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Austrian Project to combat domestic violence – review and latest developments:

For more than 12 years I have been actively involved in the development and implementation of programmes and action plans with the aim to combat domestic violence. From 1994 until 2002 as a member of the legal department of the Ministry of the Interior of Austria I had the honour to lead a working group which should develop measures for the police in order to improve the combat against domestic violence.

Because of surveys of a police officer in Vienna and two social scientists in the early nineties there was no doubt that violence within the family was a tremendous problem within the Austrian society. It was obvious that there was an urgent need to develop measures against domestic violence with regard that a very high percentage of the perpetrators are men.

During two years of work and negotiations with representatives of other ministries and NGOs we were able to draft the Federal Action on the protection against domestic violence which entered into force on May 1997. It was the first law of this kind in Europe at all. The Federal Act of 1997 encompassed

- an **expelling** (eviction) **order** (the possibility for the police to expel the author of a violent act from the home where the victims lives and the immediate surroundings) and
- a **prohibition** (protection) **order** as an emergency measure issued by the police (it prohibits the perpetrator from returning to the home for a certain time)

- a long-term protection by means of a protective **interim** (temporary) **injunction** issued under civil law
- support for the victims, violence prevention measures and co-ordination of the interventions by establishing **Intervention Centres**
- close **co-operation** between the police and the civil court as well as between the police and so-called intervention centres, including the obligation for the police to transfer personal data in case of an expelling (eviction) order for the work of the centres with the victims.

As I will come later to the future challenges for cities in the field of combating domestic violence I would now like to explain tasks and organization of the Intervention Centres. In addition to the Austrian legislative measures one so-called Intervention Centre was set up in every State of Austria. The 9 Centres are non-profit organizations funded by the Federal Ministry of the Interior and the Ministry for Women's Affairs. They work according to a pro-active approach. This means – instead of waiting until victims will contact their institution - they try – on the basis of the information of the police about eviction orders – to get into contact with the victims of domestic violence. One of the core tasks of the Intervention Centres is to assess the danger inherent in the situation and to plan safety measures together with the victims. Moreover, they provide psycho-sociological support und counselling for the victims.

The setting up of Intervention Centres led to interesting developments. If you analyse the above mentioned role of Intervention Centres you will see that they are clearly charged with security matters; security matters are usually duties of the police, so we can constitute that there has been a transfer of security matters from the police to NGOs. With other words this can be called privatization of public duties, but obviously in favour of the combat against domestic violence and to the advantage of the victims.

To the astonishment of the police this transfer has even lead to an improvement in the field of danger and risk assessment. NGOs dealing with violence in the domestic sphere have in co-operation with the police or other experts constantly improved the

danger and risk assessment. For example a risk assessment developed by Dr. Jens Hoffmann, a criminal psychologist of the forensic psychology of the Technical University in Darmstadt in Germany examines the risk situation of a victim with regard to 3 to 4 viewpoints. One of these examinations is made with a danger Assessment Questionnaire of Dr. Jacqueline Campbell. A combination of different analysis makes it possible to examine risks of further violence much more exactly than in earlier days. Another example is an improved analysis which has been developed by the local police in Cardiff in Wales in co-operation with an NGO called Women's Safety Unit. According to the concept of this model so-called Multi Agency Risk Assessment Conferences are held in order to develop an action plan to gain or retain a safe situation for the victim.

Since 1999 a new form of victim support has been developed in Austria. NGOs accompany victims of violence during their testimony at the criminal court (legal and psychosocial attendance). This has the aim to support the victim as she/he will be – because the obligation of the court to guarantee a fair trial – confronted directly with the offender. In Austria every victims of violence has a right to get this attendance during criminal court proceedings. NGOs provide psycho-social support and – if necessary - legal advice for the victims provided by a lawyer. The costs for this service are paid by the state.

Now I would like to come back to the development of Austrian legislation: 1999 an amendment of the Federal Act enlarged the duration of the prohibition order from 7 to 10 days and the police were obliged to check out within 3 days after issuing a prohibition order whether the perpetrator had returned home or not. Moreover it was clarified in the police law that Intervention Centres carry out security duties according to their contract with the Ministry of the Interior. In 2004 the provisions for applications for an interim injunction at the civil court have been improved and the police were also obliged to enforce interim injunctions prohibiting the perpetrator from meeting or contacting the victim.

Comparison of projects to combat domestic violence in Europe:

In the meanwhile many European countries have also invented special legislation with the goal to combat domestic violence against women and children. Some of these legislative measures are very similar to the Austrian initiative, some show different approaches to the problem. The second part of the countries focus on the criminalization of domestic violence and criminal proceedings or on civil court complaints.

According to a comparative analysis of the European Union Crime Prevention Network (an organization founded by the Council of the European Union) in 2006 in most of the European countries there is a clear government policy in place aiming to counteract domestic violence. The police are widely acknowledged as the key actor, in particular with regard to the first rapid intervention. If one pays attention to the dates given in the various reports what is striking, though, is the fact that *all* 15 reports refer to government action of only the last 12 years, the majority naming dates within the last five years (since 2006). Only very recently have government policies materialised in concrete and significant legislation in a number of countries including *Austria*, the *Czech Republic*, *Denmark*, *Finland*, *France*, *Germany*, *Italy*, *Luxembourg*, and *Sweden*. In *Ireland* policy changes were introduced as early as in 1994, though not on the basis of new legislation, which possibly relates to the common-law tradition of this country. (Report of the EUCPN Domestic Violence workshop held in Vienna May 2006, www.eucpn.org/library/results.asp?category=2&pubdate=2006)

The report states that it appears that in several countries the brief of the police has been updated and corroborated by training measures (e.g. in *France*, *Germany* and *Hungary*, *Ireland* as well as *England and Wales*). As one example, the contribution from *Luxembourg* reports a significant shift in paradigm. Formerly the police would see their role in settling family disputes (“Streitschlichtung”), now the aim of the police’ intervention is to make the offender responsible and to protect the victim.

However, in some countries a clear and comprehensive strategy has not yet been achieved. Apparently, in *Estonia* there is a focus on violence against children but less

on violence against women. Likewise, it would seem that *Poland* lacks a comprehensive and well elaborated policy document, left alone legislation on policing domestic violence. The report covering the situation in *Greece* mentions that “the general public shows certain reluctance”. So, there are a number of countries that would have to catch up with the general European development. (Report of the EUCPN Domestic Violence workshop held in Vienna May 2006, www.eucpn.org/library/results.asp?category=2&pubdate=2006)

Austria, the *Czech Republic*, *Denmark*, *Finland*, some of the *German Länder* have introduced legislation empowering the police to expel a person from premises on the grounds that his/her presence would pose a risk to another person living there. This legislation has not replaced but complemented the powers of the police to arrest a suspect, powers which in this group of countries are by far more restricted than in countries with common-law traditions. In *Luxembourg* and *Sweden* the power of the police to expel the offender/suspect depends on the consent of the public prosecutor.

Again other legislations, such as the *French*, base the expulsion order on a court decision. (In addition, the French legislation allows the public prosecutor to suggest to a person suspected of domestic violence to agree to stay away from the victim’s home.)

In recent years many countries have also invented anti-stalking legislation. In most of these countries persistent intrusion of one person into another person’s privacy is punished by criminal law.

International documents and initiatives:

Nevertheless all the above-mentioned initiatives were favoured by a whole lot of international documents and activities of the nineties and the first half-decade until 2005.

- UN Declaration on the Elimination of Violence against Women (1993).

- Platform for Action at the 4. World Women Conference in Beijing (1995) with a catalogue of measures to eliminate all forms of crimination of women.
- Optional Protocol to the CEDAW-Convention (1999) giving individual women as well as women's organizations the right to file complaints.
- Since the mid-1990s the EU adopted several programmes to promote initiatives to combat violence against women, e.g. the DAPHNE-Programmes and a zero-tolerance campaign on violence against women in the EU.
- In 2000, a meeting of the General Assembly of the UN had the goal to evaluate the implementation of the Beijing-Declaration and Platform for Action.
- As the only legally binding instrument has to be mentioned the Council Framework Decision of the EU on the standing of victims in criminal proceedings (2001), which established minimum standards and rights for victims in criminal proceedings.
- The Council of Europe has issued a number of recommendations relating to violence against women (already during the eighties), the latest and most comprehensive recommendations is Rec (2002)5.
- Through the adoption of the OSCE Action Plan for the Promotion of Gender Equality (2004) the OSCE participating states have pledged to undertake all necessary measures to ensure effective gender mainstreaming and to take vigorous steps in their national jurisdictions to promote equality of rights and opportunities.
- In 2006 the European Parliament adopted a resolution on the current situation in combating violence against women and any further action.
- The Council of Europe Pan-European Campaign 2007:
Preparations for the Campaign began at the beginning of 2006. The Campaign will end in the first half of 2008.

The **aims** of the Council of Europe Campaign to Combat Violence against Women, including Domestic Violence are:

- 1) to raise awareness across the Council of Europe member states that violence against women is a human rights violation and encourage every citizen to challenge it;

- 2) to urge states to demonstrate political will by providing adequate resources to deliver concrete results in ending violence against women;
- 3) to promote the implementation of effective measures for preventing and combating violence against women, through legislation and national action plans for the implementation of Recommendation Rec(2002)5 of the Committee of Ministers and to regularly monitor the progress achieved.

The Campaign aims at transferring the following **messages**:

- Combating domestic violence calls for joint public action.
- Domestic violence is a human rights violation.
- Domestic violence seriously injures women and damages the whole of society, including future generations.
- Domestic violence calls for men's active participation to combat violence against women.

Action to be carried out in the framework of the Council of Europe Campaign:

The Council of Europe Campaign includes two implementation levels through which the Campaign is carried out. The first level encompasses activities directly carried out by the Council of Europe and has the goal to reflect its intergovernmental, parliamentary and local and regional dimensions. The second level consists of national campaigns and national activities carried out by the member states of the Council of Europe at national, local and regional level.

I. The Council of Europe Activities:

- a) A launching conference
- b) Media and campaign activities
- c) Regional seminars
- d) Activities to be carried out by the Parliamentary Assembly (PACE) and Congress of Local and Regional Authorities
- e) Setting up a special Campaign website (www.coe.int/stopviolence)

f) Dissemination of Campaign material for member states and Council of Europe Information and Field office

II. Activities organised by the member states

a) Setting up Focal Points

b) Campaign Action Plans

Although most of the above-mentioned documents have not been binding for the relevant European countries a clearly positive development in the field of combating domestic violence against women and children has to be appreciated.

Challenges for cities in the field of combating domestic violence

A) Safe shelters and new challenges for cities:

In Western Europe, violence against women was turned into a social issue by the new women's movement in the 1970s. At this time the cities of Europe played an important role as they were supporting the movement, especially in the field of setting up safe shelters and emergency hotlines for women and children suffering under domestic violence.

In 1972, the first women's shelter was opened in London. In the course of the 1970s and 1980s, especially in the countries of Northern and Western Europe, women's groups established a great number of women's shelters. The first women's shelter in Austria opened in 1978 in Vienna. In the early 1990s, the first women's shelter in an Eastern European country was opened in Zagreb, still under the communist regime. In some countries, e. g., Germany and the UK, women's shelters have been able to establish a network of help services, while in other countries, especially in the new Member States of the European Union, but also in Southern European countries such as Greece or Portugal, women's shelters are as yet very few and far between.

As I already mentioned in the last decade many European countries have invented new legislation in order to combat more effectively violence against women in the domestic sphere. Many of these countries prioritized the prevention of the victims and

established a co-operation between the police (courts) and NGOs. More holistic approaches and joint actions have been developed, recognizing that single-agency interventions are less effective in preventing violence than coordinated community responses. Moreover the need to outlaw the criminal acts of the perpetrators and the necessity for an empowerment of the battered women and children brought a change of the intervention system. Nowadays it is not the victim but the perpetrator that has to leave the home after an incident of domestic violence.

As statistics show these developments did not reduce – or at least did not reduce very much - the number of women addressing to safe shelters but changed the „clients“ of the shelters. Today „conventional“ cases of domestic violence are handled by the police by issuing an protection order and by the Intervention Centres by supporting the victims while they stay at home.

This means the following groups of women will increasingly address to safe shelters:

- Migrant women:

Statistics show a constant increase of migrant women that are addressing to safe shelters. This may have to do with a possible increase of migration in a country but in my opinion this has much more to do with the fact that migrant women – because of lack of information and fear from state authorities – usually do not call the police.

- Women with multiple problems (e.g. homeless, traumatized, financial dependent or simple ill people):

It is obvious that these women are requiring other forms of support und intervention than the „normal“ cases.

- Women suffering under severe forms of domestic violence:

Fleeing to a safe shelter will be the only chance for them to survive, especially when public prosecutors and courts do not issue an arrest warrant for the perpetrator or when it is likely that the men will be stay very long in custody.

B) Violence against children:

1989, Austrian civil law clarified that violent acts of parents against their children are no legal means for bringing up of children. Nevertheless you will still easily find people in Austria that are not accepting this law or at least doubt it. This means there still few interest and consciousness concerning violence in the domestic sphere against children.

Most of the anti-violence-projects of the last fifteen years covered violence against children only when the violence was also directed against women. Special solutions for cases of domestic violence against children were not or very seldom invented. This may have to do with the fact that this form of violence is very difficult to combat as the children have very few possibilities to help themselves and the youth welfare authorities have also to weigh up the welfare of the child against consequences of protection measures like the separation of the child from its parents. As youth welfare authorities are very often municipal organizations the need for better solutions in order to combat violence against children will also be a matter of the municipal administration, especial in urban areas.

C) Violence against people in need of care:

There are very few statistics about the scale of violence against people in need of care. The dependent situation of people in need of care and the strain of nursing staff at nursing homes or of nursing relatives at the domestic sphere can be a dangerous basis for violence. Municipal administrations should pay special attention to this form of violence, especially cities should try to analyse the situation in nursing homes and – if possible – with regard to nursing relatives as municipal administrations are often responsible for these matters and the cities should have the access and financial power to investigate the scale of the problem. If the results of the analysis confirm the suspicion the tasks to find solutions for this problem will also be one of the big challenges of our future and in particular of cities.

D) Special forms of criminal offences in the domestic sphere which are typically related with migration?

I would now like to talk about some specific forms of criminal acts that have been imported or re-imported by migrants to Europe and in my opinion are particular challenges for cities. They are

- FGM,
- forced marriage and
- killing in the name of honour.

They have in common that they often happen within a society that tends to disassociate itself from its environment. For this reason they are very difficult to detect and to combat. These criminal offences may happen all over the country but the existence of a considerable amount of migrants and citizens with migration background in urban areas increases the probability of the commitment of such acts.

They are a special challenge for cities, their administrations and NGOs. On the one hand they are not very often committed and detected so that the provision of specialised NGOs is often very expensive and ineffective and on the other hand existing NGOs and public authorities lack specific know-how for dealing with the victims. The biggest problem for NGOs and authorities dealing with “conventional” domestic violence is that they often forget to investigate whether such a specific crime had happened or is likely to be committed. A member of an Austrian Domestic Violence Centre simply said it like this: “With these forms of crimes it is like it was in former times with rape within a marital relationship; we did not question the victims in this regard as we simply were not taking into account that this could happen in a perceptible number and the victims did not report the incidents as they did not recognized them as criminal acts.”

FGM:

FGM is understood to mean sewing up of the clitoris, excision, clitoridectomy and infibulation. The mutilation of genital organs of young women and girls is a still a widespread custom in some African countries and imported by migrant people. In Egypt for example, it is estimated that about 95% of young girls and women between 7 and 49 are victims of these horrible crime. Since mid of 2007 FGM has been generally forbidden by a new Egyptian regulation and leading Islamic Scholars condemned these

practice during a conference in Cairo. FGM is often forced under the pressure of a patriarchal society but practised by women, in most of the cases by close relatives of the victim, and justified as tradition.

Apart from the above-mentioned problems forced marriage and killing in the name of honour are very difficult to handle when detected. In most of the cases the victims can only be protected by the police with victim protection programmes for the (potential) perpetrators are relatives of the victims.

Conclusions:

The following tasks of cities in the field of combating domestic violence can be identified:

- 1) Networking and co-operation
Exchange of best practices should be one of the core duties of cities.
- 2) Funding:
In many countries there is still a lack of safe shelters and hotlines. Existing organizations should be provided with sufficient financial resources.
- 3) Collection of data
- 4) Education and training
New clients addressing to safe shelters and special forms of criminal offences require well educated and trained personnel.
- 5) Lobbying

Heinz Drobesh is Director of the Parliamentary Administration of the State Parliament of Styria. Mr Drobesh has long-term experiences in the drafting and interpretation of law, especially criminal law, criminal procedure law and police law and in organising and conducting trainings for members of law enforcement agencies and NGOs.

He lectured for police forces and members of ministries of Slovenia, Slovakia und the Czech Republic (international police co-operation) and for members of ministries of Hungary (domestic violence); conducted trainings for Azerbaijan and Georgian Police Forces, government officials and NGOs (domestic violence) with OSCE/ODIHR 2001/2002 as well as trainings for Azerbaijan judges and prosecutors and government officials (domestic violence) with OSCE/ODIHR 2003; he drew up an international conference against trafficking in women with participants from 13 eastern European countries (2002) in Bucharest, Rumania; and organised a study visit of members of law enforcement and NGOs from Azerbaijan and Georgia at the Gewaltschutzzentrum in Graz (Oct. 2006).