

# **Accountability for conflict-related sexual violence as a central pillar for prevention**

## **Concept Note**

The Permanent Missions of Germany, Belgium, Dominican Republic, Equatorial Guinea, France, Kuwait, Peru, Poland, South Africa and the United Kingdom will co-host an Arria Formula meeting of the UN Security Council on the preventive impact of criminal accountability for conflict-related sexual and gender-based violence on **Friday, 8 February 2019, at 10:00 am in the Trusteeship Council Chamber**. The meeting will be chaired by Ms. Katarina Barley, Federal Minister of Justice and Consumer Protection of Germany.

### **1. Background**

The fight against impunity for conflict-related sexual violence (CRSV), and the role of accountability in its prevention have been major themes of the Women, Peace and Security agenda. These topics are addressed particularly in the four existing Security Council resolutions on Sexual Violence in Conflict 1820 (2008), 1888 (2009), 1960 (2010) and 2106 (2013), as well as in resolution 2331 (2016), which recognizes that sexual violence can be used as a tactic of terrorism, and in the recently adopted resolution 2447 (2018), which includes a specific reference to prevention and response to CRSV. Numerous country-specific and sanctions resolutions of the Security Council have also taken up the issue.

Specifically, starting with resolution 1820, the Security Council recognized that

***“sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security.”***

The UN Secretary-General has called on the Security Council to fully integrate the issue of CRSV into the work of its sanctions committees and include sexual violence as a designation criterion for sanctions. He has also urged the Security Council to include measures to prevent CRSV in justice reform initiatives. Furthermore, the Secretary-General recommended that the Security Council employ all means at its disposal to influence parties to a conflict to comply with international law, including by referring cases to the International Criminal Court. The Secretary-General has also highlighted accountability for crimes of CRSV as a key element of his prevention strategy, including in his annual report on CRSV (most recently S/2018/250).

The Security Council has highlighted in its resolutions 1820 (2008) and 2106 (2013) the need for exclusion of sexual violence crimes from amnesty provisions in the context of conflict resolution processes.

In spite of these efforts, sexual and gender-related violence continues to be used as a tactic of war and terrorism in conflict regions around the globe and a culture of impunity often persists for these crimes.

## **2. Objective and scope**

Members of the UN Security Council and UN Member States are invited to explore how each can more effectively integrate criminal accountability for sexual violence in conflict into the prevention agenda, including into conflict resolution, transitional justice and peacebuilding. Results of the discussion will also feed into the open debate on CRSV in April and the preparations of its outcome.

### **Participants are encouraged to focus on the following questions:**

- How can the UN Security Council employ its tool box more efficiently and consistently and prioritize prevention against sexual violence in conflict?
- How can the UN Security Council strengthen both the CRSV infrastructure and the compliance framework in order to reinforce accountability for crimes of gender-based and sexual violence? How can UN Member States strengthen national ownership, leadership and responsibility in ensuring accountability for crimes of gender-based and sexual violence?
- How can the UN Security Council and Member States support the SRSG on Sexual Violence in Conflict and the UN Team of Experts in carrying out their mandate?
- Which contributions can all UN Member States make in the fight against impunity for sexual violence in conflict (sharing best practices and lessons learnt, implementing universal jurisdiction into national legislation, creating victim and witness protection programs, support, reparations)?
- How can the role of women in prevention and criminal justice processes be increased? How can an equitable gender distribution be achieved?
- How can a more survivor-centered approach, which considers aspects of 'restorative justice', reparations and livelihood support, be integrated into the conceptual framework and operational response

### **2.1 The role of the UN Security Council**

During the Arria Formula Meeting, members of the Security Council could examine how to strengthen the Council's practice of addressing accountability for CRSV and how to follow through with the Secretary General's recommendations more consistently. Also, it could be explored how to make more frequent use of the measures listed in Chapter VI of the UN Charter and how to best assist States in the investigation and prosecution of CRSV, including by taking up accountability-related recommendations of the Informal Expert Group on Women, Peace and Security (IEG) of the Security Council. Furthermore, members of the Security Council could discuss how to more effectively strengthen governments, including military and judicial representatives, as well as all parties to armed conflict and civil society, in addressing and efficiently preventing sexual violence in armed conflict. Possibilities could also be explored on how the Security Council could create international mechanisms for ensuring the collection and preservation of evidence in cases where investigations and prosecutions by national or international courts are not possible.

## 2.2. The role of UN Member States

The primary responsibility for the fight against impunity lies with UN Member States. It should therefore be examined how they can contribute more actively to ensuring accountability for sexual and gender-related violence in conflict. Passing and implementing the respective legislation and creating institutions to prevent and prosecute CRSV immediately comes to mind, but mainstreaming CRSV throughout their security and justice systems is also of pivotal importance.

### More specifically, UN Member States could examine how to:

- apply a gender perspective and employ more women in all relevant decision-making bodies and throughout the justice systems and ensure their full and meaningful participation;
- adapt a holistic concept of justice that encompasses both accountability *and* restorative justice and reparations for survivors and victims of sexual violence;
- establish laws, including for reparations, and programs to protect and support victims, survivors and witnesses;
- establish war crimes units and chambers in their national justice systems;
- assist survivors in documenting their cases to facilitate accountability
- ensure appropriate and timely documentation and investigation of CRSV;
- improve the quality of criminal proceedings for CRSV in accordance with international standards, also by providing legal support in addition to medical and psychosocial care;
- enhance and use judicial cooperation and provide mutual legal assistance;
- enhance regional cooperation in information and documentation, training of security forces, extradition and legal assistance;
- adopt universal jurisdiction in national legislation; and
- draw on the experience of nationally driven processes and national and international jurisprudence
- strengthen the international criminal judiciary as well as other international criminal justice mechanisms as key elements in prevention efforts with regard to CRSV.

Security Council resolution 2106 (2013) emphasizes the **importance of national ownership in addressing the root causes of sexual violence**. Since the adoption of resolution 2106 in 2013, the SRSG-SVC, the Team of Experts on the Rule of Law and Sexual Violence and UN Action against Sexual Violence in Conflict have followed a consistent strategy to foster and support national ownership, leadership and responsibility in addressing CRSV, including through security sector reform and national-level investigations and prosecution of CRSV crimes. National authorities can draw on the expertise of the Team of Experts, as well as a range of different actors, such as OHCHR, UNDP, Peace Operations, etc. as well as Commissions of Inquiry and international criminal justice.

## **Format**

Briefers, including from civil society, will address the topic from different perspectives.

**In order to make the discussion as outcome-oriented and interactive as possible, we ask all speakers to keep the following guidelines in mind:**

- Speaking time is strictly limited to a **maximum of three minutes**.
- All speakers are strongly encouraged to **refrain from reading prepared remarks, and are invited to pose questions to the briefers**.
- **The Chair might invite briefers to comment directly or respond to questions** on issues related to their area of expertise (interspersed during the discussion).

In addition to members of the Security Council, **specially affected Member States interested in taking the floor can express their interest by writing to [katharina.kalaschnikow@diplo.de](mailto:katharina.kalaschnikow@diplo.de)**. Please note that due to the limited time available, the Chair might not be able to call on all speakers that have expressed interest.

The Arria is open to all UN Member States, Permanent Observers, non-governmental organizations and the press. Interpretation will be available in all official UN languages provided there are no meetings of the Security Council or its subsidiary bodies at the same time.

The discussion will be summarized in a **brief chair's summary**.