

**A socialplatform position paper**

**Towards EU actions against  
all forms of bias violence**

Adopted by Social Platform Steering Group on September 25, 2012

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## 1. INTRODUCTION

**Acts of violence committed with a bias motive, or triggered by prejudice, or ingrained in unequal structures in society are a wide-spread reality in Europe.** As such, they result in serious breaches of human rights protected by the European Convention on Human Rights and the European Union's Charter of Fundamental Rights<sup>1</sup>. Whenever public authorities fail to take measures to identify, prevent and redress such violence, they fail to enforce those rights.

**The economic crisis creates conditions associated with intimate relationship violence** whereby victims have fewer resources to be safe, to flee and to protect themselves from violence. This is the direct impact of public spending cuts on policy and judiciary, legal aid, public health services, welfare benefits and housing benefits.

In recent years, Social Platform has prioritized two related areas: 1) the contribution to European policies to combat violence against women; 2) the monitoring of European policy processes that can contribute to tackling different forms of hate-motivated and bias-motivated violence and crime. Building on this work, and on the expertise of our members, **we have developed a generic concept of bias violence to advance a common agenda of policy recommendations to fight any form of violence.**

## 2. DEFINITION OF BIAS VIOLENCE

- **The concept of bias violence is based on international commitments endorsed by all OSCE participating States<sup>2</sup>, including all EU member states.** It is a simple and inclusive concept in that it captures all forms of violence committed with a bias motive relating to the victims' personal characteristics, social status, or fostered and legitimated by structural inequalities in society. Bias violence includes violence motivated by hatred as well as other forms of violence perpetrated against victims chosen because of characteristics that, in the eyes of the perpetrators, make them less likely to fight back or to report an offence. Violence against girls and women reflects a typical form of severe structural inequality widespread in all areas of society as it affects all women, irrespective of whether they also belong to other minority groups;
- **The high prevalence of bias violence is a manifestation of structural discrimination, inequality, exclusion and socio-economic conditions** which prevents people from enjoying their human and fundamental rights. It creates a context that makes them vulnerable to attack and less likely to seek redress. Bias violence in turn reinforces and reproduces structural discrimination, exclusion and inequality, and in some instances historically unequal power relations between different groups. As a result, bias violence has to be addressed as a political problem;

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<sup>1</sup> The Charter of Fundamental Rights: *The right to life (Art 2); The right to liberty and security (Art 6); Freedom of expression*

<sup>2</sup> [Ministerial Council Decision No 9/09 on Combating Hate Crime](#)

- **Bias violence includes, but is not limited to, bias crime.** Bias crime refers to the existence of an offence punishable according to criminal law, regardless of the perpetrator's motivation, and for which the existence of a bias motivation may lead, in certain jurisdictions, to the application of harsher sentences;
- **Bias violence encompasses various structural forms of violence and violence targeting specific communities and groups.** Different forms of violence are described and addressed by specific concepts and expertise developed by members of Social Platform and often recognized in international and/or European law instruments. The use of the concept of bias violence complements concepts used by members, and by no means replaces them (See Annex for a non-exhaustive list);
- **The prevalence of bias violence is both a result and a cause of its structural nature;**
- **Various forms of bias violence have certain patterns in common;** victims of bias violence may also be targeted because of more than one of their characteristics, very much like in the case of multiple discrimination, or discrimination and social exclusion;
- **The UN and the Council of Europe use categories to qualify the context in which violence against women is tolerated; such categories should be used for all forms of bias violence;** *Violence occurring in the family or domestic unit; Violence occurring within the general community; Violence perpetrated or condoned by the state or its officials; Violation of the human rights of women in situations of armed conflict.*

### **3. RECOMMENDATIONS TO PREVENT AND COMBAT BIAS VIOLENCE AND TO SUPPORT VICTIMS OF SUCH VIOLENCE**

Bias violence can only be addressed by sustainable **partnerships** with civil society organizations that give a voice to the concerned groups. It cannot be achieved by a single measure, but a wide range of measures that are comprehensive, consistent and build into **policy** frameworks on relevant international and European human rights instruments. Responding to bias violence must include the adoption and enforcement of legally binding instruments in all EU countries to make sure perpetrators of such violence are systematically identified, **prosecuted** and engaged in restorative justice or punished, and that the victims are systematically **protected**. In addition to prosecution and redress, **prevention** must also become a priority for all relevant policy-makers. This is especially important where perpetrators have been victims of violence themselves. All these actions require substantial and sustainable institutional support to service **providers** in the area of victim support<sup>3</sup>. This includes ensuring access to information and accessible, affordable and quality services.

**When devising and implementing comprehensive policies (with respect to the principle of subsidiarity) combat bias violence is a joint responsibility for the EU, the member states as well as regional and local authorities.** As a result, our recommendations are

<sup>3</sup> Social Platform supports the six P's framework (*Prevention, Protection, Service Provision, Prosecution, Partnership and Policy*) should be used as the model for such strategies

addressed to those different institutions consistent with their respective competences. However, considering that bias violence is prevalent in all EU member states, we believe that bias violence should be recognized as a fundamental rights violation and that consistent and high policy standards should be developed and applied throughout Europe.

### **3.1 Recommendations for the definition of a consistent legislative framework against bias violence**

On the basis of the expertise and of the advocacy priorities of our members we call on the EU and on the member states to clearly define a legislative framework to combat all forms of bias violence. This includes a call for:

#### **Action by the EU**

- **Adopt an EU Victims' Rights directive** that is fully sensitive to the situation of victims of all forms of bias violence regardless of their immigration status;
- **Propose EU legislation to explicitly combat all forms of bias violence by means of criminal law**, as a result of the evaluation and review of the Framework Decision on combating racism and xenophobia by means of criminal law to be carried out in 2013 by the European Commission. New EU legislative proposals should build on international and European instruments addressing all forms of bias violence;
- **Adopt an EU strategy to end violence against women and girls** encompassing comprehensive European legal instruments and actions on eradicating all forms of male violence against women in the EU;
- **Ensure that the implementation of the EU principle of equal treatment between women and men is fully applicable to trans people<sup>4</sup>**;
- **Support member states in their fight against bias violence** as a way to improve their response to various forms of violence by urging them to respect EU legislation and adopt and implement effective national legislative tools;
- **Take all appropriate legislative and other measures to explicitly combat all forms of bias violence against persons with disabilities and their families**; Since the UN Convention on the Rights of Persons with Disabilities is the first legally binding international human rights treaty which has been ratified by the EU, all obligations under the Convention are binding on the EU<sup>5</sup>;
- **Ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence.**

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<sup>4</sup> "The Court of Justice has held that the scope of the principle of equal treatment for men and women cannot be confined to the prohibition of discrimination based on the fact that a person is of one or other sex" (see the Gender Directive, recital 3 [2006/54/EC \(recast\)](#)).

<sup>5</sup> Article 16 of the CRPD is on the freedom of exploitation, violence and abuse

## Action by the EU and its member states

- **Transpose the *Framework Decision<sup>6</sup> on combating certain forms and expressions of racism and xenophobia by means of criminal law by member states***, and an in-depth monitoring of the transposition by the Commission, including infringement procedures when needed;
- **Transpose the existing directive on condemning sexual harassment at work<sup>7</sup>**;
- **Abolish legislation in Member States that allows forced and degrading, inhuman medical or other treatment, and revise (forced) institutionalisation.** This is in line with the UN Convention on the Rights of Persons with Disabilities and recent European case law;
- **Establish a clear conceptual links between legislative action combating bias violence and existing or foreseen anti-discrimination legislation**, in the EU and at national level;
- **Delink the prosecution of bias violence from immigration control** by ensuring that the prevention, protection, investigation and sanctioning of violence takes precedence over any proceedings concerning immigration status. Measures must ensure victims are protected when they report violence and have equal access to information and services. The prosecution of perpetrators needs to be facilitated regardless of the status of their victim. If the defendant is in control of the migration status of the victim, an independent residence permit or visa should be given. There is a need to introduce possibilities for anonymous or other reporting facilities offering victims and witnesses of serious crime the possibility to turn to the police via third parties;
- **Address bias violence within systems governing entry, residence, employment, or regularisation of non-EU nationals.** Foreign workers should be guaranteed the right to change employer and those with abusive sponsors should be able to obtain a visa independent of their relationship. Those who become undocumented due to bias violence or exploitation should be provided with a route back to regularity.

## Action by member states and regional or local authorities

- **Adopt and fully enforce national legislative frameworks providing explicit and inclusive definitions of bias violence in criminal law.** Such legislation should also guarantee the rights of victims and promote consistent prevention actions and consultation with civil society, including the relevant community-based civil society organisations. New legislative proposals should build on international and European instruments addressing forms of bias violence;
- **Take appropriate measures to prevent any kind of inhuman, degrading or forced treatment in places where persons are deprived from their liberty and may be victims of bias violation.** Those violations often occur in hospitals, prisons, migrant detention centres, institutions for persons with disabilities, psychiatric institutions/wards, orphanages etc. 17

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<sup>6</sup> (2008/913/JHA)

<sup>7</sup> [Directive 2002/73/EC](#) of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions

member states of the EU have ratified the Optional Protocol to the Convention against Torture (OPCAT) which supports their obligations;

- **Enact legislation that prohibits incitements to hatred** by e.g. media towards individuals and groups who are already disadvantaged and excluded (e.g. towards asylum seekers, migrants or Roma) and remove practices that restrict their engagement with civil society and the media.

### **3.2 Recommendations for the development of a policy frame Recognising, Preventing and Responding to bias violence**

On the basis of the expertise and of the policy initiatives developed by our members, we call on the EU and on its member states to devise and implement new non-legislative measures to combat all forms of bias violence. This includes a call for:

#### **Action by the EU**

- **Explicitly include actions to combating violence against women, children and others in situational vulnerability or with characteristics making them appear vulnerable, as well as all forms of bias violence**, i.e. the objectives of current Daphne Programme (in Article 4.1), both in the Rights and Citizenship Programme as well as the Justice Programme;
- **Systematically assess the expertise developed thanks to the various relevant EU programmes** (Daphne, Fundamental Rights and Citizenship for the 2007-2013 MFF; Rights and Citizenship and Justice for the 2014-2020 MFF) conducted with the participation of the relevant civil society organisation;
- **Systematically identify and promote dissemination and exchange of good practices** on the basis of the above mentioned assessment, including through the publication of dedicated compendia and indicators to be used by member states;
- **Mainstream issues related to all forms of bias violence in the work programme of the EU's agencies** (e.g. Fundamental Rights Agency, Eurofound, CEPOL, Eurojust, FRONTEX, EASO) in the areas of police and justice cooperation and of social policies, on the basis of the expertise gained. This should include the elaboration of professional training guidelines in areas such as police, prosecution and judicial services as well as regular monitoring of progress made;
- **Mainstream issues relating to all forms of bias violence in all relevant EU policies as part of the mainstreaming of fundamental rights**. Combating bias violence should also be mainstreamed in all existing strategies and roadmaps in the area of equality;
- **Make 2015 a European Year to end violence against women and girls<sup>8</sup>** and develop other long-term, funded and EU coordinated campaigns;

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<sup>8</sup> See [the European coalition for a European Year on combating and preventing violence against women](#)

- **Support and supplement national policies and programmes particularly aiming to eradicate violence against persons with disabilities** as a manifestation of discrimination and structural inequality when implementing the European Disability Strategy 2010-2020<sup>9</sup>.

### Action by the EU and its member states

- **Promote the systematic ratification and/or full implementation, by the EU and by the member states, all relevant international and European treaties and other instruments addressing bias violence.** This includes in particular the Council of Europe's Convention on preventing and combating violence against women and domestic violence, the UN Convention on the Elimination of All Forms of Discrimination against Women, the UN International Convention on the Elimination of All Forms of Racial Discrimination, the UN Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities, the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families<sup>10</sup>, the UN Convention against Torture and Other Cruel or Degrading Treatment or Punishment and the Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity;
- **Develop data collection on a systematic basis in order to document all forms of bias violence.** Data collection should be developed by member states and encouraged by policy practices identified at EU level thanks to European projects. It should be developed at all levels (NGOs, police, prosecution, courts) to ensure wide collection and comprehensive disaggregation of data, and conform to international and European data collection standards such as those promoted by the OSCE;

### Action by member states and regional or local authorities

- **Adopt national action plans**<sup>11</sup> (such as the Roma Integration Strategies) and build on international and European political commitments as well as on EU policies and expertise, to combat all forms of bias violence; this includes comprehensive national actions addressing specific forms of bias violence (such as male violence against women and homophobic and transphobic violence, elder abuse, etc.) and taking into account intersectionality with multiple forms of discrimination and ensuring equal access to services and justice for all victims of crime;
- **Disseminate key tools, drawing from best European standards and practices**, e.g. targeted trainings;
- **Develop and implement integrated national strategies for safeguarding the rights of the child and protecting children from all forms of violence**, according to the Council of Europe Policy Guidelines<sup>12</sup>;

<sup>9</sup> [European Disability Strategy 2010-2020 a Renewed Commitment to a Barrier-Free Europe, COM\(2010\) 636 final](#)

<sup>10</sup> See Article 16(2) and Article 68(1)c

<sup>11</sup> preceded by the Commission Communications on National Action Plans

<sup>12</sup> Recommendation CM/Rec(2009)10

- **Systematically review and abolish existing legislation that may prescribe or foster bias violence**, such as requirement for medical intervention and forced sterilisation (e.g. for Roma women, persons with disabilities and trans people in legal gender recognition) and the tendency to link service provision with migration enforcement (e.g. legal, structural and practical barriers which prevent certain categories of migrants who experience violence from accessing justice, support and protection);
- **Make use of all the existing policy tools** provided by EU institutions and agencies in areas related to combating bias violence;
- **Systematically adopt policies aiming at the development of awareness-raising and educational activities relating to bias violence prevention and the rights of victims.** Such policies should build on identified best practices collected at European level, targeting different types of bias violence. The importance of education about violence and its causes at an early age cannot be overemphasised;
- **Develop systematic training schemes** for police, prosecution and judicial services, as well as for lawyers and for other public bodies such as health, social or education services and employment services (trade unions), with which the victims are likely to be in contact with. These training schemes should: deal with all forms of discrimination; pay a special attention to the handling of all forms of bias related incidents; be sensitive to the needs of the victims (including those who are facing multiple forms of discrimination); and ensure that detection practices of immigration enforcement agencies must never undermine human dignity and fundamental rights of those experiencing bias violence;
- **Promote dialogue with civil society organisations**, including grass-root level NGOs, in order to develop all policies relating to bias violence in a fully sensitive way. Such dialogue should be encouraged and supported by decision-makers. It should also extend to providers of social, health and care services;
- **Remove barriers which hinder social and political participation for groups experiencing bias violence.** Threats to freedom and security as well as poverty can significantly hinder political engagement among those disproportionately exposed to discrimination and violence. There is an urgent need to recognise marginalised groups as rights holders and agents to be represented within social and political movements addressing bias violence at all levels;
- **Recognise that violence of all kinds very often occurs in the context of a culture of fear and establish safe places for both victims and perpetrators** to reveal what is happening and determine how it should be dealt with. This requires clear policies for information sharing that ensure an appropriate balance between the rights and responsibilities of all parties. The current economic climate make this more pressing;
- **Service providers should not be required to share personal data with immigration agents or to turn away those in needs because they lack residence permits.** Support services for survivors of violence, whether provided by governmental or non-governmental

organisations, should be made available to all without discrimination and in accordance with their needs;

- **Fight against bias violence promoted by governmental officials and the media.** Above all, national authorities have a special responsibility towards those in vulnerable situations and hence shall promote positive attitude while banning violent patterns and abstaining from using abusive language when referring to them;
- **Ensure accessible, affordable and quality services;** Professional social workers and staff of different services (such as health, police etc) should received special training to take into consideration the vulnerability and specific needs of users that are victims of violence (such as for example provide safe and welcoming places);
- **When drafting and implementing polices and other measure against bias violence consider the link between violent behaviour and addictive substances** (e.g. alcohol and drug abuse), based on existing research within the field<sup>13</sup>.

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<sup>13</sup> See for example European Alcohol Policy Alliance [DHS-Project "Violence reduction in consequence of alcohol prevention"](#)

## 4. ANNEX

The annex provided below does not represent a Social Platform position. It compiles concepts, positions and the specific expertise by the Platform's member organizations.

### 4.1 A non-exhaustive list of concepts developed and used by Social Platform members on various forms of violence and their consequences

While various forms of bias violence have certain patterns in common, **victims of bias violence may also be targeted because of more than one of their characteristics**, very much like in the case of multiple discrimination and social exclusion. For example an older Roma woman living in poverty and social exclusion who experiences violence can be targeted on more than one ground/characteristic or the combination of several, such as her gender, ethnicity, age and socio-economic status and the likelihood of whether she would report the incident.

- **Violence against women and girls** is defined as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic 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>14</sup>. Violence against women and "gender-based violence against women" are also defined in the Convention on the elimination of all forms of discrimination against women (CEDAW) and in the Beijing Platform of Action.
  - Violence against women and girls is a major structural form of bias violence, as women and girls represent 50% of the population of any country/region and of the EU. Women and girls are present in all groups of the population, being discriminated against on the basis of their sex and gender, as well as often on the basis of other characteristics too, such as disability, age, sexual orientation, gender identity, ethnic origin, etc.
- **Gender based violence** includes violence against women as well as homophobic and transphobic violence
  - CEDAW General Recommendation 19: '*Gender-based violence against women is violence that is directed against a woman because she is a woman or that affects women disproportionately, and includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty*'
  - The UN High Commissioner for Human Rights, in a Report on Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity<sup>15</sup>, published in December 2011, defines homophobic and transphobic attacks as "a form of gender based violence, driven by a desire to punish those seen as defying gender norms." The report recognised that "violence against LGBT persons tends to be especially vicious compared to other bias-motivated crimes", since it "often show[s] a high degree of cruelty and brutality and include beatings, torture, castration and sexual assault."

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<sup>14</sup> According to the Council of Europe's Convention on preventing and combating violence against women and domestic violence

<sup>15</sup> [http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41\\_English.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf)

- **“Homophobic and transphobic violence”** are defined as violence targeting people because of their actual or perceived sexual orientation or gender identity. Such violence is addressed by Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity. **“LGBTI-phobic violence”** is also used to refer to laws, regulations or incidents targeting lesbian, gay, bisexual, trans and intersex people. It also includes institutionalized forms, such as treating a person as criminal or mentally ill for a variance in their sexual orientation, gender identity or gender expression. Most prominent examples are requirements of a mandatory mental health diagnosis and forced sterilization in legal gender recognition for transgender people.
  - Homophobic hate crime and incidents often show a high degree of cruelty and brutality. They often involve severe beatings, torture, mutilation, castration, even sexual assault. They are also very likely to result in death. Transgender people seem to be even more vulnerable within this category<sup>16</sup>.
- **“Racist and xenophobic violence”** is defined as violence triggered by a bias based on race, colour, descent, national or ethnic origin, religious affiliation, or legal and/or migrant status. Relevant instruments at international level include the International convention on the elimination of all forms of racial discrimination (ICERD) and the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families which affirms the right to effective protection from violence and imposes sanctions on those using violence, threats or intimidation against migrant workers or members of their families, including those in an irregular situation.
- **“Anti-Gypsyism”** is a persistent, violent form of racism specifically targeting Roma and Sinti communities. Anti-Gypsyism is “an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination”<sup>17</sup>.
- **“Elder abuse”/ “Ageist violence”** refers to “a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person”. Elder abuse can take various forms such as physical, psychological or emotional, sexual and financial abuse, but also neglect. It can also be the result of intentional or unintentional neglect<sup>18</sup> or “bad care”.
- **“Violence perpetrated against children”** refers to all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s), or any other person who has the care of the child. The Convention on the rights of the child (UNCRC), and its optional protocols are key instruments in this area. Once entered into force, the new optional protocol on a

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<sup>16</sup> OSCE/ODIHR (2007) Hate Crimes in the OSCE Region: Incidents and Responses; Annual report for 2006; Warsaw: OSCE/ODIHR, p. 53f

<sup>17</sup> ECRI, 2011:3 – General Policy Recommendation No. 13

<sup>18</sup> [http://www.who.int/ageing/projects/elder\\_abuse/en/](http://www.who.int/ageing/projects/elder_abuse/en/)

complaints procedure can be a powerful instrument as it will enable children to seek redress for violations of their rights at international level.

- **“Violence against people with disabilities”** refers to all forms of exploitation, violence and abuse targeting persons with disabilities, both within and outside the home. Such violence includes rape, forced sterilization, coerced abortions and involuntary treatment. Actions of this type can amount to torture or inhuman or degrading treatment. The UN Convention on the rights of persons with disabilities is the key instrument in this area and more in particular Article 16 that put specific emphasis on violence against children and women with disabilities.
- **“Violence against people with mental health problems”** and **“violence against users of psychiatry”** are a form of violence against people with disabilities, which can also take place in health institutions and when users of psychiatry are forced to undertake any type of involuntary treatment. People with mental health problems are even more vulnerable to violence when they face difficulties to report because of health reasons, and when they are placed under guardianship and cannot launch complaint procedures by themselves.
  - Women living in institutions are particularly vulnerable to this kind of violence. Discriminatory legislation which fails to recognize the autonomy and legal capacity of persons with disabilities, for example legislation authorizing guardianship and commitment to institutions, increases their vulnerability to violence as well as impunity. This legislation forms part of systematic violence against them, particularly women with general support needs, mental or intellectual disabilities.
- **“Institutional violence”** can occur in certain contexts, including **“police violence”** with law enforcement officials as violent perpetrators or a hindrance in prosecution of bias violence. Some forms of **“state-sponsored violence”** target certain groups, e.g. gender recognition legislation in all EU countries prescribes transgender persons to obtain a severe mental health diagnosis, with 21 EU member states requiring proof of sterilization. Similarly, **“Administrative Violence”** refers to the denial of justice and services to survivors of violence on grounds of their administrative status. This structural discrimination contributes to a culture of impunity for bias violence.
- **Social exclusion/ Violence suffered by people in poverty;** People living in chronic poverty are often judged as those who commit violent acts, against which society must protect itself, forgetting that they are the victims of ongoing daily violence. They live in extreme poverty and suffer repeated violations of their rights, being made to feel guilty for not succeeding when projects which are intended for them do not fit their situation (they are rarely associated in these projects.) This attitude leads to the escalating criminalization of the poor by national authorities<sup>19</sup>.
  - **“Violence against homeless people”** is a highly prevalent case of bias violence based on social status, into which gender based bias is also often present. Criminalisation of homelessness is also a form of structural violence.

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<sup>19</sup> See the [World Development report 2011](#) as well as [UNESCO colloquium January 2012: Extreme poverty is violence. Breaking the silence. Searching for peace](#)

- **“Domestic violence”** or/and **“Intra-familial violence”** where all family members, especially in the majority of cases women and girls regarding victims, may be victims, perpetrators or witnesses.
- **“Cyber-bullying”** on the internet, **“peer violence”** in the case of schools or **“mob violence”** in public places.
- **Violence by association** is violence and discrimination towards individuals, children and adults, and families in reason of their relation with a family member with e.g. disabilities, ethnic or migrant background, sexual orientation, gender identity etc.
- **Torture and other cruel inhuman or degrading treatments** can also take place in the case of acts of bias violence in all the above mentioned cases.

## 4.2 Facts and Figures

- **“Poverty is a cause and a consequence of human rights violation and an enabling condition for other violations** (---) Persons living in extreme poverty are often exposed to both institutional and individual risks of violence and threats to their physical integrity from both State agents and private actors, living in constant fear of insecurity. (---) Those living in poverty, with little or no economic independence, have fewer possibilities of finding security and protection. Women and girls living in poverty are particularly affected by gender-based violence.”<sup>20</sup>
- **Violence against women affects approximately 45% of all women across Europe.** An estimated one-fifth of women in the EU suffer from violence within the home and more than one in ten women is a victim of sexual violence involving the use of force: in the UK, 80 000 women experience rape or attempted rape; in France, one woman is killed every three days by her partner.
  - Between 40 and 50% of women report some form of sexual harassment in the workplace
  - One in four female students on UK campuses said they had been subjected to an unwanted sexual experience while at university or college.
  - In Europe, 7 women die every day from domestic violence
  - An estimated one in five women has been a victim of domestic violence
  - Women with disabilities are 4 times more likely to experience sexual violence.
  - 180 000 women are at risk of being subjected to female genital and sexual mutilation every year.
  - The annual cost of domestic violence in the 27 Member States is estimated to be as high as 16 billion Euros, amounting to 1 million Euros every half hour, whereas the annual budgets of EU MS for prevention programs of male violence are 1000 times less.
  - Lesbian and bisexual women face targeted sexual harassment and abuse.

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<sup>20</sup> Special Rapporteur on extreme poverty and human rights Ms. Sepúlveda Carmona, draft report A/HRC/21/39

- Third-country national women are denied access to shelters; undocumented women can face deportation when reporting facts of male violence.
  - In the UK, one in 5 homeless women has resorted to prostitution to escape a night on the streets.
  - Only Sweden has a National Action Plan covering all forms of violence against women.
  - In Lithuania, marital rape is still not considered as a criminal offence (exemption in the law)
- **The economic crises has had severe impact on violence against women;** for example: **Hungary:** crisis centers saw the number of available places for women halved due to financial cuts and lack of political support. **Ireland:** an Irish NGO (Ruhama) working to support women affected by prostitution, has experienced budgetary cuts of up to 30% from statutory funders in the last 3 years. **Spain:** In 2012, nearly a hundred feminist organizations witness that cuts affecting equality and welfare state policies are particularly harmful for women. The public equality agency, besides being demoted, has had its budget reduced by 19.9% (the fight against violence against women, by 21.3%) while the overall ministries funds have gone down by 16.9%<sup>21</sup>.
  - **While homophobic and transphobic violence is reported in all Europe, one third of EU member states have neither legal provision nor policies to tackle this form of violence.** According to civil society organizations data, violence occurs in all social contexts, including public settings, families, neighborhood of the victim, workplace, schools, medical institutions, etc.
  - **Nearly every person who is visible as transgender has experienced some form of harassment in public ranging from transphobic comments to physical or sexual abuse:** 79% in the EU. More than 800 reports of murdered trans persons have been recorded between 2008-2011 globally; within 53 homicides alone in Europe. This is only the reported tip of the iceberg – the reality for trans people is expected to be much worse.
  - **More than 5000 homophobic and transphobic hate crimes** were reported to the police in the UK (2010), according to official figures, while the British Crime Survey suggest that as many as 5000 homophobic crimes incidents occur every year in England and Wales.
  - Survey of older people living in the community suggest (...) about 2.7% of older people have experienced maltreatment in the form of physical abuse – equivalent to **4 million people aged 60 years and older in Europe**. For sexual abuse, the proportion is lower at 0.7%, equivalent to 1 million older people; for mental abuse, this is far higher at 19.4%, equivalent to 29 million older people; and 3.8% have been subjected to financial abuse, equivalent to 6 million<sup>22</sup>.
  - **Children have a right to be protected from all violence**, including physical punishment in the home and other settings. As at November 2011, 16 EU states have prohibited the physical punishment of children in all settings. In a further six states, governments have made a

<sup>21</sup> [NEW WIDE PLUS report](#) on how the European crises is impacting women's lives, report from the session at the AWID Forum. May 2012

<sup>22</sup> [http://www.euro.who.int/\\_data/assets/pdf\\_file/0010/144676/e95110.pdf](http://www.euro.who.int/_data/assets/pdf_file/0010/144676/e95110.pdf)

commitment to enacting full prohibition and/or draft legislation which would achieve full prohibition is under consideration in parliament. Four states (Belgium, France, Malta and the United Kingdom) have yet to make a commitment to law reform and Italy has still to confirm the 1996 Supreme Court through law reform.

- **Roma have experienced violence for many centuries.** They were victims of genocide during the Second World War which led to more than 250,000 deaths<sup>23</sup>. The Roma still experience racist violence and crime throughout the EU. According to the FRA EU-MIDIS Report on Roma (2009), a) 1 in 4 Roma respondents were victims of personal crime – including assaults, threats and serious harassment – at least once in the previous 12 months; b) 1 in 5 Roma respondents were victims of racially motivated personal crime – including assaults, threats and serious harassment – at least once in the previous 12 months; c) Roma who were victims of assault, threat or serious harassment experience on average four incidents over a 12 months period; and d) 81% of Roma who indicated they were victims of assault, threat or serious harassment in the previous 12 months considered that their victimization was racially motivated.
- **1.9 to 3.8 million irregular migrants was staying in the EU in 2008<sup>24</sup>. Because of their irregular migration status they are vulnerable to exploitation and abuse and often face legal and practical barriers in accessing basic services and justice** thus reducing the law's deterrent effect and making irregular migrants more vulnerable to discrimination and violence on the basis of their race, gender, sexuality or ethnicity.
  - The EU Fundamental Rights Agency<sup>25</sup> has recommended that member states recognize and support the key role of NGOs and trade unions in facilitating access to justice for irregular migrants and ensure that effective mechanisms are in place allowing irregular migrants to lodge complaints against their employers, building on the provision of the Employers Sanction Directive (Directive 2009/52). Furthermore, the FRA has requested that practical barriers to access justice should be removed by ensuring, where possible, that any personal data revealing migrants' identity or whereabouts are not shared with immigration enforcement bodies when migrants seek redress.
- 16% of women have a disability in Europe and most of them are facing multiple forms of discrimination on the grounds of both disability and gender. Many testimonies of women with disabilities, primarily women with intellectual impairments or psychological disabilities show that they are still being deprived of their right to found a family and to their bodily integrity.

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<sup>23</sup> Council of Europe, Factsheet on Holocaust

<sup>24</sup> According to the European Commission-funded Clandestino project

<sup>25</sup> Opinions included in the FRA report '[Fundamental rights of migrants in an irregular situation in the European Union](#)' (2011)

## For more information

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