

# CHILDREN WITNESSES OF GENDER VIOLENCE IN THE DOMESTIC CONTEXT



Analyses of the fulfillment of their specific needs through the protection system



**Save the Children**



This research has been co-financed by the Daphne Programme funds

*European Economic and Social Committee*



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specific needs through the protection system



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# Introduction

## I.1. PRESENTATION

This report is the result of the research conducted by Save the Children during 2010, as part of an international project within the framework of the European Commission's Daphne III programme. The project Children witnesses of gender violence in the domestic context. Analysis of the fulfilment of their specific needs through the protection system has relied on the collaboration of four partners: Save the Children **Spain**, Save the Children **Italy**, Save the Children **Iceland** and the Ombudsman for Children in the Region of Lazio (**Italy**), Save the Children **Spain** being the coordinator of the project.

The main aim of this Project has been to learn about and assess the institutional care received, in three European countries, by the children of women victims of gender-based domestic violence, from both the perspective of the professionals working in this sector and the real protagonists of the problem: women victims of gender-based domestic violence and their children. To this end, field work has been developed in the three countries involved and analytical work coordinated, culminating with the proposal of a series of conclusions and recommendations integrated within the framework of this joint project.

In **Spain**, Save the Children has already addressed this problem. The organisation published in 2006 the report Care of child victims of gender violence. *Analysis of the care for children of women victims of gender violence in the women's protection system*. This report addressed the severe consequences of exposure to gender-based domestic violence. The main conclusion of the study was that children of women victims of gender-based domestic violence are also victims of this violence. Since then, Save the Children has continued to work on awareness and research on this topic<sup>1</sup>.

This previous experience was the basis for the research and awareness proposal submitted to the European Union DAPHNE III Programme. This programme is a fund aiming to subsidise projects whose aim is to prevent and combat violence against children, youth and women, as well as to protect the victims and groups at risk.

This study evaluates the change in the institutional response to the situation of children of gender-based domestic violence victims, considering these children as

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 1 Manual of care for children of women victims of gender violence in the family; Save the Children **Spain** (2008) and DVD; Children of Gender Violence. Save the Children **Spain** (2009).

victims of this type violence. Social awareness in this area is improving and therefore the necessity for specific measures that meet the needs of child victims of this violence is becoming increasingly clear. International organisations, European institutions and public authorities at state level are clearly moving in this direction as is evident when observing the definition and development of the international and European legal framework, as well as that of the three countries where the fieldwork has been carried out.

The results of this research show that, despite political and social awareness regarding the circumstances of the children of women victims of gender-based domestic violence, much remains to be done in practice to give an appropriate response and protection to these children. The obligations undertaken by states at international level, both in the fight against gender violence and in the protection of children rights, should be reflected in national legislation and developed through public policies. Greater political commitment is required to address these situations in all their complexity and with all of the measures within reach, going beyond good intentions.

To Save the Children, as an organisation that promotes and defends the rights of children, the participation of children is an essential element of any investigation. Therefore, this study has taken into account the views of children and adolescents on the situation they are living, in order to identify their real needs and assess to what extent the care provided guarantees their rights, especially the right to normal growth in an environment free of violence. We have also sought the opinion of the mothers of these children and of the professionals working in the protection system against gender-based domestic violence established in the existing regulatory framework of the three States where this research has been carried out.

*“The active participation of boys and girls will also help to question the silence surrounding much of the violence against children, and the stigma that may fall on those who have experienced it”<sup>2</sup>.*

.....

2 Save the Children (2003): So You Want to Consult with Children? A Tool kit of Good Practice (p.119).

## 1.2. METHODOLOGY

The fieldwork of this research project has been carried out in **Spain, Italy** and **Iceland**, in the following regions:

**Spain:** Andalusia, Balearic Islands, Catalonia, Valencia, Madrid and the Basque Country.

**Italy:** Lazio, Piedmont and Calabria.

**Iceland:** Reykjavik.

### Goal

The ultimate goal of this research is to find out how the care provided to the children of women victims of gender-based domestic violence is assessed.

To achieve this goal, we have conducted fieldwork based on interviews with the key players in this issue. In **Italy** and **Iceland**, care professionals dealing with child victims of gender-based domestic violence were interviewed and child consultation processes were conducted in both countries. In **Spain**, three groups of people were interviewed: mothers who are victims of gender-based domestic violence, their children and the professionals who provide care for them.

### Phases of the fieldwork

Coordination meetings undertaken to agree on the main issues related to the fieldwork in the three countries: objectives, methodology and results analysis.

Review of the most relevant references at national and international level, paying special attention to the European context. In addition, an analysis has been undertaken on the legal regulations regarding the care given to children of women victims of gender-based domestic violence within the Italian, Spanish, **Icelandic** and European framework<sup>3</sup>.

Undertaking of the interviews.

Analysis of the information provided by the interviewees.

Development of child consultation process in **Italy** and **Iceland**.

Production of a video for awareness purposes in the three countries.

.....

3 The result of the national and international legislative analysis is described in the following section of this report.

## Measuring instruments and data obtained

In total, some 230 interviews were carried out and two consultation processes with children. Out of the the total number of interviews, 154 were with professionals responsible for the care and protection services for these children and their mothers.

**Iceland:** 16 professional were interviewed.

### *Iceland*

<i>Fields of work</i>	<i>Profession</i>	<i>No.</i>
<i>General Social Services</i>	<i>Departmental heads of Special Services for Junior and Pre-schools</i>	<i>3</i>
<i>Child Protection Services</i>	<i>Director of the Agency for Child Protection</i>	<i>3</i>
	<i>Manager of the Reykjavik Child Protection Committee</i>	
	<i>Psychologist in charge of a group therapy for children</i>	
<i>Police</i>	<i>Head of the Sexual Offences Department</i>	<i>2</i>
	<i>Detective</i>	
<i>Judicial Area</i>	<i>Judges</i>	<i>3</i>
<i>The Women's Shelter (NGO)</i>	<i>Publicity Officer and Director</i>	<i>1</i>
<i>Health Services</i>	<i>Medical Director of Health</i>	<i>4</i>
<i>Health Services: The Department of Child and Adolescent Psychiatry</i>	<i>Senior Physician</i>	
	<i>Head of the Inpatient Unit</i>	
<i>Health Services: Trauma Counselling Unit</i>	<i>Manager</i>	
<b>Total</b>		<b>16</b>

We have also worked with two child consultation groups in order to understand their perception of this reality. This process was carried out at a school in Reykjavik, where two groups of boys and girls aged 13 were created. For several hours they discussed how they consider the situation of children whose mothers suffer gender-based domestic violence.

**Italy:** Some 46 professionals and 3 experts were interviewed.

### *Italy*

<i>Fields of work</i>	<i>Profession</i>	<i>No.</i>
<i>Specialised institutions</i>	<i>Institutional stakeholders</i>	<i>11</i>
<i>Social Services</i>	<i>Social and health workers</i>	<i>17</i>
<i>Justice</i>	<i>Members of the judiciary</i>	<i>9</i>
	<i>Members of the law enforcement agencies</i>	<i>10</i>
<i>Experts</i>		<i>2</i>
<b>Total</b>		<b>49</b>

In **Italy** a child consultation process was also carried out over six three-hour sessions at a youth participation centre, with this objective:

Explore adolescents' perceptions about gender-based domestic violence, with a special focus on children witnesses of gender-based domestic violence.

Produce an awareness video based on the adolescents' contribution about their perceptions of the problem, the emotions raised on the subject and the consequences they consider that children witnesses of gender-based domestic violence in the home entails.

**Spain:** some 165 people were interviewed, of whom:

43 were mothers.

33 were children, 17 sons and 16 daughters.

89 were professionals, 76 women and 13 men.

### Spain

<i>Fields of work</i>	<i>Profession</i>	<i>No.</i>
<i>Social Services</i>	<i>Social workers</i>	<i>14</i>
	<i>Psychologists</i>	<i>42</i>
	<i>Counsellors</i>	<i>11</i>
	<i>Coordinators</i>	<i>9</i>
<i>Justice</i>	<i>Lawyers</i>	<i>7</i>
	<i>Medical examiners</i>	<i>6</i>
<b>Total</b>		<b>89</b>

## **2 GENDER-BASED DOMESTIC VIOLENCE AND CHILDREN'S RIGHTS: LEGAL FRAMEWORK**

The situation of children who are victims of gender-based domestic violence is at the confluence of two policy areas that have received greater attention from the international and European authorities and from different States in recent decades: gender-based domestic violence and the protection of children against violence. In the following description of the proposed regulatory framework, the situation of gender-based domestic violence is identified as a context of exposure of children to a kind of violence that has negative consequences on their normal development and is also a violation of their rights. This report focuses on a particular pattern of gender violence: the violence that occurs in the home and that is exercised by the woman's partner and affects her children.

Exposure to gender-based domestic violence has an obvious negative impact on children's lives, welfare and development. They do not need to directly suffer it to be considered victims. Witnessing violence against their mothers or growing up in an environment, in which inequality between men and women is expressed in a violent way, also turns them into victims. Moreover, on occasions they become the catalyst for the mother to report a complaint; and from that moment on they often become involved in administrative and judicial procedures that, in most cases, are not suited to their needs. The duty of states is to intervene in these situations ensuring the protection and care of women and children.

## 2.1. GENDER-BASED DOMESTIC VIOLENCE

### **Gender-based domestic violence is a widespread violation of human rights.**

United Nations defines gender violence as: “Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”<sup>4</sup>.

According to the United Nations Convention on the Elimination of All Forms of Discrimination against Women, violence against women is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms: .

*“Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence (...). These forms of violence put women’s health at risk and impair their ability to participate in family life and public life on a basis of equality”<sup>5</sup>.*

According to the UN Secretary General’s in-depth study, the most common form of violence experienced by women around the world is violence within the family<sup>6</sup>.

### **Gender-based violence in Europe**

Special Eurobarometer data<sup>7</sup> on Gender Violence against Women published in September 2010, clearly show the dimension of this reality which is rife in Europe. One in four respondents claimed to know a victim of gender-based domestic violence. In addition, one in five claimed to know an aggressor:

This reality, acknowledged by society as the above-mentioned figures show, insofar as it is experienced by the children of these couples, turns them into victims of this violence in the way described later in this report.

4 Article 1 of the United Nations Declaration on the Elimination of Violence against Women of 20 December 1993.

5 General Recommendation 19, adopted by the United Nations Committee on the Elimination of Discrimination against Women (Eleventh session, 1992), Doc. HRI\GEN\1\Rev.1 at 84 (1994).

6 In-depth study on all forms of violence against women. UN Secretary-General’s report (A/61/122/Add.1).

7 [http://ec.europa.eu/public\\_opinion/archives/eb\\_special\\_359\\_340\\_en.htm](http://ec.europa.eu/public_opinion/archives/eb_special_359_340_en.htm) [last checked by the author on 26 January 2011].



The European Union has been an important actor in the fight against gender violence. Equality between men and women is the scope from which gender violence has been addressed within the EU. Until 31 December 2010, the development of equality policies within the European Commission was the responsibility of the Section for Employment, Social Affairs and Citizenship.

From this section, the Roadmap for equality between women and men 2006-2010 was accomplished. It defines as a priority area of action for gender equality the “eradication of gender violence and trafficking in human beings”. In this way the EU committed itself to combat all forms of violence against women on the grounds of gender, whose fundamental rights to life, safety, liberty, physical and emotional integrity are violated on the same grounds. In order to eradicate this type of behaviour, the Roadmap proposed prevention as a fundamental tool, an approach that requires education and knowledge, the development of networking activities and the cooperation and exchange of good practices.

Within the framework of the European Programme of Exchange of Good Practices on Gender Equality<sup>8</sup>, a seminar on gender-based domestic violence was held in Madrid in September 2009, where the Organic Law on Measures of Integrated Protection against Gender-based Violence (2004) was presented and acknowledged as a good practice in the way to address the issue.

### **Good Practices to address gender-based domestic violence drawn from the Spanish Law: comprehensive measures**

The main lesson to be learned from the Spanish experience which can be considered useful for the exchange is in relation to the comprehensive nature of the approach of the Spanish law towards gender-based domestic violence. Such an approach clearly improves the effectiveness of the resources allocated to these policies. To address these situations, specialised bodies have been established both in the administration and in the judicial system. And thanks to the level of involvement of the political actors, civil society organisations and the women’s movement, early warning mechanisms have been developed and new technologies used to eradicate the reproduction and perpetuation of gender-based domestic violence.



8 Promoted and funded by the European Union the PROGRESS Programme, a financial programme for supporting the effective implementation of the principle of gender equality and promoting gender mainstreaming in all EU policies.

From 1 January 2011, as a result of the reorganisation of the powers of the public policies promoted by the European Commission to adapt to the Treaty of Lisbon, the initiatives and the policy development for gender equality have become a responsibility of the area of Justice, Rights and Citizenship, in particular of the General Directorate of Justice<sup>9</sup>. This is the body which will manage the Strategy for Equality between Women and Men 2010-2015.

One of its priorities for action are Dignity, Integrity and an End to Gender Violence; and in the enumeration of forms of violence that women suffer on the grounds of their sex, the first place is for domestic violence<sup>10</sup>, that is to say, the gender-based violence that takes place inside the home.

The Council of Europe has shown the clearest avocation to carry out initiatives to identify violence against women in the home (domestic violence), the most common manifestation of gender-based violence in Europe and which occurs in all Member States and at all social levels. But to be visible it has to overcome a basic difficulty deeply rooted in the private and intimate nature of the contexts in which such violence occurs. This is why we underline the States' indispensable political commitment to implement the necessary legislative, administrative, judicial and social awareness measures to address this problem.

The campaign developed by the Council of Europe between 2006 and 2008 to combat gender violence and domestic violence<sup>11</sup> was already based on the clear identification of domestic violence as the most common expression of gender violence. In 2009 an Ad Hoc Committee was created to combat and prevent violence against women and domestic violence<sup>12</sup>; it is a body set up within the Council of Europe with the specific mandate to develop legally binding instruments for the States of the Council to provide effective protection to victims of gender violence and domestic violence. One of the most important aspects to emphasise is the specific mandate given to the Committee<sup>13</sup> to take into account the situation of children as victims and witnesses of this violence.

9 This same General Directorate will manage the policies of promotion and protection of children's rights and the DAPHNE III programme, which has supported the development of the present project.

10 Strategy for Equality between Women and Men. Communication from the European Union Commission on 21 September 2010.

11 <http://www.coe.int/t/dg2/equality/DOMESTICVIOLENCECAMPAIGN/>

12 [http://www.coe.int/t/dghl/standardsetting/violence/default\\_en.asp](http://www.coe.int/t/dghl/standardsetting/violence/default_en.asp)

13 Ad hoc Committee on Preventing and Combating Violence Against Women and Domestic Violence (CAHVIO) 2009 (1) Terms of reference.

The recognition of the need to address in a specific way the circumstances of children witnessing this type of violence has also been promoted from the Council of Europe Parliamentary Assembly, which, in 2010, drafted and adopted various instruments addressing this issue.

The most visible result of this sensitivity, regarding the situation of child witnesses of domestic violence, is reflected in the Draft Council of Europe Convention on preventing and combating violence against women and domestic violence, recently published by the Committee. This draft specifically foresees the obligation to protect and provide the necessary assistance to children witnessing such violence<sup>14</sup>.

Prior to this Draft of the Convention, the most important instruments adopted by the Council of Europe Parliamentary Assembly were:

- Report Children who witness domestic violence by Mrs Carina Ohlsson. Social, Health and Family Affairs Committee<sup>15</sup>.
- Report Children who witness domestic violence by Ms. Marlene Rupprecht. Committee on Equal Opportunities for Women and Men<sup>16</sup>.
- Parliamentary Assembly Resolution 1714 (2010) Children who witness domestic violence<sup>17</sup>.
- Parliamentary Assembly Recommendation 1905 (2010) Children who witness domestic violence<sup>18</sup>.

Resolution 1714 (2010) recognises that witnessing the violence perpetrated against their mothers is, in any case, a form of psychological abuse against the child with very serious potential consequences. And therefore, children in this position require a more specific type of action, since very often they are not recognised as victims of the psychological impact of their experience, nor as potential future victims, nor as elements of a reproduction chain of the violence.

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14 [http://www.coe.int/t/dghl/standardsetting/violence/documents\\_en.asp](http://www.coe.int/t/dghl/standardsetting/violence/documents_en.asp)

15 Doc. 12111 - 5th January 2010.

16 Doc. 12155- 10th February 2010.

17 Adopted by the Standing Committee acting on behalf of the Assembly on March the 12th, ,2010 <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/ERES1714.htm>

18 Adopted by the Standing Committee acting on behalf of the Assembly on March the 12th, ,2010 <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/EREC1905.htm>

Recommendation 1905 (2010) stresses the risk these children are exposed to and the need to reinforce specific actions to address these circumstances from the different areas of decision and action and taking into consideration the particular impact that domestic violence has on these children. In particular, when these situations entail the involvement of children in administrative and judicial processes, an exhaustive process is recommended at all levels in order to adapt these procedures to the level of maturation of the child, as a guarantee of their right to participate and be heard. On the other hand, the Ad Hoc Committee on preventing and combating violence against women and domestic violence (CAHVIO) urges Member States to consider these children's circumstances, witnesses of gender-based domestic violence, in the elaboration of the Council of Europe Convention on preventing and combating violence against women and domestic violence.

On 13 January 2011, a first version of this Council of Europe Convention on preventing and combating violence against women and domestic violence was presented in Strasbourg<sup>19</sup>. And, indeed, among the protection and support measures we find those specifically aimed at child witnesses of this violence. It urges all states to take the necessary measures to ensure that their rights and needs are covered. The measures, at any rate, should be based on psychosocial assistance, appropriate to the age of the child, and serve their best interests.

## Article 26

### Protection and support for child witnesses

1. Parties shall take the necessary legislative or other measures to ensure that in the provision of protection and support services to victims, due account is taken of the rights and needs of child witnesses of all forms of violence covered by the scope of this Convention.

2. Measures taken pursuant to this article shall include age-appropriate psychosocial counselling for child witnesses of all forms of violence covered by the scope of this Convention and shall give due regard to the best interests of the child.



19 This draft, as well as an exhaustive list of the activities and key documents prepared by the Committee can be found at: [http://www.coe.int/t/dghl/standardsetting/violence/documents\\_en.asp](http://www.coe.int/t/dghl/standardsetting/violence/documents_en.asp) [last checked by the author on 27 January 2011].

## 2.2. CHILDREN'S RIGHTS PERSPECTIVE

The United Nations Convention on the Rights of the Child<sup>20</sup> (CRC) is the main regulatory reference for this study. Ratified by almost all of the international community, the CRC is the universally accepted list of rights for children, and establishes the obligations of States to respect protect and enforce them<sup>21</sup>.

The Convention sets out four fundamental principles that should guide all institutional actions concerning children. Moreover, two basic premises should be considered to understand these principles: the indivisibility of the individual rights and their interrelationship, and the shared responsibility of parents, family environment, institutions and society as a whole to watch over the protection and welfare of all children.

### **Principle of non-discrimination (CRC Article 2)**

*“States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”*

All children must be able to enjoy and have their rights guaranteed without any kind of discrimination. This means that they should not be discriminated against in law or in the design and implementation of public policies, which implies that they should be given direct care in the situations where their rights are violated.

### **Best Interest (CRC Article 3)**

*“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”*

The family environment is ideal for the development and welfare of children. In situations of gender-based domestic violence this assumption is broken and marks the beginning of the administrative and judicial authorities' intervention, whose performance should focus on identifying what is in the best interests of

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20 Adopted by the General Assembly on 20 November 1989. Only two States are not party to this Convention: USA and Somalia.

21 Convention on the Rights of the Child, arts. 2.1, 3.2, 3.3 and 4.

each child, on a case by case basis, and taking all necessary measures to act in accordance with his or her best individual interest.

**Principle of participation  
(Right of the child to be heard. Article 12 CRC)**

*“States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”*

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.”

One of the most common consequences of gender-based domestic violence is the implementation of administrative and judicial procedures, which determine the appropriate protection measures for the victim. To the extent that there are child victims of that violence, the authorities should take all the necessary measures to realise the right of these children to be heard and have their opinions taken into account, wherever possible, to determine their best interest.

An essential element in fulfilling the states’ obligation is to adapt the judicial mechanisms and processes to the needs of the children, according to their level of maturation and personal circumstances. For years the European Union and the Council of Europe have clearly been involved in a coordinated way with reference to this issue, as we will explain later.

**Right to life, survival and development (CRC Article 6)**

*“States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child.”*

Taking into account that the situation of gender-based domestic violence affects the overall development of children, states will have to do everything within their reach to protect children who have lived through this plight and provide them with specific care, taking positive measures to support their recovery and, at the same time, avoiding their stigmatisation because of the violence they have suffered.

## EU policies to promote the rights of the child

The effective protection of the rights of the child, in both domestic policies and external action, is one of the European Union's priorities for action, as can be seen in its strategies, plans, measures and regulations. In 2006 the European Commission adopted the Communication "Towards a European Union strategy on the Rights of the Child"<sup>22</sup>, which developed a common basis for the Member States to achieve them. The protection of children is, in fact, a political mandate established in the Charter of Fundamental Rights of the European Union, 2007.

All EU Member States are signatories to the United Nations Convention on the Rights of the Child of 1989. That means that all of them are obliged to respect, within their child-related policies and regulations, the four core principles enshrined in the Convention in the way stated beforehand. In this regard, the Convention becomes the common framework of reference for the development of the EU strategy on children's rights, whose aim is to function as a tool to achieve full compliance of the Member States' commitments with reference to this Convention.

At the time of writing this report, the presentation is pending on the European Commission Communication on the EU strategy on the Rights of the Child 2011-2014. Save the Children is one of the organisations that has contributed to the public consultation process on social organisations. As a result of the formulated questions on the questionnaire, we note that many of the areas for action that were identified and subjected to consultations are closely related to the situation of child victims of gender-based domestic violence: promotion of children's participation in the development of the strategy, the adaptation of justice systems to the specific needs of children involved in legal proceedings, the necessity to ensure that the fundamental goal is that these procedures safeguard the best interests of the child, and the specific protection of children from all forms of violence.

.....

22 The content of this strategy brings together several EU rules that have been adopted to address the specific situations of exceptional vulnerability of the different groups of children exposed to situations of violence.

## 2.3. Child victims of violence

### Article 19 Convention on the Rights of the Child

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment (...).
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.



Violence against children and women is one of the most frequent human rights violations throughout the world, even in Europe. And it is at home, within family relationships, where most commonly, and hidden from the eyes of society, this kind of violence occurs, both physical and psychological.

Research conducted by the UN<sup>23</sup> and the Council of Europe<sup>24</sup> support the premise of the present study: children living situations of gender-based domestic violence, are victims of violence, since they directly suffer the consequences, not only physical and emotional -as detailed below- but also those resulting from having lived and formed their personality in an atmosphere of inequality of power and where the mother has been subjected to the violent behaviour of a man. This may cause them to become elements in the chain of reproduction of violence.

The UN study defines violence against children as “the intentional use of physical force or power, threatened or actual, that results or is likely to result in injury, death, psychological harm, *maldevelopment* or deprivation.”

The UN World Report on Violence against Children says:

*“Violence against children in the home and family receives little media and research attention worldwide compared to issues such as commercial sexual exploitation of*

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23 Report by Paulo Sérgio Pinheiro, Independent Expert on Violence against Children 2006 (pp. 45-109) <http://www2.ohchr.org/english/bodies/crc/study.htm>

24 Children who witness domestic violence, report by Carina OHLSON member of the socialist group at the Council of Europe Parliamentary Assembly, 2010. <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc10/EDOC12155.htm>



children or child labour. Without raising awareness it will be difficult to achieve large scale and lasting prevention and behavioural change”<sup>25</sup>.

The Council of Europe Parliamentary Assembly has also clearly stated on this situation:

*“Living in a family where the mother is battered also means being exposed to the oppression and control which forms the background to the actual violence. The child witnesses the mother’s horror and the unequal relationship between the one who batters and the one who gets battered (...) The high incidence of violence against women gives us a clue to the number of children living in this painful reality. Every single child exposed to violence in their home has their own reactions and needs. But there are common traits. Witnessing violence against a mother is a form of psychological abuse to a child, with potentially severe consequences. A lot remains to be done regarding prevention, detection and support for these children”<sup>26</sup>.*

Prevalence studies in Europe show that about 12% to 15% of all women have been in a relationship of domestic abuse after the age of 16, and many more continue to suffer physical and sexual violence once they are separated from the perpetrator<sup>27</sup>.

When a mother is abused her children are usually witnesses. The reactions and feelings of the child may be as strong as or stronger than the reactions and feelings of a child that is physically abused. Abused women often insist that their children have been unaware of the violence against them, but research results reflect a different picture. Interviews with children staying at women’s shelters with their mothers show that a great majority of children had been present when violent acts were committed. All the children had witnessed mental cruelty against their mother, and therefore they are victims of this kind of violence.

Children witnessing violence against their mothers (gender- based violence) in their homes are too often forgotten about when it comes to relevant policies and the intervention of social services regarding gender-based violence against women. They can be psychologically affected and traumatised by their experiences even if they are not themselves physically exposed to the violence against

25 Report by Paulo Sérgio Pinheiro, Independent Expert on Violence against Children 2006 <http://www2.ohchr.org/english/bodies/crc/study.htm> General’s Study. Violence against children in the home and family (p. 44).

26 Children who witness domestic violence, report by Carina OHLSON member of the socialist group at the Council of Europe Parliamentary Assembly, 2010 <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc10/EDOC12155.htm>

27 Íbidem

their mothers. Furthermore, violence witnessed by children must be taken seriously in order to enable social services and all child protection systems to intervene rapidly in, future situations of violence, and finally, protect them.

### **Child victims of gender-based domestic violence**

There are different forms of exposure of children to gender-based domestic violence. From one of the most inclusive definitions of this concept<sup>28</sup>, we can understand that a child is a victim of gender-based domestic violence when exposed to violence in any of the following ways:

**Perinatal:** violence exercised by a man against a pregnant woman.

**Intervention:** the child suffers violence while trying to protect their mother.

**Victimisation:** the child becomes the object of psychological or physical violence during an assault on the mother.

**Participation:** the child collaborates in the degradation of the mother.

**Eyewitness:** the child sees the attack on the mother by the father.

**Listening:** the child can hear the aggression from another room.

**Observation of the immediate consequences of the aggression:** the child sees how their mother has been hurt, the place where she has been attacked or see the police or the ambulance arriving.

**Suffering the consequences:** the child has to live with the symptoms of the mother, the separation of their parents or the change of residence, for example.

**Listening to what happened:** the child witnesses adult conversations.

**Ignorance of the events:** when it happened away from the children.

In a single violent episode, the son or the daughter can live several of these categories, just as throughout the whole record of violence.

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28 Holden, G.W. 2003.

## Consequences of gender-based domestic violence in children

For an adequate social and emotional development it is necessary to strengthen the emotional bonds free of violence. Violence has consequences for the child's development in the short, medium and long term, which may materialise in the different spheres in which their life develops.

Cunningham and Baker (2007) argue that child victims of gender-based domestic violence are those who see, hear or know and perceive the abuse and the coercive control exercised towards their mother. Thus, the range of consequences that they may be suffered is very broad and varied, ranging from psychological damage to death, including physical, educational, social and relational effects, as well as behavioural or related to the link with the parents themselves, among others.

Since the 80s, Anglo-Saxon literature has been collecting the symptoms observed in children, even in babies, who witness domestic violence: crying, anxiety and sadness, as well as eating and sleep disorders<sup>29</sup>. It has also been noted that there is a relief in the symptoms when children are taken away from the violent home.

The effects caused by exposure to this type of violence depend on a number of factors; among them, these should be taken into account: type of violence, intensity and duration, as well as age, sex, level of exposure and their psychological and emotional level of development.

The most common effects of gender-based domestic violence noted in the children of the victims are:

### Problems with socialisation:

- Isolation.
- Insecurity.
- Aggressiveness.
- Reduction in social skills.

29 Mullender (2001).

### **Symptoms of depression:**

- Crying.
- Sadness.
- Low self-esteem.

### **Fears:**

- Non-specific fears.
- “Feelings” that something bad is going to happen.
- Fear of death.
- Fear of losing the mother.
- Fear of losing the father.

### **Sleep disorders:**

- Nightmares.
- Fear of sleeping alone.
- Night terrors.

### **Regressive symptoms:**

- Encopresis / Enuresis.
- Delayed language development.
- Acting like younger children.

### **Integration problems at school:**

- Learning difficulties.
- Difficulties in concentration and attention.
- Decreased academic performance.
- Difficulties in sharing with other boys or girls.

**Emotional and behavioural responses:**

- Rage.
- Mood swings.
- Anxiety.
- Feeling of vulnerability and experiencing the world as something threatening.
- Feelings of guilt (feeling responsible for the conflicts between their parents or about what happened or for not having done anything to prevent the violence)
- Difficulty in expressing and managing emotions.
- Denial of the violent situation or downplaying the situation experienced.
- Tendency to normalise the suffering and the aggression as natural ways of relationship.
- Learning of violent models and the possibility of replicating them, both as a victim or a perpetrator, resulting in the internalisation of erroneous gender roles.
- Chronic exposure to parental conflicts can lead adolescents to have more troubled relationships and addictions.
- The stress associated with domestic violence can lead the adolescent to risky and avoidance behaviours and begin to act with violent behaviour within the home.
- Running away from home.
- Relations between the parents may also have a great influence on how adolescents establish their first relationships.
- The higher the level of aggression, the higher the probability of seeing hostile intentions in other people's behaviour and more likely to respond violently as a defence.

**Post-traumatic stress symptoms:**

- Insomnia.
- Recurring nightmares.
- Phobias.
- Anxiety.
- Re-experiencing the trauma.
- Dissociative disorders.

**Parentalization of children:**

- Assumption of parental and protective roles towards younger siblings.
- Assumption of parental roles of protection towards the mother.

In the most extreme cases, the end of this history of violence is death.

Other consequences of exposure to violence, equally serious are:

**Generational transmission of behaviour patterns**

Repeating patterns of violent behaviour is a controversial issue that must be addressed with many nuances. While learning violent models of relationship implies a clear risk of recurrence, this risk is not inevitable nor occurs in all cases.

According to experts, abused children who do not receive adequate protection sometimes express their suffering through violent behaviour toward others or toward themselves<sup>30</sup>.

However, this is not always the case and it is important to avoid determinism with regard to these cases:

“The phenomenon of intergenerational transmission of child abuse can lead to the erroneous conclusion that, if they had existed, there is no hope, because they are the result of parental incompetence that promote new inefficiencies in the coming new generations as an almost inevitable phenomenon. However, today we know that many parents do not replicate in their family and parental scopes the abuse that they lived in their childhood”<sup>31</sup>.

**Cumulative effect**

However, it is worth noting that most studies do not examine or control the effect of any other type of victimisation when analysing the impact of gender-based domestic violence on the child. The possibilities to delimit and examine separately the effects of a single type of violence (in this case, gender-based domestic violence) are low; nevertheless, research does not usually consider the cumulative effect of various forms of violence and the potential interactions between them<sup>32</sup>.

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30 Barudy & Dantagnan, 2005 (p.133).  
 31 Barudy & Dantagnan, 2010 (p. 241).  
 32 Saunders (2003).

## **Double Victimisation**

In this regard, it is worth noting a fairly common type of situation that, in view of what was previously mentioned, should be avoided or reduced. We are referring to the secondary victimisation issue. Secondary victimisation is another form of violence on the same victims; some of its manifestations consist of making the victim constantly repeat the same information as a result of a failure in a referral and/or adequate coordination or in providing an appropriate context for a victim of gender-based domestic violence. That means they have to repeat again and again their emotional circumstances in different uncoordinated areas of care. In general, we can emphasise that the major effect of this type of victimisation occurs within the legal scope. It particularly affects children.

## 2.4. A COMPARATIVE APPROACH AS A RESULT OF THE INVESTIGATIONS CARRIED OUT IN SPAIN, ICELAND AND ITALY

Another fundamental aspect of the Council of Europe's draft of the Convention on preventing and combating violence against women and domestic violence, is the explicit recognition of the principle of the State's responsibility and Due Diligence in its actions aimed to prevent, investigate, punish and provide reparation for acts of gender violence and domestic violence perpetrated by non-state actors<sup>33</sup>. This principle is already recognised by several international instruments and documents for the fight against gender violence, as well as by the jurisprudence of the European Court of Human Rights.

Within the framework of the present research, the policies implemented in **Spain, Iceland** and **Italy** to eradicate gender-based domestic violence have been analysed, with particular attention to the treatment provided to the children of women who suffer such violence. We were able to verify the diversity of approaches to this problem in the different States, as well as the general lack of specific measures for children of women victims of gender-based domestic violence.

This is where the Spanish Organic Law on Measures of Integrated Protection against Gender-based Violence 2004 should be mentioned again. This internationally acknowledged law represented a major step in the legal treatment of gender-based domestic violence in **Spain**. The Spanish Law has been mentioned as an example of good practice in the UN Secretary General's Database on Violence against Women, particularly in the area of Promising Practices in Law<sup>34</sup>. It is worth highlighting the strong commitment of women's organisations in the drafting of this Law and the broad conceptualisation of gender violence that it sets, including psychological aggression, sexual aggression, threat, inducement, coercion and deprivation of liberty. In addition to that, the proposal of preventive and educational measures, of protection and assistance as well as new penalties for perpetrators, is stressed.

Also within the framework of the European Union, as noted above, the Spanish model has been taken in the development of the gender equality strategy, as an example of good practice<sup>35</sup> for the eradication of such violence. The main lesson

33 European Draft Convention on Preventing and Combating Violence against Women and Domestic Violence, Article 5.

34 <http://webapps01.un.org/vawdatabase/goodpractices.action>

35 EU Programme of exchange of Good Practices on Gender Equality, Madrid Seminar on Gender-based Domestic Violence (2009) <http://ec.europa.eu/social/main.jsp?catId=574&langId=en&eventsId=224&furtherEvents=yes>



to be learned from the Spanish experience which can be considered useful for the exchange is in relation to the comprehensive nature of the approach of the Spanish law towards gender violence. Such an approach clearly improves the effectiveness of the resources allocated to these policies. To address these situations, specialised bodies have been established both in the administration and in the judicial system. And thanks to the level of involvement of political actors, civil society organisations and the women's movement, early warning mechanisms have been developed and new technologies used to eradicate the reproduction and perpetuation of situations of gender-based domestic violence.

### **Criminalisation of domestic violence**

In the three countries, domestic violence is considered a crime and it is included, therefore, in their respective penal codes. However, its categorisation varies:

In the case of **Iceland**, a violent act committed in the context of the family relationship is considered as an aggravating factor.

In **Italy**, the abuse within the family has an explicit categorisation and it is defined as the repetition of a series of violent acts committed within the family context over time.

In **Spain**, domestic violence has been categorised as a criminal offence since 1989. The comprehensive law against gender-based domestic violence places this kind of violence, occurring within family relationships, in the general context of violence against women, and it provides penalties and circumstances in order to determine the specific sentence if these acts of gender-based domestic violence have been committed at home directly affecting the children.

### **Measures for awareness and protection of battered women**

In 2006 **Iceland** adopted an Action Plan to address domestic and sexual violence for the period 2007-2011. The main areas for action identified are related to society's awareness of this problem, the training of social workers to recognise the symptoms of gender-based domestic violence, along with the treatment of the perpetrators.

The most common protection measures to address these situations of violence against women (the non-molestation orders or exclusion orders), are controversial in **Iceland**, given the existing conflict between the urgency of adopting these measures and the high standards of probative safeguards necessary to prescribe them. Currently, in the **Icelandic** legislative agenda, there is a proposal of regulation that would raise the level of discretion of police to determine when it is necessary to implement these kind of measures. The controversy raised by this proposal has led to the delay in the adoption of this law initially scheduled for autumn 2010.

**Italy** adopted in 2001 the Law of measures against violence within the family (Law 154/2001). This law provided special care for persons who, in the sphere of their family relations, were subjected to physical and moral subjugation, as well as different types of violence: threats, assaults and intimidation.

Others measures were introduced in the Penal and the Civil Codes, in addition, in order to criminalising this type of violence, provides the judicial imposition of a series of non-molestation and economic measures to protect the victim. It also provides that such measures may be imposed not only through criminal law but also through the civil, and may even demand social services' involvement in these situations.

A law, passed in 2009, categorises the harassment of the victim of domestic violence after the relationship ceases, which means that the judicial authority can impose a ban on approaching the places frequented by the victim and relatives.

In **Spain**, with the approval of the comprehensive law, specific measures were undertaken in the field of education including a public awareness campaign on gender-based domestic violence and creating specific organic structures for the study and formulation of special policy measures to improve the situation of women victims of violence (Ministry for Gender Equality, Government Office for Gender-based domestic violence, State Observatory of Gender-based domestic violence).

Specific protection measures are prescribed from the Gender-based domestic violence Courts, which were created along with the law itself and which have jurisdiction over civil and criminal matters and also to impose preventive and special measures to protect the victims.

### **Specific measures for the treatment of child victims of gender-based domestic violence**

In **Iceland**, the 2007-2011 Action Plan on sexual and domestic violence does not foresee any situation in which children are victims of gender-based domestic violence since they do not directly suffer physical or sexual abuses. Beyond these forms of violence, little attention has been paid to the situation of these children.

In **Italy**, the Law of Measures against domestic violence of 2001 identifies the children of these families as victims of this crime, which means that the security measures described above apply to these children when judges determine so. On the other hand, the social workers who intervene in these families warn of the urgent need to reform the Joint Custody Law of 2006 because it does not consider gender-based domestic violence as a factor that can be taken into account to deny joint custody in these cases.

In **Spain**, despite the Law of comprehensive measures against gender-based domestic violence identifying situations that clearly indicate and define children living in situations of domestic violence as victims, its primary concern is the mother's circumstances and needs.

The consequences of this deficit of care, so widespread at legislative level, are confirmed in the results of research, detailed in the next chapter.



## 3 RESULTS

### 3.1. Consideration of children as victims by the professionals

As a common basis, we can conclude that there is a broad consensus in considering children as victims of the gender-based domestic violence situation that their mothers live. Virtually all the care professionals interviewed have responded in this same way: the fact of living in a household where the mother is assaulted by her partner has a direct effect on children, for whom this situation can become one of the most painful experiences they can live through.

In the same way, there is a consensus that it is not necessary to be the subject of physical attack or witness the assaults perpetrated by the father. There are a variety of situations in which children can be considered victims. So, these can range from suffering an attack directly aimed at them, to the mere fact of internalising behaviours and inappropriate relationship models, all these situations are considered to be symptoms of victimisation:

*"You tell seven or eight year-old children: <<Listen, you cannot talk like that to your mother>>. And they replay: <<Why not? My father does >>." (Professional worker, Accident & Emergency Centre, Spain).*

*"At best they suffer psychological consequences as a result of witnessing acts of violence committed against their mothers. This causes irreparable harm. Even though they have not suffered direct violence, in these cases we consider them victims of psychological violence." (Professional, Italy).*

In the interviews the professionals stressed some of the reasons why they consider that the children of women victims of gender-based domestic violence are also victims. In **Iceland** they have mentioned factors such as:

- It is a threat to children's safety.
- Children's basic needs may no longer be covered.
- Children normalise the violence.
- They show strong feelings of guilt as they consider that they have failed to protect their mother.

It should be noted that this last factor has also been expressed by the children interviewed in **Spain**, who stated how hard it had been to overcome the feeling

of guilt. The reason for this guilt is because they feel they have not been able to do what they should have done; occasionally, this manifests itself in feelings that they have not done enough to help their mother, while in other cases, they feel that they have let down the people who they love most by denouncing their father.

With reference to the way children deal with what their father does to them and their mother, it has to be made clear that this is something not always understood by some women, at least initially. Sometimes it is not easy for the mother to understand that if he is a bad partner, he is also a bad father, due to the common belief that a man “can be a bad husband, but a good father”. This circumstance has been noted by some of the professionals in **Italy**, who confirmed that women demonstrate this.

*“My husband is great with the children – he shouts at them, but he doesn’t hit them.”*  
(Professional in Italy).

In **Spain**, this factor has been demonstrated by the mothers themselves; for some of them, the fact that the father assaulted her before her son or daughter or the fact that he assaulted the children, becomes the necessary push to put an end to the situation that they had been putting up with until then.

*“Before I came here, there was so much pushing, beatings, slaps. Loads of screaming... For ages, perhaps two and a half years. It lasted a long time. And he did many things to my son, but I can’t stand that. If done to me, I can. Maybe he can do to me what he wants, but not to my son. That helped a lot. Thanks to my son I went out and reported it, because he could not take it any more.”* (Mother aged 28, with an 11-month-old baby, Spain).

With reference to this consideration, in **Italy** and also in **Spain** it has been pointed out that some mothers do not perceive their children as victims; if they have never witnessed an assault, mothers prefer to think that they are not aware of it. This is probably due to the mother’s need to understand and justify why they have put up with the situation while their children were suffering:

*“They tend to keep them where violence does not afflict them, so there is a narrative omission on the part of the women.”* (Professional in Italy).

In accordance with this situation, mothers can also minimise the pain of their children in the same way they minimise their own. In these cases, it is necessary for the mother to become aware of what she has experienced: “Through individual work, women can become aware of what impact the situation has had

on the child. We can open her eyes, so she can see the need for that child to be treated. And little by little they realise.” (Psychologist from a Women’s Care Centre, **Spain**).

In **Italy**, the symptoms associated with stress and anxiety, and the disorders they cause, have been underlined:

*“Children who have an aggressive attitude and are hyperactive, or anxiety and depressive disorders and – if they use splitting as a defence mechanism – psychosis. Very young children often fall ill because they somatise the depressive situation they are experiencing by lowering their defences.” (Professional in Italy).*

Similarly, in **Iceland** the professionals refer to stress:

*“The children can suffer from constant anxiety. What you hear is (...) maybe this is something that the mothers have told me (...) that they experience anxiety in their children.” (Police Detective - police contact to the Women’s Shelter, Iceland).*

In **Italy**, the professionals have pointed out the relation between suffering gender based domestic violence and manifesting maladaptive behaviours. Closely related to this issue there is the supposed link between having suffered gender-based domestic violence during childhood -as a child of a battered woman- and suffering or exercising it later during adulthood, assuming the female victim or the male aggressor role. This issue is mentioned by some of the professionals interviewed in **Italy** and **Spain**. In the latter country, the interviewers’ work has revealed that some of the women, currently living in a shelter as victims of gender-based domestic violence, had already been there, or in a similar one, as girls, with their battered mothers.

Finally, it is important to highlight one factor that has been an object of analysis among some of those interviewed in the three countries. This refers to the situation among some children once their parents have separated. The testimonies in **Iceland** refer to the distressing feeling of the son or daughter who thinks they should support their father or their mother. In this sense, it must be remembered that the three countries have different systems to deal with these situations. In **Spain**, for example, it is easier to acknowledge a woman as a victim of abuse once she has separated from her husband or partner.

### 3.2 Assessment of the services by the professionals

It is a relatively recent development to provide care to the specific needs manifested by children of mothers who suffer gender-based domestic violence. So it is difficult to find examples of programmes, methodologies and tools that are widely used. The explanation to this situation is due to different circumstances, as shown by the interviewees.

Probably, one of the issues that raises the most consensus about the way professionals perceive the care given to the children of victims of gender-based domestic violence in **Italy** and **Spain**, is that, too often, good practices are limited to the specific experiences of some professionals. It is about the goodwill of a care professional, someone trained and involved, rather than the willingness of institutions.

While acknowledging that this institutional will is now better than it was a few years ago, there are some factors that have been underlined which accentuate the lack of specific care.

Some of the factors most often mentioned during the interviews are:

**Lack of resources**, in **Italy** and **Spain**. In this regard, the following circumstances are the ones highlighted as weakening this kind of care:

- The lack of economic resources puts at risk the existence of certain programmes that depend on specific funds sometimes granted sometimes and sometimes not. In **Spain** this situation is also highlighted as the cause for the lack of care: "Now we work under a minor contract with the Council with scarce resources. We undertake the service they request (we take care of approximately 30 children per quarter), but we try to manage three groups in just one afternoon because the budget falls short" (Psychologist, Specific resource).
- Scarcity of human resources: the precariousness of many of these professionals' contracts is emphasised as a particularly serious factor. It is inevitable that this situation results in the discomfort of the victims:

*"The other day the psychologist and I had a meeting, with a child in our arms. I eventually managed to put him to sleep. With a translator next to me. So there we were the translator, the lady, the child in our arms, the chair, the psychologist playing with the baby ... and we passed the baby from one to another as we had the meeting" (Doctor, Comprehensive Examiner Assessment Unit, Spain).*



**Difficulties in giving care in small towns in Spain and Italy.** In the latter country, moreover, it has been noted that in these small places it is more difficult to raise awareness among professionals, who in many cases have not been internalised with regard to the victimisation of children or they feel it is a question of charity:

- *“Some male and female care professionals still have a charity-based approach, which is simply not good enough.” (Professional in Italy).*
- In **Spain** the problem is the scarcity of resources, not the lack of awareness among professionals in small towns with regards to the care given to children, precisely because the legitimacy that the 2004 Comprehensive Law provides for this specific type of care.

**Lack of coordination between services** belonging to different areas. This has been pointed out by the professionals of the three countries. In **Iceland**, this problem arises due to the lack of a comprehensive understanding of the problem: there are proposed solutions that do not take into account the coordination between different services (e.g. police have little ability to enforce an exclusion order or to protect the victim).

In **Italy**, even contradictory actions are proposed:

*“A recent measure required that juveniles should spend time with their fathers at home with the supervision of a social worker, but the social services have not the possibility to make home visits.” (Professional in Calabria / Italy).*

In **Spain**, the demand for greater coordination between different services and areas of care and protection (especially between the systems of protection of Women and Children) is unanimous.

The coordination could be more fruitful if there were common databases and more thorough data records.

In relation to this issue, the lack of specific protocols of care for these children has to be highlighted. This deficiency has also been noted in **Spain** and **Italy**.

**Lack of specific training for professionals.**

**Lack of specific programmes.**

**Difficulties and disparity in the work with perpetrators:** different options. This factor is considered with no consistency whatsoever in each of these three countries.

In **Italy**, professionals say there are few programmes addressing the fathers who exercise violence against women in the home, but they recognise the need for its development.

In **Spain** there are programmes specifically directed at male perpetrators and the tendency is to consider that no work should be done with them while they continue to live with the woman. Professionals call attention to the need to work specifically, within these positive parenting programmes, which imply the need to raise awareness of the damage done, not only to women but also to children. Thus, one professional points out the need to tackle the problem in all its complexity, also including the father in the recovery process:

*“It requires previous decision-making work. I think the trend is to eliminate the aggressor, to demonise the aggressor. I believe that the aggressor should be included, in jail or not, able to see his children or not. I think there must be resources allocated for this as well.” (Psychologist, Child and Family Services, Spain).*

In **Iceland**, the work is conceived from a perspective which integrates all agents involved into the process: victims and aggressors. While it is true that the professionals interviewed in this country do not especially work with the children of battered women, they unanimously insist on the need to take the children into account in their recovery process. In **Iceland** they barely work directly with children, but on the recovery of mothers and fathers. Thus, it is not surprising that only one of these professionals has indicated that it is unfortunate that children are not offered the opportunity to express what they have experienced (especially the older ones). In this sense, the care aims to rehabilitate the aggressor, whether they live together or not; as long as the violence has ceased. In **Iceland**, probably the conceptualisation of gender violence as domestic violence does not distinguish situations in which it may not be advisable to have any intervention involving the aggressor fathers while they live with their families, at least at the beginning.

In this regard, it is worth mentioning the opportunity provided by the Spanish Law of 2004, to expedite the measures aiming to protect the victims from the aggressor, such as the possibility of a speedy trial or to decree an order for immediate protection. In **Iceland**, some of the professionals' complaints are directed precisely to this question: the great difficulty in decreeing a non-molestation order. The judge is usually very demanding in requesting evidence to justify such orders and, additionally, the judge's consideration may take a long time. Currently the feasibility of other measures is under examination, such as the possibility that police can oblige the aggressor to leave the house when they know that an attack has occurred. Subsequently, that person could appeal that decision.

**Involvement of mothers in the recovery process of children.** As for the involvement of mothers and fathers in the recovery process, in **Spain**, the professionals point to the need to involve the mother in the process of her children's recovery. This factor is directly related to that previously mentioned, mothers' awareness of children's victimisation:

*"There is a surprisingly better result when the mother involves herself than when she does not, whether we hold sessions with the children, with the mother and one son or daughter, with the sons and sisters and even with all children in the house together."*  
(Psychologist, Women's Shelter Spain).

### 3.3. Assessment of law and regulations in force

In general it can be concluded that the vision of the professionals with regard to the laws in their respective countries is positive. However, there are some nuances, listed below.

In **Italy**, the professionals emphasise some aspects of existing legislation as particularly positive. They consider that, in the last years, the Italian legislation has increased the level of protection for women victims of domestic violence and their children. In particular, the professionals consider the following measures as important tools for women in order to protect thyself and their children from violence:

- The possibility of expelling/ dismissing the aggressor from the home.
- The possibility of removing certain rights relating to custody and guardianship from the fathers who exercise violence against women.
- The possibility of sending women and their children to home - refuge if they have no financial mean, or the possibility of expelling the father from the home when the woman can sustain herself and her children.

These measures, highlighted by the professionals from **Italy** as progress in combating gender-based domestic violence, deserve a second reading from the perspective provided by the interviewees in **Spain** and **Iceland**.

In **Italy**, as a criticism of their system, professionals point out how slow the adoption of such measures is (in certain case they take days and months).

In **Iceland** it seems that the professionals' view on the expulsion of the father from the home is the opposite. In this country, the measures considered need to comply with the following conditions:

- Ensure that violence at home has ended. In this regard, some activities aimed at addressing the situation of abuse have been mentioned, such as: family therapy, Parent Management Training (PMT) or the guide for children's education. Some of the professionals interviewed also approved of the possibility of providing treatment for the father, aimed at changing his behaviour.
- Addressing the treatment of children. This second issue is mentioned in far fewer occasions than the previous one.

These considerations and, above all, the importance given to each one of them, show that in **Iceland** the priority is the rehabilitation of the father (and also of the mother) and less the woman's protection as a victim and the specific care for her and her children. Re-education is understood as a way to make the father internalise appropriate ways to treat his children. In this country, however, on the occasions where it is intended to expel the violent man from his home, the professionals point to the difficulties of this measure:

- To reach the point where a judge can decree on this requires a great deal of evidence, which is highly expensive.
- As a result, the ruling on such decisions takes a long time.

In **Spain** the Law provides quick ways to put an end to gender-based domestic violence. Compared to **Iceland**, if a woman decides to leave her partner, she can do it with some speed and the professionals who are taking care of her will support this decision, since there is no guarantee that the man will definitely stop his violence. In comparison with **Italy**, the solution about who leaves the home (the man or the woman) does not depend on the economic resources of the woman.

However, the Spanish professionals' criticism is not so much directed at the approach of the Law as to the implementation of specific measures for its development. Forensic assessment teams find it difficult to combine the quality of the care with the speed of it:

*"The abuse trials are to be held next week. If we followed the exact wording of the Law the situation would be that in one week we would have to prepare a report on the mental state of the lady, the mental state of the children, the violent environment, the family income, the parents' ability for custody... and all that in just one week it's not possible. It almost goes against the speedy trial system." (Medical examiner from a Comprehensive Examiner Assessment Unit, Spain).*

As to the professionals' perception on the specific care given to children established by Law in **Iceland**, there has only ever been one reference to the relevance of taking the children's own recovery process into consideration, allowing them to express themselves. As already mentioned, this country focuses on addressing the problem of the father rather than to address the problem of the children.

In **Italy**, professionals point out that the Law does not address the rights of the witnesses of the violence (assuming that these are the children of abused women). Only a more sensitive interpretation by some legal professionals allows

measures to be taken to protect children as victims of gender-based domestic violence. In this sense, professionals indicate that, in general, only physical damage is taken into consideration, disregarding other consequences that violence can have on the youngest children.

In **Spain** the criticism by professionals who care for children is not so much directed towards legal considerations but rather how to materialise them into specific measures. The Law now recognises children as victims, but there is not enough specific care for them:

*“The feeling is that the amount of available resources for victims before left them unattended, previously they were invisible. We moved from an era where everything was for the women, and suddenly some little ones appeared, but they were just like attachments, nothing else <<as they are young, they are not aware>>. Over the last few years I think many things have been corrected. That is a reality; it is even set in Law. However, to what extent has the care been extended without being made sufficiently specific?” (Professionals, Municipal network of specific resources, **Spain**).*

In general, these criticisms are directed at the scarcity of resources. Even now that the Law includes the need to provide care facilities for the children of women victims of gender-based domestic violence, sometimes it does not materialise into allocated money, as some forensic assessment professionals say:

*“We were convinced it was going to start working in one way or another. Although we were also convinced that we would start with very scarce resources at the beginning. What we did not imagine, at least I personally did not realise, is that we were still going to be a bit stuck this far down the line, four years later.” (Doctor in a Comprehensive Examiner Assessment Unit, **Spain**).*

In short, the comparative analysis, regarding the perception of the legislation in force in their respective countries by the professional teams serving women and children victims of gender-based domestic violence, sheds light on the different interpretation of the legitimacy given to the status of children of battered women as victims themselves. The highest recognition of the victimisation of children is provided by the Spanish law; however, for professionals, this progress raises the question, not about the appropriateness of the care (this issue has already been overcome), but about the form it takes.

## 4 RECOMMENDATIONS

### **On the consideration of children as victims of gender-based violence**

All governments, public authorities and institutions should, within their remit, adopt and develop consistent measures with a focus on children's rights to address the situation and specific needs of children of women victims of gender-based domestic violence. The answers to the specific needs of child victims of gender-based domestic violence must take into account the following principles and obligations:

- Children are holders of the right to grow up in an environment free of violence, and it is a responsibility of the States to take the necessary steps to protect them from such violence and provide them with an effective response when they become victims of it.
- Based on their stated commitment to protect them against violence and to protect the rights of all children living within Europe, it is the responsibility of the European Union and the Council of Europe to promote among its Member States the adoption of the highest standards in safeguarding the protection and care of childhood.

### **To the Council of Europe:**

- Promote within the European Convention on preventing and combating violence against women and domestic violence, a homogenisation of the definitions of gender violence and domestic violence among its Member States in order to:
  - Define a European consensus on the consideration of domestic violence as the most common expression of gender violence in the European context.
  - From this, define common indicators to enable their comparison and statistical aggregation in order to know the reality of gender-based domestic violence in Europe.
- Promote, within the European Convention on preventing and combating violence against women and domestic violence, the consideration of children of women victims of violence also as victims of this condition, providing them with a compatible protection system which is complementary to the one recognised for their mothers.

- Share its comprehensive approach to address their needs, in particular, to ensure their best interest is the element prevailing in resolving their situation.
- Provide early warning systems within the education system to enable a rapid intervention and to prevent future situations of violence.
- Enable the inclusion of specific indicators on these children's situation into the statistics on gender violence.
- Progress in the definition of specific measures, promote exchange programmes of best practices and monitor the implementation in the States of the Guidelines for the adaptation of child-friendly justice, passed by the Committee of Ministers of the Council of Europe on 17 November 2010.

### **To the European Union institutions:**

In the development of a European Union Strategy on Children's Rights:

- With regards to the protection of children as a vulnerable group due to their exposure to violence:
  - Promote the appropriate measures to establish child protection systems based both on comprehensive approaches to the protection of children from abuse, neglect, exploitation, and violence and to the fulfilment of children's rights to protection and issue-based child protection programmes and services which can be integrated into local or national child protection systems as important inputs to delivering children's rights to protection.
- With reference to the creation of a coordinated and consistent Child-Friendly Justice system in the Member States:
  - Foster exchange of information and good practices on how member States address children within justice systems.
  - Foster the creation of harmonised standards concerning children in judicial procedures/systems, clearly spelling out consideration of a child's best interest is a primary consideration in all actions.



- Harmonise legislation at EU level which has an impact on children in contact with justice systems (including the ongoing revisions of the victim protection).
- Foster expansion of cooperation of the European Union and the European Council with regards to children in judicial procedures/systems.
- Engage in practical measures of support, including regional training for actors addressing children, development of standard information for children, guidelines for the practitioners to operate in the best interest of a child.
- Promote the adoption of minimum standards on interrogation of children guaranteeing minimum trauma and damage to a child (avoiding re-victimisation):
- Setting clearly the child's right to remain at home, as a guiding principle, when in the best interest of the child to preserve his or her welfare and safety in cases of gender-based domestic violence.
- Support initiatives to include specialisation in forensic psychology in the University Curricula in the Member States in order to provide specific services for children involved in judicial processes.
- Ensure that the authorities and practitioners have adequate practical experience when dealing with children in judicial procedures. Therefore, the sharing of best practices, continuous professional training and collaboration between the different actors should be strengthened at all levels.

Within the scope of the Strategy for Equality between Women and Men 2010-2015, and specifically within the priority line of action which seeks an end to gender-based violence, and in particular to gender-based domestic violence:

- Establish multidisciplinary Human Rights indicators on violence against women aimed to elaborate prevalence surveys in accordance with UN recommendations, including aspects related to the situation of children.

- Develop unified systems of information recording on the number of children of women who are victims of gender-based domestic violence.

**To the European States, in particular to those where the research has been conducted: Iceland, Italy and Spain:**

- Adapt their national legislation and work in collaboration with the Council of Europe to adopt uniform and consensually agreed definitions of gender violence and domestic violence in accordance with UN standards and recommendations.
- Implement comprehensive, cross-cutting and multidisciplinary measures from various fields, especially education, early detection, information, protection and care for the different victims of gender-based domestic violence in the home. Strengthen measures aimed at children, since they may increase the level of effectiveness of measures directed at mothers.
- Take into account the Council of Europe's recommendations with reference to the treatment of children exposed to gender-based domestic violence, specifically:
  - Commonly search for innovative approaches and working methods when it comes to dealing with situations of children who are victims of gender-based domestic violence (best practice comparison).
  - Continue to raise awareness on the situation of child victims of gender-based domestic violence and take the issue into consideration in the context of national legislation and policies in an interdisciplinary approach with gender mainstreaming, for the protection of children, especially the punishment of gender-based domestic violence or the financial compensation of victims.
  - Include in their legislation the right of children to an education based on mutual respect and non-violence.
  - Strengthen the special consideration of child victims of gender-based domestic violence in legal and administrative procedures:

- Promote the issue of child victims of gender-based domestic violence through integrated approaches, with the aim of avoiding severe psychological traumas for children, and through educational programmes for families aimed at preventing the transgenerational transmission of violence, and thus future situations of gender-based domestic violence.
- Implement the Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice into their judicial systems.

### **On the approach to intervention and the comprehensive protection measures**

**To the European States, in particular to the three countries where the research has been conducted: Iceland, Italy and Spain:**

Allocate specific and adequate budgets to the development of awareness and prevention programmes, development of specific measures and resources, training of the care professionals and research support.

- Prevention and awareness scope:
  - Increase the number of educational programmes for the prevention of gender-based domestic violence.
  - Produce public awareness campaigns on the consequences of gender-based domestic violence on children.
  - Foster education programmes for gender equality and the promotion of non-violent relationships in schools and colleges.
  - Develop special care programmes focused on the identification and care of vulnerable families, understood as those in which violent incidents occur repeatedly or those in which other risk situations coexist.
  - Provide psychosocial support and monitoring to pregnant women with a record of domestic violence in their family of origin or in their relationship.
  - Inform children on how to act in the event of this happening to them or other children. To this end, it is necessary to promote the involvement of the educational area to inform children about means of support, such as free telephone hotlines.

- Foster a constructive approach in the messages of the media on these issues, consistent with the rights of children and the rights of women victims of violence.
- Care and treatment scope:
- Promote the development of out-patient, non-residential care services.
  - Increase the offer of psychotherapist resources for child victims of gender-based domestic violence.
  - Develop effective assessment mechanisms to ensure the quality of the care, regardless of whether those services are public or state-subsidised.
  - Increase the offer of voluntary programmes for aggressors and include the perspective of childhood.
  - Adapt the resources to the specific needs of the children coming into the women's protection system.
  - Develop risk-factor assessment instruments for child victims of gender-based domestic violence. Risk factors conceived from an ecological model should cover at least the personal history and characteristics of the child, his or her family, the immediate social context and social conditions as a whole.
  - In the work of recovery of women victims of gender-based domestic violence who have children, it is also necessary to work on the strengthening of the affective bond with their children, on their role as a mother and, if necessary, provide psychosocial support -so they can meet the needs of their children to achieve adequate well-being and development.
  - Create monitoring and exchange of information mechanisms on women and children involved in gender-based domestic violence situations detected in different areas: childhood, social services, health, education, protection of women victims of violence, police, judicial.

- Develop intervention and long-term monitoring models with families who have suffered or are suffering gender-based domestic violence and have other risk factors such as poverty, unemployment, disability, drug dependence, etc.
  - Develop mechanisms that foster children's participation in the procedures undertaken, seeking, where possible, their views on the decisions that affect them.
  - Create specific physical spaces for children, adapted to their needs within health, social, judicial and police systems.
- Human resources:
- Adopt incentive measures that reduce the high rotation rates and temporary contracts among the staff working in these services, a phenomenon that directly affects the continuity of the care and makes teamwork difficult.
  - Develop continuous training programmes on gender and children's rights issues for care professionals working in women and child protection systems.
  - Increase training opportunities for the different professionals involved in this field, fostering cascade training and dissemination models to increase the impact of investment in professional training.
  - Develop specific training programmes to help professionals work with fathers who have inflicted gender-based domestic violence in the family context. In these cases prior factors must be evaluated such as the recognition of the damage caused, the voluntary and temporary non-molestation measures, and the acceptance of entering a treatment programme or the supervised regime of visits.
  - Implement a policy of gender equality in the area of human resources, favouring the recruitment of professionals of both sexes in the care work for situations of this kind of violence.

■ Research:

- Examine in greater detail the consequences that this type of violence generates within the different scopes of the child's life. From the results of these studies, indicators could be proposed (and ways to measure them) to alert the professional teams, in the different fields, about a child's need for support and care.
- Study the effects that judicial decisions have had on the lives of children of women victims of gender-based domestic violence and assess how and to what extent the voices of these children have been taken into account.
- Develop best practice material adapted and accessible to child victims of gender-based domestic violence.
- Promote the creation of thematic research networks involving cooperation between different European countries.
- Create funding lines and boost financial support for research in this field.
- Include research as a structural area of the services.











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