



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Thirty-ninth session**

23 July-10 August 2007

**Views**

**Communication No. 6/2005**

*Submitted by:* The Vienna Intervention Centre against Domestic Violence and the Association for Women's Access to Justice on behalf of Banu Akbak, Gülen Khan, and Melissa Özdemir (descendants of the deceased)

*Alleged victim:* Fatma Yildirim (deceased)

*State party:* Austria

*Date of communication:* 21 July 2004 with supplementary information dated 22 November and 10 December 2004 (initial submissions)

On 6 August 2007, the Committee on the Elimination of Discrimination against Women adopted the annexed text as the Committee's views under article 7, paragraph 3, of the Optional Protocol in respect of communication No. 6/2005. The views are appended to the present document.

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\* Reissued for technical reasons.



## Annex

### **Views of the Committee on the Elimination of Discrimination against Women under article 7, paragraph 3, of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (thirty-ninth session)**

#### **Communication No. 6/2005\***

<i>Submitted by:</i>	The Vienna Intervention Centre against Domestic Violence and the Association for Women's Access to Justice on behalf of Banu Akbak, Gülen Khan, and Melissa Özdemir (descendants of the deceased)
<i>Alleged victim:</i>	Fatma Yildirim (deceased)
<i>State party:</i>	Austria
<i>Date of communication:</i>	21 July 2004 with supplementary information dated 22 November and 10 December 2004 (initial submissions)

*The Committee on the Elimination of Discrimination against Women*, established under article 17 of the Convention on the Elimination of All Forms of Discrimination against Women,

*Meeting on 6 August 2007,*

*Having concluded* its consideration of communication No. 6/2005, submitted to the Committee on the Elimination of Discrimination against Women by the Vienna Intervention Centre against Domestic Violence and the Association for Women's Access to Justice on behalf of Banu Akbak, Gülen Khan, and Melissa Özdemir, descendants of Fatma Yildirim (deceased), under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,

*Having taken into account* all written information made available to it by the authors of the communication and the State party,

*Adopts* the following:

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\* The following members of the Committee participated in the examination of the present communication: Ms. Ferdous Ara Begum, Ms. Magalys Arocha Dominguez, Ms. Meriem Belmihoub-Zerdani, Ms. Saisuree Chutikul, Ms. Mary Shanthi Dairiam, Mr. Cees Flinterman, Ms. Naela Mohamed Gabr, Ms. Françoise Gaspard, Ms. Violeta Neubauer, Ms. Pramila Patten, Ms. Silvia Pimentel, Ms. Fumiko Saiga, Ms. Heisoo Shin, Ms. Glenda P. Simms, Ms. Dubravka Šimonović, Ms. Anamah Tan, Ms. Maria Regina Tavares da Silva and Ms. Zou Xiaojiao.

## Views under article 7, paragraph 3, of the Optional Protocol

1. The authors of the communication dated 21 July 2004 with supplementary information dated 22 November and 10 December 2004, are the Vienna Intervention Centre against Domestic Violence and the Association for Women's Access to Justice, two organizations in Vienna, Austria, that protect and support women victims of gender-based violence. They claim that Fatma Yildirim (deceased), an Austrian national of Turkish origin and former client of the Vienna Intervention Centre against Domestic Violence, is a victim of a violation by the State party of articles 1, 2, 3 and 5 of the Convention on the Elimination of All Forms of Discrimination against Women. The Convention and its Optional Protocol entered into force for the State party on 30 April 1982 and 22 December 2000, respectively.

### The facts as presented by the authors

2.1 The authors state that Fatma Yildirim married Irfan Yildirim on 24 July 2001. She had three children from her first marriage,<sup>1</sup> two of whom are adults. Her youngest daughter, Melissa, was born on 30 July 1998.

2.2 Irfan Yildirim reportedly threatened to kill Fatma Yildirim for the first time during an argument while the couple was on a trip to Turkey in July 2003. On their return to Austria, they constantly argued. Fatma Yildirim wanted to divorce Irfan Yildirim, but he would not agree and threatened to kill her and her children should she divorce him.

2.3 On 4 August 2003, fearing for her life, Fatma Yildirim and her five-year-old daughter, Melissa, moved in with her eldest daughter, Gülen, at 18/29-30 Haymerlegasse. On 6 August 2003, believing that Irfan Yildirim was at work, she returned to their apartment to pick up some of her personal belongings. Irfan Yildirim entered the apartment while she was still there. He grabbed her wrists and held her — but she managed to escape. Subsequently, he called her on her cell phone and threatened to kill her again and she went to the Vienna Federal Police, District Department Ottakring, to report Irfan Yildirim for assault and for making a criminal dangerous threat.

2.4 On 6 August 2003 the police issued an expulsion and prohibition to return order against Irfan Yildirim covering the apartment pursuant to section 38a of the Security Police Act (Sichersheitspolizeigesetz)<sup>2</sup> and informed the Vienna Intervention Centre against Domestic Violence and the Youth Welfare Office of the issuance of the order and the grounds therefore. The police also reported to the Vienna Public Prosecutor on duty that Irfan Yildirim had made a criminal dangerous threat against Fatma Yildirim and requested that Irfan Yildirim be detained. The Public Prosecutor rejected that request.

2.5 On 8 August 2003, with the assistance of the Vienna Intervention Centre against Domestic Violence, Fatma Yildirim applied on her own behalf and on behalf of her youngest daughter, to the Vienna District Court of Hernals for an interim injunction against Irfan Yildirim. The Vienna District Court of Hernals informed the Vienna Federal Police, District Department Ottakring, about the application.

2.6 That same day, Irfan Yildirim appeared at Fatma Yildirim's workplace and harassed her. The police were called in to settle the dispute, but they did not report the incident to

<sup>1</sup> Signed consent forms from two adult children and one minor represented by her father have been received.

<sup>2</sup> This act has been translated as both the Security Police Act and the Maintenance of Law and Order Act.

the Public Prosecutor. Later on, Irfan Yildirim threatened Fatma Yildirim's 26-year-old son, who reported the incident to the police.

2.7 On 9 August, Irfan Yildirim threatened to kill Fatma Yildirim at her workplace. She called the police from her cell phone. By the time that the police arrived at Fatma Yildirim's workplace Irfan Yildirim had left — but was ordered to return there and the police spoke to him. Fatma Yildirim reported Irfan Yildirim to the police again after he threatened her and her son later that night and the police responded by speaking to him on his cell phone.

2.8 On 11 August 2003, Irfan Yildirim came to Fatma Yildirim's workplace at 7:00 pm. He stated that his life was over, that he would kill her and that her homicide would appear in the newspaper. When she called the police, Irfan Yildirim ran away. The police passed on the complaint to police inspectorate 17.

2.9 On 12 August 2003, a staff member (name is given) of the Vienna Intervention Centre against Domestic Violence informed the police at the Vienna Federal Police, District Department Ottakring, by fax message of the death threats made on 9 and 11 August 2003, of the harassment at Fatma Yildirim's workplace, and of her application for an interim injunction. The police were given Fatma Yildirim's new cell phone number so that the police would always be able to reach her. The police were also asked to pay more attention to her case.

2.10 On 14 August 2003, Fatma Yildirim gave a formal statement about the threats made to her life to the police, who in turn reported to the Vienna Public Prosecutor on duty, requesting that Irfan Yildirim be detained. Again, this request was refused.

2.11 On 26 August 2003, Fatma Yildirim filed a petition for divorce at the Vienna District Court of Hernals.

2.12 On 1 September 2003, the Vienna District Court of Hernals issued an interim injunction pursuant to section 382b of the Act on the Enforcement of Judgments (Exekutionsordnung) against Irfan Yildirim for Fatma Yildirim valid until the end of the divorce proceedings and an interim injunction for Melissa valid for three months. The order forbade Irfan Yildirim from returning to the family's apartment and its immediate surroundings, from going to Fatma Yildirim's workplace and from meeting or contacting Fatma Yildirim or Melissa.

2.13 On 11 September 2003, at approximately 10:50 pm, Irfan Yildirim followed Fatma Yildirim home from work and fatally stabbed her on Roggendorfgasse, which is near the family's apartment.

2.14 Irfan Yildirim was arrested while trying to enter Bulgaria on 19 September 2003. He has been convicted of killing Fatma Yildirim and is serving a sentence of life imprisonment.

### **The complaint**

3.1 The authors complain that Fatma Yildirim is a victim of a violation by the State party of articles 1, 2, 3 and 5 of the Convention on the Elimination of All Forms of Discrimination against Women because of the failure of the State party to take all appropriate positive measures to protect Fatma Yildirim's right to life and personal security. In particular, the authors allege that communication between the police and Public Prosecutor did not adequately allow the Public Prosecutor to assess the danger posed by Irfan Yildirim and that on two occasions the Public Prosecutor should have requested the

investigating judge to order the detention of Irfan Yildirim under section 180, paragraph 2, subparagraph 3 of the Code of Criminal Procedure (Strafprozessordnung).

3.2 The authors further contend that the State party also failed to fulfil its obligations stipulated in general recommendations Nos. 12, 19 and 21, of the Committee on the Elimination of Discrimination against women, the United Nations Declaration on the Elimination of Violence against Women, the concluding comments of the Committee (June 2000) on the combined third and fourth periodic report and the fifth periodic report of Austria, the United Nations Resolution on Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women, several provisions of the outcome document of the twenty-third special session of the General Assembly, article 3 of the United Nations Universal Declaration of Human Rights, articles 6 and 9 of the International Covenant on Civil and Political Rights, several provisions of other international instruments, and the Austrian Constitution.

3.3 With regard to article 1 of the Convention, the authors contend that in practice the criminal justice system predominantly and disproportionately negatively affects women. They mention in particular that women are far more affected than men by the failure of public prosecutors to request that alleged offenders be detained. They are also disproportionately affected by the practice of not appropriately prosecuting and punishing offenders in domestic violence cases. Furthermore, women are disproportionately affected by the lack of coordination of law enforcement and judicial personnel, the failure to educate law enforcement and judicial personnel about domestic violence and the failure to collect data and maintain statistics on domestic violence.

3.4 With regard to article 1 together with article 2 (a), (c), (d) and (f) and article 3 of the Convention, the authors maintain that the lack of detention of offenders in domestic violence cases, inadequate prosecution and lack of coordination amongst law enforcement and judicial officials and the failure to collect data and maintain statistics of incidences of domestic violence resulted in inequality in practice and the denial of Fatma Yildirim's enjoyment of her human rights.

3.5 With regard to articles 1 together with 2 (e) of the Convention, the authors state that the Austrian criminal justice personnel failed to act with due diligence to investigate and prosecute acts of violence and protect Fatma Yildirim's human rights to life and personal security.

3.6 With regard to article 1 together with article 5 of the Convention, the authors claim that the murder of Fatma Yildirim is one tragic example of the prevailing lack of seriousness with which violence against women is viewed by the public and by the Austrian authorities. The criminal justice system, particularly public prosecutors and judges, consider the issue a social or domestic problem, a minor or petty offence that happens in certain social classes. They do not apply criminal law to such violence because they do not take the danger seriously.

3.7 The authors request the Committee to assess the extent to which there have been violations of the victim's human rights and rights protected under the Convention and the responsibility of the State party for not detaining the dangerous suspect. The authors also request the Committee to recommend that the State party offer effective protection to women victims of violence, particularly migrant women, by clearly instructing public prosecutors and investigating judges what they ought to do in cases of severe violence against women.

3.8 The authors request the Committee to recommend to the State party, to implement a “pro-arrest and detention” policy in order to effectively provide safety for women victims of domestic violence and a “pro-prosecution” policy that would convey to offenders and the public that society condemns domestic violence and ensure coordination among the various law enforcement authorities. They also request the Committee generally to use its authority under article 5, paragraph 1 of the Optional Protocol concerning interim measures as it did in *A. T. v Hungary* (communication No. 2/2003).

3.9 The authors also request the Committee to recommend to the State party to ensure that all levels of the criminal justice system (police, public prosecutors, judges) routinely cooperate with organizations that work to protect and support women victims of gender-based violence and to ensure that training programmes and education on domestic violence is compulsory.

3.10 As to the admissibility of the communication, the authors maintain that there are no other domestic remedies that could possibly have been taken to protect Fatma Yildirim’s personal security and to prevent her homicide. Both the expulsion and prohibition to return order and the interim injunction proved ineffective.

3.11 In the submission of 10 December 2004 it is said that Fatma Yildirim’s youngest child (represented by her biological father) has brought a civil action under the Act on Official [State] Liability.<sup>3</sup> Under this Act the children are able to sue the State for compensation for psychological damages, expenses for psychotherapy in order to cope with the death of their mother, compensation for funeral costs and child support for the youngest child. The authors contend that this is not an effective remedy for the lack of protection of Fatma Yildirim and the failure to prevent her homicide. Suing for omissions and negligence does not bring her back and serves the different purpose of providing compensation for a sustained loss and damages. The two approaches, compensation on the one hand and protection on the other are opposites. They differ in respect of the beneficiary (the heirs versus the victim), what the intentions are (to compensate for loss versus to save a life) and timing (after death rather than prior to death). If the State party protected women effectively, there would be no need to establish State liability. Additionally, compensation suits entail huge costs. The authors state that they have submitted the communication in order to call the State party to account for its omissions and negligence rather than to obtain compensation for the heirs. Finally, suing the State party would be unlikely to bring effective relief in accordance with article 4 of the Optional Protocol.

3.12 The authors also state that they have not submitted the communication to any other body of the United Nations or any regional mechanism of international settlement or investigation.

3.13 On the issue of *locus standi*, the authors maintain that it is justified and appropriate for them to submit the complaint on behalf of Fatma Yildirim — who cannot give consent because she is dead. They consider it appropriate to represent her before the Committee because she was a client of theirs and had a personal relationship to them and because they are special protection and support organizations for women victims of domestic violence; one of the two organizations is an intervention centre against domestic violence that was reportedly established pursuant to Section 25, paragraph 3 of the Federal Security Police Act. They are seeking justice for Fatma Yildirim and to improve the protection of women

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<sup>3</sup> The earlier submission of 27 July 2004 states that the children are suing the Vienna Federal Police and the Ministry of the Interior or the Vienna Public Prosecutor and the Ministry of Justice, respectively.

in Austria from domestic violence so that her death would not be in vain. This being said, the authors have obtained the written consent of the adult children and of the father of the child who is still a minor.

#### **The State party's submission on admissibility**

4.1 By its submission of 4 May 2005, the State party confirms the facts of the communication and adds that Irfan Yildirim was sentenced to life imprisonment by the final judgment of the Vienna Regional Criminal Court (Landesgericht für Strafsachen) of 14 September 2004 on charges of murder and making a dangerous criminal threat.

4.2 Melissa Özdemir, the minor daughter of the deceased officially filed liability claims against Austria, which were, however, rejected because the Court considered that the measures taken by the Vienna Public Prosecutor's Office were justifiable. The Public Prosecutor had to consider *ex ante* the issue of filing a request for detention and — in addition to examining the further requirements — had to weigh the basic right to life and physical integrity of the person filing the complaint against the basic right to freedom of the suspect, who had no criminal record at the time and did not give the impression to the intervening police officers of being highly aggressive. That this assessment later proved insufficient, despite a comprehensive evaluation of the relevant circumstances, did not make the Public Prosecutor's action unjustifiable. Melissa Özdemir may still assert her claims under civil law.

4.3 The State party argues that the Federal Act for the Protection against Violence within the Family (Bundesgesetz zum Schutz vor Gewalt in der Familie) constitutes a highly effective system to combat domestic violence and establishes a framework for effective cooperation among various institutions. Police officers are able to order a potential offender to leave (Wegweisung). A prohibition order to enter the common home (Betretungsverbot) is issued if there are no grounds for detention under the penal code and "less severe" means are to be used. The law provides for victim support by intervention centres against violence within the family. Police officers are obliged to notify such a centre when a prohibition order is issued. The centre subsequently must support and advise the victim — but does not have the right to represent the person concerned. These prohibition orders are usually valid for 10 days. When the person concerned files an application with a court for an interim injunction the prohibition order is extended to 20 days. In addition to the penal measures, there are a number of police and civil-law measures to protect against domestic violence. The system is supplemented by shelters. It is possible to settle disputes in less severe cases under the Maintenance of Law and Order Act (Sicherheitspolizeigesetz). Section 382b of the Act on the Enforcement of Judgments (Executionsordnung) allows courts to issue injunctions against alleged offenders for a period of three months. The period may be extended under certain circumstances at the request of the alleged victim.

4.4 The State party also argues that special training courses are held on a regular basis for judges and the police on domestic violence. Cooperation between judges and the police is constantly reviewed in order to ensure more rapid intervention by organs of the State — the aim being to prevent as far as possible the tragedy that befell Fatma Yildirim without improper interference into a person's family life and other basic rights. Such tragedies do not indicate discrimination against women under the Convention.

4.5 The State party suggests that the imposition of detention constitutes massive interference with a person's fundamental freedoms, which is why detention may only be imposed as *ultima ratio*. The proportionality assessment is a forward-looking evaluation of

how dangerous the person concerned is and whether that person will commit an offence that must be weighed against a suspect's fundamental freedoms and rights. Moreover, Irfan Yildirim had no criminal record, did not use a weapon and appeared quiet and cooperative to the police officers who intervened. Fatma Yildirim had no apparent injuries. On this basis, and taking into account that a suspect must be presumed innocent, the Public Prosecutor finally decided in the concrete case not to file a request to detain Irfan Yildirim because — from an *ex ante* point of view — this would not have been proportionate.

4.6 The State party furthermore argues that the persons who are now intervening on behalf of the victim would have been free to address the Constitutional Court on grounds that no appeal was available to Fatma Yildirim against the Public Prosecutor's failure twice to comply with the request to issue an arrest warrant. Her surviving dependants might be free under article 140, paragraph 1 of the Federal Constitution to challenge the pertinent provisions of the penal code before the Constitutional Court. They could claim to be currently and directly affected, stating that they have a current and direct interest in the preventive effect of an annulment of the pertinent provisions for the benefit of victims of domestic violence such as Fatma Yildirim. This Court would be the competent one to review the relevant legal provisions and to set them aside, if necessary.

#### **The author's comments on the State party's observations on admissibility**

5.1 By their submission of 31 July 2005, the authors contend that the victim and the authors have exhausted all domestic remedies, which would have been likely to bring sufficient relief. They argue that the fact that the daughter of the deceased may still bring a civil action should not prevent them from submitting a communication, and has no legal effect on admissibility.

5.2 The authors also are of the view that the idea of requiring a woman who is under threat of death to file an application to the Constitutional Court was not an argument put forward by the State party in good faith. The procedure lasts for some two to three years and for this reason would be unlikely to bring sufficient relief to a woman who has been threatened with death.

5.3 The authors dispute the State party's interpretation of the fact that the Public Prosecutor did not order that Irfan Yildirim be detained. He had been aware of all the violent incidents. The Public Prosecutor would have reacted differently had a public figure received death threats; the alleged offender would have very likely been arrested immediately and the public figure would have had police protection until the arrest. To the contention of the State party that Irfan Yildirim had not given the impression to the intervening police officers of being highly aggressive, the authors argue that his aggression was directed towards Fatma Yildirim and not the police and that the type of risk assessment used by the authorities was simplistic and unprofessional. The case of Fatma Yildirim shows that even when the victim reported all incidents and threats and is willing to authorize prosecution of an alleged offender, the Public Prosecutor does not offer effective protection from further violence. The Public Prosecutor had no contact with the alleged offender and relied on oral reports from a lawyer in the police department who had no direct experience with the case or direct contact with the deceased. The evaluation of how dangerous Irfan Yildirim was had not been comprehensive and important facts had not been taken into account or taken seriously enough. Irfan Yildirim may not have had a criminal record, but police reports had mentioned the death threats that he had made. Hence there was no protection against an alleged offender who had never been convicted.



**Additional comments of the State party on admissibility**

6.1 By its submission of 21 October 2005, the State party fully maintains its previous submission.

6.2 The State party points out that the authors state that it is not possible to complain against those decisions made by the Public Prosecutor against detaining alleged offenders or against prosecuting them. They contend that the measures provided under the Federal Law on Protection against Domestic Violence are not efficient enough to protect women really effectively. They also mention that the Public Prosecutor may only request that a suspect be placed in detention if the Public Prosecutor also decides to conduct a criminal investigation and prosecute. Hence, the authors refer to alleged failures of the competent Public Prosecutor and investigating judge as well as to the law, itself — i.e. to the application of the law and the legal framework.

6.3 Any individual may challenge the constitutionality of legal provisions so long as he/she alleges direct infringement of individual rights insofar as the law has become operative for that individual — without the delivery of a decision or ruling by the courts (Individualantrag). There are no time limits for filing such an application.

6.4 The aim of the procedure would be to redress an alleged violation in law. The Constitutional Court only considers the application legitimate if in repealing the provision at issue, the legal position of the applicant would be changed to such an extent that the alleged negative legal implications no longer exist. Furthermore, the legally protected interests of the applicant must be actually affected. This must be the case both at the time that the application is filed and when the Constitutional Court takes its decision. Successful applicants are entitled to compensation.

6.5 Section 15 of the Constitutional Court Act (Verfassungsgerichtshofgesetz) contains the general requirements as to form when addressing the Constitutional Court. These requirements include: that the application must be in writing; that the application must refer to a specific provision in the Constitution; the applicant must set out the facts; and the application must contain a specific request. Under section 62, paragraph 1 of the Act, the application must state precisely which provisions should be repealed. Moreover, the application must explain in detail why the challenged provisions are unlawful and to what extent the law had been operative for the applicant without the delivery of a judicial decision or ruling. Under section 17, paragraph 2 of the Act, applications must be filed by an authorized lawyer.

6.6 If the Constitutional Court concludes that the challenged provisions are contrary to the Constitution, it issues a ruling setting aside these provisions. The Federal Chancellor will then be under an obligation to promulgate the repeal of these provisions in the Federal Law Gazette (Bundesgesetzblatt), which comes into force at the end of the day of its promulgation. The Constitutional Court may also set a maximum deadline of 18 months for the repeal — which does not necessarily apply to the applicants, themselves. A time limit is fixed if the legislature is to be given an opportunity to introduce a new system that complies with the constitutional framework. In light of its previous decisions, it can be assumed that the Constitutional Court would make use of this possibility if the Court were to decide that a provision should be repealed.

6.7 The State party admits that proceedings before the Constitutional Court under article 140, paragraph 1 of the Federal Constitution do not provide an avenue of very rapid redress. However, article 4, paragraph 1 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women prescribes the exhaustion of all

available domestic remedies unless the proceedings would be unreasonably prolonged or no effective relief could be expected.

6.8 The requirement of exhausting domestic remedies reflects a general principle of international law and a usual element of international human rights mechanisms. It gives the State concerned an opportunity to remedy human rights violations first at the domestic level (subsidiarity of the international instrument of legal protection).

6.9 In the concrete case, the individual application should state in detail which elements or words in the legal provision should be repealed. In the present case, it appears, that the relevant words appear to be “only upon the Public Prosecutor’s request”, in section 180, paragraph 1 of the Code of Criminal Procedure (Strafprozessordnung). An application to the Constitutional Court would need to set out all legal provisions which, in the applicants’ view, are contrary to their interest in asserting their rights guaranteed by the Constitution.

6.10 The State party maintains that the surviving relatives of Fatma Yildirim should have made use of the possibility of filing an individual application before the Constitutional Court before addressing the Committee, as required by article 4, paragraph 1 of the Optional Protocol. The proceedings before the Constitutional Court are not unreasonably prolonged. Moreover, it cannot be said, in light of the case law of the Court, that the surviving relatives would not be entitled to file an individual application because — as far as can be seen — no similar cases have been brought before the Court.

6.11 Article 4, paragraph 1 of the Optional Protocol does not only include remedies that are always successful. Then again, the authors have not alleged that the constitutional procedure under article 140, paragraph 1 of the Federal Constitution is totally unsuitable as a remedy. The authors aim to bring effective relief with respect to the effective protection of women’s life and personal security. To that end, it would have been possible to initiate the procedure to amend the problematic legal provisions by filing an individual application with the Constitutional Court.

6.12 Although it is true that, after her death, there is no effective relief with respect to the protection of the life and personal security of Fatma Yildirim, it is Austria’s view that this question should not be examined at the admissibility stage of the proceedings under the Optional Protocol. The question is rather whether her surviving relatives would have had an opportunity to make use of a remedy that is suited to repealing legal provisions at the domestic level in order to realize their aims.

#### **Issues and proceedings before the Committee concerning admissibility**

7.1 During its thirty-fourth session (16 January-3 February 2006), the Committee considered the admissibility of the communication in accordance with rules 64 and 66 of its rules of procedure. It ascertained that the matter had not already been or was being examined under another procedure of international investigation or settlement.

7.2 With regard to article 4, paragraph 1 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (the domestic remedies rule), the Committee noted that authors must use the remedies in the domestic legal system that were available to them and would enable them to obtain redress for the alleged violations. The substance of their complaints that were subsequently brought before the Committee should first be made to an appropriate domestic body. Otherwise, the motivation behind the provision would be lost. The domestic remedies rule was designed so that States parties have an opportunity to remedy a violation of any of the rights set forth under the Convention through their legal systems before the Committee addresses the

same issues. The Human Rights Committee had recently recalled the rationale of its corresponding rule in *Panayote Celal, on behalf of his son, Angelo Celal, v. Greece* (1235/2003), paragraph 6.3:

“The Committee recalls that the function of the exhaustion requirement under article 5, paragraph 2 (b), of the Optional Protocol is to provide the State party itself with the opportunity to remedy the violation suffered ...”

7.3 The Committee noted that in communications denouncing domestic violence, the remedies that came to mind for purposes of admissibility related to the obligation of a State party concerned to exercise due diligence to protect; investigate the crime, punish the perpetrator, and provide compensation as set out in general recommendation 19 of the Committee.

7.4 The Committee considered that the allegations made relating to the obligation of the State party to have exercised due diligence to protect Fatma Yildirim were at the heart of the communication and were of great relevance to the heirs. Thus, the question as to whether domestic remedies had been exhausted in accordance with article 4, paragraph 1 of the Optional Protocol must be examined in relation to these allegations. The allegations essentially related to flaws in law as well as the alleged misconduct or negligence of the authorities in applying the measures that the law provided. With regard to alleged flaws in law, the authors claimed that, according to the Penal Code, Fatma Yildirim was unable to appeal against the decisions made by the Public Prosecutor not to detain her husband for making a criminal threat against her. The State party argued that a procedure, the aim of which would be to redress an alleged violation in law, was set out under article 140, paragraph 1 of the Federal Constitution and would have been available to the deceased and remains available to her descendants. The State party submitted that the failure of the deceased and her descendants to use the procedure should have barred the admissibility of the communication.

7.5 The Committee noted that the procedure under article 140 paragraph 1 of the Federal Constitution could not be regarded as a remedy which was likely to bring effective relief to a woman whose life was under a dangerous criminal threat. Neither did the Committee regard this domestic remedy as being likely to bring effective relief in the case of the deceased's descendants in light of the abstract nature of such a constitutional remedy. Accordingly, the Committee concluded that for purposes of admissibility with regard to the authors' allegations about the legal framework for the protection of women in domestic violence situations in relation to the deceased no remedies existed which were likely to bring effective relief and that the communication in this respect was therefore admissible. In the absence of information on other available, effective remedies, which Fatma Yildirim or her heirs could have pursued or still might have pursued, the Committee concluded that the authors' allegations relating to the actions or omissions of public officials were admissible.

7.6 The Committee noted that Melissa Özdemir, the minor daughter of the deceased filed liability claims against Austria, which were, however, rejected. It noted that the State party argued that claims may still be made under civil law. In the absence of information on this or any other available, effective remedies, which Fatma Yildirim or her heirs could have or still might have pursued, the Committee concluded that the authors' allegations relating to the actions or omissions of public officials were admissible.

7.7 On 27 January 2006, the Committee declared the communication admissible.

**The State party's request for a review of admissibility and submission on the merits**

8.1 By its submission of 12 June 2006, the State party requests the Committee to review its decision on admissibility. The State party reiterates that the descendants of Fatma Yildirim should avail themselves of the procedure under article 140, paragraph 1 of the Federal Constitution, because this is the only way within the Austrian system to assert that a legal provision should be amended. The Constitutional Court might take a decision that would aim to induce the legislator to enact without delay another regulation that would conform to the Constitution. Such decisions are always substantiated and often also contain references to the elements that a new regulation should contain. Therefore, the State party maintains that this remedy is quite effective to pursue the aim of the communication at the domestic level.

8.2 The State party refers to the liability proceedings pursued by Melissa Özdemir, the surviving minor daughter of Fatma Yildirim. It indicates that, at the time that the State party submitted its first observations, she had written a letter to the Austrian authorities asserting that she should be compensated by the Federal Government, represented by the Attorney General's Department.

8.3 The State party explains that in civil law, the Federal Government can be held liable for damage to property or persons when that damage is inflicted as a result of unlawful conduct. The State party specifies that the claims of Melissa Özdemir were not recognized by the Government of Austria because, in the circumstance of the case, the procedure followed by the Vienna Public Prosecutor's Office was considered to have been acceptable. Melissa Özdemir subsequently filed a court action against the Government of Austria. The decision dated 21 October 2005 of the first instance court, the Vienna Regional Civil Court (Landesgericht für Zivilrechtssachen), dismissed her action. The Vienna Court of Appeal (Oberlandesgericht) confirmed that decision on 31 May 2006.

8.4 The State party revisits the sequence of events leading up to the murder of Fatma Yildirim. As of July 2003, after Fatma Yildirim stated that she intended to divorce her husband, Irfan Yildirim, he had threatened her by phone and later at her place of work; his threats included that he would kill her. As of August 2003, Irfan Yildirim had also threatened to murder her son. On 4 August 2003, Fatma Yildirim moved out of the couple's apartment. Two days later she reported her husband to the police because of the threats. As a result, the police issued an expulsion and prohibition to return order against Irfan Yildirim and immediately informed the Public Prosecutor's Office thereof. The Public Prosecutor's Office decided to bring charges against him but did not order that he be detained. Subsequently, upon a request from Fatma Yildirim, the Hernals District Court issued an interim injunction, prohibiting her husband from returning to the couple's apartment and the immediate surroundings and her workplace as well as from contacting her. Despite police interventions and court orders, Irfan Yildirim made continuous efforts to contact Fatma Yildirim and threaten her. The Vienna Public Prosecutor instituted charges against Irfan Yildirim for making a criminal dangerous threat. The State party maintains that, at that time an arrest warrant seemed disproportionately invasive since Irfan Yildirim had no criminal record and was socially integrated. Irfan Yildirim killed Fatma Yildirim on 11 September 2003 on her way from her workplace to her home.

8.5 The State party further recalls that Irfan Yildirim was sentenced to life imprisonment on charges of murder pursuant to section 75 of the Penal Code (Strafgesetzbuch); the final judgment was rendered by the Vienna Regional Criminal Court on 14 September 2004. He is currently serving his sentence.

8.6 The State party notes that it is difficult to make a reliable prognosis as to how dangerous an offender is and that it is necessary to determine whether detention would amount to a disproportionate interference in a person's basic rights and fundamental freedoms. The Federal Act for the Protection against Violence within the Family aims to provide a highly effective yet proportionate way of combating domestic violence through a combination of criminal and civil-law measures, police activities and support measures. Close cooperation is required between criminal and civil courts, police organs, youth welfare institutions and institutions for the protection of victims, including in particular intervention centres for protection against violence within the family, as well as rapid exchange of information between the authorities and institutions involved. In the case of Fatma Yildirim, it is evident from the file that the Vienna Intervention Centre against Domestic Violence was informed by fax two hours after the expulsion and prohibition to return order against Irfan Yildirim entered into force.

8.7 The State party points out that, aside from settling disputes, the police issue expulsion and prohibition to return orders, which are less severe measures than detention. Section 38a, paragraph 7 of the Security Police Act requires the police to review compliance with expulsion and prohibition to return orders at least once in the first three days. In the case of Fatma Yildirim, the control took place on the evening of the same day on which the prohibition to return was issued. According to the instructions of the Vienna Federal Police Directorate, it is best for the police to carry out the review through personal contact with the person at risk in the home without prior warning at a time when it is likely that someone will be at home. Police inspectorates in Vienna must keep a domestic violence index file in order to be able to rapidly access reliable information.

8.8 The State party indicates that its legislation is subject to regular evaluation as is the electronic register of judicial proceedings. Increased awareness has led to significant law reform and enhanced protection of victims of domestic violence, such as the abolition of the requirement in section 107 paragraph 4 of the Penal Code that a threatened family member must authorise the prosecution of a perpetrator who has made a criminal dangerous threat.

8.9 The State party maintains that the issue of domestic violence and promising counterstrategies have regularly been discussed at meetings between the heads of the Public Prosecutor's Offices and representatives of the Federal Ministry of the Interior, including in connection with the case at issue. It also maintains that considerable efforts are being made to improve cooperation between Public Prosecutor's Offices and intervention centres against violence within the family. The State party also refers to efforts in the area of statistics made by the Federal Ministry of the Interior and its subordinate bodies.

8.10 The State party indicates that the Federal Act for the Protection against Violence within the Family and its application in practice are key elements of the training of judges and public prosecutors. Examples of seminars and local events on victim protection are given. Future judges are provided each year with information on "violence within the family", "protection of victims" and "law and the family".

Programmes cover the basics of the phenomenon of violence against women and children, including forms, trauma, post-traumatic consequences, dynamics of violent relationship, psychology of offenders, assessment factors of how dangerous an offender is, institutions of support, laws and regulations and the electronic registers. Interdisciplinary and comprehensive training has also been carried out.

8.11 The State party recognizes the need for persons affected by domestic violence to be informed about legal avenues and available counselling services. The State party reports that judges provide information at district courts free of charge once a week to anyone interested in the existing legal protection instruments. Psychological advice is also provided, including at the Hernals District Court. The State party also indicates that pertinent information is offered (posters and flyers in Arabic, German, English, French, Polish, Russian, Serbo-Croat, Spanish and Hungarian) at district courts. A toll-free Hotline for Victims has also been installed where lawyers provide legal advice around the clock free of charge. The State party further submits that women's homes act as shelters where women victims of violence are offered counselling, care and assistance in dealing with public authorities. In domestic violence cases where an expulsion and prohibition to return order has been issued, police officers must inform persons at risk of the possibility of obtaining an interim injunction under section 382a of the Act on the Enforcement of Judgments. In Vienna, the person concerned is given an information sheet (available in English, French, Serbian, Spanish and Turkish).

8.12 The State party submits that the authors of the present communication give abstract explanations as to why the Federal Act for the Protection Against Violence in the Family as well as practice regarding detentions in domestic violence cases and prosecution and punishment of offenders allegedly violate articles 1, 2, 3 and 5 of the Convention. The State party considers that it is evident that its legal system provides for comprehensive measures to combat domestic violence adequately and efficiently.

8.13 The State party further submits that detention is ordered when there are sufficiently substantiated fears that a suspect would carry out a threat if he/she were not detained. It maintains that mistakes in assessing how dangerous an offender is cannot be excluded in an individual case. The State party asserts that, although the present case is an extremely tragic one, the fact that detention must be weighed against an alleged perpetrator's right to personal freedom and a fair trial cannot be overlooked. Reference is made to the case law of the European Court of Human Rights that depriving a person of his or her freedom is, in any event, *ultima ratio* and may be imposed only if and insofar as this is not disproportionate to the purpose of the measure. The State party also contends that, were all sources of danger to be excluded, detention would need to be ordered in situations of domestic violence as a preventive measure. This would reverse the burden of proof and be in strong contradiction with the principles of the presumption of innocence and the right to a fair hearing. Protecting women through positive discrimination by, for example, automatically arresting, detaining, prejudging and punishing men as soon as there is suspicion of domestic violence, would be unacceptable and contrary to the rule of law and fundamental rights.

8.14 The State party submits that, when charges were brought against the husband of Fatma Yildirim, the Public Prosecutor and the investigating judge were faced with a situation where the reported threat was not followed by physical force. On

the basis of the information available to the investigating judge, an interim injunction appeared sufficient to protect Fatma Yildirim. Furthermore, the State party submits that Irfan Yildirim was socially integrated and did not have a criminal record. It asserts that Irfan Yildirim's basic rights (such as the presumption of innocence, private and family life, right to personal freedom) would have been directly violated had he been detained.

8.15 The State party maintains that it would have been possible for the author to file a complaint at any time against the Public Prosecutor for his/her conduct pursuant to section 37 of the Public Prosecutors Act.

8.16 The State party asserts that its system of comprehensive measures<sup>4</sup> aimed at combating domestic violence does not discriminate against women and the authors' allegations to the contrary are unsubstantiated. Decisions, which appear to be inappropriate in retrospect (when more comprehensive information is available) — are not discriminatory *eo ipso*. The State party maintains that it complies with its obligations under the Convention concerning legislation and implementation and that there has been no discernable discrimination within the meaning of the Convention against Fatma Yildirim.

8.17 In the light of the above, the State party asks the Committee to reject the present communication as inadmissible; *in eventu*, to reject it for being manifestly ill founded and, *in eventu*, to hold that the rights of Fatma Yildirim under the Convention have not been violated.

#### **Authors' comments on the State party's request for a review of admissibility and submission on the merits**

9.1 By their submission of 30 November 2006, the authors argue that neither the victim's child nor the authors intended to have statutory provisions reviewed by the Constitutional Court — a motion that would be deemed inadmissible. They would have lacked standing to bring such an action before the Constitutional Court. The authors note that the main focus of the communication is that legal provisions were not applied — not that those provisions should be amended or repealed. Furthermore, the authors claim that their suggestions for improvements to the existing laws and enforcement measures could never be realized by means of a constitutional complaint. Therefore, bringing a constitutional complaint should not be regarded as a domestic remedy for purposes of article 4, paragraph 1 of the Optional Protocol.

9.2 The authors point out that the State party referred to amendments of legal provisions that entered into force years after the murder of Fatma Yildirim.

9.3 The authors argue that the State party has not taken responsibility for the failures of the authorities and officers. The State party remains of the view that it would have been a disproportionate violation of Irfan Yildirim's rights to arrest and detain him because he had no criminal record and was socially integrated. The authors assert that the State party should have conducted a comprehensive assessment of how dangerous Irfan Yildirim would become and considered the numerous threats and attacks that he had made. As to his being socially integrated,

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<sup>4</sup> To illustrate the effectiveness of the measures, which are applied, the State party submits the statistics on prohibition orders to enter the common home and other legal measures.

the authors note that Irfan Yildirim was not an Austrian citizen and he would have lost his residence permit if he were no longer married to Fatma Yildirim. Furthermore, the State party should have considered the social and psychological circumstances of the case.

9.4 The authors dispute the State party's contention that there was no adequate reason to detain Irfan Yildirim. The authors submit that the risk that he would commit the same or a similar offences would have justified detention. This case shows that any place may become a crime scene when a dangerous offender is involved. The authors consider that the exclusive use of civil remedies was therefore inappropriate because they do not prevent very dangerous violent criminals from committing or repeating offences.

9.5 The authors draw attention to the fact that a spokesperson for the Minister of Justice said in a television interview in June 2005 that "in a retroactive view" the Public Prosecutor assessed the case wrongly in failing to request that Irfan Yildirim be placed in detention.

9.6 The authors draw attention to flaws in the system of protection. One such flaw is that the police and public prosecutors are unable to communicate with each other rapidly enough. Another such flaw is that police files regarding domestic violence are not made available to the officers who operate the emergency call services. The authors also complain that systematically coordinated and/or institutionalized communication between the Public Prosecutor's Office and the Family Court does not exist. They also maintain that government funding remains inadequate to provide extensive care for all victims of domestic violence.

9.7 The authors argue that it would not be reasonable to expect victims of violence to provide in an emergency all information that may be relevant considering their mental state. Furthermore, regarding the instant case, German was not Fatma Yildirim's mother tongue. The authors maintain that the authorities should gather data about dangerous violent offenders in a systematic manner that can be retried anywhere in an emergency.

#### **The State party's supplementary observations**

10.1 By its submission of 19 January 2007, the State party submits that on 21 October 2005, the Vienna Regional Civil Court dismissed the liability claim of Melissa Özdemir (represented by her father Rasim Özdemir), minor daughter of Fatma Yildirim. The Court found no unlawful or culpable action on the part of the competent State organs. The Vienna Court of Appeal confirmed the decision on 30 May 2006 and the decision thus became final.

10.2 The State party states that Fatma Yildirim would have been entitled to bring a complaint under section 37 of the Public Prosecutor's Act (Staatsanwaltschaftsgesetz) to either the head of the Public Prosecutor's Office in Vienna, the Senior Public Prosecutor's Office or the Federal Ministry of Justice, had she considered the official actions of the responsible Public Prosecutor to have been unlawful. There are no formal requirements and complaints may be filed in writing, by e-mail or by fax or telephone.

10.3 The State party indicates that an interim injunction for protection against domestic violence may be sought by persons who live or have lived with a perpetrator in a family relationship or a family-like relationship under section 382b



of the Act on the Enforcement of Judgments, when there have been physical attacks, threats of physical attacks or any conduct that severely affects the mental health of the victim and when the home fulfils the urgent accommodation needs of the applicant. The perpetrator may be ordered to leave the home and the immediate surroundings and prohibited from returning. If further encounters become unacceptable, the perpetrator may be banned from specifically defined places and given orders to avoid encounters as well as contact with the applicant so long as this does not infringe upon important interests of the perpetrator. In cases where an interim injunction has been issued, the public security authorities may determine that an expulsion order (Wegweisung) is also necessary as a preventive measure.

10.4 The State party states that interim injunctions can be issued during divorce proceedings, marriage annulment and nullification proceedings, during proceedings to determine the division of matrimonial property or the right to use the home. In such cases, the interim injunction is valid for the duration of the proceedings. If no such proceedings are pending, an interim injunction may be issued for a maximum of three months. An expulsion and prohibition to return order expires after 10 days but is extended for another 10 days if a request for an interim injunction is filed.

### **Review of admissibility**

11.1 In accordance with rule 71, paragraph 2 of its rules of procedure, the Committee has re-examined the communication in light of all the information made available to it by the parties, as provided for in article 7, paragraph 1, of the Optional Protocol.

11.2 As to the State party's request to review admissibility on the grounds that Fatma Yildirim's heirs did not avail themselves of the procedure under article 140, paragraph 1 of the Federal Constitution, the Committee notes that the State party has not introduced new arguments that would alter the Committee's view that, in light of its abstract nature, this domestic remedy would not be likely to bring effective relief.

11.3 As to the State party's reference to the liability proceedings pursued by Melissa Özdemir, the surviving minor daughter of Fatma Yildirim, the Committee notes that both the decision of the First Instance Court of 21 October 2005 and the decision of the Appeals Court of 31 March 2006 were taken after the authors submitted the communication to the Committee and the communication was registered. The Committee notes that the Human Rights Committee generally makes an assessment of whether an author has exhausted domestic remedies at the time of its consideration of a communication in line with other international decision-making bodies, save in exceptional circumstances, the reason being that "rejecting a communication as inadmissible when domestic remedies have been exhausted at the time of consideration would be pointless, as the author could merely submit a new communication relating to the same alleged violation".<sup>5</sup> In this connection, the Committee on the Elimination of Discrimination against Women draws attention to rule 70 (inadmissible communications) of its rules of procedure, which allows it to review inadmissibility decisions when the reasons for inadmissibility no longer apply. Therefore, the Committee on the Elimination of Discrimination against Women will not revise its admissibility decision on this ground.

<sup>5</sup> See communication No. 1085/2002, *Abdelhamid Taright, Ahmed Touadi, Mohamed Remli and Amar Yousfi v. Algeria*, views adopted on 15 March 2006, para. 7.3, and communication No. 925/2000, *Kuok Koi v. Portugal*, decision of inadmissibility adopted on 22 October 2003, para. 6.4.

11.4 As to the State party's contention that it would have been possible for Fatma Yildirim to bring a complaint under section 37 of the Public Prosecutor's Act, the Committee considers that this remedy — designed to determine the lawfulness of official actions of the responsible Public Prosecutor — cannot be regarded as a remedy which is likely to bring effective relief to a woman whose life is under a dangerous threat, and should thus not bar the admissibility of the communication.

11.5 The Committee will proceed to consideration of the merits of the communication.

### **Consideration of the merits**

12.1.1 As to the alleged violation of the State party's obligation to eliminate violence against women in all its forms in relation to Fatma Yildirim in articles 2 (a) and (c) through (f), and article 3 of the Convention, the Committee recalls its general recommendation 19 on violence against women. This general recommendation addresses the question of whether States parties can be held accountable for the conduct of non-State actors in stating that "... discrimination under the Convention is not restricted to action by or on behalf of Governments ..." and that "[U]nder general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".

12.1.2 The Committee notes that the State party has established a comprehensive model to address domestic violence that includes legislation, criminal and civil-law remedies, awareness raising, education and training, shelters, counselling for victims of violence and work with perpetrators. However, in order for the individual woman victim of domestic violence to enjoy the practical realization of the principle of equality of men and women and of her human rights and fundamental freedoms, the political will that is expressed in the aforementioned comprehensive system of Austria must be supported by State actors, who adhere to the State party's due diligence obligations.

12.1.3 In the instant case, the Committee notes the undisputed sequence of events leading to the fatal stabbing of Fatma Yildirim, in particular that Irfan Yildirim made continuous efforts to contact her and threatened by phone and in person to kill her, despite an interim injunction prohibiting him from returning to the couple's apartment, the immediate surroundings and her workplace as well as from contacting her, and regular police interventions. The Committee also notes that Fatma Yildirim made positive and determined efforts to attempt to sever ties with her spouse and save her own life — by moving out of the apartment with her minor daughter, establishing ongoing contact with the police, seeking an injunction and giving her authorization for the prosecution of Irfan Yildirim.

12.1.4 The Committee considers that the facts disclose a situation that was extremely dangerous to Fatma Yildirim of which the Austrian authorities knew or should have known, and as such the Public Prosecutor should not have denied the requests of the Police to arrest Irfan Yildirim and place him in detention. The Committee notes in this connection that Irfan Yildirim had a lot to lose should his marriage end in divorce (i.e. his residence permit in Austria was dependent on his staying married) and that this fact had the potential to influence how dangerous he would become.

12.1.5 The Committee considers the failure to have detained Irfan Yildirim as having been in breach of the State party's due diligence obligation to protect Fatma Yildirim. Although, the State party maintains that, at that time — an arrest warrant seemed disproportionately invasive, the Committee is of the view, as expressed in its views on another communication on domestic violence that the perpetrator's rights cannot supersede women's human rights to life and to physical and mental integrity.<sup>6</sup>

12.1.6 While noting that that Irfan Yildirim was prosecuted to the full extent of the law for killing Fatma Yildirim, the Committee still concludes that the State party violated its obligations under article 2 (a) and (c) through (f), and article 3 of the Convention read in conjunction with article 1 of the Convention and general recommendation 19 of the Committee and the corresponding rights of the deceased Fatma Yildirim to life and to physical and mental integrity.

12.2 The Committee notes that the authors also made claims that articles 1 and 5 of the Convention were violated by the State party. The Committee has stated in its general recommendation 19 that the definition of discrimination in article 1 of the Convention includes gender-based violence. It has also recognized that there are linkages between traditional attitudes by which women are regarded as subordinate to men and domestic violence. At the same time, the Committee is of the view that the submissions of the authors of the communication and the State party do not warrant further findings.

12.3 Acting under article 7, paragraph 3, of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Committee on the Elimination of Discrimination against Women is of the view that the facts before it reveal a violation of the rights of the deceased Fatma Yildirim to life and to physical and mental integrity under article 2 (a) and (c) through (f) and article 3 of the Convention read in conjunction with article 1 and general recommendation 19 of the Committee and makes the following recommendations to the State party:

(a) Strengthen implementation and monitoring of the Federal Act for the Protection against Violence within the Family and related criminal law, by acting with due diligence to prevent and respond to such violence against women and adequately providing for sanctions for the failure to do so;

(b) Vigilantly and in a speedy manner prosecute perpetrators of domestic violence in order to convey to offenders and the public that society condemns domestic violence as well as ensure that criminal and civil remedies are utilized in cases where the perpetrator in a domestic violence situation poses a dangerous threat to the victim and also ensure that in all action taken to protect women from violence, due consideration is given to the safety of women, emphasizing that the perpetrator's rights cannot supersede women's human rights to life and to physical and mental integrity;

(c) Ensure enhanced coordination among law enforcement and judicial officers, and also ensure that all levels of the criminal justice system (police, public prosecutors, judges) routinely cooperate with non-governmental organizations that work to protect and support women victims of gender-based violence;

(d) Strengthen training programmes and education on domestic violence for judges, lawyers and law enforcement officials, including on the Convention on the

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<sup>6</sup> See paragraph 9.3 of the Committee's views on communication No. 2/2003, A.T. v. Hungary.

Elimination of All Forms of Discrimination against Women, general recommendation 19 of the Committee, and the Optional Protocol thereto.

12.4 In accordance with article 7, paragraph 4, the State party shall give due consideration to the views of the Committee, together with its recommendations, and shall submit to the Committee, within six months, a written response, including any information on any action taken in the light of the views and recommendations of the Committee. The State party is also requested to publish the Committee's views and recommendations and to have them translated into the German language and widely distributed in order to reach all relevant sectors of society.

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