



# Gender in justice



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# 1. Relevance of gender in the policy area

The relevance of gender in the justice policy area should be considered in terms of the following points:

- access to justice is a human right and an integral aspect of the rule of law;
- crime is a gender-oriented phenomenon, but the justice system does not equally accommodate women's and men's needs;
- the due diligence principle holds states (and other actors in the police and justice system) responsible for taking measures to fight violence against women (VAW);
- acknowledging the gender dimension of crime is not only an issue of gender equality and human rights, but also an economic one;
- women's representation in decision-making is a matter of justice (political rights).

## Access to justice

It is essential to ensure the equality of both women and men in the justice field, not only *de jure*, but also *de facto* (1). Addressing the issue of gender equality in access to justice (2) is particularly important in the aftermath of the economic crisis, as inequalities at all levels of society have been rising and impacting negatively on women's lives (3). Furthermore, there is a large body of literature (4) underlining the fact that, despite a wide array of international laws ensuring equal rights for women and men, women's access to justice is not equal. This is due to a combination of inequalities at legal, institutional,

structural, socioeconomic and cultural levels. Therefore, guaranteeing women's equal access to justice implies providing them with access to fair, affordable, accountable and effective remedies so that women and men can enjoy both equal rights, and equal chances to use them (5). As emphasised by the Council of Europe, ensuring women's and men's equal access to justice is an essential step towards achieving real gender equality (6).

## Crime as a gender-oriented phenomenon

Crime is not a gender-neutral phenomenon. Different studies (7) have shown that in general women and men commit different types of crimes and, furthermore, are subject to different treatment in the legal system. For instance, when women offend, they commit more theft and burglary crimes and have a lower involvement in serious violence, criminal damage and professional crime (8).

The UK's *Report on the Inquiry into Preventing Unnecessary Criminalisation of Women* shows that:

- some women are coerced into committing crimes by abusing and controlling partners, but this aspect is barely recognised in the judicial system;
- around half of the women identified by the criminal system in the UK committed offences to support another person's drug habit, compared to a fifth of men;
- women are more often subject to poverty, which increases the likelihood of their involvement in crime.

(1) Council of Europe, *Factsheet on guaranteeing equal access of women to justice*, 2015, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/Factsheet%20A2J%20Jan%202015%20English.pdf](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/Factsheet%20A2J%20Jan%202015%20English.pdf).

(2) Council of Europe, *Feasibility study on equal access of women to justice*, 2009, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

(3) Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

(4) Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp); Office of the High Commissioner for Human Rights, *Eliminating judicial stereotyping*, 2014, [https://www.google.it/url?sa=t&rc=j&q=&esc=s&source=web&cd=1&ved=0CCQQFjAAahUKEwiiODZi7vIAhWjD3IKHXALC0w&url=http%3A%2F%2Fwww.ohchr.org%2FDocuments%2FIssues%2FWomen%2FWRGs%2Fjudicial\\_stereotyping2014.docx&usq=AFQjCNHSNUHbTeQaZM7XLS8A6WfaZ8k8Aw](https://www.google.it/url?sa=t&rc=j&q=&esc=s&source=web&cd=1&ved=0CCQQFjAAahUKEwiiODZi7vIAhWjD3IKHXALC0w&url=http%3A%2F%2Fwww.ohchr.org%2FDocuments%2FIssues%2FWomen%2FWRGs%2Fjudicial_stereotyping2014.docx&usq=AFQjCNHSNUHbTeQaZM7XLS8A6WfaZ8k8Aw); All Party Parliamentary Group on Women in the Penal System, *Report on the inquiry into preventing unnecessary criminalisation of women*, 2015, [http://howardleague.org/wp-content/uploads/2016/02/APPG\\_final.pdf](http://howardleague.org/wp-content/uploads/2016/02/APPG_final.pdf).

(5) Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

(6) Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

(7) All Party Parliamentary Group on Women in the Penal System, *Report on the inquiry into preventing unnecessary criminalisation of women*, 2015, [http://howardleague.org/wp-content/uploads/2016/02/APPG\\_final.pdf](http://howardleague.org/wp-content/uploads/2016/02/APPG_final.pdf); Corston, J., *A review of women with particular vulnerabilities in the criminal justice system*, 2007, <http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>.

(8) All Party Parliamentary Group on Women in the Penal System, *Report on the inquiry into preventing unnecessary criminalisation of women*, 2015, [http://howardleague.org/wp-content/uploads/2016/02/APPG\\_final.pdf](http://howardleague.org/wp-content/uploads/2016/02/APPG_final.pdf); Corston, J., *A review of women with particular vulnerabilities in the criminal justice system*, 2007, <http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>.



Non-payment of fines (e.g. for television licences) is one of the examples quoted by the study, which finds that women are more likely to receive this type of fine as they are more likely to be at home when an inspection takes place and tenancies are more likely to be registered in their name. If they cannot pay the fine, they face tougher sentences<sup>(9)</sup>.

## Dealing with women's and men's needs in the justice system

The literature<sup>(10)</sup> on criminal law and gender emphasises that the general concepts and principles of law are more representative of the experiences of men than of women. Indeed, women face several challenges in the criminal justice system (CJS). Women can be victims of extremely traumatising crimes, of which gender-based violence in all its forms is the most obvious, producing both physical and psychological consequences. The judicial practices or existing procedural requirements in such cases can lead to the secondary victimisation of women if procedures and decisions are not victim-friendly, the result of which can be to alienate victims from the process and potentially lead them to withdraw the case or give up<sup>(11)</sup>.

Secondary victimisation may be caused not only by judicial procedures, but also by staff in the police or judicial system (gender differences). Secondary victimisation is rather common, for instance, in the case of women victims of domestic violence or sex workers who face sexual or domestic violence.

Women may also experience negative consequences stemming from the criminal law system which does not take into account gender differences. The family law and the civil law system cover a series of sensitive issues (e.g. divorce, spousal and child support (maintenance), parental responsibilities, guardianship and the division of property) that are shaped by the values and norms of the society it governs. If such norms and values are characterised by gender inequalities

and stereotypes, this can provide gateways for attitudes and gender stereotypes to surface. The Council of Europe gives the following examples:

- Women lose out in the division of property after divorce, mainly because implicit contracts within the marriage agreement are not honoured.
- There is a low number of men who obtain custody over their children in case of divorce, due to the belief that women are better carers.
- Many custody decisions after spousal abuse by the male partner/father continue to place the right of the abuser to exercise parental responsibilities, or the right of the child to continued contact with both parents, over the safety and other concerns of the victim — and her children.

Different areas of civil law are characterised by inequalities in the way that they treat women's and men's needs. For instance, the tax law system is based on the principle of recognising paid work. However, this system does not take into account domestic work, which is generally carried out by women, thus reinforcing the lower value ascribed to family and caring work. Gender equality in the civil law system is therefore relevant in fighting explicit legal discrimination and enforcing the equality of rights between women and men within the labour market (equal pay for work of equal value) and in terms of access to goods and services, etc.

In all OECD countries, women spend more time on care work (time spent to care for a child or another adult) as a primary activity than men, even if in dual earners family that have become the model in OECD countries<sup>(12)</sup>.

Women offenders within the prison system also face problems related to their gender. There are fewer women prisoners than men, and this can lead to women's needs not being accommodated by the prison system<sup>(13)</sup>.

<sup>(9)</sup> All Party Parliamentary Group on Women in the Penal System, *Report on the inquiry into preventing unnecessary criminalisation of women*, 2015, [http://howardleague.org/wp-content/uploads/2016/02/APPG\\_final.pdf](http://howardleague.org/wp-content/uploads/2016/02/APPG_final.pdf).

<sup>(10)</sup> Heidensohn, F., *Women and crime* (2nd edition), Palgrave Macmillan, 1996; Walklate, S., 'Gender and Crime', in S. Walklate (ed.), *Critical Concepts in Criminology*, Routledge, London, 2012; Carlen, P., 'Women in the criminal justice system', in M. Haralambos (ed.), *Developments in sociology*, Vol. 13, Causeway Press, Ormskirk, 1997; Wells, C., 'The impact of feminist thinking on criminal law and justice: Contradiction, complexity, conviction and connection', *Criminal Law Review*, July 2004, pp. 503-515 (available upon payment), <http://dro.dur.ac.uk/3309/>; Schwartz, J., Steffensmeier, D., *The nature of female offending: Patterns and explanation*, Jones and Barlett Publishers, n.d., [http://www.upf.edu/mastercriminologia/\\_pdf/12\\_13/ART1\\_Ch2\\_Female\\_Offenders\\_2e.pdf](http://www.upf.edu/mastercriminologia/_pdf/12_13/ART1_Ch2_Female_Offenders_2e.pdf);

Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

<sup>(11)</sup> Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

<sup>(12)</sup> OECD, Gender brief, 2010, <http://www.oecd.org/els/family/44720649.pdf>.

<sup>(13)</sup> Corston, J., *A review of women with particular vulnerabilities in the criminal justice system*, 2007, <http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>.

## Due diligence principle applied to acts of violence against women

The due diligence standard for VAW is part of the Declaration on the Elimination of Violence against Women (1993). Article 4(c) of the Declaration asks states to 'exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the state or by private persons'. The Committee on the Elimination of Discrimination against Women (CEDAW) noted in its General Comment No 19 that 'States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence' <sup>(14)</sup>. According to this principle, states must display the same commitment to preventing, investigating and condemning VAW as they do in relation to all other forms of violence.

## Gender equality in justice is not only an issue of gender equality, but also an economic issue

The gender dimension of crime is an economic issue as well as an issue of gender equality and human rights. According to a study by the European Institute for Gender Equality (EIGE), the costs of intimate partner violence in the EU amount to EUR 122 billion, with intimate partner VAW representing a cost of EUR 109 billion (89 % of the total). The cost to the EU of gender-based VAW amounts to EUR 225 billion. This represents 87 % of the total cost of gender-based violence to the EU <sup>(15)</sup>.

## Women's equal representation in decision-making processes

Women's equal representation in decision-making processes is first and foremost a political right. Furthermore, women's participation in the decision-making process also increases the likelihood of decision-making taking women's perspectives into account.

Despite the relevance of gender equality in the justice field, this area remains influenced by a set of persistent gender inequalities, which are as follows:

- gender equality and access to justice;
- relevance of gender in the detention system;
- gender gaps in women's representation in decision-making positions in the judiciary system.

<sup>(14)</sup> CEDAW General Recommendation 19, para. 19, UN Doc. A/47/38 (1992), <http://eige.europa.eu/sites/default/files/documents/MH0414745EN2.pdf>.

<sup>(15)</sup> EIGE, *Estimating the costs of gender-based violence in the European Union: Report*, 2014, <http://eige.europa.eu/sites/default/files/documents/MH0414745EN2.pdf>.



## 2. Issues of gender inequalities in the policy area

### Gender equality and access to justice

#### Women have less access to and ownership of judicial processes<sup>(16)</sup>

Intersectional discrimination in the judicial system is one of the main barriers in terms of women's equal access to justice.

#### Women are also discriminated against due to their economic and social status

According to the Council of Europe, belonging to a particular group of women can result in further restrictions in terms of access to justice. For instance, elderly women, disabled women and women living in remote areas may not be able to travel long distances, and courts often do not consider which facilities are needed to ensure that they can testify without travelling. Other groups include migrant women, asylum seekers and trafficked women. Such women may find it difficult to report a crime due to fear of being expelled and/or because they are unable to communicate with the police or judges in the absence of free-of-charge interpretation. Furthermore, women from vulnerable groups (e.g. women in marginalised areas, immigrant women and women from certain communities, such as Muslim or Roma communities) face difficulties in accessing information about their rights and what facilities are available to promote their equal access to the justice system<sup>(17)</sup>.

Both the Council of Europe and the United Nations Development Programme (UNDP) emphasise that one of the causes of unequal access to justice is lack of awareness about mechanisms aimed at protecting women in the justice system. According to the Council of Europe, where laws and mechanisms to protect women's rights exist, they may be accompanied by a lack of public awareness about their

existence and the weak capacity of officials in the justice system to enforce them<sup>(18)</sup>.

#### Lack of financial and time resources and restrictions on the availability of legal aid

According to the European Commission, women in the EU earn on average 16 % less than men for each hour worked<sup>(19)</sup>. Their ability to sustain justice costs (e.g. costs of legal services, costs of transportation and accommodation, etc.) is therefore lower than men's. Vulnerable and economically disadvantaged women are increasingly likely to be detained pre-trial due to their inability to afford bail or the services of a lawyer. Furthermore, women are exposed to a higher risk of poverty, which may keep them in violent and vulnerable situations and impede them from bringing their perpetrators to justice. When it comes to time resources, it is worth recalling that women are generally still the main caregiver in society. Care responsibilities may also dissuade women from filing a complaint or pursuing a claim. As for legal aid, some of the most common obstacles to women's access to justice identified by the Council of Europe are:

- limited access to legal aid and knowledge of how it can be obtained;
- limited information about legal costs and free services;
- gender-blind eligibility criteria in terms of pursuing claims.

This latter element can seriously hamper women's access to legal aid. For instance, in many cases legal aid is granted based on family income, without taking into consideration the fact that the person facing prosecution is likely to be a family member upon whom the woman is dependent.

<sup>(16)</sup> UNDP, Gender equality and justice programming: Equitable access to justice for women, 2009, <http://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/gender-equality-and-justice-programming-equitable-access-to-justice-for-women1.html>.

<sup>(17)</sup> Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

<sup>(18)</sup> Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp); UNDP, *Gender equality and justice programming: Equitable access to justice for women*, 2009, <http://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/gender-equality-and-justice-programming-equitable-access-to-justice-for-women1.html>.

<sup>(19)</sup> Directorate-General for Justice, [http://ec.europa.eu/justice/gender-equality/economic-independence/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/economic-independence/index_en.htm).



Furthermore, such a measure overlooks the fact that not all women have access to family income or have an independent income <sup>(20)</sup>.

Besides fair access to legal aid, the quality of the legal aid provided is equally important. Women who require legal aid usually come from disadvantaged groups. This implies that case-handlers should have specific skills to best accommodate the needs of these women <sup>(21)</sup>.

### Cultural and/or religious barriers that discriminate against women

Cultural and social expectations and values may prevent women from seeking justice, especially in cases related to the family sphere, such as domestic violence, divorce proceedings and child support. Women from lower social classes are less likely to seek justice due to fear of mistreatment and a discriminatory attitude on the part of police officers and legal staff <sup>(22)</sup>.

## Institutional circumstances

### Gender-neutral legislation and legislation that has not been assessed for its gender impact

The idea of performing an impact assessment of legal provisions in order to guarantee that legislation promotes gender equality has been a public policy goal since the 1980s. Numerous legislative reforms and amendments have since aimed at achieving more gender-sensitive legislation, but, according to the Council of Europe, development has been slow. The Council of Europe maintains that the way legislation is defined in numerous Member States may impact negatively on women's access to justice. This is apparent in definitions used in criminal law, which may better reflect men's experience than women's. Legal definitions of murder and manslaughter are one example. When men kill their partner, they are often considered to have acted without premeditation, in a context of escalating violence. On the other hand, when women kill their male partner, they usually plan the act in order to put an end to violence, especially domestic violence. Planning the act makes it premeditated murder. As the existing concepts of self-defence do not capture the reality of women who have been subjected to physical, sexual and psychological violence for years, women face the risk of being condemned to longer

sentences than men. Another example is rape legislation that recognises the act of rape when the use of force can be proved. However, it is worth emphasising that in some EU Member States legislation on rape has been changed to better respond to women's needs. This is, for instance, the case in Austria, where rape legislation focuses on the lack of consent rather than on proof that the victim fought against the act, thereby reflecting that rape is first and foremost a violation of a woman's sexual integrity, irrespective of the means employed <sup>(23)</sup>.

### Judicial stereotyping

Stereotyping by actors in the justice system, often known as judicial stereotyping, is a common barrier to justice, particularly for women who face violence. Judicial stereotyping does not affect only women who experience violence. It can also affect women accused of violence and other crimes, or women exercising their rights in areas other than violence. Judicial stereotyping has a wide impact. It may distort judges' perceptions of what occurred in a particular situation of violence or the issues to be determined at trial; affect judges' vision of who is a victim of gender-based violence; and influence judges' views about the credibility of witnesses, etc. Judges are not the only actors in the CJS who may apply stereotypes. Law enforcement officials, for instance, have been criticised for allowing stereotypes to influence their investigation of cases of violence, especially those regarding women <sup>(24)</sup>.

### Inadequate judicial procedures in terms of accommodating women victims' needs

Women are more likely than men to suffer highly traumatic crimes such as sexual or domestic violence. Even though it is widely acknowledged that these crimes provoke feelings of fear, shame, self-blame and distrust, which may discourage women from bringing perpetrators to justice, judicial systems often require women victims of such crimes to take action against offenders without considering their vulnerability in such cases. For women to bring their perpetrators to justice, they are required to file charges, specifically request prosecution for sexual violence and testify several times in the presence of the perpetrator, while circumstantial evidence is usually disqualified <sup>(25)</sup>.

<sup>(20)</sup> Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

<sup>(21)</sup> Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

<sup>(22)</sup> Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

<sup>(23)</sup> Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

<sup>(24)</sup> Office of the High Commissioner for Human Rights, *Eliminating judicial stereotyping*, 2014, <http://www.ohchr.org/Documents/Issues/Women/WRGS/StudyGenderStereotyping.doc>.

<sup>(25)</sup> Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).



## Relevance of gender in the detention system

Women represent a vulnerable group in prisons. Some of the main factors explaining this vulnerability are the following:

- the challenges women face in accessing justice on an equal basis with men;
- their disproportionate victimisation from sexual or physical abuse prior to imprisonment;
- a high level of mental healthcare needs, often as a result of domestic violence and sexual abuse;
- the extreme distress caused by imprisonment, which may lead to mental health problems or exacerbate existing mental disabilities;
- sexual abuse and VAW in prison;
- a high likelihood of having caring responsibilities for their children, families and others <sup>(26)</sup>.

The specific needs of women prisoners have generally been overlooked where prison systems have been primarily established with men prisoners in mind. The failure of the detention system to address women's specific needs is also reflected in the increasing rate of reoffending among women <sup>(27)</sup>.

Women released from prison often suffer from multiple forms of discrimination due to their gender, post-release stigmatisation and victimisation, and abandonment by their families.

## Gender gaps in decision-making positions

According to the United Nations Office on Drugs and Crime (UNODC), women are underrepresented as actors in the justice system, but overrepresented as victims/survivors of gender-based crimes (e.g. violence, discrimination, harassment) <sup>(28)</sup>.

The Court of Justice of the European Union constitutes the judicial authority of the EU. In cooperation with the courts and tribunals of the Member States, it ensures the uniform application and interpretation of EU law. The Court of Justice of the European Union consists of three courts: the Court of Justice (also known as the European Court of Justice), the General Court, and the Civil Service Tribunal. In 2015 there were no women presidents in EU courts and on average only 27 % of the court members were women (with 32 % women members within the European Court of Human Rights and only 14 % on the Civil Service Tribunal) <sup>(29)</sup>. Furthermore, women tend to be overrepresented in traditionally family-related areas, such as family law, while men are overrepresented in fields typically considered as 'male' (e.g. commercial and tax law).

When it comes to policing, it is acknowledged that the increased presence of women officers contributes to an increase in the reporting of sexual violence and other forms of VAW. However, men continue to dominate in police forces <sup>(30)</sup>.

The European Court of Human Rights is an international court set up in 1959. It rules on individual or State applications alleging violations of the civil and political rights set out in the European Convention on Human Rights.

<sup>(26)</sup> United Nations, *Handbook on women and imprisonment*, 2014, [https://www.unodc.org/documents/justice-and-prison-reform/women\\_and\\_imprisonment\\_-\\_2nd\\_edition.pdf](https://www.unodc.org/documents/justice-and-prison-reform/women_and_imprisonment_-_2nd_edition.pdf).

<sup>(27)</sup> United Nations, *Handbook on women and imprisonment*, 2014, [https://www.unodc.org/documents/justice-and-prison-reform/women\\_and\\_imprisonment\\_-\\_2nd\\_edition.pdf](https://www.unodc.org/documents/justice-and-prison-reform/women_and_imprisonment_-_2nd_edition.pdf).

<sup>(28)</sup> United Nations, *Handbook on women and imprisonment*, 2014, [https://www.unodc.org/documents/justice-and-prison-reform/women\\_and\\_imprisonment\\_-\\_2nd\\_edition.pdf](https://www.unodc.org/documents/justice-and-prison-reform/women_and_imprisonment_-_2nd_edition.pdf).

<sup>(29)</sup> [http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/judiciary/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/judiciary/index_en.htm)

<sup>(30)</sup> Council of Europe Gender Equality Commission, *Feasibility study on equal access of women to justice*, 2013, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp).

### 3. Existing gender equality policy objectives at the EU and international levels

#### EU level

Regulatory power over justice policy is divided between the EU and the Member States. While national states decide on the organisation of their justice system, including the prison system, the European Commission has adopted a relevant body of legislation for the protection of victims and for ensuring fair treatment of offenders. Concerning women in the justice system, EU policy is mainly focused on combating gender-based violence and ensuring the protection of women victims of crime. The paragraphs below detail the main gender equality policy objectives of the EU institutions in this area.

#### European Commission

In the last few years, the European Commission has taken several legislative and non-legislative measures to ensure the protection of women subjected to crimes, in particular violence, and the fight against gender-based violence.

In 2010, the Commission adopted the Communication *A strengthened commitment to equality between women and men — a women's charter* <sup>(31)</sup>, COM(2010) 78 <sup>(32)</sup>. This promotes, inter alia, the fight against gender-based violence.

Combating gender-based violence and protecting and supporting victims as well as promoting gender equality and women's rights across the world are also two of the thematic priorities area of the strategic engagement for gender equality 2016-2019 <sup>(33)</sup>.

In order to protect women victims of crime, and in particular of violence, the European Commission has adopted three directives introducing specific measures in this area.

- Directives on sexual harassment in employment and self-employment <sup>(34)</sup>. Harassment and sexual

harassment are deemed to be discrimination on grounds of sex. This directive enables EU countries to adopt positive action measures. Such public measures are aimed at ensuring full equality between men and women in working life, for example by promoting business creation by women.

- Directive 2011/99 of the European Protection Order and Regulation 606/2013 on mutual recognition of protection measures in civil matters <sup>(35)</sup> ensure that restraining and protection orders issued in one EU country can be recognised across the EU, enabling individuals who have suffered domestic violence to be protected from the perpetrators if they travel or move anywhere in the EU.
- Directive 2011/92/EU on combating sexual abuse and sexual exploitation of children and child pornography <sup>(36)</sup> provides a set of effective measures to prevent, support and protect victims, including girls, and punish perpetrators. Directive 2012/29/EU on common minimum standards on the rights, support and protection of victims of crime <sup>(37)</sup> foresees measures to ensure that women victims of violence, such as gender-based violence:
  1. are treated with respect by well-trained police, prosecutors and judges and receive understandable information on their rights;
  2. can receive specialised support in all EU countries;
  3. can participate in proceedings and have certain rights (such as the right to be heard, the right to legal aid, the right to interpretation and translation, the right to review a decision not to prosecute);

<sup>(31)</sup> European Commission, Communication from the Commission of 5 March 2010, *A strengthened commitment to equality between women and men — a women's charter*, 2010, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=URISERV:em0033&from=EN>.

<sup>(32)</sup> European Commission, Communication from the Commission of 5 March 2010, *A strengthened commitment to equality between women and men — a women's charter*, 2010, <http://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=celex:52010DC0078>.

<sup>(33)</sup> [http://ec.europa.eu/justice/gender-equality/files/documents/151203\\_strategic\\_engagement\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/documents/151203_strategic_engagement_en.pdf)

<sup>(34)</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Aem0035>

<sup>(35)</sup> Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R0606>.

<sup>(36)</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0093&from=EN>.

<sup>(37)</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, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>



4. are protected from secondary and repeat victimisation, from intimidation and from retaliation during police investigations and court proceedings (e.g. by limiting the number of interviews and medical examinations to a minimum, and by ensuring special measures to avoid visual contact with the offender during court proceedings).

In order to protect victims of trafficking in human beings the European Commission has adopted Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims <sup>(38)</sup>, replacing the Council Framework Decision 2002/629/JHA. The directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings. It also introduces common provisions, taking into account the gender perspective to strengthen the prevention of this crime and the protection of the victims thereof (Article 1).

Besides legislative measures, the European Commission also dedicates specific financial resources to fighting gender-based violence through the 2014-2020 justice programme and the rights, equality and citizenship programme 2014-2020 <sup>(39)</sup>. The programme aims to help create a European area of justice, based on mutual trust. The specific programme priorities on gender equality are:

- promotion of gender equality and gender mainstreaming;
- fighting against all forms of discrimination and racism;
- promotion of children's rights;
- fighting against VAW, young people and children <sup>(40)</sup>.

### European Parliament

The European Parliament has adopted several resolutions calling on the Commission and the EU Member States to strengthen the fight against gender-based violence and promote the EU policy framework in this area. Some of the most relevant are:

European Parliament resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women (2010/2209(INI)) <sup>(41)</sup>

This proposes a new comprehensive policy approach against gender-based violence including, among others: a criminal law instrument in the form of a directive against gender-based violence; measures to address the 'six-P' framework on VAW (policy, prevention, protection, prosecution, provision, and partnership); requirements for Member States to demonstrate due diligence (see previous chapter for further details) and to record and investigate all forms of gender-based violence crimes in order to initiate public prosecution.

Resolution of 6 February 2013 on the 57th session on UN CSW: Elimination and prevention of all forms of violence against women and girls <sup>(42)</sup>

It calls on the Commission and Member States to review the policies, programmes and resources available for confronting violence within and outside the EU, and to strengthen their strategy with upgraded instruments and ambitious goals.

Resolution of 25 February 2014 with recommendations to the Commission on combating Violence Against Women (2013/2004(INL)) <sup>(43)</sup>

It requests that the Commission present an EU-wide strategy and an action plan to combat all forms of violence against women and girls (VAWG) and submit by the end of 2014, on the basis of Article 84 TFEU, a proposal for an act establishing measures to promote and support the action of Member States in the field of prevention of VAWG. Furthermore, it calls on the Commission to submit a revised proposal for a regulation on European statistics that would target violent crimes and include a coherent system for collecting statistics on gender-based violence in the Member States. It also urges the Council to activate the passerelle clause, by adopting a unanimous decision identifying VAWG (and other forms of gender-based violence) as an area of crime listed in Article 83(1) TFEU.

<sup>(38)</sup> <http://eur-lex.europa.eu/search.html?qid=1453383778820&text=Directive%202011/36/EU%20of%205%20April%202011&scope=EURLEX&type=quick&lang=en>

<sup>(39)</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:354:0073:0083:en:PDF>

<sup>(40)</sup> [http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index\\_en.htm](http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm)

<sup>(41)</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011IP0127&from=EN>

<sup>(42)</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0045&language=EN>

<sup>(43)</sup> <http://www.europarl.europa.eu/webnp/webdav/site/myjahiasite/shared/ICMs/2014/IWD%20FEMM%2005.03.2014/>

## International level

At the international level gender equality priorities in justice focus on:

- eradicating gender-based violence;
- ensuring protection of women victims of crime;
- increasing women's access to justice;
- ensuring equal justice procedures to women offenders;
- mainstreaming gender in the detention system.

They also ensure gender balance in the composition of courts and police force as well as enhancing women's participation in the decision-making process in the justice field.

### United Nations

Fighting VAW and ensuring women victims' protection is also an objective of the UN policy in the justice field.

One of the most relevant UN actions in this field consists of the adopting of the 1979 CEDAW (A/34/46) <sup>(44)</sup>, which provides that state parties shall:

- embody the principle of the equality of men and women in their national constitutions and ensure the practical realisation of this principle (Article 2(a));
  - adopt appropriate legislative measures prohibiting all discrimination against women (Article 2(b));
  - establish legal protection of the rights of women on an equal basis with men (Article 2(c));
  - ensure that public authorities and institutions shall act in conformity with this obligation (Article 2(d));
  - modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women (Article 2(f));
  - repeal all national penal provisions which discriminate against women (Article 2(g));
  - accord women equality with men before the law, a legal capacity identical to that of men and the same opportunity to exercise that capacity (Article 15).
- Furthermore, according to CEDAW's General recommendation No 33 on women's access to justice, states have to ensure equal access to justice for women by:
- mainstreaming the gender perspective within the justiciability, availability, accessibility, good-quality, provision of remedies and accountability of justice systems;
  - ensuring that the principle of equality before the law is given effect by taking steps to abolish any existing laws, procedures, regulations, jurisprudence, customs and practices that directly or indirectly discriminate against women especially in their access to justice, and to abolish discriminatory barriers to access to justice;
  - ensuring that independent, safe, effective, accessible and child-sensitive complaint and reporting mechanisms are available to girls;
  - taking measures to avoid the marginalisation of girls due to conflicts and disempowerment within their families and the resulting lack of support for their rights; abolishing rules and practices that require parental or spousal authorisation for access to services such as education, health, including sexual and reproductive health, as well as access to legal services and justice systems;
  - protecting women and girls against interpretations of religious texts and traditional norms creating barriers to their access to justice resulting in discrimination against them;
  - adopting measures, including awareness-raising and capacity-building for all actors of justice systems and for law students to eliminate gender stereotyping and incorporate a gender perspective in all aspects of the justice system;
  - including other professionals, in particular health professionals and social workers, who can play an important role in cases of VAW and in family matters, in these awareness-raising and capacity-building programmes;
  - considering promoting a dialogue on the negative impact of stereotyping and gender bias in the justice system and the need for improved justice outcomes for women victims and survivors of violence;
  - raising awareness on the negative impact of stereotyping and gender bias and encourage advocacy related to stereotyping and gender bias in justice systems, especially in gender-based violence cases;

<sup>(44)</sup> UNODC, Gender in the criminal justice system assessment tool, United Nations Publishing, 2010. <https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/E-book.pdf>





- providing capacity building to judges, prosecutors, lawyers and law enforcement officials on the application of international legal instruments related to human rights, including the CEDAW Convention and the jurisprudence of the CEDAW Committee, and on the application of legislation prohibiting discrimination against women;
- providing education from a gender perspective for all actors of the judiciary system;
- awareness-raising on gender equality in the judiciary field through civil society, media and information and communication technologies;
- ensuring that women have equal access to legal aid and public defence <sup>(45)</sup>.

The recommendation also includes a series of specific indications for constitutional law; civil law; family law; criminal law; and administrative, social and labour law.

In addition, the United Nations 1993 Declaration on the Elimination of Violence against Women (A/RES/48/104) <sup>(46)</sup> foresees that states shall: prevent, investigate and punish acts of VAW (Article 4(c)); develop domestic legislation to punish and redress the wrongs caused to women who are subjected to violence (Article 4(d)); provide women who are subjected to violence with access to mechanisms of justice and just and effective remedies for the harm they have suffered (Article 4(d)); and ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish VAW receive training to sensitise them to the needs of women (Article 4(i)).

The Fourth World Conference on Women (1995) Beijing Declaration and Platform for Action <sup>(47)</sup> takes further action in this field. The Beijing Platform for Action (BPfA) calls on governments to: review all laws and legal practices to ensure the implementation of the principles and procedures of all relevant international human rights instruments by means of national legislation (para. 124, points (d) and (e)); revoke any laws that discriminate on the basis of sex and remove gender bias in the administration of justice (para. 232, point (d)); ensure access to free or low-cost legal services, including legal literacy, especially designed to reach

women living in poverty (para. 61, point (a)); and ensure that women have the same right as men to be judges, advocates or other officers of the court (para. 323, point (m)).

In 2010, the UN Economic and Social Council's *Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice* <sup>(48)</sup> urges Member States to do the following.

- Review, evaluate and update their national laws, policies, codes, procedures, programmes and practices, especially their criminal laws, on an ongoing basis to ensure and guarantee their value, comprehensiveness and effectiveness in eliminating all forms of VAW and to remove provisions that allow for or condone VAW or that increase vulnerability or revictimisation of women who have been subject to violence (para. 14, point (a)).
- Review, and, where appropriate, revise, amend or abolish any laws, regulations, policies, practices and customs that discriminate against women or have a discriminatory impact on women, and to ensure that provisions of multiple legal systems, where they exist, comply with international human rights obligations, commitments and principles, in particular the principle of non-discrimination (para. 14, point (e)).
- Provide for or to encourage mandatory cross-cultural, gender and child-sensitivity training modules for police, criminal justice officials and professionals involved in the CJS on the unacceptability of all forms of VAW and on their harmful impact and consequences on all those who experience such violence (para. 20, point (a)).

Mainstreaming gender in the detention system is another relevant UN objective in the justice field. The United Nations (2010) resolution 16 on rules for the treatment of women prisoners and non-custodial measures for women offenders (the Bangkok Rules) <sup>(49)</sup> foresees that Member States shall do the following.

- Take into account the distinctive needs of women prisoners in the application of the Standard Minimum Rules for the Treatment of Prisoners. Providing for such needs in order to accomplish substantial gender equality shall not be regarded as discriminatory (Rule 1).

<sup>(45)</sup> CEDAW, General recommendation on women's access to justice, 2015. [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/CEDAW\\_C\\_GC\\_33\\_7767\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf)

<sup>(46)</sup> UNODC, Gender in the criminal justice system assessment tool, United Nations Publishing, 2010. <https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/E-book.pdf>

<sup>(47)</sup> UNODC, Gender in the criminal justice system assessment tool, United Nations Publishing, 2010. <https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/E-book.pdf>

<sup>(48)</sup> UNODC, Gender in the criminal justice system assessment tool, United Nations Publishing, 2010. <https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/E-book.pdf>

<sup>(49)</sup> UNODC, Gender in the criminal justice system assessment tool, United Nations Publishing, 2010. <https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/E-book.pdf>

- Make efforts to review, evaluate and make public periodically the trends, problems and factors associated with offending behaviour in women and the effectiveness in responding to the social reintegration needs of women offenders, as well as their children, in order to reduce the stigmatisation and negative impact of those women's confrontation with the CJS (Rule 69).

### Council of Europe

One of the main gender objectives of the Council of Europe in the justice field refers to ensuring equal access to women to the justice system.

The 2014-2017 Council of Europe gender equality strategy<sup>(50)</sup> focuses on, among other things, working with Member States towards guaranteeing equal access of women to justice. The strategy establishes that action in this area will seek to:

- analyse national and international frameworks to gather data and identify the obstacles women encounter in gaining access to the national courts and to international justice;
- identify, collect and disseminate existing remedies and good practices to facilitate women's access to justice;
- make recommendations to improve the situation.

Furthermore, the recommendation No R (93)1 of the Committee of Ministers to Member States on effective access to the law and to justice for the very poor<sup>(51)</sup> urges Member States to grant equal access to justice for the poor. Even though the recommendation does not directly target women, women are the primary beneficiaries as they are at risk of poverty more often than men. Some of the measures foreseen by the recommendation are:

- promoting, where necessary, action to make the legal profession aware of the problems of the very poor;
- promoting legal advice services for the very poor;

- defraying the cost of legal advice for the very poor through legal aid, without prejudice to the payment of a modest contribution by the persons benefiting from such advice where this is required by domestic law;
- promoting the setting up of advice centres where the need is apparent in underprivileged areas;
- increasing the involvement of non-governmental organisations or voluntary organisations providing support to the very poor in quasi-judicial forms of conflict resolution such as mediation and conciliation;
- extending the benefit of legal aid or any other form of assistance to such methods of conflict resolution;
- extending legal aid or any other form of assistance to all judicial instances (civil, criminal, commercial, administrative, social, etc.) and to all proceedings, contentious or non-contentious, irrespective of the capacity in which the persons concerned act.

According to the Council of Europe, in order to ensure equal access to justice for women there should be a balance between women and men working in the justice system. Through the 2010 Recommendation CM/REC 12 on judges: independence, efficiency and responsibilities<sup>(52)</sup>, the Council of Europe urges Member States to ensure a gender balance in courts and in judiciary councils, wherever they exist.

Another relevant gender priority in this area consists of mainstreaming gender in the detention system. The Recommendation CM/Rec, 2012, 12 of the Committee of Ministers to Member States concerning foreign prisoners<sup>(53)</sup> foresees that: special measures shall be taken to combat the isolation of foreign women prisoners; attention shall be paid to meeting the psychological and healthcare needs of foreign women prisoners, especially those who have children; arrangements and facilities for pre-natal and post-natal care shall respect cultural and religious diversity.

<sup>(50)</sup> [https://www.coe.int/t/dghl/standardsetting/equality/02\\_GenderEqualityProgramme/Council%20of%20Europe%20Gender%20Equality%20Strategy%202014-2017.pdf](https://www.coe.int/t/dghl/standardsetting/equality/02_GenderEqualityProgramme/Council%20of%20Europe%20Gender%20Equality%20Strategy%202014-2017.pdf)

<sup>(51)</sup> [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/CM\\_Rec\\_93\\_1.pdf](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/CM_Rec_93_1.pdf)

<sup>(52)</sup> [http://www.coe.int/t/dghl/standardsetting/cdcj/CDCJ%20Recommendations/CMRec\(2010\)12E\\_%20judges.pdf](http://www.coe.int/t/dghl/standardsetting/cdcj/CDCJ%20Recommendations/CMRec(2010)12E_%20judges.pdf)

<sup>(53)</sup> Council of Europe, Compendium of conventions, recommendations and resolutions relating to penitentiary questions, Council of Europe Publishing, 2014. <http://www.coe.int/t/dghl/standardsetting/prisons/COMPENDIUM%20E%20Final%20E2010.pdf>



The Recommendation CM/Rec 2012, 5 of the Committee of Ministers to Member States on the European Code of Ethics for Prison Staff <sup>(54)</sup> foresees that: Member States have to use instruments of restraint only as provided for by Rule 68 of the European Prison Rules. In particular they shall never use them on women during labour, during birth and immediately after birth; prison staff shall be sensitive to the special needs of individuals, such as juveniles, women, minorities, foreign nationals, elderly and disabled prisoners, and any prisoner who might be vulnerable for other reasons, and make every effort to provide for their needs; and that probation agencies shall develop community service schemes that encompass a range of tasks suitable to the different skills and diverse needs of offenders. In particular, there must be appropriate work available for women offenders, offenders with disabilities, young adult offenders and elderly offenders.

The Recommendation Rec 2006, of the Committee of Ministers to Member States on the European Prison Rules <sup>(55)</sup> foresees that: special provision shall be made for the sanitary needs of women; the authorities shall pay particular attention to the requirements of women such as their physical, vocational, social and psychological needs when making decisions that affect any aspect of their detention; prisoners shall be allowed to give birth outside prison, but where a child is born in prison the authorities shall provide all necessary support and facilities; and that men and women shall be represented in a balanced manner on the prison staff.

The Recommendation Rec 2003, 23 of the Committee of Ministers to Member States on the management by prison administrations of life sentence and other long-term prisoners <sup>(56)</sup> urges Member States to: pay particular attention to women's individual sentence planning since women prisoners usually constitute a small minority of those serving long or life sentences; make particular efforts for women prisoners to avoid social isolation by merging them as far as possible with the general population of women prisoners; give access to special services for women prisoners who have been subject to physical, mental and sexual abuse;

ensure mothers serving life or other long sentences are not denied the opportunity of having their young children with them solely because of their sentence.

The Council of Europe has also taken measures to fight gender-based violence. The 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) is particularly relevant. The Istanbul Convention has been recognised as the most powerful legally binding set of comprehensive standards for preventing and combating VAW, and relevant as a global tool in and beyond Europe. Its preamble states that the state responsibility to act with due diligence is not an obligation of results, but an obligation of means. Parties are required to organise their response to all forms of violence covered by the scope of the Convention in a way that allows relevant authorities to diligently prevent, investigate, punish and provide reparation for such acts of violence. The Convention applies to all victims of domestic violence and, in particular, to women victims of gender-based violence and aims to:

- protect women against all forms of violence, and prevent, prosecute and eliminate VAW and domestic violence;
- contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;
- design a comprehensive framework, policies and measures for the protection of and assistance to all victims of VAW and domestic violence;
- promote international cooperation with a view to eliminating VAW and domestic violence;
- provide support and assistance to organisations and law enforcement agencies to effectively cooperate in order to adopt an integrated approach to eliminating VAW and domestic violence.

<sup>(54)</sup> Council of Europe, Compendium of conventions, recommendations and resolutions relating to penitentiary questions, Council of Europe Publishing, 2014. <http://www.coe.int/t/dghl/standardsetting/prisons/COMPEN-DIUM%20E%20Final%20E2010.pdf>

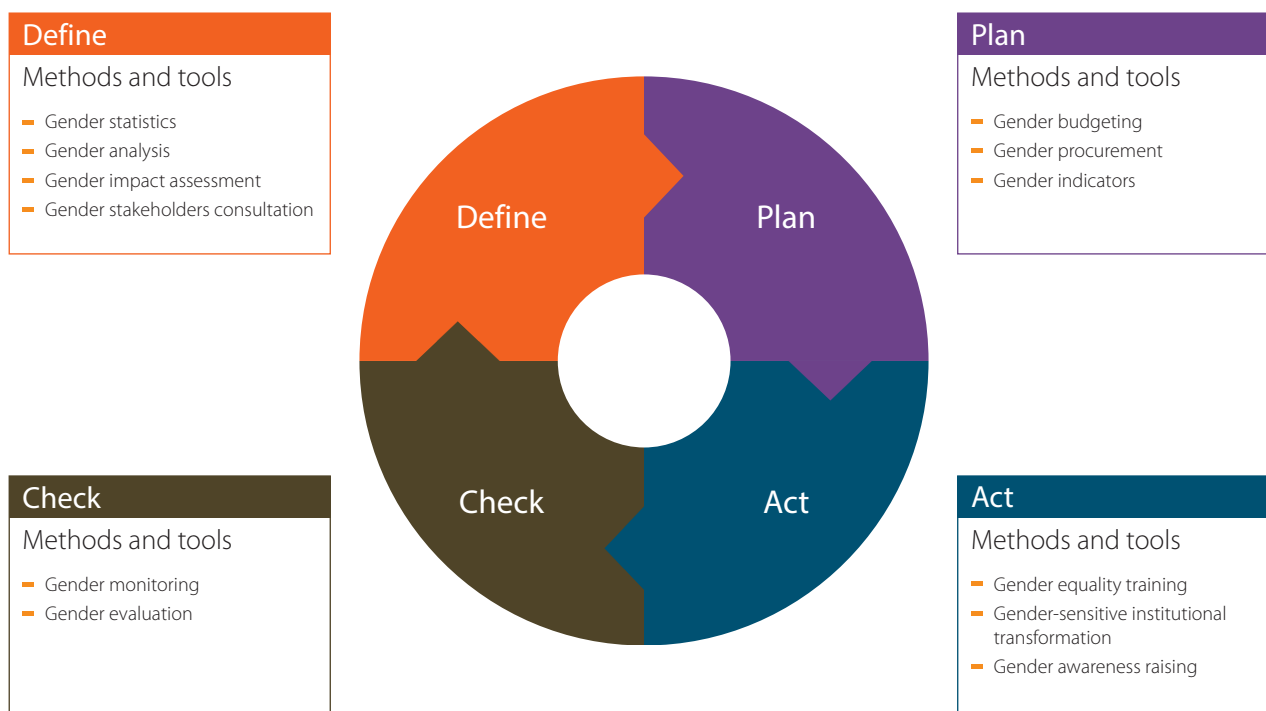
<sup>(55)</sup> Council of Europe, Compendium of conventions, recommendations and resolutions relating to penitentiary questions, Council of Europe Publishing, 2014. <http://www.coe.int/t/dghl/standardsetting/prisons/COMPEN-DIUM%20E%20Final%20E2010.pdf>

<sup>(56)</sup> Council of Europe, Compendium of conventions, recommendations and resolutions relating to penitentiary questions, Council of Europe Publishing, 2014. <http://www.coe.int/t/dghl/standardsetting/prisons/COMPEN-DIUM%20E%20Final%20E2010.pdf>

## 4. How and when? Justice and the integration of the gender dimension into the policy cycle

The gender dimension can be integrated in all phases of the policy cycle.

Below, you can find useful resources and practical examples for mainstreaming gender into justice. They are organised according to the most relevant phase of the policy cycle they may serve.



### Define

DEFINE PLAN ACT CHECK

In this phase, it is recommended that information is gathered on the situation of women and men in a particular area. This means looking for sex disaggregated data and gender statistics, as well as checking for the existence of studies, programme or project reports, and/or evaluations from previous periods.

### Examples of gender and justice statistics

Lack of sex disaggregated data in official crime statistics poses major problems in adopting gender-oriented policies in the areas of access to justice and gender-based violence, in particular at the national level. This is mainly due

to the fact that 'gender justice' has only recently surfaced in the public authorities' and citizens' attention.

In many EU Member States, statistics based on police or justice data do not include relevant information on certain aspects of VAW. For instance, in some Member States, official crime statistics are not disaggregated by the sex and age of the victim and perpetrator, or by the relationship between the victim and perpetrator, which means that instances of VAW, such as intimate partner violence and other forms of domestic violence are not easily identifiable <sup>(57)</sup>.

<sup>(57)</sup> EIGE, *Gender equality index, 2015*, <http://eige.europa.eu/rdc/eige-publications/gender-equality-index-2015-measuring-gender-equality-european-union-2005-2012-report>.



However, it is worth recalling that some initiatives aimed to improve data collection are ongoing: Eurostat and UNODC initiatives of collecting sex disaggregated data on access to justice and the EIGE database on mapping administrative data on gender-based violence.

Furthermore, some EU Member States have already taken actions to collect sex disaggregated data on women in the judiciary field. For instance, in the United Kingdom the Ministry of Justice publishes yearly the statistics on women and the CJS. The report provides information about females and males in the CJS in England and Wales for the most recent years that data have been available. <https://www.gov.uk/government/collections/women-and-the-criminal-justice-system>

### Eurostat — crime and criminal justice

The figures on crime and criminal justice are collected through a joint Eurostat-UNODC data collection. This new joint data collection replaces earlier series published by Eurostat and refers to the period 2008-2013. It is available at country level for EU Member States, European Free Trade Association countries, EU candidate countries and EU potential candidates. Most of the data are taken from information recorded or reported by the police. Comparisons of crime levels based on the absolute figures would be misleading, since they are affected by many factors including:

- different legal and CJSs;
- different laws and legal definitions;
- rates at which crimes are reported to the police and recorded by them;
- differences in the point at which crime is measured (for example, report to the police, identification of suspect, etc.);
- differences in the rules by which multiple offences are counted;
- differences in the list of offences that are included in the overall crime figures.

The database includes the following.

- Data are held on offences recorded by the police — intentional homicide, assault, rape, other sexual assault, kidnapping, theft, motor vehicle theft, burglary/breaking and entering, domestic burglary/housebreaking, and drug trafficking.

- Data on intentional homicide are also available by largest cities in these countries.
- Number of victims of intentional homicide is available by sex and age categories (0-14; 15-29; 30-44; 45-59; > 60).
- Suspects, convicted and persons held in prison by sex and age (adult/juvenile).
- Suspects and persons held in prisons for the offences of intentional homicide, rape and other sexual assault by sex.
- Details of criminal justice personnel — police, professional judges and magistrates, prison staff, by sex, are held.
- Court input/output statistics include persons brought before the courts, persons convicted, persons acquitted.
- Prisons — prison capacity data are available.

Data can be used to monitor the situation and trends through time, in particular, of the number of victims of intentional homicide, suspects, convicted and persons held in prison for offences of intentional homicide, rape and other sexual assault by sex. As a general rule, comparisons should be based upon trends rather than on levels, on the assumption that the characteristics of the recording system within a country remain fairly constant over time <sup>(58)</sup>. <http://ec.europa.eu/eurostat/web/crime/database>

### United Nations Office on Drugs and Crime database

One of the key tasks of UNODC is to produce and disseminate accurate drugs and crime statistics at the international level. UNODC also works to strengthen national capacities to produce, disseminate and use the drugs and crime statistics within the framework of official statistics. UNODC regularly provides global statistical series on crime, criminal justice, drug trafficking and prices, drug production, and drug use. The database includes data on women brought into contact, women prosecuted, convicted and detained as well as on women staff in police and the criminal judiciary system. It also includes data on the percentage of women victims of homicides. <https://data.unodc.org/>

<sup>(58)</sup> Eurostat, <http://ec.europa.eu/eurostat/web/crime/comparisons>.



### United Nations Economic Commission for Europe database

This database includes a dedicated section on gender statistics. Even if limited to 21 Member States, it provides information (not on a regular basis) on victims of homicide by sex and relationship to the perpetrator for the years 2007 and 2011, but the data are not fully comparable. The data confirms that nearly 80 % of victims of intimate partner homicide are women <sup>(59)</sup>.

<http://www.unece.org/statistics/areas-of-work/statsoc/gender-statistics.html>

### European Commission — Directorate-General for Justice

Database on women and men in decision-making

The database on women and men in decision-making has been established to monitor the number of men and women in key decision-making positions and in order to provide reliable statistics that can be used to monitor the current situation and trends through time <sup>(60)</sup>. The database covers positions of power and influence in politics, public administration, the judiciary and various other key areas of the economy. Data on political decision-making at European and national levels are updated quarterly, while all other data are updated annually, though updates to political data at regional levels are included in quarterly updates in case of election.

The section on judiciary covers the gender balance among the judiciary at European and national levels.

[http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/index_en.htm)

The EU Justice Scoreboard is a comprehensive overview of the functioning of national justice systems. It is an information tool aiming at assisting the EU and Member States to achieve more effective justice by providing objective, reliable and comparable data on the quality, independence and efficiency of justice systems in all Member States. As for female judges at courts, the level of gender balance among judges in first and/or second instance courts is in general good. In most Member States, each gender accounts for between 40–60 %. In Supreme Courts however, even if most Member States are moving towards gender balance, progress remains slow in some Member States. (2016 EU Justice Scoreboard, forthcoming)

### European Agency for Fundamental Rights — Violence against women: an EU-wide survey

This European Agency for Fundamental Rights (FRA) survey is based on interviews with 42 000 women across the 28 Member States of the EU, who were asked about their experiences of physical, sexual and psychological violence, including incidents of intimate partner violence ('domestic violence'). It shows that gender-based VAW is an extensive human rights abuse that the EU cannot afford to overlook. To date, this survey is the only attempt aiming to capture the prevalence of VAW in a harmonised and comparable way across all EU Member States. It marked a major advance in measuring VAW at the EU level.

An interactive tool, available on FRA's website, offers different ways to explore the data behind the survey results: <http://fra.europa.eu/en/vaw-survey-results>; [http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14_en.pdf).

### Eurofound's European working conditions survey

To date the survey, which interviews both employees and self-employed people on key issues related to their work and employment, has been carried out five times. Since 2010, Eurofound's survey measures sexual harassment in the workplace experienced by women <sup>(61)</sup> and men such as 'unwanted sexual attention', 'threats and humiliating behaviour' and other acts.

<http://www.eurofound.europa.eu/surveys>

### European Institute for Gender Equality database on administrative data sources on violence against women <sup>(62)</sup>

EIGE provides access to existing statistics data and information on gender-based violence, aiming to support the institutions and experts engaged in preventing and combating gender-based violence in the EU and beyond. EIGE's database includes a tool for mapping administrative data on VAW in the EU Member States. The tool maps the existence of statistics at the country level on gender-based violence, describes the various national data sources, includes the links to the national sources and, where available, also statistical elaborations of the existing data. <http://eige.europa.eu/gender-based-violence/administrative-data-sources>

<sup>(59)</sup> EIGE, *Beijing + 20: The fourth review of the implementation of the Beijing Platform for Action in the EU Member States — report*, 2015, <http://eige.europa.eu/rdc/eige-publications/beijing-20-4th-review-implementation-beijing-platform-action-eu-member-states-report>.

<sup>(60)</sup> [http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/index_en.htm)

<sup>(61)</sup> EIGE, *Beijing + 20: The fourth review of the implementation of the Beijing Platform for Action in the EU Member States — report*, 2015, <http://eige.europa.eu/rdc/eige-publications/beijing-20-4th-review-implementation-beijing-platform-action-eu-member-states-report>.

<sup>(62)</sup> EIGE, <http://eige.europa.eu/gender-based-violence/data-collection>



### European Commission (2010)

Domestic Violence against Women Special Eurobarometer 344

The survey follows on from a previous Eurobarometer survey conducted in 1999 in the 15 Member States which comprised the EU at the time. The report analyses the evolution of responses in the EU-15 in the intervening decade, and offers a comparative analysis of the results of the two surveys. Furthermore, it also analyses data from the newer Member States, for which no trend comparisons are possible.

[https://open-data.europa.eu/es/data/dataset/S816\\_73\\_2\\_EBS344](https://open-data.europa.eu/es/data/dataset/S816_73_2_EBS344)

[http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_344\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_344_en.pdf)

### European Institute for Gender Equality (2015)

The Gender Equality Index

This provides statistics on VAW in EU Member States, based on the data on VAW collected by FRA through the EU-wide survey on VAW. The women who were interviewed as subjects of the study were between the ages of 18 and 74. The main indicators considered by the report in this field are: physical violence by a partner since the age of 15; sexual violence by a partner since the age of 15; sexual violence by a non-partner since the age of 15; psychological violence by a partner since the age of 15; physical violence by a partner in the 12 months prior to the interview; sexual violence by a partner in the 12 months prior to the interview; and sexual violence by a non-partner in the 12 months prior to the interview.

<http://eige.europa.eu/sites/default/files/documents/mh0415169enn.pdf>

## Examples of studies, research and reports

### UK All Party Parliamentary Group on Women in the Penal System (2015)

Report on the inquiry into preventing unnecessary criminalisation of women

The inquiry into preventing unnecessary criminalisation of women stemmed from the conclusions of previous All Party Parliamentary Group inquiries and reports by the Howard League which indicated that the majority of women involved in the CJS do not need to be there, that women are criminalised too quickly and easily and that the problems they face ought to be addressed by other agencies at a much earlier stage.

<http://howardleague.org/publications/criminalisation-of-women/>

### United Nations Women (2015)

Progress of the world's women 2015-2016: women in the pursuit of justice

*Progress of the world's women: transforming economies, realising rights* is a timely reminder of the importance of women's economic and social rights to build strong and resilient economies and societies, today and for future generations. It shows where governments and the international community have fallen short on realising the full inclusion of women and girls and it illustrates how and where immediate action can redress this critical imbalance. It also includes a specific section on women and justice.

<http://progress.unwomen.org/en/2015/>

### European Institute for Gender Equality (2015)

Preventing domestic violence — good practices

This report presents the good practices collected under EIGE's study which aimed to identify and collect existing resources and information on training to prevent domestic violence, on campaigns to raise social and political awareness on domestic violence and on support services for victims of domestic violence.

<http://eige.europa.eu/rdc/eige-publications/preventing-domestic-violence-good-practices>

Administrative data sources on gender-based violence against women in the EU: technical analysis

The report provides a comprehensive technical analysis of the current status and potential of the main administrative data sources and the related statistical products.

<http://eige.europa.eu/rdc/eige-publications/administrative-data-sources-gender-based-violence-against-women-eu-technical-analysis>

Administrative data sources on gender-based violence against women in the EU: report

The report provides a comprehensive overview of the legal and policy framework underpinning administrative data on gender-based violence.

<http://eige.europa.eu/rdc/eige-publications/administrative-data-sources-gender-based-violence-against-women-eu-report>

### European Institute for Gender Equality (2014)

Conference report: eliminating violence against women in Europe

The conference report presents the main findings, arguments and points of discussion that were presented and articulated during the conference.

<http://eige.europa.eu/rdc/eige-publications/conference-report-eliminating-violence-against-women-europe>

### Council of Europe (2013)

Feasibility study equal access of women to justice

The purpose of this feasibility study is to discuss the challenges in women's access to justice in Council of Europe Member States.

[https://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](https://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp)

### European Institute for Gender Equality (2013)

Study on international activities in the field of data collection on gender-based violence across the EU: report

The report first summarises the policy framework on combating gender-based violence in the EU, the United Nations and the Council of Europe. Secondly, the findings of the study are presented organisation by organisation. Past as well as ongoing activities are discussed, after which future plans are explored.

<http://eige.europa.eu/rdc/eige-publications/study-international-activities-field-data-collection-gender-based-violence-across-eu-report>

### Watson, L., and Edelman, P. (2012)

Improving the juvenile justice system for girls: Lessons from the States

This examines the challenges facing girls in the juvenile justice system and makes recommendations for gender-responsive reform at the local, state, and federal levels. This report emerged from the policy series — *Marginalized Girls: Creating Pathways to Opportunity* — convened by the Georgetown Center on Poverty, Inequality, and Public Policy, The National Crittenton Foundation and the Human Rights Project for Girls.

[http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/jds\\_v1r4\\_web\\_singles.pdf](http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/jds_v1r4_web_singles.pdf)

### European Institute for Gender Equality (2012)

Review of the implementation of the Beijing Platform for Action in the EU Member States: violence against women — victim support

This publication aims to support policymakers and relevant institutions in their efforts to combat and prevent domestic violence by providing them with reliable and comparable data and information for effective, evidence-based decisions and policy improvement.

<http://eige.europa.eu/rdc/eige-publications/violence-against-women-victim-support-main-findings>

### European Institute for Gender Equality (2012)

Review of the implementation of the Beijing Platform for Action in the EU Member States: violence against women — victim support, main findings

The current report aims to support policymakers and all relevant institutions in their efforts to combat and prevent domestic violence, by providing them with reliable and comparable data and information for effective, evidence-based decisions and policy improvement.

<http://www.eige.europa.eu/content/document/violence-against-women-victim-support-main-findings>

### European Institute for Gender Equality (2012)

Study to identify and map existing data and resources on sexual violence against women in the EU: report

This report is based on a study commissioned by EIGE and carried out by the European Women's Lobby in 2011. The study focused on the following forms of sexual VAW: rape, marital rape, sexual abuse/assault, sexual coercion and sexual harassment outside the workplace, and covered resources used by the Member States and Croatia between 2007 and 2010.

<http://eige.europa.eu/rdc/eige-publications/study-identify-and-map-existing-data-and-resources-sexual-violence-against-women-eu-report>

### European Commission (2011)

Harassment related to sex and sexual harassment law in 33 European Countries

One aim of this report is to investigate harassment as discrimination. In addition, relevant case law of national courts and equality bodies illustrating this implementation is described and analysed. Another aim is to investigate what, if any, the added value is of combating harassment related to sex and sexual harassment in the form of a prohibition of discrimination.



[http://ec.europa.eu/justice/gender-equality/files/your\\_rights/final\\_harassement\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/your_rights/final_harassement_en.pdf)

#### **Council of Europe (2010)**

Report on cases brought before the European Court of Human Rights by women

The subject of the survey is the place of women in disputes concerning rights protected by the Convention, and in particular their access to the European 'monitoring mechanism'.

[https://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/ECHR\\_cases\\_en.asp](https://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/ECHR_cases_en.asp)

#### **European Commission (2010)**

Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on VAW, violence against children and sexual orientation violence, Daphne 3, Publications Office of the European Union, Luxembourg

The central task was to provide a coherent analysis of the need for, possibilities of, and potential hurdles to standardised national legislation across three fields of violence for EU Member States.

[http://ec.europa.eu/justice/funding/daphne3/daphne\\_feasibility\\_study\\_2010\\_en.pdf](http://ec.europa.eu/justice/funding/daphne3/daphne_feasibility_study_2010_en.pdf)

#### **European Commission (2010)**

Violence against women and the role of gender equality, social inclusion and health strategies

The report is organised in three chapters: the first summarises the main features of VAW in Europe. The second chapter gives an overview of policies addressing VAW from the perspective of prevention, support for the victim and social reintegration. The final chapter presents some general conclusions.

[http://ec.europa.eu/justice/gender-equality/document/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/document/index_en.htm)

#### **Fair, H. (2009)**

International review of women's prisons

The research shows that arrangements for women in prison vary widely around the world and that some countries have moved much further in the direction of a women-centred approach than others. This article summarises some of the review's findings.

[http://www.prisonstudies.org/sites/default/files/resources/downloads/100047ceinternational\\_review\\_of\\_womens\\_prisons.pdf](http://www.prisonstudies.org/sites/default/files/resources/downloads/100047ceinternational_review_of_womens_prisons.pdf)

#### **Cooney, S., Small, S. and O'Connor, C. (2008)**

Girls in the juvenile justice system: towards effective gender-responsive programming

This research to practice brief focuses on two interrelated questions: (i) What are the characteristics of girls in the juvenile justice system, and how do they differ from those of their male counterparts? (ii) What are some promising strategies for creating a more gender-responsive juvenile justice system?

<https://wilenet.org/html/justice-programs/programs/juvenile-justice/library/what-works/what-works-practice-briefs-2008-01-girls-in-the-juvenile-justice-system.pdf>

#### **Council of Europe (2008)**

Directorate-General of Human Rights and Legal Affairs, Gender Equality and Anti-Trafficking Division, Task Force to Combat Violence against Women, including domestic violence, final activity report, Publications Office of the European Union, Luxembourg

For 2 years, the Council of Europe Task Force to Combat Violence against Women, including domestic violence, has followed national and international developments in preventing and combating VAW. In accordance with its mandate, this report contains detailed information, assessments and recommendations on measures to prevent and combat VAW.

[http://www.coe.int/t/dg2/equality/domesticviolence-campaign/Source/Final\\_Activity\\_Report.pdf](http://www.coe.int/t/dg2/equality/domesticviolence-campaign/Source/Final_Activity_Report.pdf)

#### **European Union Agency for Fundamental Rights (2015)**

Study on victim support services (for victims of all crime)

This report looks at achievements in the area of victim support provision and aims to take stock of the various models that have emerged in EU Member States. It examines Member States' obligations under the Victims' Directive to ensure the availability of support services to all victims of crime and explores the situation on the ground. The report highlights achievements as well as promising models and practices that can serve as a source of inspiration to Member States in implementing the Victims' Directive.

[http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support\\_en\\_0.pdf](http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support_en_0.pdf)

**WAVE (2014)**

Specialized Women's Support Services and New Tools for Combating Gender-based Violence in Europe

The report maps the available services for women survivors of violence in 46 European countries, including information on available women's helplines, women's shelters, and women's centres. Country reports are provided.

[http://files.wave-network.org/annualreports/Annual\\_Report\\_2014.pdf](http://files.wave-network.org/annualreports/Annual_Report_2014.pdf)

**WAVE (2016)**

Thematic Paper 'Access to Justice for Women Victims of Violence: Analysis and Key Tenets of International Law and Practice in the Field'

The thematic paper explores the notion of access to justice for women victims of violence, as well as barriers to such access, including gender stereotyping and additional vulnerabilities. It also addresses achievements in the access to justice before international human rights bodies.

<https://www.wave-network.org/24-featured-news/95-wave-thematic-paper-ii>

One of the first steps to take when defining your policy/project/programme is to gather information and analyse the situation of women and men in the respective policy area. The information and data you collect will allow an understanding of the reality and assist you in designing your policy, programme or project. Specific methods that can be used in this phase are gender analysis and gender impact assessment (GIA).

## Examples of gender analysis

**Geneva Centre for the Democratic Control of Armed Forces (2011)**

Gender Self-Assessment Guide for the Police, Armed Forces and Justice Sector

This self-assessment guide is a tool for assessing the gender responsiveness of a security sector institution. While it can be used by other security sector institutions, it is particularly designed for use by police services, armed forces and justice sector institutions. A gender-responsive security sector institution is one that both meets the distinct and different security and justice needs of men, women, boys and girls and promotes the full and equal participation of men and women.

<http://www.dcaf.ch/Publications/Gender-Self-Assessment-Guide-for-the-Police-Armed-Forces-and-Justice-Sector>

**United Nations Office on Drugs and Crime (2013)**

Gender mainstreaming in the work of UNODC

Understanding the interrelationship between gender, security threats and crime is vital to the overall effectiveness of any response. Women and men are impacted differently by drugs, crime and terrorism and have different experiences going through the CJS. Therefore, the purpose of this guidance note is to assist UNODC staff to effectively integrate a gender perspective into all aspects of their work from planning strategic tools, developing normative standards, designing and delivering thematic and regional programmes and working through the project cycle. The note includes a specific section on how to carry out gender analysis in the fields of activity of UNODC.

<http://www.un.org/womenwatch/directory/docs/UNODC-GuidanceNote-GenderMainstreaming.pdf>

**United Nations Office on Drugs and Crime (2010)**

Gender in the criminal justice system assessment tool: Criminal justice assessment toolkit

A fair, effective and representative CJS is one that respects the fundamental rights of all women and men. It is gender-responsive and works to identify and address gender biases that have permeated the system, to prevent gender-based crimes, to protect and assist victims/survivors and witnesses, and to encourage women's active participation at all levels of the CJS. An assessment of the CJS or any of its components cannot be complete without a careful examination of how the system and the various sectors treat gender. This tool provides guidance on how to assess gender in the CJS. In detail the tool includes indications on gender analysis of: criminal statistics; legal and regulatory framework; policing; access to justice; defence/legal aid; custodial and non-custodial measures; victims and witnesses; and accountability of CJS.

<https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/E-book.pdf>





### UK Ministry of Justice (n.d.)

Analysis of Gender as a Factor associated with Custodial Sentences for Breach of a Court order

This constitutes a specific example of gender analysis in the judicial system. The aim of this analysis is to investigate whether gender is associated with being sentenced to custody for breach of a court order, independently of offence type, criminal history and other factors.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/380093/analysis-gender-custodial-sentences.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380093/analysis-gender-custodial-sentences.pdf)

## Example of gender impact assessment

### Gender impact assessment

Drafting of national laws in Finland

In Finland measures have been taken by the national government since 2000 to enhance GIAs in the drafting of laws. According to the official definition, GIA in the drafting of a law has two main aims. First, it is a means to promote gender equality; second, it is a way to ensure the quality of the legislative process and promote good governance. In terms of the gender equality aim, the idea is to overcome gender-neutral procedures in law drafting, which may often involve a gender bias. GIA is integrated into ordinary legislative work and is part of the general impact assessment procedure. As such, those normally in charge of legislative preparation should also carry out GIAs. The Finnish Government's central gender equality structure coordinates all process and may give some support if consulted, but it does not conduct the GIAs itself. [http://ec.europa.eu/justice/gender-equality/files/exchange\\_of\\_good\\_practice\\_fi/141218\\_fi\\_summary\\_report\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/exchange_of_good_practice_fi/141218_fi_summary_report_en.pdf)

### U.S. Department of Justice (2010)

Office of Justice Programs Office of Juvenile Justice and Delinquency Prevention: Suitability of assessment instruments for delinquent girls

The Office of Juvenile Justice and Delinquency Prevention Girls Study Group has conducted a study to systematically examine the extent to which existing instruments designed for adolescents and used in the juvenile justice system are equally effective for girls and boys. The researchers have reviewed four types of instruments:

- risk and risk/needs assessment instruments to predict outcomes, most often recidivism;
- global needs assessment instruments to provide a broad-based assessment of youths' problem areas requiring further follow-up;
- substance abuse instruments intended to detect alcohol or substance use, including the presence or severity of abuse, dependence, and problems associated with abuse;
- mental health instruments covering a broad scope of topics within the mental health area, from disorders to positive functioning and adaptive behaviours.

For each instrument, the researchers have developed the following categories for findings:

- favourable — the instrument had positive gender-based performance information;
- unclear — the instrument had mixed or inconsistent gender-based performance information;
- unfavourable — the instrument had negative gender-based performance information;
- unknown — the instrument lacked gender-based performance information.

The web tool created allows an understanding through all instruments reviewed and the methodology used.

<https://www.nttac.org/index.cfm?event=gsg.WebtoolHomepage>

Consider consulting stakeholders (e.g. gender experts, civil society organisations) on the topic at hand, to share and validate your findings and to improve your policy or programme proposal. This will enhance the learning process on the subject for all those involved and will improve the quality of the work done at EU level. The stakeholders consultation process will start in this phase, but could also be considered as an important method to be applied along all the policy cycle's phases.

## Examples of stakeholders that can be consulted

WAVE (a network of mostly European non-governmental organisations fighting violence against women and children).

[www.wave-network.org](http://www.wave-network.org)

The European Women Lawyers Association (federation of national women lawyers associations from EU and European Free Trade Association Member States).

<http://www.ewla.org/>

Women's Initiatives for Gender in Justice (global association working for ensuring justice for women)

<http://4genderjustice.org/>

International Association of Women Judges — European section (international association committed to promoting equal justice for all and the rule of law).

<http://www.iawj.org/index.html>

European Network of Policewomen (EU network aiming to facilitate positive changes in regard to gender mainstreaming, the management of diversity as well as optimising the position of women)

<http://www.enp.eu/>

## Plan

DEFINE PLAN ACT CHECK

In this phase, it's appropriate to analyse budgets from a gender perspective. Gender budgeting is used to identify how budget allocations contribute to promoting gender equality. Gender budgeting brings visibility to how much public money is spent for women and men respectively. Thus, gender budgeting ensures that public funds are fairly distributed between women and men. It also contributes to accountability and transparency about how public funds are being spent.

## Examples of gender budgeting in justice

Gender budgeting in Austrian ministries, including justice

Since 2009 all governmental levels (i.e. federal, state, and municipality) are legally required to achieve effective gender equality budgeting. This obligation is anchored in Article 13 of the Austrian Federal Constitution as a central aim of budgeting and, according to Article 51(8) of the Austrian Federal Constitution, federal budget policy must consider performance targets, including the effective equality of women and men as a fundamental principle. Within this basis, since 2013 performance budgeting including gender-responsive budgeting is obligatory for all federal ministries. This means that within the Austrian multi-annual and annual regular budgeting process, a performance-oriented budgeting exercise is carried out. In effect each ministry, including justice, and the supreme state body is required to define for each budget chapter a maximum of five outcome objectives, with firm measures to realise these, along with appropriate indicators to measure implementation. Gender-responsive budgeting is one element of this budgeting exercise and forms the first objective of the five outcomes objectives included in the outcome objectives.

[http://ec.europa.eu/justice/gender-equality/files/exchange\\_of\\_good\\_practices\\_at/140804\\_summary\\_report\\_at\\_2014\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/exchange_of_good_practices_at/140804_summary_report_at_2014_en.pdf)

European Parliament (2015). The EU budget for gender equality

The study analyses the EU budget from a gender perspective to reveal how revenue and spending decisions impact on gender equality. It includes the operational expenditure of six policy areas, among which is justice. The study also includes an in-depth presentation of the capabilities approach used to carry out the gender analysis of the EU budget in the selected policy areas, including justice.

[http://www.europarl.europa.eu/RegData/etudes/STUD/2015/490708/IPOL\\_STU\(2015\)490708\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/490708/IPOL_STU(2015)490708_EN.pdf)

When planning, don't forget to establish monitoring and evaluation systems, and indicators that will allow measurement and compare the impact of the policy or programme on women and men over the timeframe of its implementation. Remember to define the appropriate moments to monitor and evaluate your policy.

## Examples of indicators for monitoring gender and justice

Suspects, convicted and persons held in prison by sex

Indicators refer to the number of people who are *suspects, convicted or persons held in prison*, by sex (and age). Indicators are also available that consider the average of people in one of the three conditions per 100 000 inhabitants. The indicators provide information of the magnitude of the presence of women and men in the detention system of the Member States. Data are available at country level for EU Member States and are included in Eurostat.

[http://ec.europa.eu/eurostat/data/database?node\\_code=crim\\_just\\_sex](http://ec.europa.eu/eurostat/data/database?node_code=crim_just_sex)

Prisoners by offence category (intentional homicide, rape, sexual assault) by sex

Indicators are related to the number of prisoners in the Member State detention system disaggregated by three principal offences (intentional homicide, rape, sexual assault), by sex of prisoners. Indicators are also available considering the average of people in one of the three offence category per 100 000 inhabitants. The indicators provide information of the magnitude of the presence of women and men in the detention system of the Member States for each of the offence categories. Data are available at country level or EU Member States, and are included in Eurostat — crime and criminal justice (online data code: *crim\_just\_off*).

[http://ec.europa.eu/eurostat/data/database?node\\_code=crim\\_pris\\_off](http://ec.europa.eu/eurostat/data/database?node_code=crim_pris_off)

Intentional homicide victims by victim-offender relationship and sex — number and rate for the relevant sex group (joint Eurostat-UNODC data)

Intentional homicide refers to unlawful death purposefully inflicted on a person by another person. Data on intentional homicide should also include serious assault leading to death and death as a result of a terrorist attack. It should exclude attempted homicide, manslaughter, death due to legal intervention, justifiable homicide in self-defence and death due to armed conflict.

[http://ec.europa.eu/eurostat/web/products-datasets/-/crim\\_hom\\_vrel](http://ec.europa.eu/eurostat/web/products-datasets/-/crim_hom_vrel)

[http://ec.europa.eu/eurostat/cache/metadata/en/crim\\_esms.htm](http://ec.europa.eu/eurostat/cache/metadata/en/crim_esms.htm)

Personnel in the criminal justice system by sex — number and rate for the relevant sex group (joint Eurostat-UNODC data)

Data refer to the following.

- Police officers: personnel in public agencies as at 31 December whose principal functions are the prevention, detention and investigation of crime and the apprehension of alleged offenders by sex (number and rate). Data concerning support staff (secretaries, clerks, etc.) are excluded.
- Professional judges: full-time and part-time official legal professionals as at 31 December authorised to hear civil, criminal and other cases, including in appeal courts, and to make dispositions in a court of law, who have been recruited and are paid to practice as a judge by sex (number and rate). This category excludes non-professional judges such as lay judges and lay magistrates.
- Prison personnel: all individuals employed in penal or correctional institutions as at 31 December, including management, treatment, custodial and other (maintenance, food service, etc.) personnel by sex (number and rate).

[http://ec.europa.eu/eurostat/cache/metadata/en/crim\\_esms.htm](http://ec.europa.eu/eurostat/cache/metadata/en/crim_esms.htm)

Percentage of women in European courts

Sex disaggregated data are available on the European Commission-Directorate-General for Justice database on women and men in decision-making for a number of sectors, including judiciary in Europe. (Women and men in decision-making — [http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/judiciary/european-court/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/judiciary/european-court/index_en.htm).)

United Nations Statistical Commission on indicators on violence against women (2010)

Core indicators for measuring VAW identified, and agreed upon at the international level, identified by the Friends of the Chair of the United Nations Statistical Commission on indicators on violence against women: total and age-specific rate of women subjected to physical violence in the past 12 months by severity of violence, relationship to the perpetrator and frequency; total and age-specific rate of women subjected to physical violence during their lifetime by severity of violence, relationship to the perpetrator and frequency; total and age-specific rate of women subjected to sexual violence in the past 12 months by severity of violence, relationship to the perpetrator and frequency; total and age-specific rate of women subjected to sexual violence during their lifetime by severity of violence, relationship to the perpetrator and frequency;

Total and age-specific rate of ever-partnered women subjected to sexual and/or physical violence by current or former intimate partner in the past 12 months by frequency; total and age-specific rate of ever-partnered women subjected to sexual and/or physical violence by current or former intimate partner during their lifetime by frequency; total and age-specific rate of ever-partnered women subjected to psychological violence in the past 12 months by an intimate partner; total and age-specific rate of ever-partnered women subjected to economic violence in the past 12 months by an intimate partner; total and age-specific rate of women subjected to female genital mutilation.

- Total and age-specific rate of women subjected to physical violence in the past 12 months by severity of violence, relationship to the perpetrator and frequency.
- Total and age-specific rate of women subjected to physical violence during their lifetime by severity of violence, relationship to the perpetrator and frequency.
- Total and age-specific rate of women subjected to sexual violence in the past 12 months by severity of violence, relationship to the perpetrator and frequency.
- Total and age-specific rate of women subjected to sexual violence during their lifetime by severity of violence, relationship to the perpetrator and frequency.
- Total and age-specific rate of ever-partnered women subjected to sexual and/or physical violence by current or former intimate partner in the past 12 months by frequency.
- Total and age-specific rate of ever-partnered women subjected to sexual and/or physical violence by current or former intimate partner during their lifetime by frequency.
- Total and age-specific rate of ever-partnered women subjected to psychological violence in the past 12 months by an intimate partner.
- Total and age-specific rate of ever-partnered women subjected to economic violence in the past 12 months by an intimate partner.
- Total and age-specific rate of women subjected to female genital mutilation  
<http://www.un.org/womenwatch/daw/vaw/v-esc-stat.htm>

When preparing calls for proposals in the framework of funding programmes, or terms of reference in the context of public procurement procedures (notably for contractors to be hired for policy support services), don't forget to formalise gender-related requirements. This will ensure the projects and services which the European Commission will fund are not gender blind or gender biased.

## Act

DEFINE PLAN ACT CHECK

In the implementation phase of a policy or programme, ensure that all who are involved are sufficiently aware of the relevant gender objectives and plans. If not, set up briefings and capacity-building initiatives according to staff needs. Think about researchers, proposal evaluators, monitoring and evaluation experts, scientific officers, programme committee members, etc.

## Examples of capacity-building initiatives in the justice field

### UK Ministry of Justice (2012)

A distinct approach. A guide to working with women offenders

The guide aims to provide suggestions for good practice when working with women in the CJS. The guide sets the context, then follows chapter-by-chapter the stages of the woman offender's journey through the CJS starting from pre-sentence, through sentence (community or custody), including interventions, enforcement of the sentence and termination of the sentence. In line with the government's proposals for reforming sentencing and rehabilitation, this guidance highlights implications for women in four key areas: punishment, payback, progression and protection. <https://www.justice.gov.uk/downloads/publications/noms/2012/guide-working-with-women-offenders.pdf>

### European Council

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

The adoption of guidelines on VAWG 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.



These guidelines are based on a solid multilateral acquis such as, for instance: the UN Secretary-General's in-depth study on all forms of VAW (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.

<http://www.consilium.europa.eu/uedocs/cmsupload/16173cor.en08.pdf>

#### United Nations Office on Drugs and Crime (2014)

Handbook on women and imprisonment

The handbook forms part of a series of tools developed by UNODC to support countries in implementing the rule of law and the development of criminal justice reform. It is designed to be used by all actors involved in the CJS, including policymakers, legislators, prison managers, prison staff, members of non-governmental organisations and other individuals interested or active in the field of criminal justice and prison reform. It can be used in a variety of contexts, both as a reference document and as a training tool. The main focus of the handbook is female prisoners and guidance on the components of a gender-sensitive approach to prison management, taking into account the typical background of female prisoners and their special needs as women in prison.

[https://www.unodc.org/documents/justice-and-prison-reform/women\\_and\\_imprisonment\\_-\\_2nd\\_edition.pdf](https://www.unodc.org/documents/justice-and-prison-reform/women_and_imprisonment_-_2nd_edition.pdf)

#### UN Women (2012)

Handbook for legislation on violence against women

The handbook serves as a useful tool in supporting efforts to provide justice, support, protection and remedies to victims and to hold perpetrators accountable. It first outlines the international and regional legal and policy frameworks which mandate states to enact and implement comprehensive and effective laws to address VAW. It then presents a model framework for legislation on VAW, divided into 14 chapters. Finally, the handbook provides

users with a checklist of considerations to be kept in mind when drafting legislation on VAW.

[http://www.unwomen.org/~media/Headquarters/Attachments/Sections/Library/Publications/2012/12/UNW\\_Legislation-Handbook%20pdf.pdf](http://www.unwomen.org/~media/Headquarters/Attachments/Sections/Library/Publications/2012/12/UNW_Legislation-Handbook%20pdf.pdf)

#### Oxfam Canada (2009)

This toolkit aims to provide a set of tools for designing, monitoring and evaluating transformative organisational capacity-building on gender justice. This toolkit is divided into four sections. The section on the capacity needs assessment tool (CAT) outlines the steps to support a participatory assessment of a partner organisation's capacity for gender justice work. The completed CAT provides a baseline for monitoring progress over time. The section on developing a capacity-building strategy outlines a process for moving from needs assessment to supporting partners in prioritising focus areas for capacity-building activities, responding to real needs identified. Several monitoring tools are proposed to form a capacity-building monitoring system with an emphasis on ongoing self-monitoring by partners and annual reporting as part of the capacity-building programme. Suggestions for rolling up monitoring information from multiple partners are also given. The final section of the toolkit outlines options for the evaluation of an organisational capacity-building programme on gender equality and women's rights, building on feminist assessment methods.

[http://www.oxfam.ca/sites/default/files/Ox-Gender-Toolkit\\_web-final\\_0.pdf](http://www.oxfam.ca/sites/default/files/Ox-Gender-Toolkit_web-final_0.pdf)

#### Geneva Centre for the Democratic Control of Armed Forces, Organization for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights and UN International Research and Training Institute for the Advancement of Women (2008)

Justice reform and gender

This guide focuses on the institutional reform of the judiciary, law reform and access to justice, with specific emphasis on gender equality. It is directed towards the personnel responsible for justice reform within national governments, international and regional organisations and donors. Parliamentarians, law societies and judges networks, civil society organisations and researchers focusing on justice reform may also find it useful. It examines justice reform from a gender perspective within the broad and often overlapping contexts of post-conflict, transitional, developing and developed countries.

<http://www.osce.org/odihr/30676?download=true>

## United Nations Development Programme (2005)

Programming for justice: Access for all

The overall aim of this practitioner's guide is to facilitate programming in access to justice. To this end, the guide takes the approach that the combination of a clear model in line with UNDP precepts, an assessment methodology and a mapping of highly distilled lessons will help the programmer to come to strategic decisions. Drawing on experiences and lessons learned from different access to justice interventions within the Asia-Pacific region and sometimes beyond, this guide discusses a wide range of obstacles and capacity development strategies to enhance access to justice. The formal and informal systems of justice, legal aid and empowerment as well as specific obstacles facing disadvantaged groups and those in conflict situations in terms of their ability to access justice are all examined in the different sections of the guide. Women are just one of the groups targeted by the guide.

[http://www.unrol.org/files/Justice\\_Guides\\_ProgrammingForJustice-AccessForAll.pdf](http://www.unrol.org/files/Justice_Guides_ProgrammingForJustice-AccessForAll.pdf)

## Example of gender language in justice

### Zero Tolerance (2013)

Handle with care: A guide to responsible media reporting of violence against women.

The guide lays down some standards and procedures for reporting on men's VAW, in all its forms. The proposals for best practice go further than the legal requirements for journalists; they form a handbook of moral guidance.

<https://www.google.it/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCcQFjAAahUKewjI79O53LjIAhXpa3lKHIEFBEO&url=http%3A%2F%2Fwww.zerotolerance.org.uk%2Fdownload%2F563&usg=AFQjCNEkqFbxxFdJXR8aoq2VVCi2th00yw>

## Check

DEFINE PLAN ACT CHECK

A policy cycle or programme should be checked both during — monitoring, and at the end — evaluation, of its implementation.

Monitoring the ongoing work allows for the follow up of progress and for remedying unforeseen difficulties. This process should take into account the indicators delineated in the planning phase and data collection based on those indicators.

At the end of a policy cycle or programme, a gender-sensitive evaluation should take place. Make your evaluation publicly accessible and strategically disseminate its results to promote its learning potential.

## Examples of monitoring and evaluation of gender in justice

### Geneva Centre for the Democratic Control of Armed Forces (2011)

Gender Self-Assessment Guide for the Police, Armed Forces and Justice Sector

This self-assessment guide is a tool for assessing the gender responsiveness of a security sector institution. While it can be used by other security sector institutions, it is particularly designed for use by police services, armed forces and justice sector institutions. The guide includes a specific section on monitoring and evaluation.

<http://www.dcaf.ch/Publications/Gender-Self-Assessment-Guide-for-the-Police-Armed-Forces-and-Justice-Sector>

### UN Women (2012)

Handbook for national action plans on violence against women

This handbook brings together current knowledge on effective policy for the prevention of, and response to VAW, and concretely demonstrates how states have developed and implemented such policy in their own contexts. The handbook includes a specific section on monitoring and evaluation.

<http://www.unwomen.org/en/digital-library/publications/2012/7/handbook-for-national-action-plans-on-violence-against-women>

### Organisation for Economic Co-operation and Development (2011). Section 10: Monitoring and evaluation in the OECD DAC

Handbook on security system reform: Supporting security and justice, OECD Publishing

The guide provides indications on how to operationalise the 2005 Development Assistance Committee guidelines, security system reform and governance in order to close the gap between policy and practice. It provides guidance on the monitoring, the review and the evaluation of security and justice programmes and highlights how to ensure greater coherence across the different actors and departments engaged in such programmes.





The guide includes a specific section on how to conduct gender-responsive assessments of security and justice programmes with the aim of integrating gender awareness and equality within such programmes.  
<http://dx.doi.org/10.1787/9789264027862-13-en>

### The Advocates for Human Rights (2011)

Documenting the implementation of domestic violence laws: A human rights monitoring methodology

This methodology provides guidance on monitoring the implementation of domestic violence laws through human rights fact-finding and reporting. This methodology includes six components: planning a monitoring project; international legal protections against domestic violence; background research on the legal system; interviews on the implementation of domestic violence laws; writing the report; and the advocacy process. The primary guiding principle for the assessment should be whether the implementation of domestic violence laws promotes victim safety and offender accountability, according to international human rights standards.  
<http://www.ipu.org/splz-e/newdelhi11/dv.pdf>

## Practical examples of gender mainstreaming in justice

### Bulgaria

Applying the method of court watch for monitoring the implementation of the law on protection against domestic violence.

This programme aims to: improve the effectiveness of protection of victims of domestic violence in Varna courts; raise the awareness of judges and prosecutors on the issue of victim protection; raise the visibility and publicity of justice done in cases of domestic violence; continuously train volunteer monitors; and transfer the experience of US-practised court watch.  
<http://eige.europa.eu/gender-based-violence/methods-and-tools/bulgaria/applying-method-court-watch-monitoring-implementation-law-protection-against-dv>

### UK

In 2013, the British Ministry of Justice proclaimed four key priorities that guide the reforming of the rehabilitation system for women offenders, within the more general agenda for transforming the rehabilitation of offenders:

- ensure the provision of credible, robust sentencing options in the community that will enable female

offenders to be punished and rehabilitated in the community where appropriate;

- ensure the provision of services in the community that recognise and address the specific needs of female offenders, where these are different from those of male offenders;
- tailor women's custodial estate and regimes so that they reform and rehabilitate offenders effectively, punish properly, protect the public fully, meet gender specific standards and locate women in prisons as near to their families as possible;
- through the transforming rehabilitation programme, support better life management by female offenders ensuring all CJS partners work together to enable women to stop reoffending.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/177038/strategic-objectives-female-offenders.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/177038/strategic-objectives-female-offenders.pdf)

### Women MATTA project

This is run by the Greater Manchester Community Rehabilitation Company and is an example of how these priorities can be translated into practice. The project aims to establish a unique, holistic support service in Manchester and Trafford for women in contact with the CJS. WomenMATTA was launched to provide individual and group-based support to women in prisons, in magistrate's courts and in police custody suites across the target area. This whole system approach has now been expanded by the Justice and Rehabilitation Executive Board to cover all 10 council areas in Greater Manchester. WomenMATTA is an example of a one-stop shop of specialist services which is run from a women's centre and sets out to achieve a community-led whole system approach for women. The long list of issues faced by female offenders have been highlighted as housing, education, immigration, legal rights, work, benefits, domestic violence and abuse, debt, finding a solicitor, mental health, children, etc. While these are not unusual, the flexibility of the approach enables any of these issues to be tackled at all stages of the criminal justice cycle.

<http://publicservicetransformation.org/media-zone/news/548-understanding-justice-rehabilitation-in-greater-manchester>

## Spain

In 2004, the Spanish Parliament adopted the Organic Act 1/2004 of Comprehensive Protection Measures against Gender Violence changed the approach to the struggle against gender violence. The act addresses gender violence globally through a multidisciplinary range of measures which aim to influence public opinion on the subject.

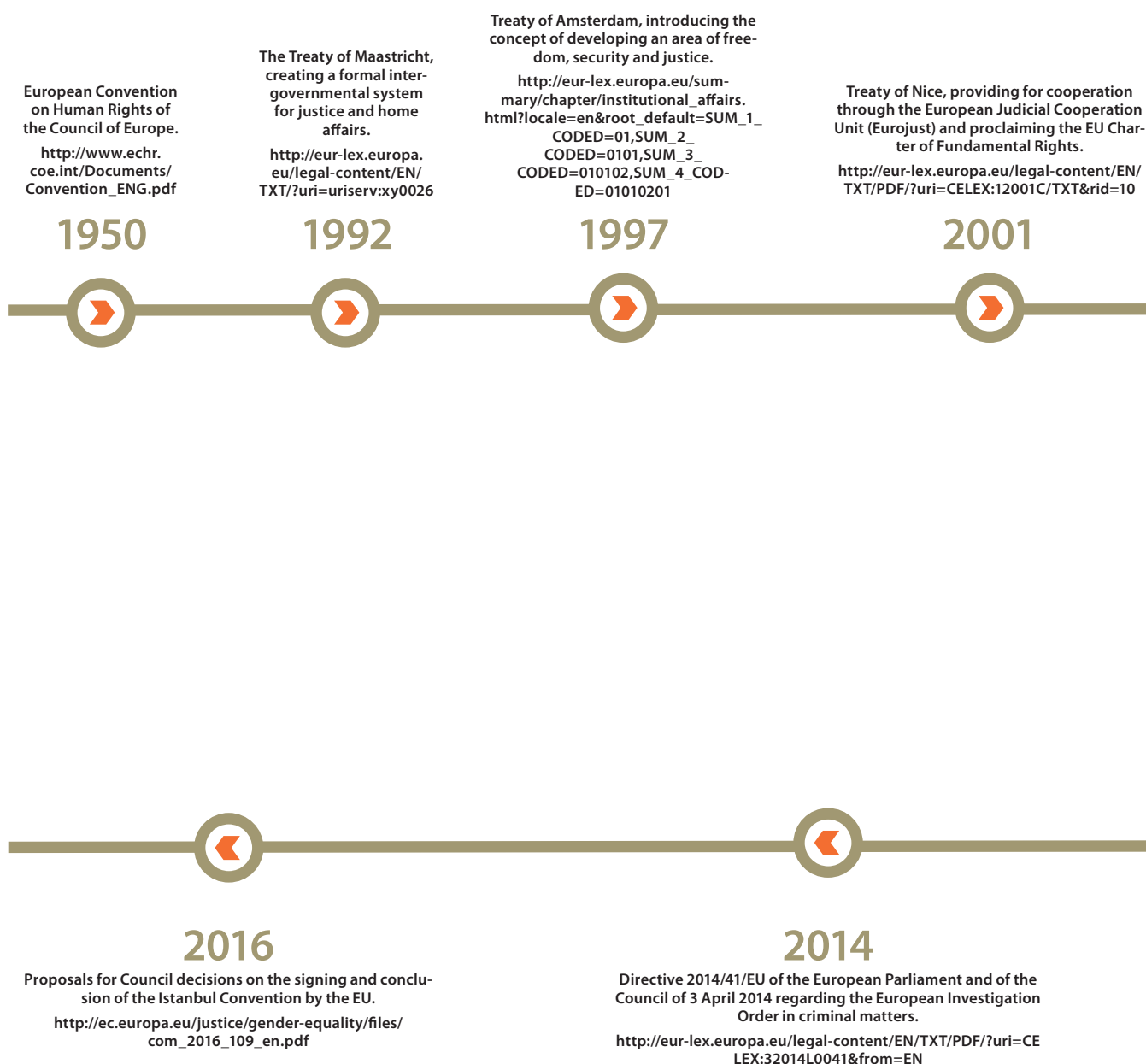
It raises the visibility of this type of violence, portraying it not as a private issue of interpersonal relations, but as a structural form of violence that affects society as a whole. The law acknowledges and immediately grants rights to the victims of gender violence. The creation of the courts on VAW is one of the measures foreseen by the act. These have the power to deal with the following crimes: homicide (manslaughter or murder); abortion harm to the foetus; crimes against freedom; crimes against moral integrity; sexual crimes or any other crime committed by the present or past spouse or significant other, independently of living together, as well as against minors and the disabled that are under the legal custody or care of the offender; crimes against family obligations when the victim is one of the aforementioned. Furthermore, they intervene in the civil jurisdiction acting as courts of first instance and inquiry. These procedural regulations are designed to package the legal response to a situation of violence into a single process, coordinating the measures adopted and saving the victim from having to bring several proceedings simultaneously.

[http://www.isotita.gr/var/uploads/NOMOTHESIA/VIOLENCE/SPANISH%20LAW%20Organic%20Act%201\\_28-12-04%20on%20Violence.pdf](http://www.isotita.gr/var/uploads/NOMOTHESIA/VIOLENCE/SPANISH%20LAW%20Organic%20Act%201_28-12-04%20on%20Violence.pdf)

## 5. Want to know more?

### Timeline

The key milestones of the EU justice policy are presented below.



Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims.  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0080&from=en>

2004

Treaty of Lisbon, including the EU Charter of Fundamental Rights.  
<http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A12012P%2FTXT>

2007

Council of the European Union, Procedural rights in criminal proceedings.  
<http://register.consilium.europa.eu/doc/srv?!=EN&f=ST%2014828%202009%20INIT>

2009

Charter of Fundamental Human Rights of the European Union (2010/C 83/02).

[http://ec.europa.eu/justice/fundamental-rights/charter/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm)

European Commission, Communication from the Commission, *A strengthened commitment to equality between women and men. A women's charter.*

[http://ec.europa.eu/commission\\_2010-2014/president/news/documents/pdf/20100305\\_1\\_en.pdf](http://ec.europa.eu/commission_2010-2014/president/news/documents/pdf/20100305_1_en.pdf)

European Council, The Stockholm programme — an open and secure Europe serving and protecting citizens (2010/C 115/01).

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:115:0001:0038:en:PDF>

2010

Council of the European Union, Council Conclusions on the European Pact for Gender Equality (2011-2020).

[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/lsa/119628.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/119628.pdf)

Council Directive 2011/99 of 13 December 2011 on the European Protection Order and Regulation 606/2013 on mutual recognition of protection measures in civil matters.

[http://ec.europa.eu/justice/criminal/files/directive\\_2011\\_99\\_on\\_epo\\_en.pdf](http://ec.europa.eu/justice/criminal/files/directive_2011_99_on_epo_en.pdf)

Council Directive 2011/92/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0093&from=EN>

Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0126:FIN:en:PDF>

2011

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.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>

Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:142:0001:0010:EN:PDF>

2012

2013

Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters.

COM(2013) 821/2 Proposal for a Directive of the European Parliament and of the Council on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings.

COM(2013) 822/2 Proposal for a Directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings.

[http://ec.europa.eu/justice/criminal/files/com\\_2013\\_822\\_en.pdf](http://ec.europa.eu/justice/criminal/files/com_2013_822_en.pdf)

Proposal for a directive of the European Parliament and of the Council on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European: arrest warrant proceedings.

[http://ec.europa.eu/smart-regulation/impact/ia\\_carried\\_out/docs/ia\\_2013/com\\_2013\\_0824\\_en.pdf](http://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2013/com_2013_0824_en.pdf)

C(2013) 8178 Commission recommendation on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings.

[http://ec.europa.eu/justice/criminal/files/c\\_2013\\_8178\\_en.pdf](http://ec.europa.eu/justice/criminal/files/c_2013_8178_en.pdf)

## 6. Current policy priorities at EU level

The EU's mission is to build a European area of justice. The aim is to offer practical solutions to cross-border problems, so that citizens feel at ease when moving around the EU and businesses can make full use of the single market. This means:

- respect for fundamental rights by the EU, and by Member States at the national level;
- equal treatment on the basis of sex, race or ethnic origin, religion or belief, disability, age and sexual orientation;
- protection for personal data anywhere in the EU.

The current priorities of the EU in the criminal justice field are:

- strengthening of the role of Eurojust, which helps to build mutual trust and to bridge the EU's wide variety of legal systems and traditions <sup>(63)</sup>;
- creating a European Public Prosecutors Office with the aim of investigating and prosecuting EU-fraud and other crimes affecting the Union's financial interests;
- designing a more coherent approach to criminal sanctions, stronger procedural rights and more efficient help to victims of crime <sup>(64)</sup>.

When it comes to victim protection, the EU acts to ensure that victims are:

- recognised and treated with respect and dignity;
- are protected from further victimisation and intimidation from the offender and further distress when they take part in the criminal justice process;
- receive appropriate support throughout proceedings and have access to justice;
- have appropriate access to compensation.

The European Commission acknowledges that it is not enough to have victims' rights only on paper. These rights must be applied and implemented in practice. Adequate transposition, implementation and application of the newly

adopted EU measures are a priority for the Commission's actions in the area of victims' rights <sup>(65)</sup>.

### Resources

#### Selected policy documents relevant to research

European Council, *The Stockholm programme — an open and secure Europe serving and protecting citizens*, OJ C 115, May 2010.

[http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010XG0504\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010XG0504(01)&from=EN)

European Commission, *Delivering an area of freedom, security and justice for Europe's citizens — action plan implementing the Stockholm programme* (COM(2010) 171 final), Publications Office of the European Union, Luxembourg, 2010a.

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004L0038>

European Commission, *Management plan 2014 Directorate-General for Justice*, Publications Office of the European Union, Luxembourg, 2014a.

[http://ec.europa.eu/atwork/synthesis/amp/doc/just\\_mp\\_en.pdf](http://ec.europa.eu/atwork/synthesis/amp/doc/just_mp_en.pdf)

European Parliament, *Fact Sheets on the European Union: an area of freedom, security and justice: general aspects*, European Parliament, 2014.

[http://www.europarl.europa.eu/aboutparliament/en/displayFtu.html?ftuld=FTU\\_5.12.1.html](http://www.europarl.europa.eu/aboutparliament/en/displayFtu.html?ftuld=FTU_5.12.1.html)

### Gender equality relevant policy documents

European Commission, *Factsheet: European Commission actions to combat violence against women*, Publications Office of the European Union, Luxembourg, 2014b.

[http://ec.europa.eu/justice/gender-equality/files/documents/140303\\_factsheet\\_vaw\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/documents/140303_factsheet_vaw_en.pdf)

Council of Europe, *Factsheet on guaranteeing equal access of women to justice*, 2015. [http://www.coe.int/t/dghl/standardsetting/equality/03themes/access\\_to\\_justice/index\\_en.asp](http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/index_en.asp)

<sup>(63)</sup> [http://ec.europa.eu/justice/criminal/judicial-cooperation/eurojust/index\\_en.htm](http://ec.europa.eu/justice/criminal/judicial-cooperation/eurojust/index_en.htm)

<sup>(64)</sup> [http://ec.europa.eu/justice/criminal/index\\_en.htm](http://ec.europa.eu/justice/criminal/index_en.htm)

<sup>(65)</sup> [http://ec.europa.eu/justice/criminal/victims/index\\_en.htm](http://ec.europa.eu/justice/criminal/victims/index_en.htm)

UNDP, *Gender equality and justice programming: equitable access to justice for women*, 2009. <http://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/gender-equality-and-justice-programming-equitable-access-to-justice-for-women1.html>

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