



**Combating violence against women, including FGM :**

**possible added value of a future Council of Europe convention  
in the context of the Beijing+15 achievements made by the Council of Europe**

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*Beijing + 15 and global migration*  
*Current human rights challenges in destination countries, including FGM/Cutting*

*New York, 2 March 2010*  
Offices of the Permanent Mission of Switzerland to the U.N.  
633 Third Avenue, 29th Floor, New York (from 1.15 to 2.45 pm)

Excellency/ies,  
Dear Chairperson,  
Ladies and gentlemen,

It is a great pleasure to have the possibility to participate in this side-event as the Council of Europe keynote speaker. I have the honour of currently chairing the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly of the Council of Europe. At the same time, I am a Portuguese national parliamentarian.

Let me first of all thank the Swiss authorities for organising this side-event and providing us an opportunity to discuss the issue of FGM in the context of the achievements of the Beijing Platform for Action.

The Council of Europe has a crucial role to play in Europe to set up common legal standards, help to improve national standards and implement the Beijing Declaration and Platform for Action adopted during the 4th World Conference of the United Nations on Women.

Documents have been prepared to recall the Council of Europe contributions to Beijing + 15. Let me just outline some of our most important achievements in relation to strategic objectives of the Platform for Action, before focusing my intervention on the issue of femal genital mutilation in the context of the preparation of a Council of Europe convention to prevent and combat violence against women and domestic violence.

## **I Involvement of the Council of Europe and the Parliamentary Assembly in promoting the MDC - Beijing +15**

The Council of Europe and its Parliamentary Assembly, composed of national parliamentarians of the 47 member states, have been actively involved in the implementaiton of the Platform for Action. The current public debate on the occasion of Beijing + 15 gives us the opportunity to draw a panorama of various fields of activities.

First, the Council of Europe is committed to promote a balanced **representation of women and men in political and public life**, in relation to the strategic objective of the Platform for Action, “women in power and decision-making”.

- Recommendation Rec(2003) 3 on balanced participation of women and men in political and public decision-making adopted by the Committee of Ministers of the Council of Europe in 2003, which establishes a “parity threshold” of at least 40% of each sex in the composition of the elected assemblies, consultative organs of the state, political parties, trade unions and decision-making bodies of the media.
- The Parliamentary Assembly has launched a number of initiatives to promote women's access to decision making posts, including:
  - landmark reports on promoting women's access in public and political life were adopted in the past years<sup>1</sup>;
  - new rules were introduced ensuring that each parliamentary delegation to the Assembly includes at least one member of each sex, and that each list of three candidates put forward by member states for the post of judge at the European Court of Human Rights includes at least one member of each sex;
  - the launch of a Gender Equality Prize to reward political parties that are committed to promoting gender equality in politics<sup>2</sup> ;
  - On 27 January 2010, the Assembly adopted Resolution 1706 and Recommendation 1899 on Increasing women’s representation in politics through the electoral system (Doc. 12097, Rapporteur: Ms Lydie Err, Luxembourg, SOC).

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<sup>1</sup> All the relevant texts are to be found in doc. AS/EGA/Inf (2009) 6, PACE Recommendations to increase women's participation in the decision-making process (25 February 2009)

<sup>2</sup> See <http://assembly.coe.int/equalityprize>

The Beijing Platform for Action devoted an entire chapter to **women and armed conflict**. In this respect,

- Following the 5th European Ministerial Conference on Equality between Women and Men in January 2003, devoted to “Democratisation, conflict prevention and peace building: the perspectives and the roles of women”, a recommendation on the role of women and men in conflict prevention and resolution and in peace building is being prepared by the Committee of Ministers and should, hopefully, be adopted soon;
- The Parliamentary Assembly adopted in 2009 a Resolution and a Recommendation on Sexual violence against women in armed conflicts (see Resolution 1670 (2009), Recommendation 1873 (2009) and Doc. 11 916 (Rapporteur: Miet SMET, Belgium, Group of the European People’s Party).
- The Assembly will debate a report on Associating women with the prevention and resolution of unsolved countries in Europe (see Doc. 12169), presented by Krista Kiuru (Finland, SOC), at its April 2010 part-Session.

The Council of Europe promoted **gender mainstreaming** to achieve gender equality in all sectors of society. It adopted

- a Recommendation on the inclusion of gender differences in health policies in 2008
- a Recommendation on gender mainstreaming in education in 2007

The Beijing Platform for Action also recommends to governments to systematically review public sector expenditures and adjust budgets to ensure gender equality concerning access to expenditure. Application of gender mainstreaming in the budgetary process is known as **gender budgeting**.

- The Council of Europe report on Gender Budgeting (2004) provided a definition of gender budgeting and guidelines for member States either on introducing gender budgeting or when considering reforms in this field.
- The Parliamentary Assembly adopted in 2006 Recommendation 1739 on Gender budgeting (see Doc. 10764, Rapporteur: Ms Anna Curdova, Czech Republic, SOC) and is currently preparing a report on Gender budgeting as a tool for safeguarding women’s health (Rapporteur: Ms Circene, Latvia, EPP/CD).
- A further step was achieved in the field with the launching of a Handbook on the practical implementation of gender budgeting during a high level conference in May 2009 in Athens.

To prepare policies and programmes, to implement specific strategies, we also need specific mechanisms. The Platform for Action, under the chapter “**Institutional mechanisms for the advancement of women**”, has also indicated the main requirements which these mechanisms must comply with, in order to guarantee their effectiveness. Our Recommendation on gender equality standards and mechanisms adopted in 2007 is a precious tool for our member states to take up this challenge which is to fully implement gender equality principles and standards to bring positive changes into people’s lives and achieve de jure and de facto gender equality.

In conclusion, the Council of Europe’s pioneering work towards achieving gender equality in Europe has provided a solid legal background for the use of a holistic approach in achieving this challenge and it has devoted much attention to the development of tools and strategies to promote gender equality. However, more efforts are required and a strong political will is needed at European and national levels to introduce measures to achieve real gender equality. With the adoption of the Declaration “Making gender equality a reality” in May 2009 by the Committee of Ministers, the Council of Europe is expressing its political will to bridge the gap between de jure and de facto equality. The 7th Council of Europe Conference of Minister responsible for Equality between women and men to be held in Baku, Azerbaïdjan, on 24-25 May 2010 should precisely adopt a new roadmap translating into concrete action this political will and give a new impetus to our work in the field of gender equality - and contributing to fulfill the objectives of the Beijing Platform.

## II Combating violence against women, including FGM : possible added value of a future Council of Europe convention

In the second part of my presentation, I would like to put a special **emphasis on the issue of violence against women, which is another major obstacle to the achievement of gender equality.**

- The work of the Council of Europe in the field of **trafficking in human beings** has become a landmark with its Convention on action against trafficking in human beings, which has been ratified by 26 member states of the Council of Europe<sup>3</sup>. This convention echoes the Beijing Platform for Action which, in particular, called on governments of countries of origin, transit and destination to address the root factors that encourage trafficking in women and girls. The Council of Europe convention is a binding international legal instrument, centered on victims' rights. This comprehensive treaty focuses mainly on the protection of victims of trafficking and the safeguarding of their rights. It also aims to prevent trafficking and to prosecute traffickers. In addition, it provides for the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in the Convention. Parliamentarians have a special role to play to ensure the ratification and implementation of this Convention<sup>4</sup>, as highlighted in the recently adopted report on Action against trafficking in human beings: promoting the Council of Europe convention (See Resolution 1702 (2010), Recommendation 1895 (2010) and Doc. 12096, Rapporteur : Ms Wurm, Austria, SOC).
- Today, after a successful two-year campaign called "Stop domestic violence against women" from 2006 to 2008<sup>5</sup> based on the promotion of the measures included in the Recommendation Rec (2002) 5 on the protection of women against violence, and further to the request of the Parliamentary Assembly, an ad hoc Committee on **Preventing and Combating Violence against Women and Domestic Violence** - called CAHVIO<sup>6</sup> - is now preparing the first European human rights treaty to prevent and combat violence against women and domestic violence.

The Parliamentary Assembly is committed to raising the awareness of national parliamentarians in Europe<sup>7</sup> and made clear that:

- violence against women is a violation of human rights;
- combating violence against women needs to be tackled publicly and can, by no means, be considered as a private/family matter. Therefore violence happening in the domestic unit must also be combatted by the states;
- laws are necessary to set up standards, offer adequate and effective protection to women victims of gender-based violence, to punish the perpetrators and to prevent this human rights violation happening in the first place;
- the implementation of these laws must be adequately monitored by national parliaments;
- violations of women's fundamental human rights shall not stop at the borders, and certain crimes, which have a transnational dimension, such as forced marriages or female genital mutilation, must be prosecuted by the Council of Europe member states when the victims or the perpetrators are usually residing on our territories, even if the crime is committed in a third country<sup>8</sup>.

The Assembly has an observer status in this drafting committee (called CAHVIO) composed of governmental experts and NGOs. In my capacity as Rapporteur, I am representing the Assembly on this drafting committee in order to ensure that the positions adopted by the Parliamentary Assembly related to the need to eradicate gender-based violence, sexual violence against women in armed conflict, the urgent need to combat so-called "honour crimes", rape of women, including marital rape, or the particular risk from domestic violence faced by migrant women are reflected in the future convention.

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<sup>3</sup> See [www.coe.int/trafficking](http://www.coe.int/trafficking)

<sup>4</sup> See <http://assembly.coe.int/trafficking>

<sup>5</sup> From 2006 to 2008, the Council of Europe conducted a major pan-European campaign entitled "Stop domestic violence against women" that involved national authorities, local and regional authorities and NGOs. The Parliamentary Assembly carried its parliamentary dimension, enabling more than 40 parliaments to take an active part to this campaign with the organisation of more than 200 parliamentary activities, including seminars, campaigns, hearings, and to change national legislation.

<sup>6</sup> Further information on the CAHVIO is available at following address : [www.coe.int/violence](http://www.coe.int/violence)

<sup>7</sup> See <http://assembly.coe.int/stopviolence>

<sup>8</sup> See for example Recommendation 1868 (2009), Resolution 1662 (2009) and Doc.11784 on Action to combat gender-based human rights violations, including abduction of women and girls (Rapporteur: Antigoni Papadopoulou, Cyprus, Alliance of Liberals and Democrats for Europe).

This convention will hopefully be finalised by early 2011. There is so far a consensus among the representatives of the member states negotiating this convention that:

- "the focus of the future convention should be on the elimination of violence against women;
- "the future convention should deal with domestic violence which affects women disproportionately";
- "the gender dimension should be duly taken into account in the convention", while the provisions of the convention should apply to "all victims of domestic violence";
- The future convention should be articulated around the now 3 traditional "P" (protection, prosecution, prevention), but also a 4th "P", related to policies<sup>9</sup>.

This convention should cover a large number of forms of violence against women, including female genital mutilation (FGM), which is considered, by the Parliamentary Assembly, as one of the most severe forms of violence against women that must be covered by the future convention.

It is not the first time that the Council of Europe deals with this issue.

- The Assembly already adopted, in 2001, Resolution 1247 on the basis of a report presented by Swiss MP Gaby Vermot-Mangold to urge member states to take action.
- The appendix to Recommendation (2002) 5 on the protection of women against violence contains a paragraph on " Additional measures with regard to genital mutilation" (see below)

#### **Appendix I to Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence**

Member states should:

62. penalise any mutilation of a woman's or girl's genital organs either with or without her consent; genital mutilation is understood to mean sewing up of the clitoris, excision, clitoridectomy and infibulation;

63. penalise any person who has deliberately participated in, facilitated or encouraged any form of female genital mutilation, with or without the person's consent; such acts shall be punishable even if only partly performed;

64. organise information and prevention campaigns aimed at the population groups concerned, in particular immigrants and refugees, on the health risks to victims and the criminal penalties for perpetrators;

65. alert the medical professions, in particular doctors responsible for pre- and post-natal medical visits and for monitoring the health of children;

66. arrange for the conclusion or reinforcement of bilateral agreements concerning prevention, and prohibition of female genital mutilation and the prosecution of perpetrators;

67. consider the possibility of granting special protection to these women as a threatened group for gender-based reasons.

The text of the future convention is currently being discussed by the CAHVIO, therefore I am not yet in a position to inform you about the precise wording and scope of the future convention related to FGM.

<sup>9</sup> See doc. CAHVIO (2009) 4 FIN

However, I would like to highlight two points :

1. First, **FGM should be a specific incrimination** under the penal section of the convention. According to the first draft of the convention<sup>10</sup>, a specific article on FGM invites Parties to "take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised when committed for non-medical purposes:

- a. *excising, infibulating or otherwise mutilating the whole or any part of a girl's or woman's labia majora, labia minora or clitoris;*
- b. *performing any other harmful procedure to the female genitalia;*
- c. *counselling or procuring a girl or woman to excise, infibulate or otherwise mutilate the whole or any part of her own labia majora, labia minora or clitoris."*

2. The Committee on Equal Opportunities for Women and Men<sup>11</sup> particularly welcomed the conclusions reached in May 2009 by the CAHVIO, which emphasized the need for **appropriate international co-operation in respect of certain kinds of violence**. In practice, "extra-territorial application of the convention so that victims outside the territory of the states parties can also benefit from its protection provisions"<sup>12</sup>, could provide effective protection to potential or existing victims of gender-based human rights violations<sup>13</sup>, including when such victims who are usually resident in a Council of Europe member state are taken to and/or held against their will in a third state for such purposes.

I am convinced that the extra-territorial application of the future convention's provisions related to transnational violations of human rights would be an added value to the convention. This would put an end to impunity. This would also give a strong message to our partner countries abroad: Council of Europe member states will no more leave these crimes unpunished. They must be duly prosecuted, victims must be protected, they must be taken seriously and rehabilitated. The Parliamentary Assembly is committed to spreading a universal, human-rights based message. In this context, I would like to mention the campaign that was carried out by the Inter-parliamentary Union to encourage national parliaments to combat FGM worldwide. Such joint efforts, in Europe and abroad, will make a difference.

I also count on you, representing Council of Europe member and non member states, to support the extraterritorial effect of a future Council of Europe convention to prevent and combat violence against women and domestic violence. These words are especially addressed to you, Excellency, representing the Swiss Chairmanship of the Council of Europe. Once again, I would like to thank you for this event and this exchange of views.

Thank you for your attention.

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<sup>10</sup> See doc. CAHVIO (2009) 32 prov, article 30

<sup>11</sup> See doc. AS/EGA/Inf (2009)12, Position of the Committee on Equal Opportunities for Women and Men on the future Convention being prepared by the CAHVIO, 22 June 2009

<sup>12</sup> See doc. CAHVIO (2009)4 FIN

<sup>13</sup> See Recommendation 1868 (2009) and Document 11784 on " Action to combat gender-based human rights violations, including abduction of women and girls" (Rapporteur: Ms Papadopoulou, Cyprus, Alliance of Liberals and Democrats for Europe).