassment, are not included in the policy documents.

Developments in the Polish legal and policy framework concerning domestic violence have led to improvements in statistical data collection in recent years, particularly with the adoption of the NPDV. However, the *data collection* system for violence against women in general, as well as for its different forms, is fragmented and uncoordinated, with pockets of non-synchronised data generated by the different actors who work in intervention.<sup>80</sup> A Council of Europe report currently under preparation highlights the limited availability of administrative data on domestic violence and sexual violence. The report also concludes that data collection in the healthcare sector for these cases has been insufficient, and that recording the cases is a prerequisite for data collection.<sup>81</sup> Although the disaggregation by sex of the different data is systematically undertaken by police, prosecutor’s offices and courts, this is still not routinely ensured across all sectors in Poland. The relationship between the victim and the perpetrator, another important variable, is only recorded in domestic violence cases. Criminal statistics are based on data regarding victims, and data are available since 2015 regarding the sex of perpetrators for all forms of crimes, including domestic and sexual violence. In recent years progress has been made towards improving the data collection system, particularly in the field of domestic violence, on the basis of the

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<sup>79</sup> “Rights for the victims of sexual violence: a new systematic approach. Comprehensive informative and training actions”, implemented by the Office of the Government Plenipotentiary for Equal Treatment in partnership with the Ministry of Interior and the Prosecutor General.

<sup>80</sup> Information obtained during the expert meeting on 19 November 2014.

<sup>81</sup> Kervinen, E., Heiskanen, M., and Lietonen A. (2014). Estimating the costs of domestic and sexual violence against women in Poland. Unpublished manuscript, quoted with permission from the Council of Europe.



Blue Cards Procedure. Article 9c of the Act on Counteracting Domestic Violence establishes requirements for members of interdisciplinary teams on how to record and manage data. However, criminal, healthcare or social services data are not effectively linked to data generated via the Blue Cards Procedure. This impairs both the assessment of domestic violence in Poland, and assessment of the effectiveness of current legislative and other measures. It should be noted, however, that information on the implementation of the NPVD is published on the website<sup>82</sup> of the Ministry of Family, Labour and Social Policy on a yearly basis. This also ensures public access to information on all collected statistical and administrative data.

*Monitoring and evaluation* of existing legislative and policy measures is of primary importance in tracking the implementation of these measures, so as to assess whether they are serving their original goals and purposes and to guarantee the protection of victims and the accountability of perpetrators. Monitoring and evaluation thus help to reveal gaps and shortcomings in the intervention system and to introduce reforms and evidence-based policy planning. As the best practice cases have shown, monitoring of existing policies may be conducted by specialised co-ordination bodies, and take the form of (annual) implementation reports. In Poland's case, the Act on Counteracting Domestic Violence allocates the monitoring of tasks relating to prevention measures and the distribution of the results to the Monitoring Team<sup>83</sup> (Article 10a). The detailed report on the implementation of the NPVD should also be mentioned as an important step in this field. It should also be noted that, following a request from the Ministry of Family, Labour and Social Policy in 2012, an evaluation of the activity of the interdisciplinary teams was conducted. The evaluation results were subsequently taken into consideration when drafting the new strategy. Another monitoring report was prepared in 2015 by the Office of the Plenipotentiary to review the reasons why a period of over six months elapsed after new rape-related regulation was adopted.<sup>84</sup> No information is however available on the monitoring and evaluation of the implementation of other legislative measures and policies in preventing and combating violence against women, and gender impact assessments have not been introduced as a method for ensuring that laws and policies are serving victims of violence against women. The frequency of the monitoring exercise is also not clearly specified.

The allocation of adequate, earmarked *financial resources and specific budget lines* serves both as an indicator of State commitment and as a prerequisite and guarantee for putting certain planned legal and policy measures into practice. In the case of Poland, it is important to mention that the NPVD contains budgetary considerations relating to the measures envisaged. However, the NAPET has not allocated a separate budget for the implementation of its specific objectives, and, based on desk research, no information is available on other existing specific budget lines or allocations for the implementation of tasks to help prevent and combat violence against women.

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<sup>82</sup><https://www.mpips.gov.pl/przeciwdzialanie-przemocy-w-rodzinie-nowa/ogolne/sprawozdania-z-realizacji-krajowego-programu-przeciwdzialania-przemocy-w-rodzinie/>

<sup>83</sup> See Section IV.B.

<sup>84</sup> The Law of 13 June 2013 amending the Criminal Code and the Code of Criminal Procedure.

## V. Conclusions and recommendations

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This study identified four main components or criteria of a comprehensive and co-ordinated response to violence against women and domestic violence. Examples of promising European best practices were subsequently discussed in light of these criteria, and indicators were identified for assessing Poland's policy and legislative framework. It emerges from this analysis that Poland is a country where interventions to combat violence against women have been developing fast, especially over the last five years. Poland's recent ratification of the Istanbul Convention is also a key reason to be optimistic. It indicates the direction of future change, as well as reflecting a genuine commitment to prevent and combat violence against women in all its forms. Despite the considerable progress achieved, however, there are a number of deficiencies which could be addressed in the framework of implementing the Convention. The main findings and recommendations which have emerged from this study are outlined below. The authors have taken note of the concluding observations for Poland adopted by the CEDAW Committee in 2014<sup>85</sup> in the formulation of the recommendations.

### *Addressing the gendered nature of violence against women*

The first criterion for comprehensiveness identified in this study requires recognition of the ***gendered nature of violence against women and domestic violence***. In policy terms, this means addressing the link between violence against women and structural gender inequality. It also entails making sure that the legal and policy framework explicitly addresses and connects all the different forms of violence against women as manifestations of the same phenomenon.

In this study, two possible ways of achieving such a gender sensitive approach have been identified. The first elevates violence against women as a form of gender discrimination to the highest possible level through the adoption of a specific law on violence against women, with regulations covering different forms of violence linking back, in one way or another, to this legal framework. The second option consists in adopting a comprehensive gender sensitive approach at a point in time when progress has already been made and legislation has been adopted with respect to several specific forms of violence. In this case the adoption of comprehensive strategic documents, such as national action plans, and the establishment of co-ordinating mechanisms that link specific forms of violence, while highlighting their connection to gender inequality, is the preferred solution. In terms of this strategy, all the established laws and regulations covering different forms of violence can be linked together and reviewed from a gender perspective.

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<sup>85</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of Poland, Adopted by the Committee at its fifty-ninth session, meeting from 20 October to 7 November 2014. CEDAW/C/POL/CO/7-8. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fPOL%2fCO%2f7-8&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fPOL%2fCO%2f7-8&Lang=en)

The second option can be deemed more relevant to Poland, since an elaborate intervention system for domestic violence and sexual violence, including rape, has already been established. Indeed, the first step in this direction has already been taken through the ratification of the Istanbul Convention, particularly in terms of co-operation between the Ministry of Family, Labour and Social Policy, the Office of the Government Plenipotentiary for Equal Treatment, and the Ministry of Justice. The most obvious next step would be to adopt a national strategy that would link the separate pieces of legislation and policy measures on different forms of violence against women under one policy document. Alternatively, such strategic component on violence against women could be introduced in the National Programme of Equal treatment. The objective of these policy documents should be to target for instance all forms of violence covered by the Istanbul Convention, for instance by discussing the links between them and introducing the necessary gender sensitive measures to coherently and consistently address such forms of violence. Based on this strategic document, while ensuring governmental co-ordination of all the measures, a gender assessment of regulations regarding specific forms of violence against women and domestic violence could be initiated. In line with Article 6 of the Istanbul Convention, such a review could prove effective in highlighting the legislation, policy instruments, institutions and sectors which require the introduction of gender sensitive changes.

As discussed in the previous sections, including the victim's perspective when drafting policies and legislation is a key step towards securing gender sensitivity. In the experience of Council of Europe member States, and according to research conducted in this field, meaningful engagement of women's and victims' rights advocates in the policy formulation and monitoring process results in interventions that are both gender-specific and effective (Martin 2007). The involvement of non-governmental and civil society organisations as partners in the elaboration and implementation of measures is also required by Article 9 of the Istanbul Convention.

### *Recommendations*

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- ✓ Adopt a national strategy to prevent and combat violence against women, covering all forms of violence included in the Istanbul Convention, and addressing the links between these forms in a coherent and consistent manner, as a human rights violation and a form of discrimination.
- ✓ Involve women's and victims' rights non-governmental and civil society organisations in the policy development process, in order to guarantee the inclusion of the victim's perspective and the gender perspective in the formulation of future measures.
- ✓ Review existing policy, legislation and other measures related to violence against women and domestic violence from a gender perspective and revise them accordingly.

### ☞ *A three-tiered approach: prevention, protection and prosecution*

The second criterion identified in this study entails adopting a three-tiered approach that equally and jointly targets **prevention, protection and support of victims, and prosecution of perpetrators**. This means that due consideration must be given to all three pillars of action in the legislative and policy framework, and a comprehensive approach must be followed for each of the three pillars, with a clear definition of the roles and responsibilities of all stakeholders involved. Such an approach is instrumental in implementing the principle of due diligence, as laid down in Article 5, paragraph 2 of the Istanbul Convention. In Poland, a three-tiered legal and policy approach is only available for domestic violence and, to a lesser extent, sexual violence, including rape. However, gaps emerge even in relation to those two forms of violence. This study's findings show that protection has received the most attention in Poland, while prosecution and (primary) prevention are the least developed pillars.

In the field of **prevention**, conducting regular awareness-raising activities and placing more emphasis on the role of stakeholders such as the public education system and the media – as is the case in Spain – to address systematically the root causes of violence against women would be an important step forward.

The promising best practices discussed in this study reinforce the need for a comprehensive response as regards the **protection and provision of support to** all victims, regardless of their background, covering all forms of violence against women. In Poland, the effectiveness of the protection pillar in cases of domestic violence could be further improved by extending the scope of protection and support to all victims, including former partners, and irrespective of cohabitation. Such a move would align Polish legislation and practice more closely with the Istanbul Convention's definition of domestic violence (Article 3 (b)). Furthermore, in relation to custody and visitation rights, providing protection to children and the non-abusive parent, and introducing related assessment measures would facilitate a more holistic response, as required by Article 31 of the Istanbul Convention. Finally, action to support the empowerment and economic independence of women victims would strengthen coverage for victims of domestic violence and better address multiple forms of abuse.

A more comprehensive approach can also be achieved in Poland by addressing weaknesses of protection in cases of immediate danger or high risk. Emergency barring orders, issued on the spot by the police, have proven to be very effective and are increasingly being introduced by Council of Europe member States. Protection and restraining orders are also powerful tools in offering protection from further violence. Nevertheless, such measures can only be effective if they provide a continuum of protection and if the system foresees effective, dissuasive and proportionate sanctions for any breach of such orders. Articles 52 and 53 of the Istanbul Convention provide a normative basis for both types of orders, while the Austrian system is a good best practice example to follow. Furthermore, a rapid and proactive response should be provided by general and specialised support services, offering both long-term and short-term legal, psychological and social assistance. The provision of

housing support, and employment and social aid measures, as exemplified by the Spanish system, would be important for developing more comprehensive and empowering responses within Poland.

The lack of attention paid to the **prosecution** pillar is one of the main weaknesses identified in this study. Further development of both substantive and procedural law would constitute an important step forward for the Polish justice system. Within this framework, a detailed analysis of the appropriateness of the current substantive legislation, and its implementation, for addressing different forms of violence is recommended. As the best practice examples illustrate, the introduction of specific criminal offences and aggravating circumstances would strengthen the Polish response, particularly in terms of the prosecution pillar. Protective measures with the aim of empowering victims and preventing their secondary victimisation during investigation and criminal proceedings should also be introduced or reinforced, taking into consideration Articles 18(3) and 56 of the Istanbul Convention. Prohibiting mandatory mediation – in line with Article 48 of the Istanbul Convention – and introducing adequate filtering mechanisms for cases where mediation is applicable can contribute greatly to ending the impunity of perpetrators.

For forms of violence against women in addition to domestic violence and sexual violence (specifically sexual harassment, stalking, forced marriage, female genital mutilation, and forced sterilisation and abortion) the introduction of policy and legislative strategies covering the three Ps is a prerequisite for a comprehensive response.

### *Recommendations*

- ✓ Introduce legislative and/or policy measures covering the three Ps for all forms of violence against women in strategic documents.
- ✓ In the field of prevention, define specific responsibilities for the public education system, the media, the private sector, and the information and communication technology sectors to raise awareness about violence against women and domestic violence and its root causes.
- ✓ Extend the scope of access to protection and support to all victims of domestic violence, including former partners, irrespective of cohabitation.
- ✓ Provide protection and age-appropriate support to both children and the non-abusive parent, and introduce the requirement for judges to take into consideration any known incidents of domestic violence when determining custody or visitation rights.
- ✓ For situations of immediate danger and high risk, introduce the possibility for the police or other relevant authority to issue an emergency barring order, applicable on the spot and not exclusively limited to cases of severe violence. When introducing and reviewing emergency and long-term protection orders, guarantee a continuum of protection.

- ✓ Extend access to specialist support services for all women victims, regardless of their background, and for all forms of violence against women, while guaranteeing gender sensitive service provision, and ensure appropriate geographical coverage of services. Address the specific needs of vulnerable victims affected by multiple discrimination.
- ✓ Strengthen measures to aid the economic empowerment of victims, by ensuring the provision of housing support, and employment and social aid measures.
- ✓ Strengthen the prosecution pillar through the development of substantive law covering all forms of violence against women. Criminalise all forms of violence against women as required by the Istanbul Convention. Expand the definition of domestic violence so as to include current and former partners, and cover victims irrespective of cohabitation.
- ✓ Strengthen the prosecution pillar through the development of procedural law. Improve victim protection measures during investigations and criminal proceedings to empower victims and prevent their secondary victimisation.

### **Ensuring effective co-ordination**

The third criterion of comprehensiveness identified in this study focuses on **ensuring effective multi-sectoral, multi-agency and multi-level co-ordination**. Polish co-ordination at the national and local levels was examined here separately. The analysis reveals differences in how co-ordination is ensured for different forms of violence against women. With respect to domestic violence and sexual violence, the Polish institutional and strategic framework is largely in line with the indicators identified under Section III.C. National co-ordinating bodies for these two forms of violence have been established, and in the case of domestic violence, a national strategy has also been adopted. Further research is needed, however, in order to determine whether existing the co-ordinating bodies fulfil their assigned tasks in practice. The study brought to light two weaknesses which, if addressed, could further improve the effectiveness and the coherence of the co-ordination framework at national level. The first weakness consists in the existence of separate co-ordination mechanisms for two related issues - domestic violence and sexual violence - despite an evident overlap in the tasks performed. This first weakness also involves the exclusion of other forms of violence, addressed by international norms such as the Istanbul Convention, from the policy documents establishing these co-ordinating institutions and from their jurisdiction. Consolidating a co-ordinating mechanism to cover all forms of violence against women, including domestic violence, would represent a major improvement in the comprehensiveness of the system.

The second weakness of co-ordinated action at national level is the absence of a clear definition of the responsibilities incumbent on the two established co-ordinating bodies. Clear identification of responsibilities would enable an improvement in terms of comprehensive monitoring and evaluation, including the development of a systematic,

standardised data collection system comprising different stakeholders and providers. Best practice shows that co-ordinating institutions are also best placed to launch action for standardising data collection and processing.

At local level, the network of interdisciplinary teams working within the framework of the Blue Cards Procedure can be regarded as an achievement for the Polish intervention system. Yet, as research undertaken at national level shows, this does not mean that there is no room for improvement (see Section IV.C). One primary weakness that has often been noted is the limited inclusion of victims' rights advocates or counsellors in the co-ordination process of the interdisciplinary teams and working groups. While the inclusion of victims' rights advocates in such co-ordinated action has emerged as a key criterion for both international norms and the Istanbul Convention (Articles 9 and 18, paragraph 2), as well as for European best practice, only 48% of all interdisciplinary teams included non-governmental organisations.<sup>86</sup> Currently, there is no obligation to include non-governmental organisations systematically in all interdisciplinary teams and working groups, and such organisations are not able to launch the Blue Cards Procedure. The same survey also indicated that procedures are mainly initiated by the police and to some extent by social services. Providing extensive training and guidance to all professionals who are likely to come into contact with victims, such as representatives from healthcare services, is another possible way to channel more cases through the system and thus improve local co-ordination.

Finally, another important shortcoming of co-ordination at local level in Poland is its exclusive coverage of domestic violence. The absence of any similar coverage - particularly for sexual violence and rape, as well as stalking, but also for other forms of violence - is an important aspect that should be addressed in future action. A great deal of similarity and even overlapping elements can be identified in the one-stop-shop approaches applied to domestic violence and sexual violence. Sexual violence is also often connected to domestic violence. Extending the institutional network responsible for local co-ordination in cases of domestic violence to other forms of violence may be a viable option for ensuring more complex coverage.

### *Recommendations*

- ✓ Establish and consolidate a co-ordinating mechanism at national level to cover all forms of violence against women, including domestic violence.
- ✓ Clearly identify responsibilities for all actors involved in the national co-ordination mechanism.

<sup>86</sup> Review undertaken by the Institute for Market and Public Opinion Millward Brown SMG/KRC Research at the request of the Ministry of Family, Labour and Social Policy.

- ✓ Clearly define the mandate of the mechanism so as to include comprehensive monitoring and evaluation of related laws and policies, including the development of a systematic, standardised data collection system involving all relevant stakeholders and providers.
- ✓ Introduce the requirement to include relevant non-governmental and civil society organisations working with victims' rights systematically in local level co-ordination teams and interventions.
- ✓ Extend the Blue Cards Procedure to non-governmental and civil society organisations working with victims of domestic violence so that they may bring cases before the interdisciplinary working groups.
- ✓ Review and improve the functioning of the Blue Cards Procedure so that it includes systematic risk assessment and management procedures, and responds more effectively to the needs of victims.
- ✓ Extend local level co-ordination structures to cover other forms of violence against women beyond domestic violence.

#### ***From de jure policies to de facto implementation***

The fourth criterion identified in this study focuses on the ***existence of tools and instruments for implementing legislation and policies on violence against women in practice***. Such tools and instruments may include protocols, guidelines and by-laws for all relevant sectors and professionals; systematic training programmes for relevant professionals in all sectors and across all levels; availability of comprehensive and consistent national, disaggregated, cross-sectoral data on all forms of violence; measures securing continuous and systematic monitoring, evaluation and review of relevant policies and laws, and allocation of adequate financial resources for addressing violence against women and domestic violence at all relevant levels. While in recent years Polish interventions have certainly made progress across all of these indicators, gaps and weaknesses still emerge.

The elaboration of protocols for all forms of violence - including for forms not currently covered by the Polish response system - directed at all relevant professionals, would help ensure a more comprehensive response. Until now, protocols and other guidelines supporting a unified professional response have been elaborated exclusively for cases of domestic violence and sexual violence. Most protocols and guidelines developed are, however, directed at service providers and law enforcement, with no guidelines or checklists existing for the justice sector, for example. Practice also shows that even in cases where protocols exist, these are not always operational in practice.



Training and capacity building for Polish professionals is no different from the trend described for other interventions: it fails to address all forms of violence against women. Existing training programmes are not systematic and obligatory in nature for the majority of professionals. The structural development of adequate pre-service and in-service training schemes and curricula, and systematic training programmes for all relevant professionals would significantly improve the response to violence against women and to its different forms, including domestic violence.<sup>87</sup> Involving, wherever possible, relevant non-governmental organisations advocating for victims' rights is a good way of incorporating the victim's perspective in training initiatives.

Although there have been some improvements, the data collection system for the different forms of violence in Poland is currently fragmented and uncoordinated, with pockets of unsynchronised data generated by different actors and services involved in the intervention chain. Data disaggregation by sex, and the collection of information on the form of violence and the relationship between victim and perpetrator across all sectors are the minimum requirements to be met. In addition, a co-ordinated approach to data collection is recommended so that pockets of data are complementary. An integrated data collection system should serve the wider purpose of ending violence against women, rather than the more specific purposes of individual agencies or actors. For this reason, the same definitions and the same units of measurement should be used. The data collection system should also include judicial and administrative data to assess institutional responses, and also service satisfaction. Public access to data is also recommended.<sup>88</sup>

The regular monitoring, evaluation and review of legislative, policy and other measures addressing different forms of violence against women are key to well-functioning comprehensive interventions. Poland already has a good record in this field. The continuation and extension of monitoring and review processes to cover the entire relevant legal and policy framework, and the establishment of clear responsibilities in this regard, would be a major step forward. Violence against women and domestic violence are complex social phenomena and addressing them requires extremely complex interventions; the implementation of these interventions is often difficult. Monitoring and evaluation provide important and continuous feedback as to what is not working and what needs fine-tuning to enable a better response to the issue. Setting clear responsibilities can help ensure that monitoring and review tasks are at the core of the policy process, and prevent the marginalisation or neglect of these tasks. Moreover, the introduction of gender impact assessments is also recommended, as stipulated in Article 6 of the Istanbul Convention. Co-ordinating bodies should play a central role in this exercise. Moreover, in order to keep the

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<sup>87</sup> For example, Article 15 of the Istanbul Convention calls for the provision or improvement of professional training.

<sup>88</sup> For more detailed recommendations on improving data collection, see Ruuskanen, E. and Aromaa, K. (2008). Administrative data collection on domestic violence in Council of Europe member States. Strasbourg: Council of Europe. Available at: [http://www.coe.int/t/dghl/standardsetting/equality/03themes/violence-against-women/EG-VAW-DC\(2008\)\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/equality/03themes/violence-against-women/EG-VAW-DC(2008)_en.pdf)

victim's perspective at the centre of monitoring and review processes, dedicated non-governmental and civil society organisations should also be included.

Budget or resource allocation is a key element in ensuring sustainable action. Article 8 of the Istanbul Convention requires that States parties allocate appropriate financial and human resources to measures addressing violence against women. Budget allocation is especially crucial for interdisciplinary activities where budgetary responsibilities can become particularly complex. Planning specific budget lines for the institutional framework and measures addressing all forms of violence is essential for victim protection services, whether they provide short-term or long-term protection. Ensuring the continuous operation of a sufficient number of shelters and specialist support services is fundamental to providing protection and support. In the absence of continuous allocated funding, the existence of such services is at risk. An earmarked budget for autonomous victims' rights advocates is also advisable, especially if they have been assigned key roles in the implementation of different aspects of policy: service provision, co-ordination, and awareness-raising, for example. Finally, funding activities to support prevention can reap long-term benefits and is crucial to systematically implementing awareness-raising activities.

### *Recommendations*

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- ✓ Consider specialisation for the relevant authorities, institutions, services and actors.
- ✓ Where necessary, elaborate or improve protocols and guidelines for all relevant professionals, in order to ensure the effective implementation of policies and legislation. Introduce measures such as training to guarantee that professionals are familiarised with existing protocols and that they apply them in practice.
- ✓ Develop structures for adequate and regular pre-service and in-service training for all relevant professionals, with the involvement, wherever possible, of relevant non-governmental and civil society organisations.
- ✓ Ensure that training programmes for all relevant professionals aim to develop a gender-based understanding of violence against women, apply a victim-focused and human rights-based approach, enhance multi-agency co-operation and prevent secondary victimisation.
- ✓ Revise and improve the current data collection system, in order to:
  - ensure that judicial and administrative data are collected by all actors concerned;
  - data are disaggregated across all relevant sectors by sex, geographical location, and age, at least;
  - collect information on the relationship of victim and perpetrator, as well as on the form of violence;
  - make data pockets complementary to each other through co-ordination;
  - guarantee an accurate assessment of institutional responses;
  - make data publicly accessible.

- ✓ Extend monitoring and review processes to cover the entire legal and policy framework for addressing violence against women. Establish clear responsibilities. Include non-governmental and civil society organisations in the process and make sure it is a continuous or regularly recurring task. Guarantee the revision of laws, policies and other measures based on the evaluation results, in order to effectively respond to violence against women.
- ✓ Allocate budget resources for all interventions specific to violence against women and domestic violence and clearly define the source of funding. In particular a budget should be allocated for prevention, protection and support services for victims, systematic training and co-ordination activities.

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### **List of key Polish documentation**

Act of 29 July 2005 on Counteracting Domestic Violence

National Programme on Counteracting Domestic Violence for 2014–2020

National Programme on Equal Treatment for the years 2013–2016

Act of 6 June 1997 on the Criminal Code

The Act on the protection of victims and witnesses

Charter of Rights of Persons Affected by Domestic Violence

Regulation from the Minister of Labour and Social Policy of 22 February 2011 on the standard of basic services provided by specialist support centres for victims of domestic violence, qualifications of personnel hired in these centres, detailed directions of conducting corrective and educational interventions directed at people using domestic violence, and the qualifications of persons conducting corrective and educational interventions

Regulation of the Council of Ministers of 13 September 2011 on the “Blue Cards” Procedure and the model “Blue Cards” forms

Guidelines of the Attorney General dated December 21, 2011 on the principles of conduct for the general organisational units of the prosecution service with respect to the prevention of family violence

Committee on the Elimination of Discrimination against Women, Consideration of reports submitted by States parties under article 18 of the Convention - Combined seventh and eighth periodic reports of States parties due in 2010 - Poland, CEDAW/C/POL/7-8, 11 March 2013

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Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of Poland, CEDAW/C/POL/CO/7-8, 14 November 2014

Monika Miedzik, Justyna Godlewska-Szurkova in cooperation with Jakub Rutkowski (2015), Comparative studies and the diagnosis of the incidence of domestic violence among adults and children divided into the various forms of violence with a description of the characteristics of victims and perpetrators. Summary in English.

Review of the Blue Cards Procedure undertaken by the Institute for Market and Public Opinion Millward Brown SMG/KRC Research on the request of the Ministry of Family, Labour and Social Policy .

***List of key documentation examined linked to best practice examples***

Albania: National Strategy on Gender Equality and for the Reduction of Gender-based Violence and Domestic Violence 2011–2015

Austria: Protection against Violence Act BGBl. I Nr. 40/2009

Belgium: National Action Plan to Combat Intimate Partner Violence and other Forms of Domestic Violence 2010–2014

Ireland: Recent Rape/Sexual Assault: National Guidelines on Referral and Forensic Clinical Examination in Ireland

Spain: Organic Act 1/2004 of 28 December on Integrated Protection Measures against Gender Violence

Spain: National Strategy for the Eradication of Violence against Women 2013–2016

Slovakia: National Action Plan for the Prevention and Elimination of Violence against Women 2014 – 2019

Sweden: Women's Peace Act 1997. 1997/98:55

Sweden: Action plan for combating men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships. Stockholm, 15 November 2007

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<http://www.standingtogether.org.uk/>

<http://www.cosc.ie/en/COSC/>

<http://www.garda.ie/Index.aspx>

[www.rcni.ie](http://www.rcni.ie)



**[www.coe.int](http://www.coe.int)**

The Council of Europe is the continent's leading human rights organisation.

It includes 47 member states, 28 of which are members of the European Union.

All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the convention in the Member States.