

Eastern Partnership Platform 1: "Strengthening institutions and Good Governance"

Tuesday 19 February 2019, Brussels"

DISCUSSION PAPER

Challenges and lessons learned from combating domestic and sexual violence through the adoption of legislation, the implementation of effective referral mechanisms, including violence preventive programmes for perpetrators

The Platform 1 meeting on the 19th of February will address the commitments in the 20 deliverables for 2020 to adopt sexual and domestic violence legislation and ensure that effective referral mechanisms are put in place, in line with the workplan adopted 15th of May for Platform 1.

Violence against women constitutes one of the most widespread violations of human rights all over the world. It takes place in a wide variety of settings and the victims comes for all walks of life regardless of ethnic or religious background, social status, economic standing or age. One of the most common forms of violence against women are intimate partner violence/domestic violence. Numerous researches indicate that the consequences of such violence against are extensive both for in the form of individual suffering and grief but often also effecting for entire families and communities. Domestic violence also reduces human capital and seriously undermines economic growth.

As stated in the United Nations Declaration on the Elimination of Violence against Women, States are required to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women whether those actions are perpetrated by the State or by private persons. Additionally the Istanbul Convention is widely recognised as the most far-reaching legal instrument to prevent and combat violence against women and domestic violence as a violation of human rights. Also the SDGs include a particular target on eliminating violence against women.

Besides having laws that are built around protection, prosecution, prevention there is a need to ensure that such laws are being implemented and enforced. In addition, legislation should be supported by policies that take a comprehensive and holistic approach, which incorporates, coordinates and harmonizes education – prevention – investigation-prosecution/ punishment – rehabilitation and support to victims etc.

An effective criminal justice response prioritizes victim safety and offender accountability. It would avoid re-victimization and would be based on appropriate enforcement of legal remedies, including appropriate punishment for the perpetrators. For this to happen the criminal justice system needs to shift the focus away from questioning the credibility of victims to enhancing evidence-gathering and case-building and ensuring consistency in investigation, prosecution and punishment. Prosecutors also need to know whether a systematic risk assessment has been done by the police or other agency, and if not, know how to do one themselves. A victim who feels safe will be a more effective witness.

The legal services also needs standards and protocols, with a victim centred approach, to increase the likelihood of victim cooperation through the criminal justice process and also to serve as a guide for ensuring that the highest standards for prosecution are followed.

Scientific studies clearly demonstrate that violence can be prevented and its impact reduced. According to international standards and norms negotiation, mediation and restorative justice mechanisms is not good practice in cases of violence against women because of the power imbalance and safety risks for women interacting with perpetrators. Instead, focus should be to ensure that perpetrators are to be held to account and sentenced and that those convicted are engaged in violence prevention programmes within the Prison and Probation Service, to stop reoffending. In addition it is also important to offer evidence based treatment to perpetrators in early stages of using violence or aggressive behaviour and to engage violence preventive programmes targeting young people to stop the circle of domestic violence.

Guiding questions:

Challenges in adopting domestic violence legislation and ensuring effective implementation

- What were the main challenges in the adoption and implementation of domestic violence legislation? How have these challenges been addressed?
- How did you ensure that the process ahead of the adoption of the domestic violence legislation was inclusive?

Effective referral mechanisms in place

- Have you done any prevalence survey to monitor various forms of violence and has data been improved to be able to get a better picture who the victims and perpetrators are and what forms of violence are most prevalent?
- What sort of needs assessment underpins your policy framework on combatting domestic violence? Have civil society actors or the shelter movement been involved in any assessment actions?
- What referral mechanisms are in place to respond to victims of domestic and sexual violence?
- Are professionals in the law enforcement trained in domestic violence and are they using tools and standards in recording and investigation of domestic violence cases?
- How do you ensure that victims of domestic violence are reporting and are provided with proper information on available referral mechanisms?
- Are individual victims risk-assessed by the Police/Prosecutor?
- To what extent has, the use of civil orders changed the way that domestic abuse is dealt with operationally?
- Do you have a hotline for domestic violence victims in place and how many shelters is there? Are victims provided counselling and given other forms of support?

Violence preventive programmes for perpetrators

- How are perpetrators, and risk groups addressed in order to stop reoffending and stop early stage violence and aggression?
- Which violence prevention programmes do you use to target perpetrators? Do you monitor their effectiveness?
- Do you conduct risk assessments of the victims while the perpetrator are taking part in prevention programmes?
- Are available perpetrator programmes mandatory or voluntary?
- Are you offering early intervention violence prevention programmes for perpetrators?
- Do you have any universal violence prevention programmes for youth or specific actions targeting risk groups?