

# Ukraine

## Domestic Violence - Blaming the victim

### Introduction

In this briefing Amnesty International shows that despite the measures that have been taken by the Ukrainian government to combat domestic violence, the problem remains widespread and women who are victims of violence in the home do not have adequate protection or recourse to justice. Ukraine is failing to fulfil its obligations under international human rights law to exercise due diligence to secure women's rights to equality, life, liberty and security, and freedom from discrimination, torture and cruel, inhuman and degrading treatment. Amnesty International makes eight recommendations to assist the government in abiding by its obligations under international human rights law.

Perpetrators of domestic violence in Ukraine act with impunity. The Law on the Prevention of Violence in the Family does not provide adequate protection to victims of violence and perpetuates the myth that women are to blame for the violence that is perpetrated against them. Police often fail to take action when women report domestic violence and sometimes react inappropriately. Women who attempt to take the perpetrators to court are hampered by widespread corruption or find that the punishments imposed are inadequate.

Ukraine is obliged by international law to provide shelters and other support services for women who are victims of violence in the home. The Ministry for Family, Youth and Sport has a network of centres that provide legal and psychological counselling and shelter for young people up to the age of 35, and families, but these centres are not targeted at women and cannot be considered to provide the level of support and protection that is required for victims of domestic violence.

Overcoming gender stereotypes is one of the most effective ways of combating domestic violence, and during its research for this briefing Amnesty International found evidence of widespread social attitudes that discriminate against women. It is to be hoped that the new Law on Ensuring the Equal Rights and Opportunities for Women and Men will be enacted effectively.

Amnesty International believes that in order to put in place a system that provides protection for women and aims at eradicating domestic violence, strong political will is needed and decisive action must be taken by the authorities. Women must be provided with short-term shelters, long-term housing solutions and effective support services that are designed specifically for them. Police officers must be trained so that they have an understanding of the psychological effects of domestic violence. Changes must be made to the Law on the Prevention of Violence in the family, and the sanctions imposed under the Criminal and Administrative codes need to be reviewed. The government must run public awareness campaigns to inform the public about domestic violence and overcome the stigmatization of the victims.

Amnesty International does not suggest that violence against women is peculiar to Ukraine, or that it is more widespread in Ukraine than elsewhere. Amnesty International has documented in its reports on many countries – in the European context on Albania, Belarus, France, Georgia, Russia, Spain, Sweden, Turkey, and the United Kingdom – that women are subjected to violence by their intimate partners regardless of where they live or their social status. In many cases violence is seen as a normal part of the relationship between men and women, or it is justified on the grounds of jealousy, honour or tradition. Amnesty International believes that none of these excuses, or indeed any other grounds, can ever justify violence against women. Human rights law and standards emphasize that violence against women is an inexcusable abuse of human rights.

## **Scale of violence in the home**

There are no available statistics on the number of women who suffer violence at the hands of their intimate partners, but there are many indications that the problem is very widespread.

The Department of Public Safety within the Ministry of Internal Affairs keeps *statistics* on the implementation of the Law on Domestic Violence that show that there were 83,150 reports of violence in the family in the first nine months of 2005. These statistics are not disaggregated by gender, but according to the Department of Public Safety, 90 per cent of the victims of domestic crime are women. According to figures provided by the Ministry of Internal Affairs, in the first nine months of 2006, 1,008 murders and 402 cases of manslaughter in the home, most of the victims were women. A policeman informed Amnesty International that there were 40 – 45 calls a day in the Vinnytsya region relating to domestic violence, and that in 2006 there were nine cases of murder within families.

These figures reflect only those cases of domestic violence that come to the attention of the police. There is evidence that many more victims of domestic violence do not report the violence to the police or even to their close families. Members of non-governmental organizations (NGOs) and police officers interviewed by Amnesty International in September 2006 thought that between 50 and 70 per cent of Ukrainian women were victims of domestic violence. A nationwide survey of over 6,000 women between the ages of 12 and 30 carried out in 2001 by Winrock International found that 33 per cent of women in Ukraine suffered from moral or verbal assault, usually perpetrated by their husbands, friends, or neighbours. Of the women interviewed 11-12 per cent were subjected to sexual abuse, and five per cent suffered from physical abuse, usually by their husbands.<sup>1</sup> A doctor in the admissions department of Vinnytsya Traumatological Hospital informed Amnesty International that on average there were 10 cases a year of women admitted to hospital, who stated that their injuries were the result of domestic violence. Many more have injuries consistent with beatings, but doctors in the intensive care department told Amnesty International: “It is not our responsibility to check how the wounds and injuries were incurred, we just treat the

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<sup>1</sup> Social Monitoring Centre and the Ukrainian Institute of Social Studies, *Trafficking in Women as a Social Problem in Ukrainian Society - Summary of Findings*, Kyiv 2001, <http://www.winrock.org/leadership/files/SocialMonitoring.pdf>.

person.” One woman had been admitted with knife wounds, and claimed that she had been peeling potatoes, but the doctors were unsure why she would have been doing that at midnight.

Violence against women by family members can range from depriving women of economic necessities through verbal and psychological violence, to beatings, sexual violence and killings. Larissa described how her husband would use violence against her to intimidate their children. He would hold her head under the bath water and threaten to drown her if their daughter did not do her homework. Zhanna was subjected to violence at the hands of her husband for over 13 years. He would humiliate her or beat her, but then bring her flowers and beg forgiveness. On one occasion he came into the bathroom while she was washing and urinated over her. Social workers in Kyiv described a case of a woman who was deputy director of a school, but was psychologically abused by her husband at home. He would not allow her to eat with him or to sit on the sofa. Men can also be victims of domestic violence and Amnesty International was told of one man who had been forced out of the family home with the children because of his wife’s violence and was consequently homeless.

*“Life is hard for us in this country. They have a hard time (men), and that’s why they drink.”*

*Larisa, Vinnytsya, September 2006*

According to an analysis of the results for Ukraine of the World Health Organization World Mental Health survey, which was carried out in 14 countries in 2001-2003 the main risk factors for male violence in relationships in Ukraine are experience of violence within one’s own family, behavioural problems (intermittent explosive disorder) and alcohol abuse. Larisa’s husband would beat her when he was drunk, and she found out later by chance that he had grown up in an environment of violence. His mother had been beaten by her husband, but had never spoken about it.

In some cases, women can be driven to kill their partners to escape the cycle of violence. A social worker in Kyiv told Amnesty International about one woman who had endured violence at the hands of her husband for many years, but when he raped her in front of the children and then threatened to rape the children, she murdered him. She was sentenced to 15 years’ imprisonment.

Domestic violence is not only a human rights abuse in its own right, but it has also been identified as a major “push factor” that forces women into being trafficked. The Women’s Consultative Centre, an NGO that runs a hot line for potential trafficking victims in Dnipropetrovsk, told Amnesty International representatives that as many as 50 per cent of the trafficked women that they advise were victims of domestic violence before they went abroad. A survey carried out by the International Organization for Migration found that 80 per cent of the women they have helped were victims of domestic violence before being trafficked.

## Obligations under international law

Violence against women is an abuse of their basic human rights including their right to physical and mental integrity, their right to life and their right to equality with men. Ukraine is a party to all major relevant international conventions which include the:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- UN Convention on the Elimination of All Forms of Discrimination against Women (Women's Convention) and its Optional Protocol
- UN Convention against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment (CAT)
- UN Convention on the Rights of the Child (CRC).

Under these conventions, Ukraine is required to protect, respect and fulfil the human rights of those persons in its territory and subject to its jurisdiction without discrimination, including on the grounds of sex.

### **What is violence against women?**

The UN Declaration on the Elimination of Violence against Women defines violence against women as “*any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life*”.

The World Health Organization has defined partner violence as any behaviour within an intimate relationship that causes physical, psychological or sexual harm, including:

- Acts of physical aggression, such as slapping, hitting, kicking and beating.
- Psychological abuse such as intimidation, constant belittling and humiliation.
- Forced intercourse and other forms of sexual coercion.
- Various controlling behaviours such as isolating a person from their family and friends, monitoring their movements, and restricting their access to information or assistance.

The obligations of states under international law are not limited to ensuring that their agents do not commit violations; they are also required to take effective measures to prevent and punish violations by individuals or groups. States therefore have a duty under international law to prevent, prohibit and punish violence against women, regardless of whether the perpetrator is a private individual or a state agent; the state also has a duty to provide redress, including compensation.

The Committee on the Elimination of Discrimination against Women (CEDAW), which monitors states' observance of the UN Women's Convention, in its General Recommendation 19, also states that gender-based violence, including domestic violence against women, is a form of discrimination. Thus as a state party to the Women's Convention, Ukraine is obliged to "adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women". It is also obliged to report on its compliance with the convention at least every four years. The last report was made in 2002.

The Council of Europe also calls on member states to exercise due diligence to combat violence against women and to draw up medium and long-term co-ordinated action plans to protect women.<sup>2</sup> On 27 November 2006 the Council of Europe is launching a campaign to combat violence against women which demands that: "Protection of women against violence in the family or domestic unit should be placed at the highest political level in all Council of Europe member states, and should consequently be allocated the necessary financial resources."<sup>3</sup>

## National Legislation

In many respects, Ukrainian law reflects international legal standards. Parliament passed a Law on the Prevention of Violence in the Family on 15 November 2001, which came into effect in January 2002. Ukraine was the first country in the former Soviet Union to pass such a law on domestic violence. It covers all aspects of violence in the family and offers a definition of domestic violence that is in line with UN standards. The law is a preventative law and domestic violence is prosecuted under existing provisions of the criminal and administrative codes.

However, the law has not proved effective in combating domestic violence. A parliamentary hearing held in June 2004 (Status of women in Ukraine: reality and perspectives) concluded that, despite the law, incidents of violence within families continued to increase. Amnesty International considers that there are some serious flaws in the law that must be amended if it is to serve as an effective tool in preventing domestic violence.

The Law on the Prevention of Violence in the Family contains the concept of "victim behaviour", which is defined as "the behaviour of a victim of domestic violence that provokes domestic violence". Article 11 provides for a victim of domestic violence to be given an "official warning about the inadmissibility of victim behaviour". Such a concept must not be included in a law even though it may be important to address the issue of behaviour patterns and attitudes in psychological counselling. In the absence of sufficient social services and

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<sup>2</sup> See Recommendation No. R (2002) 5 of the Committee of Ministers and Explanatory Memorandum

<sup>3</sup> (CM(2006)93 Addendum final 21 June 2006, Blueprint of the Council of Europe Campaign to Combat Violence against Women, including Domestic Violence prepared by the Task Force to Combat Violence against Women, including domestic violence (EGTFV))

other agencies to enact such a provision, the main burden of enforcement falls to overworked district police officers, who without adequate training are thus empowered to make a judgement as to whether a woman displays victim behaviour or not. In reality, the concept is used to support the assumption that women are to blame for provoking violence, and thus perpetrators can avoid prosecution. It gives the police and other state agencies the legal mandate to direct their attention to advising victims on how to “improve” their behaviour, rather than offering them effective protection from harm or arresting the perpetrators of violence.

Furthermore, any warnings for victim behaviour will be included in a woman’s character reference if the case goes to court, and can serve as a mitigating factor for the prosecution. One lawyer working with an NGO in Lviv stated that some police officers have discovered that, by issuing warnings for victim behaviour, they can prevent women from complaining in future. In the first nine months of 2005, 3,049 warnings for victim behaviour were issued. There appears to be increasing awareness that this concept should be dropped from the law and statistics prepared by the Department of Public Safety no longer include information on victim behaviour for 2006. An official of the department told an Amnesty International representative that they instruct district police officers to be very cautious in their use of the term.

The Law on the Prevention of Violence in the Family outlines a number of measures for prevention and protection of victims of violence: protection orders, special institutions for victims of domestic violence, centres for medical and social rehabilitation, and crisis monitoring centres. However, it offers no detailed description of these institutions and services, and it has not been linked to adequate national funding for such services. The Department for Public Safety informed an Amnesty International representative in September 2006 that protection orders are only really effective when the couple are living separately, and that they are not an effective tool when the couple are living together as there is no provision for separate accommodation for perpetrators. A policeman in Vinnytsya said that up to September 2006, 56 protection orders were imposed but that there were no cases in which perpetrators violated these provisions. The Ministry for Family, Youth and Sport has recently set up various services including centres for social and psychological support for young people and families, but these services are aimed at families and not women and do not satisfy international standards for women’s shelters (see **Lack of shelters for women** below).

## **Obstacles to Justice**

In Ukraine, as in other countries, women who have suffered domestic violence rarely take the first step of approaching the police, yet criminal proceedings require a report by the victim. Tolerance of violence, fear of reprisals from abusive partners, self-blame, fear of shaming the family, low self-esteem and financial insecurity are some of the reasons why women do not report to the police. However, even when victims of domestic violence take the important step of reporting domestic violence to the police they face many obstacles in trying to prosecute the perpetrators. In some cases inappropriate sanctions deter women from reporting, in other cases they find that the police respond inadequately or are susceptible to corruption.

Domestic violence is not recognized as a separate criminal offence and is prosecuted under various articles of the Criminal Code for various degrees of bodily harm, beatings, torture, and threat of murder. The most commonly used articles are Article 121 (intentional grievous bodily injury), Article 125 (intentional minor bodily injury) and Article 127 (torture). The sentences range from a fine to imprisonment for up to two years and in exceptional circumstances longer periods of imprisonment are also possible. In many cases the punishment will depend on the seriousness of the injuries. With the Law on Prevention of Violence in the Family a new article was added to the Administrative Code (Article 173/2), which made it possible to impose a fine or a 15-day sentence for an offence committed in the home. The practice of imposing a fine for domestic violence discourages women from reporting violence to the police, because the money will usually have to be deducted from the family budget and thus adversely affects other members of the family as well as the perpetrator. A legal advisor working for the NGO, Western Ukrainian Perspectives, based in Lviv, told Amnesty International that out of a group of 20 judges attending a training conducted by the NGO, 19 said that they would always impose a fine for domestic violence and only one female judge claimed that she always imposed a 15-day prison sentence.

*“The Police Chief had given orders not to let me in. Clearly my husband had paid him, and he simply wouldn't let me into the police station. I went there and they said that they had been told not to let me in.” Zhanna, Vinnytsya September 2006.*

There is a high level of corruption at all levels in Ukrainian society. Transparency International ranks Ukraine 107 out of 158 countries on its Corruption Perceptions Index for 2005. The Deputy Minister of Internal Affairs stated in October that in the first nine months of 2006 officials took 9.3 million Hryvnya (60 million Euros) in bribes.<sup>4</sup> The fact that there were high levels of corruption within the Ministry of Internal Affairs was acknowledged by the Minister of Internal Affairs, Yuriy Lutsenko, when he assumed the post in February 2005 and started an anti-corruption campaign. The US State Department Country Report on Ukraine identifies corruption of the judiciary as a serious problem and states that “suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences”. Victims of domestic violence also find that they are prevented from getting justice by corruption within the judicial system and the police. Zhanna alleged to Amnesty International that her husband had not only bribed the police not to receive her, but that he had paid money to have the first case against him “lost”. A second case has now been opened, but Zhanna alleges that her husband has been able to bribe witnesses.

NGO members complain that the police often refuse to take any action on cases of domestic violence. A legal advisor working with Western Ukrainian Perspectives in Lviv told Amnesty International that out of the 20 – 25 cases of domestic violence that she worked on

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<sup>4</sup> “С начала года украинские взяточники значительно перевыполнили план”, Tribuna, 12 October 2006  
<http://tribuna.com.ua/news/2006/10/12/60260/>

per month five to eight cases were acted upon by the police. Zhanna alleges that the first time that she reported her husband to the police for beating her the district policeman told her that if she wanted the case to be processed quickly she should provide him with sexual services.

## **Lack of shelters for women**

Ukraine is obliged under international law to ensure a range of measures to facilitate women in their attempts to leave a violent relationship. The General Assembly, the UN body speaking for all the governments of the world, has stipulated in its various resolutions on this subject that states should provide shelters, staff hotlines, and train law enforcement officials, among a variety of other initiatives to eradicate violence against women. The Law on the Prevention of Violence in the Family also stipulates that shelters should be provided. There are many different types of shelters run by government bodies and NGOs, but there is no comprehensive accurate information available about the location of shelters for women. Most of the shelters available are not set up specifically to support women, who are victims of domestic violence, and in many cases they do not comply with international standards for the running of such shelters.

### Standards for Shelters

Taken from the report of the 7<sup>th</sup> Assembly of women's shelters and support centres that took place between 3 and 5 December 2004 in Çanakkale, Turkey.

- Shelter addresses should be kept secret and information/data related to women applying to the shelters should be kept confidential;
- there should be no discrimination against women on the basis of religion, marital status, colour, nationality, profession, language, disability, class, age or political beliefs;
- shelters should be open to all women including women with no children and women of minority groups;
- activities in the shelters are to be carried out by a woman with women's interests at heart;
- women and their children should be accommodated together and it is vital to ensure their safety;
- it is accepted that the women have suffered violence and that what they say is true;
- the shelter environment must encourage the women themselves to find a way out of the violence by offering support in the areas of child care, legal advice, professional courses, work opportunities, and medical and psychological care and a safe and supportive environment where they can rebuild their confidence;
- shelters provide support in the areas of child care, legal advice, professional courses, work opportunities, medical and psychological care in order for them to establish a life without violence;
- shelters provide a safe and supportive environment where women can rebuild their confidence.

Over the past two years the Ministry for Family Youth and Sport has set up a network of 21 centres for social and psychological support for young people and families, and this network continues to grow. These centres provide legal and psychological counselling as well as accommodation for up to three months. However, these centres do not comply with international standards for women's refuges and cannot be considered to satisfy the requirements of the Law on the Prevention of Violence in the Family because:

- the centres are set up with the main purpose of protecting the family unit and not women;
- the addresses of the centres for social and psychological support are available on the Ministry website. This could put victims of domestic violence at risk as perpetrators can easily seek out victims;
- women are required to be registered in the district in which the centre is located and will need to present documents to be admitted.

Such rigid entry requirements mean that government facilities are often underused. In places where there are no shelters social workers and local government employees will do what they can to help women in crisis situations. In Dnipropetrovsk the director of the local Administration for family and youth told Amnesty International that there was an agreement with the Ministry of Health and that women could be offered a bed in a hospital.

International standards also require governments to finance support for victims of domestic violence. The setting up of these centres is funded by the Ministry, but the running costs are then handed over to the local government once the centre is set up. This can prove problematic as some local governments have limited funding. In Dnipropetrovsk the centre has been closed for the past year because of lack of funding from the local government.

There are also a number of shelters run by NGOs which specifically cater for women who are victims of domestic violence. There is one shelter in Kyiv, run by a women's organization and financed from the city budget. The location of this shelter is kept confidential as required by international standards, but it is only in exceptional cases that women who are not registered in Kyiv are admitted. Amnesty International was told of further NGO shelters in Kharkiv, and Odessa. In October 2006, the mayor of Kyiv pledged on a live television broadcast to provide five more shelters for victims of violence in the home.

While many women leave a violent relationship temporarily and, for example, stay with relatives or friends, many do not leave permanently. Often the lack of viable alternatives prevents them from doing so. As women often do not have a sufficient income of their own to rent or buy accommodation, they have nowhere to go unless friends or their family are prepared to offer them accommodation on a permanent basis.

The UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination, stated in his February 2005 report, *Women and adequate housing*, that "women living in situations of domestic violence inherently live in inadequate housing, due to the violence they face within the home. Many women are prevented from leaving violent situations, because alternative housing and

financial support are unavailable.” He urged governments “to ensure that women can access temporary, appropriate shelters and retain access to adequate housing on a longer term basis so that they do not have to live in situations of violence in order to access adequate housing.” In addition he called on governments to “introduce anti-violence provisions in housing legislation and policies and ensure that domestic violence law includes provisions to protect women’s right to adequate housing.”

A psychologist, working for the NGO Rozrada in Kyiv, told Amnesty International about the case of a woman who was raped in front of her two sons by her husband. She could not afford to move out, and lived with friends for two years, but when the friends finally sold their flat, she was forced to return to the flat and live with her husband where she was again subjected to violence. Another woman, Larisa continues to live with her husband despite the fact that he has beaten her in the past. She told an Amnesty International representative that the presence of two grown men, her son and her daughter’s husband, was a “very good controlling factor”.

There is a provision in the Housing Law (Article 116) that makes it possible to evict somebody from municipal housing for anti-social behaviour and this has been used by victims of domestic violence to evict perpetrators. However, Ukrainians are increasingly living in private housing, where this provision cannot be used. People often resort to desperate measures to try to live apart. Some divide existing property in two and attempt to create separate living spaces, but this is legally only possible if the property has two entrances. It is also common for people to swap property and exchange a larger flat for two smaller ones. As there is no system of social housing in Ukraine, women face the prospect of homelessness if they leave the marital home and unsurprisingly most will choose to stay and endure the violence rather than face homelessness.

If women are to be able to escape the cycle of violence they must have access to temporary shelters and long-term safe housing.

## Public attitudes/gender stereotypes

*“An unbeaten woman is like an unplaited braid”*

*Folk saying from Chernivtsi region*

*“Our women are not free. They do not realize they have rights and they do not claim them.”*

*Employee of the Ministry for Youth, Family and Sport*

Improving equality women with men and overcoming gender stereotypes are some of the effective ways of combatting domestic violence, but women also need to be informed of their rights, and of the services that are available to victims of domestic violence.

Ukraine took an important step towards gender equality when parliament passed the Law on Ensuring the Equal Rights and Opportunities of Women and Men on 8 September

2005, which entered into force on 1 January 2006. However, a concerted effort will be needed to address the underlying social and cultural attitudes that discriminate against women and that facilitate and perpetuate violence against them. One very pervasive myth which has been reinforced by the Law on the Prevention of Violence in the Family is the myth that women are to blame for the violence inflicted against them.

*“It is a problem of education. Children need to be brought up so that they know their own value, particularly girls. Another important thing is openness (glasnost’). There should be information so that people know. You know, many people have never even heard the term ‘domestic violence’.”*

*Larisa, Vinnytsya, September 2006*

Amnesty International believes that a public awareness campaign about domestic violence would help to overcome social stigma and acceptance of such violence, and encourage women to speak out.

## Recommendations

- Amend the Law on the Prevention of Violence in the Family to exclude the concept of ‘victim behaviour’.
- Amend the Law on the Prevention of Violence in the Family to include descriptions of the institutions and services that are proposed and link the Law on Prevention of Violence in the Family to specific funding for support services for victims.
- Make more use of the powers of prosecutors to initiate prosecutions in the absence of official complaints by victims in domestic violence cases and thus cut down the risk of retaliation by perpetrators and the number of complaints that are withdrawn by victims.
- End the practice of imposing fines for acts of violence in the home, finding instead appropriate punishments commensurate with the crime that do not have an adverse impact on women survivors themselves.
- Create a code of conduct for law enforcement officials on best practices in responding to women who are victims of violence to ensure that women are not revictimized by gender insensitive law enforcement practices, and train all police officers in the use of this code of conduct. Also ensure that assessments of the effectiveness of training are in place and that action is taken to ensure that codes of conduct are enforced in practice.
- Promptly allocate secure, long-term government funding, or actively seek donor funding, to ensure that a sufficient number of appropriate shelters are set up across the country in collaboration with NGOs experienced in working to protect women from violence. Ensure that these shelters are available to all women without regard to their place of residence, or citizenship.
- Develop the systems already in use by the Department for Public Safety in the Ministry of the Interior and compile reliable and accurate statistics disaggregated by sex and indicating the family relationship of victim/s and perpetrator/s on reports, and investigations and prosecutions of violence against women in the family across Belarus, and make these statistics available to the public.
- Fund and implement outreach and educational campaigns to address the underlying social and cultural attitudes that discriminate against women and that facilitate and perpetuate violence against them. These campaigns should: promote zero tolerance of violence against women, remove the stigma from women victims of violence, and encourage victims to seek redress. The campaigns should include community leaders, municipal politicians, the media and civil society, and could take place in schools, adult education facilities, citizens’ forums, workplaces, through web pages, open lectures and debates.