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Subject : **EU guidelines on violence against women and girls and combating all forms of discrimination against them**

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1. Objective of the guidelines

The adoption of guidelines on violence against women and girls is a mark of the EU's clear political will to treat the subject of women's rights as a priority and to take long-term action in that field. In focusing on the issue of violence against women and girls, the EU will be taking effective action against one of the major human rights violations of today's world.

These guidelines are based on a solid multilateral *acquis*, the most recent milestones of which are the UN Secretary-General's in-depth study on all forms of violence against women (2006), the work on indicators on violence carried out by Ms Yakin Ertük, UN Special Rapporteur on Violence against Women (2008), UN resolution 61/143 on intensification of efforts to eliminate all forms of violence against women (2006) and UN Security Council resolutions 1325 (2000) and 1820 (2008) on women, peace and security, as well as resolution 2005/2215 of the European Parliament on the situation of women in armed conflicts and their role in the reconstruction and the democratic process in countries after a conflict, the relevant articles of the Conventions on human rights and international humanitarian law and the Rome Statute establishing the International Criminal Court.

The guidelines are also intended to encourage the implementation of a greater number of specific projects aimed at women and girls, financed by, *inter alia*, the European Instrument for Democracy and Human Rights, but also by any other appropriate financial instrument of the EU and the Member States.

The adoption of these guidelines is a clear reaffirmation of the universality of human rights.

2. Definition

For the purposes of these guidelines, the definition of violence against women is based on the Declaration on the Elimination of Violence against Women:

"the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".

3. Operational guidelines

The EU reiterates the three indissociable aims of combating violence against women: prevention of violence, protection of and support for victims and prosecution of the perpetrators of such violence.

3.1 Operational objectives:

3.1.1. Promote gender equality and combat discrimination against women

The EU will state that the obstacles to exercising their socio-economic and political rights increase women's exposure to violence. In that respect, and with the aim of preventing such violence, the strategies of the Member States and of the EU in its external action must in particular focus on legislation and public policies which discriminate against women and girls, and the lack of diligence in combating discrimination practised in the private sphere and gender-stereotyping.

3.1.2. Collection of data on violence against women and development of indicators

Despite the successes of recent years, accurate comparable quantitative and qualitative data are needed on all forms of violence against women and girls, as well as relevant indicators, so that States can frame their actions and strategies in full knowledge of the facts. There are still considerable disparities in the types of data collected, in terms of population groups studied and the type of violence measured. The EU will endeavour to identify institutional and other tools enabling data to be collected and to help boost national capacities to collect and disseminate reliable, accurate data.

3.1.3. Devising effective, coordinated strategies

The EU's action will focus on reminding States of their dual responsibility to prevent and respond to violence against women and girls. They have a duty to put in place prevention strategies and strategies for the protection and support of victims of violence, and to call for action at all levels (local, national, regional and international), and in all sectors of society, in particular by politicians, the public and private sectors, civil society and the media. Forceful institutional mechanisms at local, regional and national level must be set up in order to ensure the implementation, coordination and follow-up of these strategies.

3.1.4. Combating the impunity of perpetrators of violence against women and access to justice for victims

The EU will emphasise that it is essential for States to ensure that violence against women and girls is punished by the law and to see that perpetrators of violence against women and girls are held responsible for their actions before the courts. States must in particular investigate acts of violence against women and girls swiftly, thoroughly, impartially and seriously, and ensure that the criminal justice system, in particular the rules of procedure and evidence, works in a way that will encourage women to give evidence and guarantee their protection when prosecuting those who have perpetrated acts of violence against them, in particular by allowing victims and their representatives to bring civil actions. Combating impunity also involves positive measures such as the training of police and law enforcement officers, legal aid and proper protection of victims and witnesses and the creation of conditions where the victims are no longer economically dependent on the perpetrators of violence.

3.2. EU intervention tools:

Intervention tools must enable all EU players to become involved, starting with Member States' embassies, Commission delegations and the General Secretariat of the Council of the EU.

The EU will ensure that it gives appropriate consideration to the synergies between the implementation of these guidelines and other EU guidelines on human rights, in particular those relating to children's rights and human rights defenders.

In accordance with the EU's operational objectives in terms of combating violence against women, its main intervention tools will be as follows:

3.2.1. General approaches:

The EU will regularly raise the issue of combating violence against women and girls and the types of discrimination from which such violence originates in its relations with third countries and regional organisations. Such approaches will relate in particular to the degree to which the national legal framework complies with the international standards and commitments of the States in that area, and to the effective implementation of and follow-up to those commitments. The EU will also ensure that a reference to women's rights is included in all the mandates of the EU's special representatives and envoys.

Prior to all its approaches, the EU will:

- (a) identify forms of violence against women and girls and analyse the relevant data and indicators concerning them;
- (b) identify the existence of laws and practices which are explicitly and de facto discriminatory, and from which such violence originates;

- (c) identify the absence and/or shortcomings of public policies defined in response to violence against women;
- (d) identify the international and regional instruments for the protection of women's rights which have been ratified by the countries concerned, including the existence of reservations, and the incorporation of such instruments into national law;
- (e) identify the recommendations made to those countries by international and regional mechanisms as regards women's rights and violence against women.

In its approaches, the EU will adopt the following positions and initiatives in particular:

- (f) it will encourage ratification of the UN Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women;
- (g) it will encourage the withdrawal of the reservations which have been entered in respect of the Convention, and in particular those which contradict the Convention's aims and objectives, *inter alia* on the basis of the interpretation given to those reservations by the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW);
- (h) it will encourage, by means of technical support if necessary, submission of reports to the CEDAW Committee within the deadlines specified and the follow-up to the Committee's reports and recommendations;
- (i) it will maintain a dialogue and regular consultations with women's rights defenders and women's organisations;
- (j) it will encourage women's rights defenders and women's organisations to become involved in developing, implementing and evaluating public policies in this area;
- (k) it will encourage Member States to make specific commitments to combat violence and discrimination against women within the framework of the Universal Periodic Review (UPR);

- (l) it will encourage the development of appropriate, new regional and international instruments.

3.2.2. Specific additional measures to combat violence against women

Action to combat violence against women will be implemented by means of the following initiatives:

- (a) by encouraging the summoning of the UN Special Rapporteur on violence against women in cases where such violence is very widespread and goes largely unpunished;
- (b) in cases where a visit has been carried out, by ensuring that the Rapporteur's recommendations, conclusions and observations are followed up;
- (c) by supporting measures to combat impunity with regard to violence against women and girls, in particular by monitoring all legal proceedings relating to cases of such violence;
- (d) by supporting women's rights defenders and female human rights defenders, in particular those who are threatened or who are the victims of specific and targeted repression or harassment;
- (e) by promoting and supporting policies and campaigns to raise awareness of gender equality and to combat violence against women, especially campaigns to raise awareness specifically targeting men and boys;
- (f) by promoting and supporting campaigns focusing on the systematic neglect of girls, in particular as regards official birth registration and schooling.

3.2.3. Individual cases

The EU will consider taking specific measures if it becomes aware of individual cases of exceptional gravity, in particular violence perpetrated or tolerated by the State contrary to international commitments and fundamental rights to physical integrity and non-discrimination, and in the absence *inter alia* of satisfactory action at national level.

This applies in particular to instances of the most blatant infringements which meet one or more of the following criteria:

- 3.2.3.1. instances of violence the perpetrators of which are unlikely to be held responsible for their actions by a criminal court, in proportion to the gravity of the crime committed;
- 3.2.3.2. instances of violence the victims of which will in all likelihood have no access to appropriate, non-discriminatory redress before the criminal and civil courts;
- 3.2.3.3. cases which reflect a recurrent, systematic or large-scale practice in respect of which laws and public policies are non-existent or inadequate, in particular the most serious cases, such as those involving murders and forced suicides perpetrated in the name of honour;
- 3.2.3.4. cases resulting from discriminatory laws and practices;
- 3.2.3.5. cases of violence, threats, harassment and repression of female human rights defenders.

3.2.4. Framework for EU dialogues:

The European Union will repeatedly raise the subject of violence against women and the discrimination from which such violence originates in its specific dialogues on human rights, and in other EU policy dialogues if necessary.

These topics could be placed on the agenda for such dialogues either in the form of a specific item or through incorporation in one or more gender-specific items.

In that connection, the EU will follow up on any recommendations and conclusions of international and regional mechanisms for the protection of women's rights and combating violence against women, in particular those formulated by the UN Special Rapporteur on violence against women, those relating to women within the framework of the EPU, the conclusions and recommendations of the CEDAW Committee and those put forward by the regional protection mechanisms.

3.2.5. Drafting of human rights reports

In their reports, the Heads of Mission must systematically include in their reports a section on compliance with human rights analysing respect for women's fundamental rights, with particular reference to their right to physical integrity and non-discrimination and compliance with the international commitments of States as regards violence against women.

The reports will refer to:

- institutional and other mechanisms responsible for collecting qualitative and quantitative data throughout the territory and in all types of environments (households, workplaces, educational establishments, places of detention and other public institutions, etc.);
- statistics, broken down by gender, age and other relevant factors as well as information on the dissemination of those statistics to the key players concerned and the general public;

- the legislative framework as identified in the preliminary approaches, and in particular the existence of discriminatory laws and practices.

The EU's special representatives and envoys must take account of women's rights and must include information on that subject in their reports.

3.2.6. Promotion of women's rights in international fora

The EU will continue its active role in promoting women's rights, and especially the prevention of violence against women, in international fora (in particular the United Nations). It will ensure smooth coordination with all UN women's rights bodies, continuously support their work and promulgate unified and coherent messages in such fora, thereby strengthening the role and impact of EU actions in that area.

3.2.7. Bilateral and multilateral cooperation:

Action to combat violence against women and girls will be accorded priority within the framework of bilateral and multilateral cooperation in defending human rights, in collaboration with civil society, including in the legal and educational fields. Particular consideration will be given to such cooperation within the framework of the European Initiative for Democracy and Human Rights, but also via any other appropriate financial instrument of the EU and Member States.

Such cooperation will aim *inter alia* to support the programmes of civil society in particular, focusing on the following priority areas:

3.2.7.1. Redress, rehabilitation and access to care

- (a) support for programmes promoting and ensuring access to justice for the victims of violence, including victims of violence appearing in court;
- (b) support for access to appropriate care services provided free of charge in the fields of psychological support, legal assistance, accommodation and the reintegration of victims of violence and their children, *inter alia* via public information campaigns for such services;
- (c) promoting women and girls' access and right to information and health services, in particular as regards sexual and reproductive health, *inter alia* in order to better protect them from HIV infection, affirming the EU's support for the full implementation of the Cairo Action Programme adopted at the International Conference of Population and Development (ICPD) in 1994 and the main measures for the continued application of the ICPD Action Programme agreed at the ICPD + 5 as well as for the Copenhagen Declaration and Action Programme, the Beijing Platform for Action and the Millennium Development Goals.
- (d) support for programmes promoting women freely exercising their right to take decisions on questions relating to their sexuality and without being subjected to coercion, discrimination or violence;
- (e) support for programmes targeted at categories of women who require particular attention due to an increased risk of being victims of violence.

3.2.7.2. Prevention of violence

- (a) promotion of and support for action to combat impunity with regard to violence against women and girls;
- (b) support for education in the fundamental rights and empowerment of women and girls;
- (c) support for campaigns, *inter alia* in the field of awareness-raising and communication, focusing on gender equality and measures to combat violence against women and girls through the elimination of the gender stereotyping which contributes to violence against women and girls;
- (d) support for programmes aimed at improving the economic independence of women;
- (e) support for the training of police officers and judicial staff in matters relating to violence against women and girls and the causes and consequences of such violence.

3.2.7.3. Strengthening capacities

- (a) the provision of assistance for national action plans implementing the CEDAW Committee's recommendations, including the internal dissemination thereof;
- (b) the provision of assistance for the introduction of effective coordinated mechanisms for collecting data on violence against women and girls;
- (c) support for women's organisations and female human rights defenders, and more generally for civil society organisations combating violence against women;

- (d) the provision of appropriate training to all professionals responsible for dealing with violence against women and the causes and consequences of such violence (police, judicial staff, healthcare and educational professionals, the media);
- (e) support for programmes to reinforce police powers to intervene in cases of violence, and in particular domestic violence, via the introduction of standardised intervention protocols, pursuant to the United Nations Resolution on crime prevention and criminal justice responses to violence against women;
- (f) support for the establishment of central and decentralised administration services to improve women's status;
- (g) the provision of assistance for national action plans implementing Security Council Resolution 1325.

3.3. Evaluation

The Council Working Party on Human Rights will regularly evaluate the implementation of these guidelines, *inter alia* on the basis of the reports submitted by the Heads of Mission and after informal consultation with civil society. The Working Party on Human Rights will keep the Council informed of the application of the guidelines and will propose to the Council any necessary improvements for applying the guidelines.

Introduction to the issue of violence against women, its forms, causes and consequences.

Violence against women and girls, in all its forms, is truly a scourge. Available data indicate that this is a worldwide, institutionalised phenomenon. The forms and manifestations of such violence are many, interrelated and different according to the social, economic, cultural and political context of a society.

Violence against women and girls includes, but is not restricted to, forms of physical, sexual and psychological violence (a) occurring within the family (including prenatal selection based on the sex of the foetus (except where medically necessary) and systematic neglect of infant girls; forced marriage; early marriage; violence perpetrated by partners and ex-spouses; acid attacks; dowry violence and "honour" killings, violence and forced suicides; battering; sexual abuse inflicted on female children in the home, including incest; rape by habitual or cohabiting partners; female genital mutilation and other traditional practices harmful to women; (b) occurring within the general community (including rape; sexual abuse; sexual harassment and all forms of gender-related harassment; intimidation at work, in educational institutes and elsewhere; trafficking in women and forced prostitution; modern forms of slavery; femicide; violence against women and girls in conflict and post-conflict situations; trafficking in women for the purposes of sexual exploitation and of all other forms of exploitation); (c) violence against women and girls covers all the acts listed above whether or not perpetrated or condoned by the State.

It should be pointed out here that, while, as the UN Secretary-General acknowledges in his in-depth study, much violence against women is committed by private actors and includes a broad range of individuals and entities, this factor in no way exonerates States from acting with due diligence, as set out in Recommendation No 19 of the Committee on the Elimination of All Forms of Discrimination against Women.

Certain factors render victims more vulnerable as a result of the multiple discrimination they endure, related both to their gender and the fact that they belong to distinct minority or ethnic groups, to their religion or language, their status of native women, migrant women, displaced or refugee women, women living in underdeveloped environments or in remote rural communities, institutionalised or incarcerated women, handicapped women, HIV-positive women, lesbian, bisexual or transgender women, young girls, old or widowed women, and female victims of all other forms of discrimination. Lastly, in situations of crisis or armed conflict, the use of rape, slavery, sexual abuse and exploitation are the most systematic and widespread manifestations of violence against women.

Apart from the serious consequences for the physical health (particularly substantially increased risk of HIV infection) and mental health of victims, violence against women also has significant social consequences and major economic costs, to which should be added the cost of political and social instability resulting from the intergenerational transmission of violence. Violence against women thus contributes to their impoverishment and that of their families, communities, societies and countries. Violence against women is therefore an obstacle to development.

Violence against women and girls has certain structural causes, including the historically unequal balance of power between men and women as well as girls and boys, found in many societies. Furthermore, customs, traditions and religious values are used to justify violence against women. Economic inequalities suffered by women and their lack of independence are decisive factors for violence in that they reduce women's capacity to act and take decisions, and increase their vulnerability to violence.

Political instability and armed conflicts are additional sources of violence against women and girls. Even post conflict, the climate of violence persists for a long time and in many countries which have experienced armed conflict, the increased acceptance of violence and the massive proliferation of weapons leads to increased violence outside the conflict.

In order to combat this scourge effectively it is essential that all these aspects be taken into account.

International legal framework and obligations of States in combating violence against women

The international community is committed to protecting the rights and dignity of men and women via numerous treaties and political undertakings. 60 years have passed since the proclamation of the Universal Declaration of Human Rights, which clearly asserts

that "all human beings are born free and equal in dignity and rights" and that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as ... sex".

The Committee on the Elimination of Discrimination against Women (CEDAW), which monitors implementation of the 1979 Convention, has defined violence against women as a form of discrimination within the meaning of the Convention and this has led to the issue featuring more prominently in the work programmes of human rights institutions and mechanisms.

The World Conference on Human Rights, held in Vienna in 1993, led to the appointment by the UN Commission on Human Rights in 1994 of a Special Rapporteur on violence against women, followed by the General Assembly's adoption of the Declaration on the Elimination of Violence against Women in the same year. The World Conference reaffirmed the universality and indivisibility of human rights.

The Declaration sets out a series of measures that States must take to prevent and eliminate violence against women. *In particular, it requires States to condemn violence against women and not invoke custom, tradition or religion to avoid their obligations to eliminate such violence.*

The Beijing Platform, adopted in 1995, won the support of 189 countries during the historic UN conference on the situation of women worldwide. The Platform identifies twelve areas requiring improvement, including combating violence against women. These areas were examined at the conference organised in 2005 in New York, on the occasion of the tenth anniversary of the Platform. The Union's support for the Beijing Platform for Action was expressed at the highest level by heads of government at the Madrid summit in December 1995.

Since 1999, the Council of the European Union adopts – every year – conclusions on indicators and reference criteria, thus ensuring annual follow-up that is more targeted and structured. *A series of quantitative and qualitative indicators were drawn up for violence against women in 2002.*

The 5-year review of the Beijing Platform for Action (Beijing + 5) called on governments to take appropriate measures to eliminate violence and discrimination against women committed by any person, organisation or enterprise *and to treat all forms of violence against women and girls as criminal offences.*

General Assembly resolution 61/143 (2006) on intensification of efforts to eliminate all forms of violence against women, adopted by consensus, reaffirmed all the international commitments of States, including *the obligation to promote and protect all human rights and fundamental freedoms of women and girls and to exercise due diligence to prevent, investigate and punish the perpetrators of violence against women and girls and to provide protection to the victims, and that failure to do so violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms.*

UN Security Council resolutions 1325 (2000) and 1820 (2008) set out the international community's undertakings to combat violence against women in situations of armed conflict. Resolution 1820 affirms the link between the maintenance of international peace and security and combating sexual violence suffered by women in conflict situations. Resolution 1820 (2008), which incorporates *Article 7 of the ICC's Rome Statute*, reminds States that "*rape and other forms of sexual violence can constitute a warcrime, a crime against humanity, or a constitutive act with respect to genocide, stresses the need for the exclusion of sexual violence crimes from amnesty provisions in the context of conflict resolution processes [...]*".

Resolution 2005/2215 of the European Parliament on the situation of women in armed conflicts and their role in the reconstruction and the democratic process in countries after a conflict, offers a general framework for EU action in the field concerning women in armed conflicts, in particular violence perpetrated against them.

Numerous initiatives on violence against women have also been taken by the Council of Europe and the OSCE, organisations within which the EU plays an important part.

This European Parliament 2005 Resolution sets out the specific efforts, steps and measures that must be taken to combat this scourge effectively.

These guidelines incorporate those obligations into the EU framework. In so doing, they underpin European action to protect women's rights and promote gender equality in external relations, as defined in the Roadmap for Equality between Men and Women, the Commission's 2007 communication on Gender Equality and Women's Empowerment in Development Cooperation, the Council conclusions on that communication, and other guidelines for human rights adopted under the Common Foreign and Security Policy (CFSP).

