



Mid-term Horizontal Review of GREVIO baseline evaluation reports



” Group of Experts
on Action
against Violence
against Women and
Domestic Violence
(GREVIO)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Mid-term Horizontal Review of GREVIO baseline evaluation reports

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INTRODUCTION

Since the launch of its first baseline evaluation procedure in 2016, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the independent body that is responsible for the monitoring of the Istanbul Convention, has established itself as a nationally and internationally recognised and authoritative voice in the area of preventing and combating violence against women and domestic violence. Indeed, support to and recognition of the added value of the Istanbul Convention and its monitoring mechanism in preventing, protecting and prosecuting all forms of violence against women and domestic violence have been publicly expressed across the globe by a wide range of stakeholders, including by representatives of non-state parties. Through its baseline evaluation reports, GREVIO provides tailored-made guidance to the parties to the convention on where to concentrate efforts in order to improve the prevention of violence against women, the protection of victims and the prosecution of perpetrators. At the same time, it identifies promising practices that can serve as inspiration for any government seeking to ensure the right of women and girls to a life free from violence. The relevance of GREVIO's work can, therefore, certainly be considered to transcend the individual party that undergoes the evaluation, as its findings can shed light on the way forward for other parties to the convention.

As at December 2020, GREVIO had published baseline evaluation reports in respect of 17 parties, notably, Albania, Andorra, Austria, Belgium, Denmark, Finland, France, Italy, Monaco, Malta, Montenegro, the Netherlands, Portugal, Serbia, Spain, Sweden, and Turkey. These evaluations are called “baseline” evaluation reports as they consist in a comprehensive analysis of states parties’ level of compliance with the convention. The scope of these evaluation reports encompasses elaborate and granular analysis on progress made and identified shortcomings. They are drafted on the basis of several sources, including a state report that provides responses to a standardised GREVIO baseline questionnaire; information from women’s rights organisations, civil society and national institutions for the protection of human rights; an onsite evaluation visit carried out by a GREVIO delegation; and the party’s comments to the draft baseline evaluation report as adopted by GREVIO in its first reading.

In light of the growing corpus of baseline evaluation reports that have been published, it is timely to pause, take stock and capitalise on the wealth of observations and findings that have been issued, through a comparative assessment of the reports that have been adopted thus far. With reports issued in respect of half of the parties to the Istanbul Convention, this comparative assessment is entitled Mid-term Horizontal Review (the “review”). Its aim is to provide a panoramic view of the challenges that GREVIO has identified across parties, for each Article of the convention and for the sub-themes addressed therein, while at the same time identifying challenges that are unique to certain parties. Moreover, and of equal importance, the review aims to highlight the promising practices that have been introduced by parties – often at the time of signature or ratification, indicating the momentum that is often generated by the signature or ratification of the convention. This is also very important to highlight as it provides concrete examples on how the Istanbul Convention is delivering on its promises and allowing parties to fight violence against women much more effectively than they would be capable of doing so on their own, without a multi-lateral mechanism to support and guide them. This is all the more timely in light of the misinformation and unsubstantiated assertions that are being disseminated concerning the convention.

This review, therefore, aims to provide an information tool on violence against women in Europe for all of those who are interested in preventing and combating effectively violence against women on the basis of the Istanbul Convention, including, but not limited to, parties to the convention, non-state parties interested in ratifying this instrument, women's rights organisations, civil society at large and international organisations. It achieves this aim by showing how much progress is being made across the 17 parties, but also where the remaining challenges lie.

This publication also aims to be celebratory in nature because it is a contribution to the 10th anniversary of the opening for signature of the Istanbul Convention in May 2011. It is a testimony to the many steps that have been taken by governments, women's support services and numerous other actors to ensure the right of all women and girls to live a life free from violence – and to GREVIO's tailor-made guidance that enables governments to further advance in their level of implementation of the convention. At the same time, the publication of this review coincides with the unprecedented step of a state party to the convention, Turkey, withdrawing from it. Notwithstanding this development, the GREVIO baseline evaluation report on Turkey is included in this comparative assessment, as it highlights the steps taken towards implementation of the Istanbul Convention as well as the areas in need of improvement and thus offers valuable insight into the measures and actions taken in Turkey to prevent and combat violence against women and domestic violence. The analysis and examples featured in this review ultimately show that the convention, as part of a multi-lateral rights-based legal order, is key to achieving higher levels of protection of women and girls than those provided by states alone. Indeed, the drafting of the Istanbul Convention was prompted by the recognition that national responses to violence against women and domestic violence varied greatly across European states and that their scope was limited, as well by the realisation that it was necessary to develop harmonised comprehensive standards that would ensure the same level of protection for women and girls everywhere.

METHODOLOGY

This review covers 17 baseline evaluation reports issued by GREVIO as at December 2020, notably those on Albania, Andorra, Austria, Belgium, Denmark, Finland, France, Italy, Monaco, Malta, Montenegro, the Netherlands, Portugal, Serbia, Spain, Sweden, and Turkey. Taking into account the specific context of each party and the breadth of the convention, GREVIO baseline evaluation reports do not systematically address all articles of the convention. This review, accordingly, features an analysis of the articles of the convention that are addressed under the GREVIO baseline evaluation reports, contained in Chapters I to VII.

In order to facilitate the reader's navigation of this review, each Article is divided into sections, which in turn are sub-divided by headings and sub-headings that clearly identify the issue/s under review. This allows the reader to skim through the sections with more ease and identify the specific theme/issue s/he is interested in and the related GREVIO findings and promising practices.

More specifically, each Article of the convention under review is premised by an introduction outlining the provision, including as interpreted by the Explanatory Report to the Istanbul Convention. The introduction is then followed, where applicable, by positive practices that have been identified by GREVIO in the parties that have been reviewed – these positive practices are premised by sub-headings which identify the specific sub-theme to which they pertain. The identified practices are defined as “promising” practices to clarify that they offer interesting approaches to the implementation of the convention but may need time to fulfil their potential, be further adapted or rolled out more widely. They have been show-cased in this review as they can serve as an example for other parties. As noted also in the introduction, some promising practices have been introduced following the signature or ratification of the convention, which brings to the fore the momentum created for change on the basis of the Istanbul Convention.

Following the promising practices, the review then carries out, for the given Article under review, a comparative assessment of the challenges and shortcomings identified across the 17 baseline evaluation reports. Once again, the challenges under the Article are divided in headings and sub-headings to clearly identify the specific issue that is being addressed. This review does not purport to be exhaustive but aims to provide a valuable snapshot of the challenges ahead for the parties to the convention. When addressing specific themes under an Article of the convention, not all parties are cited systematically - only a selection of those findings that are the most relevant for that specific issue are referred to. This is because GREVIO baseline evaluation reports, depending on the context, particularities and specific problems faced by a party, do not always address each and every aspect of the article, but prioritise and focus the attention on the issues that are most pressing in a given country.

Finally, the review also identifies, where applicable, problems that are unique to specific parties, indicating GREVIO's findings in this respect. While these issues have been identified as unique to the specific party, it is possible that other parties that await evaluation face similar challenges. Also, in this case, the analysis and the relative findings can provide precious guidance to those parties prior to the GREVIO evaluation.



CHAPTER I

PURPOSES, DEFINITIONS, EQUALITY AND NON-DISCRIMINATION, GENERAL OBLIGATIONS

Article 2 - Scope of the convention

Introduction

1. In light of the scope of the Istanbul Convention set out in its Article 2, paragraph 1, the first baseline evaluation focuses on measures taken in relation to all forms of violence against women, including domestic violence, which affects women disproportionately. In accordance with the definition provided in Article 3, indent a, the term violence against women refers to all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Whereas, in accordance with the definition given in Article 3, indent b, the expression domestic violence is to be understood as referring to all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. Chapter V of the convention specifies further the forms of violence against women that are to be criminalised (or, where applicable, otherwise sanctioned). These are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation (FGM), forced abortion, forced sterilisation and sexual harassment.
2. Article 2, paragraph 2, encourages parties to apply the convention also to domestic violence committed against men and children. It is therefore up to the parties to decide whether to extend the applicability of the convention to these victims. However, the convention is clear in requiring parties to pay particular attention to women victims of this form of violence, because they are affected disproportionately. Indeed, the Istanbul Convention is clear in asserting that both domestic violence and violence against women should be understood as a gendered phenomenon. This is because the historically unequal relationships between women and men have led to the domination of men over women and are among the root causes of violence against women. The driving motivation behind these forms of violence is power and control over a woman - her body, her mind, her economic situation, her sexuality or her reproductive functions. It is for this reason that they are covered by the Istanbul Convention as manifestations of gender-based violence, which is violence that is directed against a woman because she is a woman or that affects women disproportionately. As such, it should not be considered as abuse experienced individually by women but needs to be understood as a social mechanism to keep women in a subordinate position to men. This does not apply in the same way to men who experience violence in intimate relationships.

Istanbul Convention as a driving force for change

3. A positive trend that has been identified in a number of GREVIO baseline evaluation reports when examining Article 2, is that the ratification of the Istanbul Convention has been a driving force for the development of policy and legislation expanding beyond the scope of domestic violence to address the various forms of violence covered by the convention. Spain, for example, has recognised the need to broaden its policy approach and has taken measures to increase responses to forms of violence against women beyond domestic violence.¹ Moreover, further to the ratification of the convention, higher legislative and policy standards have been introduced at the national level in a number of countries, including in Andorra, Austria, Malta, Monaco, and Portugal.² This demonstrates the transformative momentum created by the Istanbul Convention as much as the high degree of engagement among parties.

Gendered approach to violence against women

4. GREVIO baseline evaluation reports assess whether national legislation, policies and measures address the gendered nature of violence against women and the specific experiences of women victims of violence in ensuring the rights under the convention. A distinctly gendered approach to implementing the provisions of the Istanbul Convention was observed in Andorra, Spain, and Sweden.³
5. Although mostly focused on intimate partner violence, GREVIO has applauded the strong gendered perspective adopted by the Spanish authorities in law and policy which has led to a high level of social awareness of intimate partner violence and domestic violence as a gendered phenomenon. More specifically, GREVIO has commended the Spanish authorities' pioneering role in developing a strong legal framework in relation to intimate partner violence that has served as inspiration for other European countries. Organic Law 1/2004 on Integrated Protection Measures against Gender Violence, fully recognises the gendered nature of intimate partner violence and strongly emphasises the need to empower women, in terms of both preventing and breaking free from such violence, including by developing measures to empower women economically and helping them to start independent lives. GREVIO further noted that the latter, together with the case of Sweden (see the paragraph below), is one of the few examples of legislation in Europe that specifically addresses men's violence against their female intimate partners, and that offers a wide array of legal and socio-economic rights to their victims. Organic Law 1/2004 is also an example of legal innovation because it introduces, for the first time, specialist violence against women courts with joint jurisdiction over all civil and criminal law matters related to intimate partner violence and related family law issues so that all related legal issues can be settled in one court in order to reduce the level of secondary victimisation and trauma for victims. GREVIO has also commended the State Pact on Gender-based Violence, a five-year road map that aims to step up efforts to implement the Istanbul Convention by identifying a multitude of measures and that also adopts a gendered approach to violence against women.
6. As regards Sweden, GREVIO noted in its baseline evaluation report that violence against women is framed as a gender equality issue and that the gendered nature of such violence is fully incorporated into official documents, policies and, to some extent, legislation. The terminology used is that of "men's violence against women" to point to its gendered nature and this is done consistently throughout all relevant areas of policy making. GREVIO has noted that his approach ensures that all kinds of physical, psychological, and sexual violence, and threats thereof made by men against women, are covered, including forms of intimidation, control, coercion and the use of force exerted to enforce value systems that are based on the chastity of girls and women and the control of their sexuality to uphold family "honour" ("honour-related violence"). This concept further extends to the commercialisation and exploitation of the female body in the media, advertising,

1. See GREVIO's considerations on the State Pact in GREVIO's baseline evaluation report on Spain, paragraph 8.

2. See GREVIO's baseline evaluation reports on: Andorra, paragraph 5; Austria, paragraph 9; Malta, paragraph 9; Monaco, paragraph 3; and Portugal, paragraph 3.

3. See GREVIO's baseline evaluation reports on: Andorra, paragraph 5; Spain, paragraph 7; and Sweden, paragraphs 6 and 7.

and pornography in cases where the aim is to reproduce ideas of women's subordination. GREVIO has welcomed this approach because it addresses the practices and products of industries which often perpetuate notions of women's subordination and objectification and which play a large role in shaping unhealthy attitudes towards male and female sexuality.⁴

7. As regards, Andorra, following ratification of the Istanbul Convention, Andorran legislation was expanded to cover more forms of violence against women and recognise the gendered nature of violence against women. Laws such as those on equal treatment and non-discrimination and on the rights of children and teenagers were passed, covering aspects related to violence against women and children and recognising sexual harassment and gender-based harassment as forms of discrimination against women that give access to remedies, without prejudice to the applicability of the corresponding criminal offences. In the context of domestic violence policies, GREVIO has also welcomed the attention paid by the Andorran authorities to women victims of gender-based violence.⁵

Challenges

Many forms of violence against women remain unaddressed by policy and at the implementation level

8. In its baseline evaluation reports, GREVIO has observed that while most parties have passed legislation on different forms of violence against women, including domestic violence, they have primarily focused their policies and the application of laws on domestic violence. Affected parties include Albania, Andorra, Austria, Malta, Montenegro, the Netherlands, Serbia, Spain, and Turkey for which GREVIO has strongly encouraged/urged parties, *inter alia*, to ensure that measures taken in accordance with the Istanbul Convention address all forms of violence against women in a holistic and comprehensive manner.⁶
9. A more comprehensive approach to addressing violence against women, including domestic violence, was identified by GREVIO in its baseline evaluation reports on Belgium, France, and Sweden.⁷ GREVIO noted that in these parties, legislation and policy on violence against women has evolved over time, reflecting a succession of legislative and policy advances leading to a more robust and comprehensive legal and policy framework for the prevention and combating of violence against women.
10. A more comprehensive approach to addressing violence against women, nuanced by some important limitations, was identified in parties such as Denmark, Finland, Italy,⁸ and Portugal. In Denmark, GREVIO noted a trend of singling out, through policies, specific forms of violence and specific groups of victims, without addressing structural issues that affect all victims in the context of a wider programme to prevent and combat violence against women.⁹ As regards Finland, although GREVIO commended the initial adoption of a comprehensive, cross-sector action plan in the area of violence against women, it noted that this comprehensive approach was not sustained by the succeeding action plans. The additional action plans that were adopted by the authorities, in relation to FGM, for example, were in fact not sufficiently framed in the context of a coherent policy on violence against women.¹⁰ Similarly, GREVIO noted in its baseline evaluation report on Portugal a change in the approach, whereby, an initial action plan encompassing all forms of gender-based violence against women was replaced by a new approach combining measures pertaining to gender equality and gender-based violence under a broader long-term strategy, in respect of which, however, civil society expressed the concern that it did not address effectively the singularities of the different forms of violence against women.¹¹

4. See GREVIO's baseline evaluation report on Sweden, paragraphs 6-7.

5. See GREVIO's baseline evaluation report on Andorra, paragraphs 3-5.

6. See GREVIO's baseline evaluation reports on: Albania, paragraph 3; Andorra, paragraph 5; Austria, paragraph 9; Malta, paragraph 9; Montenegro, paragraphs 9 and 23; the Netherlands, paragraph 42; Serbia, paragraphs 7 and 26; Spain, paragraphs 7-10 and 35; and Turkey, paragraph 44.

7. See GREVIO's baseline evaluation reports on: Belgium, paragraph 4; France, paragraph 3; and Sweden, paragraph 6.

8. See GREVIO's baseline evaluation report on Italy, paragraph 8.

9. See GREVIO's baseline evaluation report on Denmark, paragraphs 17-19.

10. See GREVIO's baseline evaluation report on Finland, paragraphs 19-22.

11. See GREVIO's baseline evaluation report on Portugal paragraphs 3-5.

Gender-neutral approach

11. As referred to above, the provision contained in Article 2, paragraph 2, encourages parties to apply the convention also to domestic violence committed against men and children. Article 3, moreover, provides a gender-neutral definition of domestic violence that encompasses both victims and perpetrators of both sexes. Nonetheless, Article 2 emphasises that domestic violence affects women disproportionately and is therefore a form of violence that is distinctly gendered. Thus, with a view to keeping the focus on the various forms of gender-based violence committed against women, under Article 2 it is important for policies and measures to address gender-based violence against women when implementing the convention and to ensure a gendered understanding of violence against women, including domestic violence. Accordingly, GREVIO baseline evaluation reports examine both under Article 2 and Article 3 of the convention whether national legislation, policies and measures address the gendered nature of violence against women and the specific experiences of women victims of violence in ensuring the rights under the convention.
12. In eight out of seventeen countries evaluated to date, notably, Albania, Denmark, Finland, Monaco, Malta, Montenegro, the Netherlands, and Serbia, GREVIO has criticised the gender-neutral approach of legal provisions and policy documents that address violence against women, including domestic violence.¹² It has noted that such an approach fails to take into account that gender is a primary motive of gender-based violence against women and, consequently, policies and measures that are gender neutral will not effectively respond to the specific experiences of women and girls. GREVIO has stressed that such approach fails to address the challenges to the safety of women and children who predominantly suffer domestic violence inflicted on them by male perpetrators. In its baseline evaluation reports, it has therefore urged/strongly encouraged parties to enhance the application of a gendered perspective in the implementation of the Istanbul Convention, including in relation to domestic violence. At the same time, GREVIO noted that in Austria, while legislation on domestic violence remains gender neutral, particular attention is paid to women victims through a network of victim support services, with a strong gender perspective, and through training of front-line professionals on the gendered nature of domestic violence.¹³ This is one way of achieving the aim of responding to the gendered aspects which women victims of domestic violence face. Another example is the truly gendered approach to the phenomenon as taken by Spain and Sweden discussed in this Chapter under *Article 4, Promising practices, Gendered approach to violence against women*.

Issues unique to specific parties

Shift from strong gender perspective to gender-neutral approach

13. It is noteworthy that in a number of countries with a strong tradition of promoting gender equality and combatting violence against women there has been a shift in policy documents and legislation in the area of violence against women from a strong gendered perspective to a strictly gender-neutral approach. This has been noted in the GREVIO baseline evaluation reports on Finland, Denmark, and the Netherlands where it was observed that most policy documents and legal provisions address both men and women as perpetrators and victims.¹⁴ GREVIO has pointed out that such an approach raises concerns as to the extent to which those policies are underpinned by the concept that violence against women is both a cause and a consequence of the inequality between women and men and whether violence against women is recognised as a form of gender-based violence.
14. Furthermore, with respect to policies on “honour-related violence”, GREVIO has noted a worrying trend in its baseline evaluation report on Denmark whereby, rather than treating this as gender-based violence against women, a culture-based understanding of such violence is preferred. GREVIO has noted that this not only prevents a holistic response but may also perpetuate stereotypes about ethnic minorities and lead to discrimination against them.¹⁵

12. GREVIO's baseline evaluation reports on: Albania, paragraph 8; Denmark, paragraph 6; Finland, paragraph 3; Monaco, paragraph 4; Malta, paragraph 11; Montenegro, paragraph 8; the Netherlands, paragraph 13; and Serbia, paragraph 7.

13. See GREVIO's baseline evaluation report on Austria, paragraph 7.

14. See GREVIO's baseline evaluation reports on: Denmark, paragraph 6; Finland, paragraph 4; and the Netherlands, paragraph 13.

15. See GREVIO's baseline evaluation report on Denmark, paragraph 17.

15. In the Netherlands, the de-gendering of discourse on domestic violence, coupled with the merger of domestic violence services and child protection services, has led to policies focused more on child victims, as opposed to women victims; thus, many women victims have lost trust in the support systems in place.¹⁶

Article 3 – Definitions

Introduction

16. The Istanbul Convention sets out, in its Article 3, key definitions of concepts that are fundamental to its implementation, including violence against women and domestic violence, as recalled above under the analysis of Article 2. The definition of “gender-based violence against women” offered in paragraph d of Article 3 seeks to ensure more clarity regarding the nature of the violence covered by explaining that this is “violence that is directed against a woman because she is a woman or that affects women disproportionately”. Hence, the violence addressed by the Istanbul Convention differs from other types of violence in that the victim’s gender is the primary motive. It is violence that is perpetrated against a woman that is both the cause and the result of unequal power relations based on perceived differences between women and men that lead to women’s subordinate status in the public and in the private sphere.

Challenges

Definition of domestic violence

17. A challenge that has been identified by GREVIO is the need to harmonise the definition of domestic violence in compliance with Article 3b of the convention. For example, in Austria, Portugal, and Spain the definitions of domestic violence do not encompass economic violence.¹⁷ In Monaco, domestic violence is described in terms of the relationship between the victim and the perpetrator, covering only spouses or persons that live or have lived together on a long-term basis.¹⁸
18. Moreover, as noted under the analysis of Article 2 of the convention, GREVIO has criticised the gender-neutral approach of legal provisions and/or policy documents that address domestic violence in Albania, Denmark, Finland, Monaco, Malta, Montenegro, the Netherlands, and Serbia.¹⁹ In Albania, while the response to domestic violence is strongly anchored to a gender perspective at the policy level, it is less so at the legislative level where the offence of domestic violence is categorised amongst the criminal acts “against children, marriage, and family”, overlooking the human rights based and gendered approach of the convention.²⁰ In Finland, GREVIO noted that the Action Plan for the Istanbul Convention 2018-2021, did not contain definitions of domestic violence or any other form of violence against women and framed the measures to be taken in a gender-neutral manner.

Definition of violence against women and gender-based violence

19. Stemming from the gender-neutral approach taken in the countries referred to above, the concepts of violence against women is either not defined or poorly defined in many parties. In Belgium, Malta, and Montenegro for example, violence against women is not defined and the term “gender-based violence” is preferred, with no distinction made for gender-based violence against women.²¹ In its GREVIO baseline evaluation reports of Belgium and Malta, in particular, GREVIO has noted that the authorities use the concept of gender-based violence rather than that of violence against women in an effort to be inclusive of men and boys, as well as LGBTI women, fearing that a different approach would be discriminatory.²² In its baseline evaluation report on Belgium, GREVIO has pointed out, in this connection, that while it appreciates the willingness of the authorities to pursue a policy to combat gender-based violence taking into account all

16. See GREVIO’s baseline evaluation report on the Netherlands, paragraphs 38-41.

17. See GREVIO’s baseline evaluation reports on: Austria, paragraph 8; Portugal, paragraph 8; and Spain, paragraph 12.

18. See GREVIO’s baseline evaluation report on Monaco, paragraph 6.

19. See GREVIO’s baseline evaluation reports on: Albania, paragraph 8; Denmark, paragraph 6; Finland, paragraph 3; Malta, paragraph 11; Monaco, paragraph 4; the Netherlands, paragraph 13; and Serbia, paragraph 7.

20. See GREVIO’s baseline evaluation report on Albania, paragraph 9.

21. See GREVIO’s baseline evaluation reports on: Belgium, paragraph 8; Malta, paragraph 12; and Montenegro, paragraph 12.

22. See GREVIO’s baseline evaluation reports on: Belgium, paragraph 8; and Malta, paragraph 11.

victims without discrimination, policies and measures need to separately target gender-based violence against women - violence against women risking otherwise to become invisible and inadequately addressed. GREVIO has also highlighted in this respect that such an approach fails to address the specific experiences of women, hindering their effective protection.

20. In Denmark and Finland, in keeping with the gender-neutral approach adopted in these countries, there are no definitions of violence against women or gender-based violence in legislation or policy.²³ GREVIO has stressed in this respect that to tackle violence against women effectively, both policy and legislation must acknowledge that violence against women is a violation of human rights and a form of discrimination against women.
21. Finally, in some parties such as Serbia and Spain, GREVIO has found several definitions of violence against women to be in place, highlighting that it is not conducive to fostering a harmonised understanding of violence against women.²⁴ In Spain, for example, GREVIO noted that while many of the definitions used across the 17 autonomous regions covered numerous forms of violence against women, the multitude of definitions in place is resulting in a fragmented approach towards the implementation of the Istanbul Convention as they differ significantly in scope.²⁵

Article 4 – Fundamental rights, equality and non-discrimination

Introduction

22. The convention recognises that women's inequality with men is a root cause of violence against women. Article 4, paragraph 2, of the convention affirms the principle of substantive equality between women and men and requires parties to not only condemn all forms of discrimination against women, but to enshrine the principle of equality in law, ensure its practical realisation as well as prohibit discrimination by law and abolish any discriminatory legislation and practices.²⁶ In order to effectively address violence against women, comprehensive policies and measures to achieve de jure and de facto equality of women need to be in place alongside and in co-ordination with policies to prevent and combat violence against women and domestic violence.
23. Article 4, paragraph 3 of the convention requires parties to secure the implementation of their undertakings under the convention without any discrimination. This provision provides an open-ended list of non-discrimination grounds and includes gender, sexual orientation, gender identity, age, state of health, disability, marital status, and migrant or refugee status or other status. The obligation to ensure the effective application of the convention in relation to all women and girls stems from the realisation that discrimination of certain groups of women and girls who experience violence, for example at the hands of law enforcement agencies, the judiciary or service providers, is still widespread.²⁷

Promising practices

Positive action measures

24. In its baseline evaluation reports on Andorra and Serbia, GREVIO has welcomed the legislative measures taken by these parties that allow for special measures to be adopted to ensure effective gender equality and/or to prevent and protect women from gender-based violence, all the while ensuring that such measures shall not be considered discrimination. For example, in Andorra, Articles 17 and 21 of Law No. 13/2019 on equal treatment and non-discrimination promote the implementation of positive measures involving differential treatment of certain groups of individuals, including women, so as to correct or offset situations of inequality. Moreover, it defines some types of discrimination that specifically affect women, including discrimination related to pregnancy and motherhood and sexual harassment, and lays down the principle of equal pay for women and men.²⁸ In Serbia, the law on Gender Equality provides, *inter alia*, that witnesses or

23. See GREVIO's baseline evaluation reports on: Denmark, paragraph 6; and Finland, paragraph 3.

24. See GREVIO's baseline evaluation reports on: Serbia, paragraph 10; and Spain, paragraph 14.

25. See GREVIO's baseline evaluation report on Spain, paragraph 14.

26. Explanatory Report, paragraph 50.

27. Explanatory Report, paragraphs 52-54.

28. See GREVIO's baseline evaluation report on Andorra, paragraph 12.

victims of gender-based discrimination shall not suffer harmful consequences when disclosing any instances of discrimination to a competent authority.²⁹

Framing violence against women as a gender equality issue

25. GREVIO has commended Spain for its pioneering legislation, notably, Organic Act 1/2004, which frames intimate partner violence as an issue of equality between women and men and as a manifestation of gender inequality and a violation of women's human rights (see the analysis under *Article 2, Promising practices*).³⁰

Intersectional discrimination

26. A good practice highlighted by GREVIO in relation to Article 4, paragraph 3, of the convention is the recognition afforded by the Spanish authorities to the importance of addressing the situation of women exposed to or at risk of intersectional discrimination. According to Organic Law 1/2004, comprehensive protection, including the right to legal aid and socio-economic benefits, is available irrespective of a woman's migration status in Spain and it is possible, in principle, for irregular migrant women in Spain to file a complaint for intimate partner violence and to apply for a protection order.³¹ Positive measures in the area of gender-mainstreaming are addressed under *Article 6, Promising Practices, Gender mainstreaming*.

Challenges

The principle of equality between women and men (Article 4, paragraph 2)

The practical implementation of the principle of equality

27. The principle of equality between women and men is enshrined in legislation in the majority of parties reviewed, including in their Constitutions. However, GREVIO identified the absence of concrete measures to ensure the practical implementation of laws that promote gender equality and prevent discrimination against women in France and Monaco.³² In its baseline evaluation report on Turkey, GREVIO also urged the authorities to strengthen considerably policies and measures to ensure the practical realisation of the principle of equality between men and women.³³ In this connection, GREVIO acknowledged that while considerable legislative progress has been achieved in Turkey to promote equality between women and men, considerable gender gaps existed in a number of areas. It noted that certain laws and policies were conducive to reinforcing gender inequality and violence against women, and that the lack of awareness of legal norms on women's rights could prevent women and girls from claiming their rights.³⁴

Link between gender equality and violence against women

28. A common shortcoming found in the baseline evaluation report on Denmark, Finland, and the Netherlands as described above, is that, while gender equality policies in these countries are relatively strong, co-ordinated policies and measures on gender equality and violence against women seem to be missing.³⁵ For example, the policy approach taken in the relevant national action plans in the Netherlands and in Denmark is gender neutral and does not recognise violence against women as a form of discrimination against women.³⁶ In Finland, the entry into force of the convention has not led to a discussion around the need for policies that consider the specific experiences of women experiencing violence, such as the setting up of women-only support services.³⁷

29. See GREVIO's baseline evaluation report on Serbia, paragraph 13.

30. See GREVIO's baseline evaluation report on Spain, paragraph 17.

31. See GREVIO's baseline evaluation report on Spain, paragraph 19.

32. See GREVIO's baseline evaluation reports on: France, paragraph 20; and Monaco, paragraph 12.

33. See GREVIO's baseline evaluation report on Turkey, paragraph 10.

34. See GREVIO's baseline evaluation report on Turkey, paragraphs 2-5.

35. See GREVIO's baseline evaluation reports on: Denmark, paragraphs 6-10; Finland, paragraph 7; and the Netherlands, paragraphs 17-19.

36. See GREVIO's baseline evaluation reports on: Denmark, paragraphs 6-10; and the Netherlands, paragraphs 20-21.

37. See GREVIO's baseline evaluation report on Finland, paragraph 8.

Intersectional discrimination

Non-discriminatory implementation of the convention

29. In its baseline evaluation reports, GREVIO has in many instances identified gaps in the non-discriminatory implementation of the provisions of the convention (as foreseen under Article 4, paragraph 3), including the absence of effective measures addressing the needs of women from vulnerable groups. These include, but are not limited to, women from national minorities, Roma women, migrant, asylum seeking and refugee women, women with disabilities, women without a residence permit, LGBTI women, women from rural areas, women in prostitution and women with substance abuse.
30. As regards in particular women who belong to national or ethnic minorities, GREVIO has observed in various parties that policies that address violence against women do not always take into consideration the specific circumstances and barriers experienced by these groups. By way of example, in Sweden, even though extensive policy attention is given to combating violence against women, such policy does not always extend systematically to Sami women, whose circumstances and cultural context differ significantly from those of the majority of women.³⁸ This is coupled with lack of specific research into the prevalence rates of violence experienced by these groups and a general lack of awareness among the authorities of the cultural specificities, constraints, and barriers that they face in seeking support. Similar concerns can also be found in the reports on Albania, Finland, Montenegro and Turkey, with respect to women belonging to other national minority groups, as well as other vulnerable groups.³⁹ As regards Serbia, GREVIO found in its baseline evaluation report that Roma women seeking help encounter stereotypical beliefs among the authorities, resulting in insufficient responses. In particular, early and forced marriage, are often considered by such authorities as a cultural practice that does not necessarily entail the state's responsibility to act.⁴⁰
31. GREVIO baseline evaluation reports have also recorded significant barriers in migrant and asylum seeking women's ability to report violence to the police in Malta, Monaco, the Netherlands, Spain, and Sweden⁴¹ and in accessing general and/or specialised support services in Belgium, Denmark, Italy, Malta, the Netherlands, Spain, and Sweden.⁴² As regards more specifically women without a residence permit, in Denmark, the Netherlands, and Sweden, GREVIO found that the support made available to them was extremely limited as they could not access any of the general social services or other support services such as shelters for administrative reasons.⁴³
32. The majority of baseline evaluation reports also notes that reporting acts of violence and seeking assistance is particularly problematic for women with disabilities and mothers of children with disabilities.⁴⁴ The obstacles encountered include the inaccessibility of police premises; lack of training and stereotypes of law enforcement officials;⁴⁵ and lack of information in accessible formats on the support services that are available.⁴⁶
33. In all these cases, GREVIO has accordingly urged/strongly encouraged the respective parties to take measures to ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3. In its baseline evaluation reports on Albania, Belgium, France, Italy, Portugal, and Turkey, GREVIO has also encouraged/strongly encouraged parties to systematically mainstream gender-related issues and gender-based violence in general policies and programmes which are tailored to the specific needs of such groups of vulnerable women who are subject to intersectional discrimination.⁴⁷

38. See GREVIO's baseline evaluation report on Sweden, paragraphs 13 and 15.

39. See GREVIO's baseline evaluation reports on: Albania, paragraph 17; Finland, paragraph 11; Montenegro, paragraph 18; and Turkey, paragraphs 15-22.

40. See GREVIO's baseline evaluation report on Serbia, paragraph 16.

41. See GREVIO's baseline evaluation reports on: Italy, paragraph 23; Malta, paragraph 20; Monaco, paragraph 16; the Netherlands, paragraph 24; Spain, paragraph 20; and Sweden, paragraph 201.

42. See GREVIO's baseline evaluation reports on: Belgium, paragraph 18; Denmark, paragraph 11; Italy, paragraph 268; Malta, paragraph 20; the Netherlands, paragraph 24; and Spain, paragraph 20.

43. See GREVIO's baseline evaluation reports: on Denmark, paragraph 11; Sweden, paragraph 16; and the Netherlands, paragraph 24.

44. See GREVIO's baseline evaluation reports on: Andorra, paragraph 19; Belgium, paragraph 18; Finland, paragraphs 11 and 13; Italy, paragraph 21; Malta, paragraph 18; Montenegro, paragraph 9; the Netherlands, paragraph 25; Serbia, paragraph 19; Spain, paragraph 22; and Sweden, paragraph 16.

45. See GREVIO's baseline evaluation report on Malta, paragraph 18.

46. See GREVIO's baseline evaluation report on Andorra, paragraph 19.

47. See GREVIO's baseline evaluation reports on: Albania, paragraph 18; Belgium, paragraph 21; France, paragraph 26; Italy, paragraph 27; Portugal, paragraph 18; and Turkey, paragraph 23.

Involvement of women exposed to or at risk of intersectional discrimination

34. GREVIO has also consistently raised concerns regarding the lack of involvement of organisations representing women who may experience intersecting forms of discrimination in the development of policies on violence against women. As a result, GREVIO has encouraged/strongly encouraged that parties integrate their perspective in the design, implementation, monitoring and evaluation of policies for preventing and combating violence against women in the baseline evaluation reports on Albania, Andorra, Belgium, Italy, Portugal, Spain, and Turkey.⁴⁸

Data collection on specific groups

35. As mentioned above, GREVIO has consistently noted the lack of specific research and data on the prevalence of violence against women experienced by women exposed to intersectional discrimination. Lack of data and research impacts on policy formulation and access by such groups to support services, protective measures, and justice. This gap in data was highlighted in eight out of the 17 baseline evaluation reports.⁴⁹ GREVIO has therefore called on these parties to support research and add specific indicators in data collection pertaining to violence against women that relate to women and girls who are or might be exposed to intersectional discrimination.

Issues unique to specific parties

36. A unique problem that was identified by GREVIO in its baseline evaluation report on the Netherlands, was the tendency to view violence directed at black, migrant and refugee women as a cultural problem requiring a gender and culture-sensitive approach as opposed to the gender-neutral response given by the authorities to violence in white, non-migrant communities. GREVIO found that such approach reinforced stereotypes that violence against black, migrant and refugee women is a problem stemming from a violent collective culture and is perpetrated by black, migrant or refugee men. It also found that this approach could mask some forms of violence, such as violence perpetrated by white men towards headscarf-wearing women and the role that traditional gender roles and structural imbalances in power between men and women play in violence against white, non-migrant women.⁵⁰

Article 5 – State obligations and due diligence

Introduction

37. Article 5, paragraph 1, sets out the obligation of the state to refrain from committing acts of violence against women and to ensure that its authorities, officials, agents, institutions and other actors acting on its behalf comply with this obligation.⁵¹ Article 5, paragraph 2, enshrines the overarching principle of due diligence in relation to acts covered by the scope of this convention perpetrated by non-state actors; specifically, parties must exercise due diligence in the prevention, investigation and punishment of such acts and must provide protection and reparation to victims. This is grounded in the recognition that failure of states to do so violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms and shall incur state responsibility.⁵²
38. The implementation of Article 5 of the convention by parties is usually covered in GREVIO baseline evaluation reports under Chapters V (notably, Article 29) and VI (Article 50). Only the baseline evaluation reports on Italy, Spain, and Turkey analysed the authorities' obligations stemming from Article 5 of the convention under this specific article.
39. For the purpose of this publication, this section will focus on parties' and their agents' obligation to refrain from engaging in any acts of violence against women. This aspect has been analysed in only a few baseline evaluation reports, including those on Turkey and, to a lesser extent, on Malta, Finland, and Montenegro.

48. See GREVIO's baseline evaluation reports on: Albania, paragraph 18; Andorra, paragraph 22; Belgium, paragraph 21; Italy, paragraph 27; Portugal, paragraph 19; Spain, paragraph 24; and Turkey, paragraph 23.

49. See GREVIO's baseline evaluation reports on: Albania, paragraph 18; Andorra, paragraph 17; Belgium, paragraph 21; France, paragraph 26; Italy, paragraph 27; Malta, paragraph 17; Portugal, paragraph 19; Spain, paragraph 24; and Turkey, paragraph 23.

50. See GREVIO's baseline evaluation report on the Netherlands, paragraph 23.

51. Explanatory Report, paragraph 57.

52. Explanatory Report, paragraphs 57-59.

The obligation to exercise due diligence to prevent, investigate, punish, and provide reparation for violence against women and the relative civil remedies against state authorities' failure to fulfil such duty are analysed under Article 29 and Article 50 of this review.

Challenges

State obligation to refrain from acts of violence against women

40. In its baseline evaluation report on Turkey, GREVIO expressed its grave concern regarding the adverse impact on women's rights ensuing from the political crisis which gripped the country following an attempted *coup d'état* and the subsequent declaration of a state of emergency in July 2016.⁵³ GREVIO noted in its baseline evaluation that information pointed to cases of women being ill-treated while in detention or threatened with sexual violence by law-enforcement officials and that the exceptional measures in place since the promulgation of the state of emergency had led to "an atmosphere of systematic impunity for the security forces". GREVIO further referred to alarming reports alleging that in the course of government-led military and counterterrorism operations in South-East Turkey, women had been subjected to harassment, sexual violence and threats. Moreover, pictures of naked raped and/or killed women had been shared on social media by security forces as a means of intimidation. It therefore urged the authorities to uphold the principle that state actors should refrain from resorting to unlawful violence, including violence committed while responding to perceived and alleged security threats and directed towards women viewed as enemies of the state, or women related to such persons.
41. In its baseline evaluation report on Malta, GREVIO noted that it was not aware of any convictions of public officials, or actors acting on behalf of the state, for acts of violence covered by the convention when acting in an official capacity. In its baseline evaluation report on Finland, GREVIO noted under its analysis of Article 29, that the National Police Board is currently reviewing its guidelines concerning disciplinary measures which may be taken in relation to officers who are found guilty of criminal conduct, including domestic violence.⁵⁴ As regards Montenegro, GREVIO noted in the respective baseline evaluation report the lenient approach taken by the competent authorities towards law enforcement officials who themselves are perpetrators of violence against women and are often subject to disciplinary action and fines rather than criminal charges in order to allow them to remain law enforcement officials.⁵⁵

Article 6 – Gender-sensitive policies

Introduction

42. The nature of the obligation imposed on parties by Article 6 of the convention is twofold. On the one hand, it calls for the integration of a gender perspective in the development of measures to implement the convention and in the assessment of their impact. On the other hand, this Article calls on parties to promote and implement policies aimed at gender equality and women's empowerment.⁵⁶ Gender-sensitive policies must aim for both *de jure* and *de facto* equality between women and men and are premised on the principle that gender inequality is both a consequence and a root cause of violence against women.⁵⁷ The obligations provided under Article 6 of the convention reinforces Article 4, paragraph 2, which condemns and prohibits discrimination. Because these issues are often analysed under Article 4, paragraph 2, of the convention, only eight baseline evaluation reports have specifically analysed the implementation of Article 6.

Promising practices

Gender mainstreaming

43. An example of a promising practice highlighted in the baseline evaluation report on Belgium, is the adoption of the Law of 12 January 2007, known as the Gender Mainstreaming Law that provides

53. See GREVIO's baseline evaluation report on Turkey, paragraph 24.

54. See GREVIO's baseline evaluation report on Finland, paragraph 139.

55. See GREVIO's baseline evaluation report on Montenegro, paragraph 157.

56. Explanatory Report, paragraphs 61-62.

57. See GREVIO's baseline evaluation report on Italy, paragraph 32.

for the integration of the fundamental principles of gender equality and non-discrimination into public policies from the point at which they are devised to the point at which they are assessed and, in particular, when they are implemented by the authorities and their staff.⁵⁸ A similar approach has been adopted in Sweden where all areas of policy making and governance are anchored in gender equality principles, with gender impact assessments and gender quality analyses routinely carried out by trained civil servants.⁵⁹ Andorra and France have also made significant efforts to ensure a gender perspective in the formulation of all laws and policies. Andorra has instituted measures ensuring that a gender perspective is incorporated in all policies combatting violence against women; all policies and programmes of the social and health services; and all proposed legislation.⁶⁰ In France, despite the limitations expressed below in the analysis under *Article 6, Challenges, Gender perspective in policies combatting violence against women*, each government ministry has a designated official responsible for equal rights, and there are on-going efforts to mainstream gender budgeting in order to address gender inequalities in the allocation of public funds.⁶¹ It should also be noted that the Netherlands has also taken steps toward gender mainstreaming by including gender equality in its Integrated Assessment Framework, which evaluates all new policy and legislative proposals in terms of their achievement of the Sustainable Development Goals (SDGs), including SDG 5 on Gender Equality.⁶² Lastly, GREVIO has taken positive note of recent proposals in Monaco to set up an inter-ministerial body responsible for issues relating to women's rights.⁶³

Cross-cutting policies

44. GREVIO has noted Andorra's efforts in devising and implementing cross-cutting, gender-sensitive policies combatting violence against women. All policy documents related to violence against women have consistently adopted a gender perspective and include policy on employment resulting in the development of vocational integration measures aimed at women victims of violence.⁶⁴

Challenges

Gender perspective in policies combatting violence against women

45. As amply addressed in the analysis under Article 2 and Article 3 of this report, several parties have explicitly adopted a gender-neutral approach when devising policies on domestic violence and on violence against women. The practical effects of this approach have led to the de-gendering of discourse on violence against women so that women victim's experiences and needs are obscured, in violation of Articles 2, 3, and 6 of the convention.
46. Despite the recognition from the respective governments of the need to integrate a gender perspective in policies combatting violence against women and some efforts to this end, a common feature identified in the baseline evaluation reports on France and Portugal is that these policies, in practice, are based on a limited understanding of the gendered dimensions of such violence. In Portugal, the Fifth National Action Plan on Violence against Women scarcely takes into consideration that women are disproportionately affected by violence.⁶⁵ Similarly, in its baseline evaluation report on France, GREVIO has noted a persistent difficulty in devising policies on violence against women anchored in a gendered perspective, resulting many times in policies failing to bring about expected results.⁶⁶ More generally, in countries where efforts have been made to incorporate a gender perspective in policies on violence against women such as Albania, Andorra, France, and Portugal, GREVIO has noted that problems at the implementation level persist. In Andorra, for example, the standardisation of a gender-based approach in policy implementation by all government bodies and institutions remains a challenge and the need for increased training of professionals

58. See GREVIO's baseline evaluation report on Belgium, paragraph 14.

59. See GREVIO's baseline evaluation report on Sweden, paragraph 10.

60. See GREVIO's baseline evaluation report on Andorra, paragraph 25.

61. See GREVIO's baseline evaluation report on France, paragraph 29.

62. See GREVIO's baseline evaluation report on the Netherlands, paragraph 32.

63. See GREVIO's baseline evaluation report on Monaco, paragraph 11.

64. See GREVIO's baseline evaluation report on Andorra, paragraph 26.

65. See GREVIO's baseline evaluation report on Portugal, paragraph 21.

66. See GREVIO's baseline evaluation report on France, paragraph 33.

involved in the implementation of policies has been highlighted.⁶⁷ In Portugal, the Fifth National Action Plan on Violence against Women does not adopt a sufficiently robust gender perspective when framing policy action, impacting implementation by state agencies and institutions, at the point of which the gender perspective is lost.⁶⁸ In Albania, public opinion, and the relevant professionals lack, in practice, a gendered understanding of violence against women and instead associate violence against women with low socio-economic status.⁶⁹

47. GREVIO has noted the emergence of a trend in Italy and Turkey to reformulate policies promoting gender equality as family and motherhood policies and to prioritise the protection of the family over the elimination of discrimination against women.⁷⁰ In Turkey, this has resulted in the diversion of financial resources towards the support of family-oriented policies which reinforce women's traditional roles in the family as mother and caregiver, doing little to decrease women's economic dependency. In terms of policies on violence against women, GREVIO has expressed its strong concern that this trend may result in a willingness of policy makers to turn a blind eye to violence against women in their promotion of the preservation of the family unit. GREVIO has therefore, *inter alia*, urged the authorities to ensure that policies promoting gender equality are not thwarted by attempts to confine women to the traditional role of mothers and care-givers; and to design policies to support the family which build on women's right to be treated as equals to men and which aim at empowering them.

Lack of evaluation processes and mechanisms

48. Under Article 6, parties must incorporate a gender perspective not only at the formulation stage of policies, but also when evaluating their impact; thus, gender impact assessments should be carried out by parties when devising measures for the implementation of the convention. Although during its country evaluations GREVIO does not address this aspect systematically, it has observed in some parties the absence of regular and institutionalised evaluation processes. In Andorra, where significant efforts have been made to incorporate a gender-based approach in the formulation of law and policy, GREVIO has noted the difficulty of evaluating the impact of implementation due to the absence of evaluation processes, particularly regarding policies relating to violence against women.⁷¹ Although France has taken measures stipulating that all proposed laws and regulations should undergo gender impact assessments and a methodological guide has been disseminated to all ministries, such gender impact studies remain incomplete.⁷² GREVIO has thus encouraged parties to systematically assess the gender-related impact of the measures taken to prevent and combat violence against women.

Policies aimed at gender equality and women's empowerment

49. In its baseline evaluation report on France and Portugal, GREVIO noted that several measures have been adopted to strengthen gender equality, including through mainstreaming gender equality and securing political commitment at all levels of public administration.⁷³ However, in its baseline evaluation report on France, GREVIO noted at the implementation level an uneven application of gender-equality policies across ministries, which are frequently marked by short-lived or unimplemented actions. As referred to above in the analysis under *Article 6, Challenges, Gender perspective in policies combatting violence against women*, GREVIO has noted the emergence of a growing trend in Italy and Turkey of the problematic formulation of gender-sensitive policies in terms of women's traditional roles in the family, which has impacted on policies addressing violence against women.

67. See GREVIO's baseline evaluation report on Andorra, paragraph 27.

68. See GREVIO's baseline evaluation report on Portugal, paragraph 21.

69. See GREVIO's baseline evaluation report on Albania, paragraphs 19-20.

70. See GREVIO's baseline evaluation reports on: Italy, paragraph 35; and Turkey, paragraphs 38-39.

71. See GREVIO's baseline evaluation report on Andorra, paragraph 28.

72. See GREVIO's baseline evaluation report on France, paragraph 34.

73. See GREVIO's baseline evaluation reports on: France, paragraph 29; and Portugal, paragraph 20.

Issues unique to specific parties

Lack of overarching policy

50. In its baseline evaluation report on Italy, GREVIO pointed that the lack of an overarching and integrated policy on gender equality at the national level represented an obstacle to progress in the implementation of Article 6.⁷⁴ In particular, GREVIO expressed its concern over the absence of sufficient and sustained political commitment behind policies promoting gender equality and the empowerment of women. It noted that this was coupled with a backlash and resistance to such policies in Italy, as well as rising anti-gender sentiment that threaten the gains achieved so far in the area of women's rights. Thus, GREVIO welcomed information indicating that the authorities were planning a new strategy for gender equality that would be finalised by the end of 2020, aiming to further promote the social and economic empowerment of women.

74. See GREVIO's baseline evaluation report on Italy, paragraphs 33-34 and 38.



CHAPTER II

INTEGRATED POLICIES AND DATA COLLECTION (ARTICLES 7-11)

Article 7 – Comprehensive and co-ordinated policies

Introduction

51. Under Article 7 of the convention, parties must take the necessary legislative and other measures to adopt and implement State-wide, comprehensive and co-ordinated policies to ensure a holistic response to violence against women, sustained by the necessary institutional, financial and organisational structures. This type of co-operation requires guidelines and protocols for all agencies to follow, as well as sufficient training of professionals on their use and benefits.⁷⁵ Article 7, paragraph 3, requires that all relevant stakeholders, including women's rights NGOs, must be included in the design and implementation of policies. Finally, the Explanatory Report to the convention also notes that national action plans to prevent and combat violence against women can be instrumental to ensure state-wide application, as well as the participation of all relevant stakeholders.

Promising practices

Evidence-based policies

52. Evidence-based policy making has been commended by GREVIO in its baseline evaluation reports on Denmark, the Netherlands, and Sweden. In these countries, studies and research were conducted on a continuous basis and informed the drafting/evaluation of policies. In Denmark, the national action plans and strategies on stalking and rape were informed by studies commissioned by the Ministry of Justice on the criminal justice response given by the police and judiciary to such cases.⁷⁶ Similarly, research and evaluation programmes have contributed to the drafting of the current national strategy on domestic violence in the Netherlands⁷⁷ and to the current National Strategy to Prevent and Combat Men's Violence against Women in Sweden.⁷⁸

75. Explanatory Report, paragraphs 64-65.

76. See GREVIO's baseline evaluation report on Denmark, paragraph 16.

77. See GREVIO's baseline evaluation report on the Netherlands, paragraph 35.

78. See GREVIO's baseline evaluation report on Sweden, paragraph 22.

Multi-agency co-operation

53. GREVIO has commended the recent decisions by Monaco and Sweden to bolster multi-agency co-operation through: (i) the institutionalisation of a network of trained officers within each of the services involved in implementing policy on violence against women in Monaco;⁷⁹ and (ii) the establishment of the Gender Equality Agency in Sweden, a state body responsible for co-ordination of policy implementation across all relevant actors, which is actively promoting the Istanbul Convention as well as the implementation of GREVIO's findings.⁸⁰ Lastly, Austria has been commended by GREVIO for its long established history of inter-institutional co-operation, including between the state and feminist groups providing victim support services, which has led to pioneering legislation on domestic violence that still constitutes the benchmark for law- and policy-making in this area.⁸¹

Impact of GREVIO baseline evaluation

54. There are a number of significant examples that illustrate how GREVIO has impacted on parties' policies. In Portugal, findings issued by GREVIO were incorporated in the strategic Major Planning Options for 2020-2023.⁸² In Belgium, the "Note of Political Orientation" released by the House of Representatives on 6 November 2020 refers to the Istanbul Convention and announces the implementation of several of the findings offered by GREVIO.⁸³ As regards Spain, it has repeatedly demonstrated its strong engagement with the Istanbul Convention, at both national and international level. Prior to GREVIO's evaluation, it laid out a five-year road map, in the form of the State Pact on Gender-based Violence. The latter encompasses a total of 481 individual measures that aim to better implement the Istanbul Convention and consolidates the political commitment to broaden the definition of violence against women.⁸⁴ Following GREVIO's evaluation, the Spanish Government committed to further implementing the Istanbul Convention and expressed its appreciation of the proposals and suggestions made by GREVIO while providing examples of efforts made to this extent, notably in the area of offering more comprehensive protection to victims of sexual violence.⁸⁵

Challenges

Holistic response to violence against women

National action plans

55. GREVIO has noted the widespread use of national action plans as a means to address violence against women at the policy level. This applies to Austria, Belgium, Denmark, Finland, Malta, the Netherlands, Portugal, and Sweden.⁸⁶
56. A trend that GREVIO has noted in its findings on Denmark, Finland, France, Italy, Portugal, and Turkey is the practice of drafting separate policies restricted to specific forms of violence against women.⁸⁷ By way of example, Italy, Portugal, and France have developed dedicated actions plans to prevent and combat FGM. GREVIO has generally welcomed efforts aimed at such targeted action, expressing concerns, however, where such approach was taken in the absence of a wider programme to prevent and combat violence against women (Denmark and Finland) or where it noted that similar broad and integrated measures were not in place with respect to all other forms of violence against women (Italy).

79. See GREVIO's baseline evaluation report on Monaco, paragraph 21.

80. See GREVIO's baseline evaluation report on Sweden, paragraph 23.

81. See GREVIO's baseline evaluation report on Austria, paragraphs 13-15.

82. See Portugal, Lei n.º 3/2020 que aprova as Grandes Opções de Plano para 2020-2023 (Law 3/2020 approving the Major Planning Options for 2020-2023), 31 March 2020.

83. Belgium, House of Representatives, Note on Political Orientation on gender equality, equal opportunities and diversity (*Exposé d'orientation politique Égalité des genres, Égalité des chances et Diversité*), Doc. 55 1610/022, 6 November 2020, pp. 4-9.

84. See Pacto de Estado contra la Violencia de Género - Delegación del Gobierno contra la Violencia de Género (igualdad.gob.es)

85. Final comments provided by the Government of Spain on GREVIO's baseline evaluation report on Spain; published on 25 November 2020 and available at: <https://rm.coe.int/final-comments-of-the-spanish-government/1680a077b8>

86. See GREVIO's baseline evaluation reports on: Austria, paragraph 16; Belgium, paragraph 25; Denmark, paragraphs 15-16; Finland, paragraph 18; Malta, paragraph 24; the Netherlands, paragraph 35; Portugal, paragraph 26; and Sweden, paragraph 22.

87. See GREVIO's baseline evaluation reports on: Denmark, paragraphs 16-19; Finland, paragraph 21; France, Paragraph 3; Italy, paragraph 41; Portugal, paragraphs 26-28; and Turkey, paragraph 44.

Comprehensive policies

57. Article 7, paragraph 1, stipulates that policies must be comprehensive in that they must cover all forms of violence against women so as to provide a holistic response to preventing and combatting violence against women. As referred to under the analysis on Article 2 of the convention, GREVIO baseline evaluation reports have consistently found that in most parties that have been evaluated, policies in place are not comprehensive as required by the convention because they do not cover all forms of violence against women. More specifically, policies tend to focus almost exclusively on domestic violence or “violence within the family”.⁸⁸ Serious forms of gender-based violence such as FGM, sexual violence, rape, stalking, forced marriage, forced abortion and forced sterilisation are thus either excluded from, or not given sufficient policy attention, in national strategies on combatting violence against women in most parties.

Women victims facing intersectional discrimination

58. Policies that do not sufficiently take into consideration the specific needs of women victims who are subject to intersectional discrimination, such as women from national minorities, Roma women, migrant, asylum seeking and refugee women, women without a residence permit, women with disabilities, LGBTI women, women from rural areas, women in prostitution and women with substance abuse, do not provide a holistic response to combatting violence against women. GREVIO has noted shortcomings in this respect in several parties - these are described under the analysis of *Article 4, Challenges, Intersectional discrimination* and under *Article 2, Challenges, Shift from strong gender perspective to gender-neutral approach*.

Multi-agency co-operation

59. GREVIO has noted gaps and weaknesses in multi-agency co-operation across the baseline evaluation reports. In Belgium, for example, there is no central, cross-cutting forum for co-ordination and co-operation between the federal and federated authorities, as well as civil society.⁸⁹ In Andorra and France, while inter-institutional co-operation is in place to a certain degree, it is weakened by certain shortcomings, such as, in Andorra, the lack of a strategic document with set objectives on which to base the co-operation on, and, in France, reduced co-ordination at the departmental level.⁹⁰ In Montenegro and Serbia, GREVIO has welcomed that multi-agency co-ordination is in place but has expressed concern that it is limited to co-operation on matters related to domestic violence.⁹¹ In Sweden, GREVIO has not received any evidence of inter-institutional co-operation as a standard practice.⁹²

Inclusion of women’s organisations in the drafting of policies on violence against women

60. A worrying trend emerging from GREVIO’s evaluations is that of excluding/side-lining women’s rights NGOs and civil society from participation in the drafting of policies. This has been observed in Finland, France, Malta, Portugal and Serbia.⁹³ This is also addressed under the analysis of *Article 9, Challenges, Involvement of NGOs in policy-making*.

State-wide application of policies

61. Parties must also ensure that policies combatting violence against women are implemented nation-wide. GREVIO has noted gaps in this area, resulting in the uneven protection of women victims. In Belgium, this has been attributed to the nature and structure of the federal system.⁹⁴ Similarly, in Italy, Portugal and Spain, the political structure of the autonomous regions has led to variance in content, scope and implementation of policies, leading to differing levels of protection for women victims of violence.⁹⁵ GREVIO has therefore strongly encouraged/urged the respective authorities to increase co-ordination and greater consistency in the policies and measures at the various levels of authority. In the Netherlands, GREVIO noted that recent decentralisation reforms had led to loss of expertise and lower standards of protection in some

88. This is the case in 9 out of 17 parties that have been evaluated. See GREVIO’s baseline evaluation reports on: Albania, paragraph 3; Andorra, paragraph 5; Austria, paragraph 9; Malta, paragraphs 9 and 24; Montenegro, paragraphs 9 and 23; the Netherlands, paragraph 42; Serbia, paragraphs 7 and 26; Spain, paragraphs 7-10 and 35; and Turkey, paragraph 44.

89. See GREVIO’s baseline evaluation report on Belgium, paragraph 28.

90. See GREVIO’s baseline evaluation reports on: Andorra, paragraphs 31-32; and France, paragraphs 37-38.

91. See GREVIO’s baseline evaluation reports on: Montenegro, paragraph 25; and Serbia, paragraph 23.

92. See GREVIO’s baseline evaluation report on Sweden, paragraph 25.

93. See GREVIO’s baseline evaluation reports on: Finland, paragraph 21; France, paragraph 41; Malta, paragraph 27; Portugal, paragraphs 29-30; and Serbia, paragraph 25.

94. See GREVIO’s baseline evaluation report on Belgium, paragraphs 26-27.

95. See GREVIO’s baseline evaluation reports on: Italy, paragraph 42, Portugal, paragraphs 35-36; and Spain, paragraphs 33-34.

municipalities as these could make their own policies and set their own priorities.⁹⁶ Lastly, GREVIO has observed that policies are not applied throughout the whole national territory of Malta, specifically, with women victims in Gozo being excluded.⁹⁷

Article 8 – Financial resources

Introduction

62. Article 8 of the convention aims to ensure the allocation of appropriate financial and human resources for both activities carried out by public authorities and those of relevant non-governmental and civil society organisations.⁹⁸

Promising practices

63. Following signature/ratification of the convention, Portugal enacted legislation (Law No. 129/2015) obliging all concerned ministries to communicate to the Commission for Citizenship and Gender Equality (CIG) the amounts in their budget earmarked for preventing and combating domestic and gender-based violence.⁹⁹ This obligation will allow the CIG to monitor and assess the execution of specific public funding, and to remedy gaps in service provision, as well as in the overall implementation of the provisions of the Istanbul Convention.
64. Similarly, in Albania following the adoption of the law on gender equality, the Council of Ministers adopted Decision No. 465 dated 16.7.2012 on gender mainstreaming in the medium-term budget programme, whereby all central institutions are required to plan measurable gender equality targets in their budgets and finance gender-sensitive programmes. This new budgeting method offers the possibility for clearly setting and measuring progress with respect to violence against women related indicators.¹⁰⁰

Challenges

Appropriate financial and human resources

65. The insufficient allocation of financial and human resources for the implementation of integrated policies, measures, and programmes to prevent and combat all forms of violence covered by the convention, is an emerging common feature across many of the parties that have been evaluated. In these cases, GREVIO has expressed the concern that it indicates states' limited degree of commitment to the implementation of a comprehensive and co-ordinated approach to preventing and combating violence against women.
66. More specifically, in its baseline evaluation report on Belgium, GREVIO observed that the cuts in the federal budget had resulted in disparities in the policies issued at the regional level, as well as the reduction of funding of the voluntary sector.¹⁰¹ In its baseline evaluation report on Finland, GREVIO noted that the lack of adequate funding resulted in shortcomings in the implementation of the National Action Plan and the impossibility for the positive gains achieved to be sustained in the successive National Action Plan.¹⁰² In Italy, the amounts allocated for the implementation of policies combatting violence against women by the autonomous regions is determined by the political priorities and economic power of each region. GREVIO thus expressed concern that this may endanger the principle that the enjoyment of human rights and relevant national legal standards should apply equally throughout the national territory.¹⁰³

96. See GREVIO's baseline evaluation report on the Netherlands, paragraph 41.

97. See GREVIO's baseline evaluation report on Malta, paragraph 25.

98. Explanatory Report paragraph 66.

99. See GREVIO's baseline evaluation report on Portugal, paragraph 38.

100. See GREVIO's baseline evaluation report on Albania, paragraph 26.

101. See GREVIO's baseline evaluation report on Belgium, paragraph 29.

102. See GREVIO's baseline evaluation report on Finland, paragraph 19.

103. See GREVIO's baseline evaluation report on Italy, paragraph 42.

67. Only in its baseline evaluations on Spain and Sweden did GREVIO note a satisfactory level of government funding and resources.¹⁰⁴

Clear and transparent allocation of resources

68. Across several countries reviewed, GREVIO noted that overall amounts allocated to preventing and combating violence against women was difficult to identify, due to an absence of clear budget and funding lines for all policies and measures. As a result, GREVIO was not able to properly assess and draw conclusions on whether prevention and protection activities and services were appropriately and adequately funded. The absence of clear and transparent data on the allocation of resources was noted in nine out of seventeen countries reviewed, including Andorra, Belgium, Denmark, Finland, France, Italy, Monaco, the Netherlands, and Turkey.¹⁰⁵ GREVIO accordingly strongly encouraged/urged the authorities, *inter alia*, to identify the overall amounts allocated to preventing and combating violence against women and to provide dedicated funding lines for activities in this area.

Gender budgeting

69. In the absence of comprehensive data on the allocation of resources for the implementation of integrated policies, measures and programmes to prevent and combat violence against women, GREVIO has consistently underlined the added value of adopting gender budgeting in all public bodies so as to plan, monitor and assess the execution of specific public funding. GREVIO strongly encouraged the adoption of a gender budgeting approach in Andorra, France, Denmark, Italy, and Turkey.¹⁰⁶ In several countries, such as Albania, Belgium, and Finland, GREVIO encouraged state authorities to utilise already existing gender budgeting mechanisms in order to allow the identification of budgets allocated and monitor expenditure in support of measures to prevent and combat violence against women.¹⁰⁷

Funding for NGOs and civil society

70. Funding for specialist support services and/or NGOs that provide such services, is addressed in GREVIO baseline evaluation reports in the analysis under Articles 8 and 9 of the convention. Article 8 aims to ensure adequate financial and human resources for the implementation of policies, measures, and programmes, including those implemented by NGOs. It thus requires parties to finance NGOs that provide specialist support services at national, regional, and local level on a long-term basis and in a way that ensures the sustainability of services. Funding for NGOs and civil society is discussed in depth in the analysis in this chapter, *Article 9, Challenges, Financial support*.

Reception centres

71. In its baseline evaluation report on Italy, GREVIO found that recent legislative changes in the field of migration and asylum had led to significant cuts in funding for reception facilities. GREVIO has noted that such cuts are likely to affect women migrant and asylum seekers and their ability to access mental health and psychosocial support services, especially in firstline reception facilities.¹⁰⁸

Article 9 – Non-governmental organisations and civil society

Introduction

72. In many parties, the overwhelming majority of services for victims of violence against women covered by the Istanbul Convention, are provided by NGOs or civil society organisations, most of which provide specialist services strongly anchored in a gendered understanding of violence against women.

104. See GREVIO's baseline evaluation reports on: Spain, paragraph 36; and Sweden, paragraph 28.

105. See GREVIO's baseline evaluation reports on: Andorra, paragraphs 34 and 38; Belgium, paragraph 34; Denmark, paragraph 28; Finland, paragraph 27; France, paragraph 44 and 46; Italy, paragraph 54; Monaco, paragraph 29; the Netherlands, paragraph 46; and Turkey, paragraph 49.

106. See GREVIO's baseline evaluation reports on: Andorra, paragraph 36; Denmark, paragraph 28; France, paragraph 48; Italy, paragraph 54; and Turkey, paragraph 53.

107. See GREVIO's baseline evaluation reports on: Albania, paragraph 26; Belgium, paragraph 32; and Finland, paragraph 28.

108. See GREVIO's baseline evaluation report on Italy, paragraph 52.

73. The purpose of Article 9 is to emphasise the important contribution that these various organisations make to the prevention of all forms of violence covered by the scope of this convention and the protection of women victims of violence. It therefore requires parties to the convention to recognise their work by, for example, tapping into their expertise and involving them as partners in multi-agency co-operation or in the implementation of comprehensive government policies. Beyond such recognition, this Article requires parties to the convention to actively encourage and support the work of these NGOs and civil society organisations, including financially.¹⁰⁹
74. Across the 17 baseline evaluations undertaken to date, GREVIO has noted that there exists at least some form of public recognition and acknowledgement of the role of civil society, particularly women’s organisations, in providing specialist services to victims of violence against women, as well as in engaging in prevention efforts. GREVIO has praised a number of countries for their recognition of the important contribution of NGOs, including Albania, Austria, Belgium, Denmark, Finland, France, Monaco, Montenegro, the Netherlands, Portugal, and Sweden.¹¹⁰

Promising practices

Government agencies’ co-operation with women’s organisations

75. Promising practices in relation to government agencies’ co-operation with women’s organisations was noted in Austria.¹¹¹ GREVIO observed that public officials value the long-standing experience of NGOs active in the area of preventing and combating violence against women and that funding of this sector at federal and regional levels is an established practice. GREVIO also noted that co-operation at all levels exists in many forms. One notable example is that based on the Security Police Act, where law enforcement agencies inform the relevant support service (the Violence Protection Centre) each time an emergency barring order is issued, and the centres may reach out to the women and children concerned. Moreover, government co-operation with NGOs also extends to policy-making, with civil society representatives forming part of inter-ministerial working groups that address and improve Austria’s response to violence against women.

Funding for specialist support services

76. In its baseline evaluation report on Italy, GREVIO noted that anti-violence centres and shelters use property seized from the mafia, using assets confiscated from organised crime for the benefit of victims of violence. GREVIO observed that this represents a new way to fund specialised services run by NGOs and that GREVIO recognises potential for its replication in other countries.¹¹² Moreover, in its baseline evaluation reports, GREVIO has observed that some states parties such as Albania have increased the funds allocated to support services/shelters assisting victims of violence against women and domestic violence.¹¹³ Finally, in its baseline evaluation report on Finland, GREVIO observed that the authorities have significantly increased the funding allocated to shelters to ensure higher levels of service provision, including in remote areas of the country. Furthermore, the legislation has been amended so that the funding of shelters is no longer dependent on municipalities’ budgets – it is now made available by the central government, in advance, for a period of twelve months, irrespective of service use. GREVIO has noted that the new method of financing offers more funding stability by moving away from per capita funding to a lump sum annual funding system.¹¹⁴
77. In a more general bid to improve institutional responses to and support for victims of intimate partner violence, the State Pact on Gender-based Violence adopted in Spain in 2019, sets out an array of measures accompanied by extensive funding to ensure its implementation across the regions.¹¹⁵ While GREVIO identified several challenges in the implementation of this Pact, its large-scale attempt at improving the level of service provision for victims of intimate partner violence across the country can serve as inspiration.

109. Explanatory Report, paragraph 69.

110. See GREVIO’s baseline evaluation reports on: Albania, paragraph 30; Austria, paragraph 28; Belgium, paragraph 35; Denmark, paragraph 29; Finland, paragraph 30; France, paragraph 50; Monaco, paragraph 30; Montenegro, paragraph 37; the Netherlands, paragraph 51; Portugal, paragraph 48; and Sweden, paragraph 37.

111. See GREVIO’s baseline evaluation report on Austria, paragraphs 27-29.

112. See GREVIO’s baseline evaluation report on Italy, paragraph 150.

113. See GREVIO’s baseline evaluation report on Albania, paragraph 24.

114. See GREVIO’s baseline evaluation report on Finland, paragraphs 112-115.

115. See GREVIO’s baseline evaluation report on Spain, paragraphs 109 and 139.

Challenges

Involvement of NGOs in policy-making

78. Despite the general recognition of the role of NGOs and civil society, GREVIO has identified deficiencies when it comes to systematically involving them in the design and co-ordination of policies as equal partners. GREVIO noted in its baseline evaluations on Andorra, Italy and Turkey that there is no stable institutional framework that allows NGOs to be involved effectively in the design and implementation of laws and public policies on combating violence against women.¹¹⁶ In Italy, the lack of a permanent structure for dialogue and co-operation has led to fluctuations in the level of recognition and involvement, particularly at the local level.¹¹⁷ Similarly, in Malta and Serbia, there is limited consultation with NGOs in developing measures and policies in the area of violence against women.¹¹⁸ In other countries, such as Belgium and Finland, GREVIO noted that despite a long-standing tradition of consulting civil society in policy formulation, they are not afforded a formal role in the implementation of such policies.¹¹⁹ GREVIO has accordingly, *inter alia*, strongly encouraged/urged the respective authorities to step up the involvement of NGOs in all stages of the preparation, co-ordination, implementation and evaluation of laws, public policies and programmes to prevent and combat violence against women.

Effective multi-agency co-operation

79. Another area of concern in relation to Article 9, is the lack of effective co-operation mechanisms with women's NGOs in the implementation of policy, and particularly multi-sectoral collaboration in the delivery of specialist support services. For example, in Serbia, none of the policy documents adopted in recent years envisage co-operation between state actors and specialist services, leading to non-adequate geographical coverage of such services, as well as increasing isolation of women's NGOs in their day-to-day work.¹²⁰ In some countries, such as Andorra, Malta and Montenegro, co-operation between NGOs and the government entails a "duty to report" or a "mandatory referral" system.¹²¹ By way of example, Montenegro, and Malta require the mandatory referral of a victim by a shelter to the primary public provider of support services in the area of domestic violence, in order for the victim to be formally admitted in the shelter. GREVIO has expressed concern that mandatory referrals might prevent some women from coming forward to seek help due to lack of trust in the authorities. It has also underlined that this policy can undermine victim's autonomy in their choice of action and weaken the role of women's specialist support services.
80. In France, Montenegro, Spain, and Sweden, GREVIO has identified a decline in co-operation and dialogue with specialist organisations as well as in their involvement in political processes.¹²² Specifically, in France and Sweden, there seems to be a shift towards favouring collaboration with "generalist" organisations, signifying a decrease in the recognition of the work of women's specialist organisations. GREVIO has stressed that such recognition is a decisive criterion for assessing the alignment of public policies with the requirements of Article 9 and has strongly encouraged the authorities to pursue and strengthen co-operation at all levels of public action, at both national and local levels, with NGOs working in the field of preventing and combating violence against women, in particular specialist organisations.¹²³

Financial support

81. In Monaco and Turkey, GREVIO noted limited or no public funding for NGOs, limiting their sphere of intervention, particularly as regards provision of specialist services.¹²⁴ In most countries reviewed, including Austria, Denmark, France, Malta, Montenegro, the Netherlands, Portugal, and Serbia, GREVIO noted that while specialist support services for women victims of violence received some form of public funding, including for staff costs, it was widely considered to be insufficient to ensure an adequate and sustainable level of funding for their work.¹²⁵

116. See GREVIO's baseline evaluation reports on: Andorra, paragraph 41; Italy, paragraph 56; and Turkey, paragraph 62.

117. See GREVIO's baseline evaluation report on Italy, paragraph 57.

118. See GREVIO's baseline evaluation reports on: Malta, paragraph 34; and Serbia, paragraph 37.

119. See GREVIO's baseline evaluation reports on: Belgium, paragraph 38; and Finland, paragraph 30.

120. See GREVIO's baseline evaluation report on Serbia, paragraph 34.

121. See GREVIO's baseline evaluation reports on Andorra, paragraph 42; Malta, paragraph 37; and Montenegro, paragraph 38.

122. See GREVIO's baseline evaluation reports on: France, paragraph 52; Montenegro, paragraph 39; Spain, paragraph 47; and Sweden, paragraph 39.

123. See GREVIO's baseline evaluation report on France, paragraphs 52-53.

124. See GREVIO's baseline evaluation reports on: Monaco, paragraph 28; and Turkey, paragraph 51.

125. See GREVIO's baseline evaluation reports on: Austria, paragraph 24; Denmark, paragraph 26; France, paragraph 47, Malta, paragraph 31; Montenegro, paragraph 43; the Netherlands, paragraph 46; Portugal, paragraph 45; and Serbia, paragraph 38.

82. Moreover, GREVIO found that in Andorra and Austria, the legal basis and the criteria for the allocation of funding to NGOs were not clear, leading to an inadequate level of funding over the long-term and non-uniform service provision.¹²⁶ Similarly, GREVIO observed the absence of a transparent and accountable procedure under which specialist NGOs can access sustainable and long-term funding in Malta.¹²⁷ Accordingly, GREVIO called on the state authorities to put in place dedicated, transparent and accountable public procedure under which NGOs that provide specialist support services to victims of all forms of violence against women and their children can compete for and request sustainable and long-term funding on equal footing. In Italy and Spain, GREVIO noted instead that, while public tendering procedures were in place for the funding of NGOs providing specialist support, they tended to favour the lowest bidder, sometimes resulting in public contracts being attributed to private companies not specialised in support services for victims of violence.¹²⁸ This was of particular concern in Italy where a lack of appropriate financial mechanisms to secure long-term funding for women's specialist services was observed. In its GREVIO baseline evaluation report on Serbia, GREVIO noted that where public tenders for specialist services took place, it was not necessarily the established women's specialist support services with decades of experience that won them, with contracts being awarded to newer/other players in the field for reasons that were unclear.¹²⁹
83. GREVIO has consistently stated that funding processes should be harmonised in order to provide an adequate and guaranteed level of funding for all specialist support services, and that access to public funding should be based on criteria in line with the standards of the Istanbul Convention, including the valorisation of extensive victim-centred expertise in the area of violence against women. Nevertheless, the issue of access to public funding for NGOs providing crucial and widely recognised services such as national helplines remains topical.¹³⁰

Dependence on donor funding

84. In its baseline evaluation reports on Albania, Montenegro, and Serbia, despite the parties' heavy reliance on the women's NGO sector to discharge its obligations to ensure specialist support services, GREVIO observed a dependency on international donors and therefore urged the authorities to establish suitable programmes and grants, and transparent procurement procedures, to ensure stable and sustainable funding levels.¹³¹

NGOs representing the diversity of women

85. A shortcoming identified by GREVIO in some countries involves the recognition and support for organisations that represent migrant, refugee and other women experiencing intersectional discrimination, including in Denmark, Finland, the Netherlands, and Turkey.¹³² In these reports, GREVIO stressed the valuable contribution of NGOs representing diverse groups of women, particularly grass-roots organisations, to the prevention and combating of all forms of violence against women. In order to ensure diversity and build policies around the experiences of all women, GREVIO has encouraged/strongly encouraged these states to step up action to recognise, encourage and support, including financially, a wider variety of women's NGOs representing women subject to intersectional discrimination.

Issues unique to specific parties

Access to the asylum system

86. An issue raised in the baseline evaluation report on Italy, was the limited access by specialist NGOs to the asylum system, including reception facilities and repatriation centres.¹³³ GREVIO pointed out that barriers

126. See GREVIO's baseline evaluation report on Andorra, paragraph 47.

127. See GREVIO's baseline evaluation report on Malta, paragraph 35.

128. See GREVIO's baseline evaluation reports on: Italy, paragraph 51; and Spain, paragraph 39.

129. See GREVIO's baseline evaluation report on Serbia, paragraph 36.

130. In France, civil society expressed concerns around the public tendering procedure launched in early 2021 by the Government to provide a 24/7 telephone line for victims of violence against women. These concerns relate to the criteria applied in the tendering procedure which, according to women's NGOs, seem to favour quantitative elements and seem not to be aligned with the requirements of the convention.

131. See GREVIO's baseline evaluation reports on: Albania, paragraphs 31-32; Montenegro, paragraph 35; and Serbia, paragraph 30.

132. See GREVIO's baseline evaluation reports on: Denmark, paragraph 30; Finland, paragraph 31; the Netherlands, paragraph 52; and Turkey, paragraphs 59 and 62.

133. See GREVIO's baseline evaluation report on Italy, paragraph 57.

to access to the asylum system limits effective co-operation with these NGOs and reduces their ability to provide complementary services to asylum seekers, as well as the sharing of expertise with state authorities.

Shrinking space for independent women's NGOs

87. In its baseline evaluation report on Turkey GREVIO expressed alarm over the increasingly restrictive conditions experienced by civil society organisations, in particular independent women's organisations that have expressed criticism of government policies.¹³⁴ GREVIO has urged the authorities to provide an enabling and conducive environment for independent women's organisations and fully acknowledge their role as key partners in combating violence against women and girls.¹³⁵ The need to find new approaches towards more active government support for and recognition of women's specialist support services was highlighted in GREVIO's baseline evaluation report on Serbia, as well as the need to increase political support for the role of women's NGOs, including at the local level, and for services provided to all women in Serbia, including women from national minorities.¹³⁶

Article 10 – Co-ordinating body

Introduction

88. Article 10 of the convention sets out the obligation to designate one or more official government bodies to co-ordinate, implement, monitor, and evaluate policies and measures to prevent and combat all forms of violence covered by the scope of the convention. These bodies are additionally responsible for the co-ordination and the collection of the necessary data and to analyse and disseminate its results.¹³⁷
89. The evaluation function is to be understood as implying an independent and scientific assessment, based on robust data, of policies and measures. In this respect, data collection is essential for carrying out robust and scientific evaluations.¹³⁸ In its baseline evaluation reports GREVIO has also clarified that a set-up in which close institutional ties exist between those who implement measures and bear political responsibility for them on the one hand and those who are supposed to evaluate the efficacy of those measures on the other, or even one in which the two groups are identical, might not ensure the necessary objectivity to assess and independently evaluate policies and measures taken. Bodies that are responsible for the evaluation of policies must therefore be institutionally independent and separate from those that coordinate/implement and monitor policies on violence against women.

Promising practices

Co-ordinating body

90. GREVIO has noted with approval the co-ordinating body appointed in Spain, which is an institutionalised body whose mandate, over time, has been aligned more closely with the scope of the Istanbul Convention and now covers all forms of violence against women. It further welcomed that it has been assigned a dedicated and sufficient annual budget and staff.¹³⁹ Similarly, GREVIO welcomed that in Malta the co-ordinating body is fully institutionalised, has a clear mandate and a diverse membership, which includes, in addition to a person with disability, representation from the NGO sector, as well as a victim and a representative of the LGBTI community. GREVIO further noted that current budgetary entitlements and staffing have clearly improved following the entry into force of the Gender-Based Violence and Domestic Violence Act, whose aim was to fully integrate and implement the provisions of the Istanbul Convention in national law.¹⁴⁰

134. See GREVIO's baseline evaluation report on Turkey, paragraph 57.

135. See GREVIO's baseline evaluation report on Turkey, paragraph 62.

136. See GREVIO's baseline evaluation report on Serbia, paragraphs 35, 36 and 37.

137. Explanatory Report, paragraph 70.

138. See GREVIO's baseline evaluation report on Finland, paragraph 33.

139. See GREVIO's baseline evaluation report on Spain, paragraph 51.

140. See GREVIO's baseline evaluation report on Malta, paragraph 41.

Dedicated and independent bodies for data collection and evaluation

91. In its baseline evaluation report, GREVIO has praised France for having set up a dedicated and independent body responsible for the evaluation of policies and measures on violence against women, namely the High Council for Equality. GREVIO has noted with approval the knowledge, authority and quality of output of this body, as well as its representation of the public and civil society sectors in its membership.¹⁴¹ Similarly, GREVIO welcomed the set-up of a separate independent body responsible for co-ordinating the collection, analysis and dissemination of data in the area of violence against women. GREVIO has encouraged the French authorities to strengthen these bodies' human and financial resources.

Submission to parliament of progress reports on the implementation of national action plans

92. In its baseline evaluation report on Belgium, GREVIO identified as a good practice in line with Article 70, paragraph 1 of the convention, the emerging practice of submitting progress reports on the implementation of the National Action Plan regarding violence against women to the national Parliament as well as the parliaments of the federated entities for review.¹⁴²

Impact of GREVIO baseline evaluation

93. On the basis of GREVIO's findings in relation to Article 10, progress is being made in improving the institutional set-up of national co-ordinating bodies. This is notably the case in Finland where funding was made available in 2019 to advance the implementation of the Istanbul Convention and a new post of Secretary General was created to the national co-ordinating body.

Challenges

Nature of co-ordinating body

94. GREVIO has pointed out the need for the co-ordinating body under Article 10 to be institutionalised and given dedicated budget and resources. In its baseline evaluation reports on Austria, Denmark, and Finland¹⁴³ it has noted that *ad hoc* working groups or, in the case of Italy and Montenegro, bodies which are politically dependent on the government that is in power (Montenegro) or are dependent on the approval of national action plans (Italy),¹⁴⁴ are not adequate for the purposes of Article 10 as they do not ensure the stability that is necessary to guarantee the continuity and sustainability of policies and measures. GREVIO has accordingly strongly encouraged these countries, *inter alia*, to assign the role of co-ordinating body to fully institutionalised entities and to equip these with clear mandates, powers, and competences.
95. Further, GREVIO has clarified that the co-ordinating body must also be equipped with a clear mandate and set of policy objectives. In its baseline evaluation reports on Andorra, France, Montenegro, and Serbia, GREVIO found that the respective co-ordinating bodies had no clear mandate and that in Serbia several bodies with overlapping co-ordination functions existed.¹⁴⁵ In its baseline evaluation report on Sweden,¹⁴⁶ GREVIO noted that the co-ordinating body had not been officially designated as such, whereas in the Netherlands,¹⁴⁷ GREVIO found that the mandate did not cover all forms of violence within the scope of the convention.

Lack of adequate funding and staffing

96. GREVIO noted the lack of adequate funding and resources for co-ordinating bodies set up by the authorities in at least ten out of the 17 parties that have been evaluated.¹⁴⁸ In its baseline evaluation reports on

141. See GREVIO's baseline evaluation report on France, paragraphs 59-61.

142. See GREVIO's baseline evaluation report on Belgium, paragraph 44.

143. See GREVIO's baseline evaluation reports on: Austria, paragraph 36; Denmark, paragraph 37; and Finland, paragraph 34.

144. See GREVIO's baseline evaluation reports on: Italy, paragraph 63; and Montenegro, paragraph 46.

145. See GREVIO's baseline evaluation reports on: Andorra, paragraph 47; France, paragraph 55; Montenegro, paragraph 46; and Serbia, paragraph 40.

146. See GREVIO's baseline evaluation report on Sweden, paragraph 44.

147. See GREVIO's baseline evaluation report on the Netherlands, paragraph 57.

148. See GREVIO's baseline evaluation reports on: Albania, paragraph 35, Andorra, paragraph 47; Austria, paragraph 36; Belgium, paragraph 41; Denmark, paragraphs 37-38; Finland, paragraph 34; Italy, paragraph 63; Malta, paragraph 42; Montenegro, paragraph 46; and Serbia, paragraph 41.

Austria, Denmark, and Finland, GREVIO noted that parties' practice to appoint already existing bodies as the co-ordinating body for the purposes of Article 10, merely adding on tasks, competencies and workload without making the corresponding adjustments to budgets, staffing and resources, casts doubts on the ability of these bodies to carry out their tasks as required by Article 10 effectively.¹⁴⁹ Finally, GREVIO has also noted with concern the trend in Belgium of cutting the budget of the co-ordinating body.¹⁵⁰ GREVIO has accordingly strongly encouraged the authorities to allocate the necessary human and financial resources to these entities.

Lack of evaluation functions and lack of independence

97. In its baseline evaluation reports on Finland, Italy, Monaco, Montenegro, and the Netherlands, GREVIO observed that there was no framework or policy action to ensure the evaluation of policies on violence against women.¹⁵¹ In its baseline evaluation reports on Andorra, Belgium, Malta, Monaco, the Netherlands, Portugal, and Serbia, GREVIO noted instead the absence of an independent body tasked with the evaluation of policies, which is necessary to ensure the independence and robustness of the evaluation process and its results.¹⁵² The evaluation function was in fact carried out by the same body that is responsible for the implementation of the policies. GREVIO thus strongly encouraged the authorities to ensure the independent monitoring and evaluation based on sound data of the application of the public policies to prevent and combat violence against women.

Co-operation with NGOs and civil society sector

98. GREVIO has stressed that co-operation with NGOs is essential for ensuring a victim-centred and human-rights based approach in policy on combatting violence against women.¹⁵³ However, in its baseline evaluation reports on Andorra and the Netherlands, GREVIO has observed insufficient formal or regular consultative processes between co-ordinating bodies and the NGO sector. It has therefore strongly encouraged these parties to involve specialist women's rights organisations in the co-ordination, implementation, monitoring and evaluation of the relevant policies.¹⁵⁴ In its baseline evaluation report on Italy and Turkey, GREVIO observed diminished interaction of NGOs with the co-ordinating bodies.¹⁵⁵ In addition, in its baseline evaluation report on Portugal, GREVIO noted that co-operation between NGOs and the co-ordinating body should also extend to monitoring and evaluation functions and should be strengthened. It thus encouraged the parties to ensure that the evaluation of policies is carried out by way of an open dialogue with all relevant actors, including, in particular, independent women's organisations involved in preventing and combating violence against women.¹⁵⁶

Regional disparities

99. GREVIO has noted disparities and obstacles in the co-ordination and implementation of policies at regional and/or other levels in the baseline evaluation reports of Belgium, France, Italy, Portugal, and Spain, due to the political structure and administration of these parties.¹⁵⁷ In the case of Portugal and Spain, GREVIO noted that the monitoring and evaluation functions were also impacted by lack of data and the absence of consistent and uniform evaluation processes of the regional policies. GREVIO thus strongly encouraged these parties, *inter alia*, to strengthen policy co-ordination and support at the level of decentralised services throughout the country.¹⁵⁸

149. See GREVIO's baseline evaluation reports on: Austria, paragraph 36; Denmark, paragraphs 37-38; and Finland, paragraph 34.

150. See GREVIO's baseline evaluation report on Belgium, paragraph 41.

151. See GREVIO's baseline evaluation reports on: Finland, paragraph 32; Italy, paragraph 64; Monaco, paragraphs 26-27; Montenegro, paragraph 48; and the Netherlands, paragraph 58.

152. See GREVIO's baseline evaluation reports on: Andorra, paragraph 48; Belgium, paragraph 42; Malta, paragraph 43, Monaco, paragraphs 26-27; the Netherlands, paragraph 58; Portugal, paragraph 55; and Serbia, paragraph 42.

153. See GREVIO's baseline evaluation report on Turkey, paragraph 66.

154. See GREVIO's baseline evaluation reports on Andorra, paragraph 46; and the Netherlands, paragraph 56.

155. See GREVIO's baseline evaluation reports on: Italy, paragraph 63; and Turkey, paragraph 66.

156. See GREVIO's baseline evaluation report on Portugal, paragraph 56.

157. See GREVIO's baseline evaluation reports on: Belgium, paragraph 43; France, paragraphs 56-57; Italy, paragraph 65; Portugal, paragraphs 53 and 55; and Spain, paragraph 52.

158. *Ibid.*

Issues unique to specific parties

Mandate limited to specific forms of violence

100. In its baseline evaluation report on the Netherlands, GREVIO identified as problematic the exclusive focus of the co-ordinating body on overseeing the measures and policies on “violence in dependency relations” and the exclusion of all of the other forms of violence against women. Similarly, the tendency to focus exclusively on “violence in dependency relations” is also reflected in the Netherlands’ plans to set up an evaluation framework as required under Article 10.¹⁵⁹

Article 11 – Data collection and research

Data collection (Article 11, paragraph 1(a))

Introduction

101. Preventing and combating violence against women and domestic violence requires evidence-based policy-making. The collection of systematic and comparable data from all relevant administrative sources is crucial in this regard, as is information on the prevalence of all forms of violence against women. Recognising violence against women as gender-based violence means that efforts in research and data collection must give due regard to and aim at identifying the differences between women and men. These can be differences in the type and severity of the violence experienced, in help-seeking behaviour, and in experiences with support services and the criminal justice system. If disaggregated by sex and other vital categories, data and research can give a clear picture of women’s experiences and are thus a precious source of evidence on which to base public policy and decision-making.
102. Under Article 11 of the convention, parties are requested to collect disaggregated statistical data at regular intervals on cases relating to all forms of violence covered by the scope of the convention, for a number of reasons, including ensuring the design and implementation of evidence-based policy making. The judiciary, police, social welfare and health-care services therefore need to set up data systems that go beyond the internal recording needs of their respective agencies/services and, as a minimum, collect data on victims and perpetrators disaggregated by sex, age, type of violence, the relationship of the victim to the perpetrator and geographical location. Recorded data should also contain information on conviction rates of perpetrators of all forms of violence against women. Furthermore, institutions responsible for processing and deciding on asylum claims should also collect data on the granting of refugee status on the basis of gender-related persecution. Throughout its baseline evaluation reports, GREVIO has stressed that in all cases, the process of collecting, storing and transforming collected data must comply with standards on data protection as contained in the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data to ensure confidentiality and respect for the privacy of victims, perpetrators and other persons involved.

Promising practices

103. GREVIO noted a number of promising practices in the area of administrative data collection. While limited to domestic violence, the authorities in the area of criminal justice in Portugal and Spain collect extensive data.
104. Following amendments introduced in 2015, after the entry into force of the convention in Portugal, data from law-enforcement bodies and the judiciary must now be collated in order to reconstruct the entire criminal proceedings chain, from the filing of the complaint to the delivery of the judgment. A standard form is used to record domestic violence. This form compiles information regarding the age and sex of the victim and of the offender, their relationship – including any form of economic dependency – the presence (if any) of children at the scene of the crime, the use of firearms to commit the crime, any addictive behaviour of the perpetrator, medical treatment of the victim and a risk assessment. The data is compiled into a report and additional data are collected to fine-tune the knowledge regarding the time frame and geographical location in which the crime is committed, general features of the victim and the perpetrator (such as employment

¹⁵⁹. See GREVIO’s baseline evaluation report on the Netherlands, paragraphs 57-58.

status, marital status, educational level) and types of violence (whether psychological or physical). A separate section of the report on domestic violence illustrates data on the outcome of criminal proceedings. GREVIO noted in its baseline evaluation report that it considered this practice to be instrumental in enabling an assessment of the system's response to cases of violence and, possibly, in identifying necessary improvements in institutional practices and policies.¹⁶⁰

105. In Spain, the Ministry of the Interior compiles and publishes monthly data on the number of cases of intimate partner violence against women entered by law-enforcement agencies and other public institutions into the Integrated Monitoring System for cases of Gender Violence (VioGen).¹⁶¹ These cases are then classified by the level of risk assessed by Spanish standardised risk-assessment tools and disaggregated by geographical location. The National Police also collect data on reported crime on the basis of statements and reports made to various authorities/services which serve as the first point of contact. All information is centralised and processed by the National Police Statistics Service and is disaggregated by sex, age, type of crime, relationship with the victim, location, and province, as well as other significant details. The General Council of the Judiciary also collects data on cases of intimate partner violence at all stages of the procedure before general criminal courts and the specialist violence against women courts. It also regularly publishes bulletins containing the number of charges brought and dropped, the number of protection orders requested, granted, and denied, the types of procedures initiated and their outcome. Moreover, most data are disaggregated by age, sex, relationship of the perpetrator to the victim, and type of intimate partner violence (including physical, psychological, sexual, and "honour-related violence") and geographical location. In its baseline evaluation report on Sweden, GREVIO welcomed the collection of data on FGM by the health services. It noted that since 2015, after the entry into force of the convention, the National Patient Register has recorded the annual number of health care contacts made by women in Sweden in relation to FGM. The codes available allow the recording of an acquired absence of genital organs, a pregnancy complicated by FGM and, since 2015, the category of FGM status. GREVIO observed that with the help of these codes, reliable data on the existence of FGM in Sweden is starting to emerge.¹⁶²
106. In its baseline evaluation report on Turkey, GREVIO praised the collection of robust data on emergency, restraining, and protection orders, noting that such data is crucial to monitor their implementation and ensuring their enforcement. GREVIO noted that data are moreover available on the number of court decisions imposing preventive imprisonment in cases of violation of these orders. GREVIO observed that such data is instrumental to analyse the system's failure to protect women in cases where women suffer repeated violence or are killed, despite being under an emergency, restraining or protection order.¹⁶³

Challenges

Criminal justice sector

Data disaggregated by sex and other categories

107. If disaggregated by sex and other categories, administrative data can give a clear picture of women's experiences and are thus a precious source of evidence on which to base public policy and decision-making. Parties are increasingly establishing systems to disaggregate data by type of violence, sex, age, and relationship of the perpetrator to the victim. However, it is rare that the data that is collected is disaggregated on the basis of all of the categories mentioned above, allowing only a partial picture to emerge.
108. Many baseline evaluation reports, including those on Belgium, Denmark, Malta, Monaco, Montenegro, and the Netherlands revealed that sex disaggregated data on victims/perpetrators of violence against women were not collected by the criminal justice sector.¹⁶⁴ The baseline evaluation reports on Portugal and Turkey

160. See GREVIO's baseline evaluation report on Portugal, paragraph 60.

161. See GREVIO's baseline evaluation report on Spain, paragraphs 58-59.

162. See GREVIO's baseline evaluation report on Sweden, paragraph 57.

163. See GREVIO's baseline evaluation report on Turkey, paragraph 80.

164. See GREVIO's baseline evaluation reports on: Belgium, paragraph 48; Denmark, paragraph 42; Malta, paragraph 47; Monaco, paragraph 36; Montenegro, paragraph 51; and the Netherlands, paragraphs 62, 64 and 72.

noted that, while law enforcement collect data disaggregated on the victim by sex and other categories for domestic violence, the judicial services only collect such data for the perpetrator.¹⁶⁵ GREVIO has pointed out that the lack of gender-disaggregated data, both on perpetrators and victims, is an obstacle to the visibility of violence against women in its different forms.

109. Another recurring shortcoming in the collection of data by the criminal justice sector is the absence of data categories on the type of relationship between the perpetrator and the victim for all forms of violence against women. This was noted by GREVIO in the majority of evaluation reports.¹⁶⁶ In Portugal, France, and Turkey judicial data provided information about the perpetrator and did not systematically cover the sex and age of the victim or her relationship with the perpetrator.¹⁶⁷ In Portugal, in particular, the only type of crime for which data are disaggregated having regard to the sex of the victim and the relationship between the victim and the offender is homicide within intimate partnerships.¹⁶⁸
110. In some countries, such as Austria, Finland, and Sweden, GREVIO noted that while efforts are made to record systematically the nature of the relationship between perpetrator and victim, the approach taken is still not sufficient to draw conclusions on the actual type of relationship of those involved.¹⁶⁹ For example, in Austria, the category used is “family relationship”, while in Sweden the data category used is “acquainted with victim/not acquainted with the victim”. GREVIO stressed in this respect that the categories in use were not sufficiently specific to draw conclusions on the actual type of relationship between those involved. As a result, the data collected did not allow conclusions to be drawn on the number of cases of intimate-partner violence compared to those of, for example, child abuse. GREVIO therefore, strongly encouraged the authorities, *inter alia*, to develop data categories on the type of relationship of the perpetrator to the victim that would allow the nature of their relationship to be more specifically documented in order to render more visible cases of domestic violence against women.

Harmonisation of data across data collection systems

111. Another important shortcoming that emerges consistently across GREVIO’s baseline evaluation reports is the lack of harmonisation of data from one public body to another across the criminal justice sector in the countries evaluated. This shortcoming was identified in 12 out of the 17 evaluation reports published to date.¹⁷⁰ The lack of co-ordination and comparability of the data makes it therefore impossible to track cases at all stages of the law-enforcement and judicial proceedings. More specifically, it impedes an assessment of conviction, attrition, and recidivism rates, as well as the identification of gaps in the response of institutions. In its baseline evaluation reports GREVIO has stressed that an important element of harmonisation is the use of common definitions and units of measurement.

Data on all forms of violence against women

112. Administrative data should be collected by parties on all forms of violence covered by the convention. In its baseline evaluation reports, including those of Andorra, Malta, Portugal, Serbia, and Spain, GREVIO noted that the collection of data on violence against women was limited to domestic violence, albeit disaggregated according to different categories, and did not encompass the wide range of offences provided under the convention.¹⁷¹ As regards Spain more specifically, GREVIO noted that while some data is collected on rape and sexual violence, it is not disaggregated by age, sex, and relationship between victim and perpetrator.¹⁷²

165. See GREVIO’s baseline evaluation reports on: Portugal, paragraph 66; and Turkey, paragraph 76.

166. See GREVIO’s baseline evaluation reports on: Albania, paragraph 41; Andorra, paragraphs 52-53; Austria, paragraphs 43 and 49; Belgium, paragraph 48; Denmark, paragraph 42; Italy, paragraph 67; Malta, paragraph 49; Monaco, paragraph 36; Montenegro, paragraph 50; the Netherlands, paragraph 62; and Turkey, paragraph 78.

167. See GREVIO’s baseline evaluation reports on: France, paragraph 68; Portugal, paragraph 66; and Turkey, paragraph 78.

168. See GREVIO’s baseline evaluation report on Portugal, paragraph 69.

169. See GREVIO’s baseline evaluation reports on: Austria, paragraph 43; Finland, paragraph 38; and Sweden, paragraph 48.

170. See GREVIO’s baseline evaluation reports on: Albania, paragraph 41; Andorra paragraphs 54 and 58; Austria, paragraph 49; Belgium, paragraph 54; Denmark, paragraph 44; Finland, paragraph 36; France, paragraph 69; Italy, paragraph 68; Malta, paragraph 47; Portugal, paragraph 59; Sweden, paragraphs 51-52 and 55; and Turkey, paragraph 78.

171. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 52; Malta, paragraphs 47 and 49; Portugal, paragraph 62; Serbia, paragraphs 47-49; and Spain, paragraphs 56-57.

172. See GREVIO’s baseline evaluation report on Spain, paragraph 61.

Data on gender-related killings (femicide)

113. In its baseline evaluation report on Belgium and Italy, GREVIO highlighted that there were disparities between public official data and data collected by civil society on gender-related killings and therefore strongly encouraged the authorities to harmonise data collection and analysis regarding cases of violence against women which have resulted in the killing of the woman and, where appropriate, children.¹⁷³ Moreover, in its baseline evaluation report on Turkey, GREVIO urged the authorities to conduct publicly available annual studies on cases of gender-based killings of women, which would serve as input data for analysis aimed at assessing possible systemic gaps in the institutional responses to violence.¹⁷⁴ Whereas, in its baseline evaluation report on Austria, GREVIO strongly encouraged the authorities to present information on the number of homicides of women at the hands of men for reasons of their gender in annual crime statistics.¹⁷⁵

Data on the enforcement of emergency barring, restraining and protection orders

114. Other shortcomings observed by GREVIO in its baseline evaluation reports regarding data collection, concern the lack of collection of disaggregated data on the number of emergency barring orders/protection orders – in the context of both criminal and civil proceedings – including the number of violations and sanctions imposed as a result of such breaches. GREVIO noted such shortcoming in several parties including Albania, Andorra, Austria, Italy, Malta, and the Netherlands.¹⁷⁶ In its baseline evaluation reports on Denmark, France, Serbia, and Sweden, GREVIO noted that only the total number of emergency barring orders/protection orders per annum were recorded and that the data was not broken down by sex nor by relationship of the perpetrator to the victim.¹⁷⁷ In the absence of such data, GREVIO noted, *inter alia*, that this masked the extent to which women victims of intimate partner violence benefited from an emergency barring or protection order against their abusive partner. It also observed that the lack of data prevented GREVIO from carrying out full analysis of how the judicial system administers justice for women victims of gender-based violence.

Data collected by the health sector

115. In its baseline evaluation reports, GREVIO has found that data on violence against women is either partly collected or not collected at all by health services. In Malta and Serbia, GREVIO noted laudable efforts to collect robust data by health services, particularly in relation to domestic violence.¹⁷⁸ It therefore strongly encouraged the authorities to collect data on health care in relation to other forms of violence against women under the convention, other than domestic violence. GREVIO also commended efforts to collect data on FGM by the health services in Portugal and Sweden.¹⁷⁹ It found that while in Portugal, figures given by the authorities still differ substantially from corresponding NGO estimates, in Sweden reliable data on the prevalence of FGM is starting to emerge.
116. In parties such as Albania (only in relation to domestic violence), Belgium, Finland, Monaco, Portugal, Spain, Sweden, and Turkey, GREVIO noted that although some data is collected, it is not done systematically.¹⁸⁰ Accordingly, the existing gaps limit the authorities' ability to assess the impact and performance of health services in responding to violence against women.
117. In its baseline evaluation reports on Andorra, Austria, Denmark, France, and Italy, GREVIO observed that there was no evidence that data was collected by the health services in these countries.¹⁸¹ It therefore strongly encouraged/urged the authorities to ensure that health services collect data on all forms of violence against women broken down by gender, age of the victims and perpetrators and the relationship between them.

173. See GREVIO's baseline evaluation reports on: Belgium, paragraph 50; and Italy, paragraph 70.

174. See GREVIO's baseline evaluation report on Turkey, paragraph 78.

175. See GREVIO's baseline evaluation report on Austria, paragraph 45.

176. See GREVIO's baseline evaluation reports on: Albania, paragraph 44; Andorra, paragraph 54; Austria, paragraphs 45 and 51; Italy, paragraph 69; Malta, paragraphs 48 and 53; and the Netherlands, paragraph 69.

177. See GREVIO's baseline evaluation reports on: Denmark, paragraph 43; France, paragraph 73; Serbia, paragraph 48; and Sweden, paragraph 53.

178. See GREVIO's baseline evaluation reports on: Malta, paragraph 49 and paragraph 53; and Serbia, paragraphs 50-52.

179. See GREVIO's baseline evaluation reports on: Portugal, paragraph 71; and Sweden, paragraph 57.

180. See GREVIO's baseline evaluation reports on: Belgium, paragraphs 52-54; Finland, paragraph 43; Monaco, paragraph 54; Portugal, paragraph 72; Spain, paragraphs 65-66; Sweden, paragraph 58; and Turkey, paragraphs 84 and 86.

181. See GREVIO's baseline evaluation reports on: Andorra paragraphs 56 and 58; Austria, paragraphs 55-56; Denmark, paragraph 54; France, paragraphs 74-75; and Italy, paragraphs 71 and 78.

Collection of data on child victims and witnesses in cases of violence covered by the Istanbul Convention

118. In its baseline evaluation reports on Andorra, Denmark, Italy, and Malta, GREVIO noted that no data is collected on whether civil child custody proceedings take into account histories of domestic violence.¹⁸² GREVIO therefore encouraged/strongly encouraged the authorities to ensure that more disaggregated data that would show to what extent reports of domestic violence and abuse are taken into account, and how the safety of all family members is ensured, is collected. GREVIO noted that while some data is collected in France on child abuse (including on children who were killed in situations of domestic violence), such data could be developed further to include data on child victims and witnesses in cases of violence covered by the convention.¹⁸³ It further observed in its baseline evaluation report on Spain that although data is collected on the number of civil cases brought to the specialist violence against women courts, including in relation to child custody and visitation rights, the data is limited in scope, as it provides no information on the outcome of these proceedings, nor whether such proceedings have taken into account the history of domestic violence.¹⁸⁴ It therefore strongly encouraged the Spanish authorities to expand the data collected on divorce and child custody decisions in order to assess how Spanish courts ensure the safety of women and children affected by domestic violence in that context.

Victims' access to civil remedies including compensation

119. In order to carry out a full analysis of how judicial systems administer justice for women victims of gender-based violence, GREVIO in its baseline evaluation reports on Denmark, Italy, Malta, Portugal, and Turkey pointed to the need for data collection on victims' access to civil remedies including claims for compensation.¹⁸⁵

Data on the granting of refugee status on the basis of gender-related persecution

120. The absence of data collection and analysis in the field of asylum claims is a notable omission by a number of parties including Austria, Denmark, Finland, France, Italy, the Netherlands, Portugal, Spain, and Sweden.¹⁸⁶ In relation to Italy, for example, GREVIO noted that the lack of data regarding asylum claims made on the basis of gender-related forms of persecutions made it impossible to ascertain how many women had made claims on this basis, and how many of these claimants received refugee status or other forms of international protection. It therefore strongly encouraged the authorities to collect quantitative and qualitative data on the number of asylum requests grounded on gender-based violence; how these grounds, including FGM, for international protection are interpreted and what conditions of protection are offered to victims; as well as the number of decisions granting or refusing protection on such grounds.¹⁸⁷

Issues unique to specific parties

Personal data protection

121. GREVIO raised concerns in relation to data protection and privacy in its baseline evaluation report on Italy.¹⁸⁸ It observed that in certain regions, specialised support services' access to local funding had been interrupted owing to their reluctance to comply with a new system conditioning such access on the transmission of victims' personal data enabling their identification. GREVIO expressed its strong reservation as to the need for the authorities to acquire such data for the purposes of monitoring incidents of violence against women and support services' activities in support of victims. It further

182. See GREVIO's baseline evaluation reports on: Andorra, paragraph 54; Denmark, paragraphs 48-50; Italy, paragraph 73; and Malta, paragraph 48.

183. See GREVIO's baseline evaluation report on France, paragraph 76.

184. See GREVIO's baseline evaluation report on Spain, paragraph 60.

185. See GREVIO's baseline evaluation reports on: Denmark, paragraph 45; Italy, paragraphs 69 and 78; Malta, paragraph 48; Portugal, paragraph 65; and Turkey, paragraph 83.

186. See GREVIO's baseline evaluation reports on: Austria, paragraph 58; Denmark, paragraphs 51-52; Finland, paragraph 248; France, paragraphs 265-276; Italy, paragraph 273(b); the Netherlands, paragraph 320; Spain, paragraphs 295-296; Portugal, paragraph 235; and Sweden, paragraphs 59-60.

187. See GREVIO's baseline evaluation report on Italy, paragraph 273(b).

188. See GREVIO's baseline evaluation report on Italy, paragraphs 77-78.

noted that requiring victims to give their consent to the transmission of such data would ignore the situation of vulnerability in which victims find themselves and would undermine the relationship of trust between victims and service providers. It therefore strongly encouraged the authorities to ensure that the process of collecting, storing and transforming collected data complies with standards on personal data protection, as contained in the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, and with recognised best practices requiring respect for specialist services' working methods aimed at guaranteeing victims' privacy and anonymity. Similarly, in its baseline evaluation report on Turkey, GREVIO cautioned against the risk of widely available personal data in efforts to develop a single inter-institutional database, based on the use of each individual's personal identification number.¹⁸⁹

Research on violence against women (Article 11, paragraph 1 (b))

Introduction

122. Article 11, paragraph 1b, of the convention requires that parties support research to deepen knowledge of the root causes and effects of violence against women, incidence, and conviction rates, as well as of the efficiency of measures taken in implementation of the convention. The explanatory report to the convention highlights that it is essential that parties base their policies and measures to prevent and combat violence against women on state-of-the-art research in this field and that research can contribute greatly to improving day-to-day, real-world responses to violence against women and domestic violence by the judiciary, support services and law-enforcement agencies.

Promising practices

123. In its baseline evaluation report on Belgium, GREVIO noted that between 2015 and 2018, following Belgium's signature/ratification of the convention, a large number of academic studies and research projects were conducted or launched - this research was either instigated by the Institute for Equality between Women and Men (IEFH) or systematically involved the IEFH.¹⁹⁰ GREVIO pointed out that such synergies were likely to lead to increased co-ordination between these different studies and research projects and bring them more into line with the conceptual framework and the guidelines adopted in accordance with the Istanbul Convention. GREVIO also praised the support provided by the French authorities to research into all forms of violence against women covered by the convention and welcomed the research carried out or funded by dedicated departments of the Ministry of Justice and the Ministry of the Interior.¹⁹¹

124. Finally, in its baseline evaluation report on Sweden, GREVIO observed that considerable amounts of funding were being allocated to different actors, for research projects on a wide range of issues in the area of violence against women, including "honour-related violence" and violence in same-sex relationships.¹⁹² In this context, GREVIO welcomed the existence of the National Centre for Knowledge on Men's Violence against Women (NCK), a government commissioned research centre dedicated exclusively to the study of men's violence against women. The NCK carries out research – which serves as a basis for training - that aims to improve the response of professionals who come in to contact with victims of violence against women, in particular health care professionals. It further welcomed funding of research into how the Sami women, belonging to a national minority, are served by and benefit from the current national response to violence against women.

189. See GREVIO's baseline evaluation report on Turkey, paragraphs 87-88.

190. See GREVIO's baseline evaluation report on Belgium, paragraph 58.

191. See GREVIO's baseline evaluation report on France, paragraph 85.

192. See GREVIO's baseline evaluation report on Sweden, paragraphs 70-71.

Challenges

Support to academia to conduct research on violence against women

125. GREVIO noted deficiencies in the support given to academic institutions and researchers to carry out research on violence against women in its baseline evaluation reports on Albania, Italy, and Montenegro.¹⁹³ It has accordingly encouraged the authorities to step up their support for academic research into issues related to violence against women, including by financially encouraging research into these areas.

Research evaluating the efficacy of measures taken to prevent and combat violence against women

126. A key element of research on violence against women, as stressed by GREVIO in its baseline evaluation reports, is that research should contribute to the evaluation of the efficacy of policies and measures to prevent and combat violence against women, including of victim support measures. In a number of countries, including in Andorra, Austria, Finland, Portugal, and Turkey, GREVIO pointed out that such research is weak or lacking altogether.¹⁹⁴

127. In Belgium and Malta, GREVIO noted a lack of synergies between policy-making and research carried out by academia in the area of violence against women and girls.¹⁹⁵ GREVIO stressed the importance of drawing from the expertise and the findings of research in the area of violence against women in policy-making, capitalising on the wealth of evidence and information provided.

Research on all forms of violence against women

128. Another prominent shortcoming in relation to research on violence against women, is that, in the majority of parties evaluated, more attention is paid to domestic violence to the detriment of other forms of violence such as sexual violence, sexual harassment, FGM, and forced marriage.¹⁹⁶ Parties' focus on domestic violence in policies and measures that address violence against women is, indeed, a trend identified throughout this review.

Violence affecting women exposed to or at risk of intersectional discrimination

129. GREVIO identified lack of research on violence affecting women experiencing intersectional discrimination in its baseline evaluation reports on Albania, Andorra, Portugal, Serbia, and Spain.¹⁹⁷ It thus encouraged/strongly encouraged the authorities to conduct research on violence affecting groups of women exposed to multiple discrimination, such as women with disabilities, elderly women, migrant women and LGBTI women.

Impact of violence on child witnesses

130. In its baseline evaluation reports on Finland and Portugal, GREVIO also noted the absence of research into the effects of violence against women on children, particularly child witnesses of domestic violence.¹⁹⁸

Issues unique to specific parties

131. In light of its gender-neutral approach to violence against women and taking into account that available statistics make overwhelmingly clear that women are significantly more likely to be victims than men, GREVIO strongly encouraged the Netherlands to conduct research on the implications of the gender-neutral approach and its impact on prevention, protection and prosecution of violence against women and domestic violence.¹⁹⁹

193. See GREVIO's baseline evaluation reports on: Albania, paragraph 48; Italy, paragraph 83; and Montenegro, paragraph 65.

194. See GREVIO's baseline evaluation reports on: Andorra, paragraph 63; Austria, paragraph 60; Finland, paragraph 50, Portugal, paragraph 77; and Turkey, paragraph 92.

195. See GREVIO's baseline evaluation reports on: Belgium, paragraph 59; and Malta, paragraph 58.

196. See GREVIO's baseline evaluation reports on: Albania, paragraph 49; Andorra, paragraph 64; Austria, paragraph 60; Denmark, paragraph 62; Finland, paragraph 50; Montenegro, paragraph 64; the Netherlands, paragraph 77; Portugal, paragraph 77; Serbia, paragraph 59; Spain, paragraph 73; and Turkey paragraph 92.

197. See GREVIO's baseline evaluation reports on: Albania, paragraph 49; Andorra, paragraph 64; Portugal, paragraph 77; Serbia, paragraph 59; and Spain, paragraph 73.

198. See GREVIO's baseline evaluation reports on: Finland, paragraph 50; and Portugal, paragraph 77.

199. See GREVIO's baseline evaluation report on the Netherlands, paragraph 79.

Population-based surveys (Article 11, paragraph 2)

Introduction

132. Paragraph 2 of Article 11 details parties' obligation to conduct population-based surveys based on data that are statistically representative of the target population so that they can be easily generalised to the larger population. Parties are additionally obliged to conduct such surveys at regular intervals in order to make a pertinent and comparative assessment of the prevalence and the trends in all forms of violence covered by the scope of the convention by tracking developments longitudinally.²⁰⁰

Promising practices

133. In its baseline evaluation report on Italy, GREVIO praised the Italian authorities for carrying out, since 2006, a dedicated survey on violence against women, covering various forms of violence (physical, sexual, psychological and economic violence and stalking) and taking into account the presence in the family of children who either directly suffered or witnessed domestic violence.²⁰¹ GREVIO noted that the survey sheds light on important factors such as the sociodemographic characteristics of the victims, risk factors, the severity and consequences of violence, victims' awareness as to their rights and available protection mechanisms, as well as the pathway undertaken by victims to escape from violence. The survey was repeated in 2014 and involved a representative sample of foreign women residing in Italy. In the period 2015-2016, Italy also conducted a targeted survey on sexual harassment and sexual blackmail against women and men at work, which revealed the prevalence of these forms of violence against women.

Challenges

Surveys on all forms of violence against women covered by the convention at regular intervals

134. In a number of countries, including in Malta and Monaco, GREVIO noted that no surveys satisfying the requirements of the convention had been carried out on any form of violence against women covered by the convention.²⁰² In its baseline evaluation reports on Andorra, Belgium, Denmark, and the Netherlands, GREVIO noted that while surveys had been carried out, they did not happen at regular intervals, and that a considerable number of years had passed since the most recent surveys.²⁰³ Conversely, general population-based surveys containing a limited number of questions which are specific to violence against women are regularly carried out in Sweden and Finland.²⁰⁴ GREVIO noted, however in this respect, that only dedicated surveys on violence against women can produce the data that are necessary for evidence-based policy making. It thus strongly encouraged the authorities to conduct dedicated surveys on violence against women at regular intervals and to carry out a population-based survey.

135. Similarly to the findings in relation to research on violence against women described above, in its baseline evaluation reports on Albania, Finland, Montenegro, and Turkey, GREVIO noted an absence of population-based surveys that address forms of violence against women other than domestic violence.²⁰⁵ On the other hand, GREVIO observed that Denmark had carried out a series of surveys addressing both domestic violence as well as sexual violence, sexual harassment and stalking, noting however that they varied in terms of methodology, sample size and results.²⁰⁶ Likewise, Austria carried out surveys on physical, sexual, and psychological violence as well as sexual harassment.²⁰⁷ By contrast, the prevalence of other

200. Explanatory Report, paragraph 78.

201. See GREVIO's baseline evaluation report on Italy, paragraph 79.

202. See GREVIO's baseline evaluation reports on: Malta, paragraph 55; and Monaco, paragraph 37.

203. See GREVIO's baseline evaluation reports on: Andorra, paragraph 60, Belgium, paragraph 57, Denmark, paragraph 60; and the Netherlands, paragraph 73.

204. See GREVIO's baseline evaluation reports on: Finland, paragraph 47; and Sweden, paragraph 67.

205. See GREVIO's baseline evaluation reports on: Albania, paragraph 51; Finland, paragraph 44; Montenegro, paragraph 61; and Turkey, paragraph 89.

206. See GREVIO's baseline evaluation report on Denmark, paragraphs 55-57.

207. See GREVIO's baseline evaluation report on Austria, paragraphs 39-40.

forms of violence against women, in particular FGM, forced marriage, forced abortion, or forced sterilisation do not appear to have been carried out in most parties.

Surveys on violence affecting women exposed to or at risk of intersectional discrimination

136. GREVIO also noted in its baseline evaluation reports on Finland, Montenegro, Serbia, and Sweden that dedicated surveys on violence affecting groups of women such as women belonging to national minorities, migrant and refugee women, Roma women, and women with disabilities are lacking and therefore strongly encouraged the authorities to carry out a population-based survey to assess their specific exposure to violence against women.²⁰⁸

Issues unique to specific parties

Lack of harmonisation between the methodologies used

137. Finally, with regards to France²⁰⁹ and Denmark (as referred to above), GREVIO noted that while several national population-based surveys had been conducted on violence against women, the lack of harmonisation of methodologies used impeded the development of comparative analyses measuring changes over time.

208. See GREVIO's baseline evaluation reports on: Finland, paragraph 44; Montenegro, paragraph 61; Serbia, paragraph 70; and Sweden, paragraph 68.

209. See GREVIO's baseline evaluation report on France, paragraph 82.



CHAPTER III PREVENTION

Article 13 – Awareness-raising

Introduction

138. Under Article 13, parties must promote or conduct on a regular basis and at all levels, awareness-raising campaigns or programmes, including in co-operation with relevant civil society partners – the aim being to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of this convention, their consequences on children and the need to prevent such violence. As the Explanatory Report to the Istanbul Convention elaborates, women’s NGOs working in the area of protection and support for women victims of violence against women have a long tradition of carrying out successful awareness-raising activities at local, regional or national level. Therefore, parties are encouraged to carry out awareness-raising campaigns in co-operation with these organisations, as well as with other relevant stakeholders, such as national human rights institutions, equality bodies and other civil society organisations.²¹⁰ Article 13 also contains the obligation to ensure that information on measures available to prevent acts of violence covered by the scope of this convention is made available widely – to victims and bystanders.

Promising practices

Awareness-raising campaigns that target professionals or that involve specific professionals

139. A promising practice identified by GREVIO in its baseline evaluation report on Denmark is the approach to awareness-raising taken in the context of the campaigns on stalking and rape, which included components that specifically targeted professionals such as law enforcement agents and social workers. GREVIO noted that this approach has led to improvements in the professionals’ response to such violence and demonstrates the importance of such measures, where their initial training does not yet include information on these forms of violence against women.²¹¹ Another interesting example described by GREVIO in its baseline evaluation report on Sweden is the “Come to us” campaign launched by the Swedish police. This initiative consisted in the provision

210. Explanatory Report, paragraph 92.

211. See GREVIO’s baseline evaluation report on Denmark, paragraphs 65-66.

of information on-line in 18 different languages on the importance of reporting crimes such as domestic violence, forced marriage and “honour-related violence”, how to report such crimes, how a criminal investigation is conducted and the help that is available to victims. GREVIO welcomed the effort to reach out to the general public and victims and noted that it had the potential for increasing the number of reported cases. At the same time, it stressed the need to ensure adequate responses on the part of law enforcement following these awareness-raising endeavours.²¹²

Focusing FGM prevention across national borders

140. Another promising practice noted by GREVIO was Portugal’s approach to awareness-raising on the harmful practice of FGM, which involved, during the school holidays, the distribution of leaflets and posters warning about the harmful effects of FGM at airports, in the departure areas for flights bound for several countries in Africa where FGM continues to be practised. Concurrent preventive measures were also taken in the airports of Guinea-Bissau, in light of the fact that the majority of victims in Portugal belong to the migrant community originating from this country. This is based on the knowledge that most girls and women in Portugal who have been victims of FGM have undergone mutilation while on holidays in their country of origin.²¹³

Systematic awareness-raising campaigns as an integral part of long-term actions plans on violence against women

141. In its baseline evaluation report on France, GREVIO welcomed the efforts made by the authorities to increase the visibility of violence against women and the existence of political will to increase societal awareness of the phenomenon, which has led to tangible results. It highlighted, in particular that awareness-raising activities have become more systematic in the last two decades, and that they continue every year as part of the measures implemented by the various inter-ministerial plans. Some have addressed gender-based harassment and sexual violence in public transport, including unacceptable behaviour, key advice on how to behave and how to react in these situations. Others have focused on sexual violence, or for example, on witnessing domestic violence. The latter was unprecedented in scale and budget (around 4 million euros).²¹⁴

Awareness-raising campaigns addressing various forms of violence, targeting different target groups

142. GREVIO has also highlighted with appreciation in its baseline evaluation report on Belgium the quality of the awareness-raising campaign run at different levels of government (federal, regional or community). These focused on diverse forms of violence, notably, sexual harassment and gender-based acts, intimate partner violence, sexual violence, “honour-related violence”, forced marriage and FGM as well as on diverse target groups, using various communication media.²¹⁵ GREVIO welcomed in particular the campaign on psychological intimate partner violence “Fred et Marie/Marie et Fred”, which uses series of short films that portray, in a non-sensationalist way, psychologically violent behaviour in a relationship and the responses of the victim and bystanders.²¹⁶

Challenges

Focus of awareness-raising initiatives on domestic violence

143. Most GREVIO baseline evaluation reports, notably those on Andorra, Belgium, Finland, France, Italy, Malta, Monaco, Montenegro, Portugal, Serbia, Spain, and Turkey, highlight the need for awareness-raising campaigns to address all forms of violence covered by the Istanbul Convention.²¹⁷ Whilst domestic violence has been the

212. See GREVIO’s baseline evaluation report on Sweden, paragraph 78.

213. See GREVIO’s baseline evaluation report on Portugal paragraph 83.

214. See GREVIO’s baseline evaluation report on France paragraphs 87-88.

215. See GREVIO’s baseline evaluation report on Belgium paragraph 66.

216. See www.fredetmarie.be/ and the Council of Europe publication Raising awareness of violence against women: Article 13 of the Istanbul Convention, 2014, p.22.

217. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 72; Belgium, paragraph 68; Finland, paragraph 57; France, paragraph 93; Italy, paragraph 92; Malta, paragraph 65; Monaco, paragraph 43; Montenegro, paragraph 76; Portugal, paragraph 86; Serbia, paragraph 69; Spain, paragraph 85; and Turkey, paragraph 106.

focus of awareness-raising efforts in many countries, other forms or aspects of violence against women are marginally addressed. In its baseline evaluation reports on France, Italy, Montenegro and Portugal, GREVIO has highlighted the need for awareness-raising campaigns to address forms of violence against women that are often underreported and/or that are still unknown and/or misunderstood by the general public such as rape, sexual violence, and harmful traditional practices such as FGM or forced marriage.²¹⁸ An insufficient coverage of digital violence is also specifically addressed in the baseline evaluation report on Spain.²¹⁹

Short-term approach to awareness-raising and insufficient geographical outreach

144. A substantial number of GREVIO baseline evaluation reports, including those on Andorra, Austria, Belgium, Finland, Malta, Montenegro, Serbia and Turkey also noted the absence of sustained and long-term efforts to raise awareness and thus the need to ensure regular and long term awareness-raising campaigns and activities to help all members of society recognise violence against women, speak out against it and support its victims.²²⁰ Moreover, in its baseline evaluation reports on Belgium, Denmark, Finland, Italy, and Portugal, GREVIO found that such campaigns had been limited in geographic scope and therefore strongly encouraged the authorities, *inter alia*, to ensure that awareness-raising initiatives are implemented at all levels of the state (i.e., national, regional, local).²²¹

Insufficient involvement of women's non-governmental organisations

145. Another recurring finding made by GREVIO in its baseline evaluation reports on Denmark, Finland, France, Italy, Malta, Monaco, Serbia, Spain, and Turkey is the need to involve relevant stakeholders, in particular women's support services and women's non-governmental organisations in the design and implementation of awareness-raising campaigns and to give them the financial means to do so.²²²

The need to address underlying patriarchal/stereotypical attitudes and to apply a gendered understanding of violence

146. In its baseline evaluation reports on Albania, Belgium, Italy, the Netherlands, Portugal, and Turkey, GREVIO has underlined the need for awareness-raising initiatives to tackle underlying patriarchal and stereotypical attitudes.²²³ By way of example, in its baseline evaluation report on Albania, GREVIO noted the tendency in Albania to promote forgiveness by women in cases of violence, under the pretext of traditional family values. It stressed that awareness-raising initiatives should challenge women's and girls' belief that women should tolerate violence to keep the family together and aim at reshaping preconceived gender roles and stereotypes within the family. It accordingly strongly encouraged the authorities to ensure that targeted campaigns be developed that challenge social norms, attitudes and stereotypes regarding women's inferior status in the domestic unit.²²⁴ Similarly, noting, *inter alia*, ingrained stereotypical attitudes of law enforcement officers, policy makers and judges, GREVIO strongly encouraged the Turkish authorities to deliver prevention messages to dispel myths, stimulate debate and change societal attitudes to address the culture of victim-blaming and the notion of women's obedience of men.²²⁵ It strongly encouraged the Italian and Portuguese authorities to challenge patriarchal attitudes and stereotypes which contribute to the acceptance of violence, including those based on tradition, religion or the notion of "honour".²²⁶

147. In a number of baseline evaluation reports, including those on Belgium, Italy and the Netherlands, GREVIO has stressed the importance that such campaigns be based on or increase the understanding of

218. See GREVIO's baseline evaluation reports on: France, paragraph 93; Italy, paragraph 92; Montenegro, paragraph 76; and Portugal, paragraph 86.

219. See GREVIO's baseline evaluation report on Spain, paragraph 85.

220. See GREVIO's baseline evaluation reports on: Andorra, paragraph 72; Austria, paragraph 69; Belgium, paragraph 68; Finland, paragraph 57; Malta, paragraph 65; Montenegro, paragraph 76; Serbia, paragraph 69; and Turkey, paragraph 106.

221. See GREVIO's baseline evaluation reports on: Belgium, paragraph 68; Denmark, paragraph 68; Finland, paragraph 57; Italy, paragraph 92; and Portugal, paragraph 86.

222. See GREVIO's baseline evaluation reports on: Denmark, paragraph 68; Finland, paragraph 57; France, paragraph 93; Italy, paragraph 92; Malta, paragraph 65; Monaco, paragraph 43; Portugal, paragraph 86; Serbia, paragraph 69; Spain, paragraph 85; and Turkey, paragraph 106.

223. See GREVIO's baseline evaluation reports on: Albania, paragraph 58; Italy, paragraph 92; the Netherlands, paragraph 86; Portugal, paragraph 86; and Turkey, paragraph 106.

224. See GREVIO's baseline evaluation report on Albania, paragraphs 54-58.

225. See GREVIO's baseline evaluation report on Turkey, paragraph 106.

226. See GREVIO's baseline evaluation reports: on Italy, paragraph 92; and Portugal, paragraph 86.

the gendered nature of violence against women, which is at the heart of the prevention and protection efforts of the Istanbul Convention.²²⁷ The need to acknowledge gender inequality as the root cause of violence against women in the context of awareness campaigns was stressed in Austria,²²⁸ whereas the need for empowerment activities for women and girls was referred to in the baseline evaluation report on Finland, Italy, and Monaco.²²⁹ In this respect, the baseline evaluation report on Italy observed that awareness-raising initiatives organised by the authorities did not appear to empower victims and unveil the systemic function of violence against women as a social mechanism by which women are forced into and/or kept in a subordinate position compared to men.

Awareness-raising initiatives targeting women that are specifically vulnerable/marginalised

148. The need to conduct targeted awareness-raising initiatives and reach out to specific groups of women that are at the intersection of discrimination was tackled in the baseline evaluation reports on Albania, Belgium, Finland, France, Italy, Montenegro, the Netherlands, Portugal, and Sweden.²³⁰ All of these have identified different categories of vulnerable women including women with disabilities, migrant/refugee women, women from national or ethnic minorities, black women, women in prostitution, LGBTI women, women in addiction and elderly women. The baseline evaluation reports have referred, *inter alia*, to the specific difficulties encountered by such groups of women in accessing information, including on their rights, as well as in accessing support services. It has accordingly stressed the importance for awareness-raising initiatives to address their specific needs.

Awareness-raising on the impact that witnessing violence against women has on children

149. The need to raise awareness on the harm caused to children who witness domestic violence was addressed in the baseline evaluation reports on Albania, Belgium, Italy, Monaco, Portugal, Turkey, Serbia, and Sweden.²³¹ GREVIO has often noted a low level of awareness among victims themselves of the impact that witnessing such violence has on children. GREVIO has accordingly strongly encouraged that the authorities, *inter alia*, develop targeted awareness-raising campaigns to raise awareness about the harm caused to children who witness domestic violence.

Involving the media in awareness-raising

150. Findings of the baseline evaluation reports on Austria, Serbia, and Spain specifically address the need to involve the media in the running of public awareness-raising campaigns.²³² The role of the media in the prevention of violence against women is further addressed in the context of Article 17, Chapter III.

Sufficient and sustainable funding for awareness-raising campaigns

151. The baseline evaluation reports on Austria, Denmark, France, Malta, and Serbia stress the need for the authorities to ensure sufficient and sustainable funding for awareness-raising activities, including resources for relevant women's organisations.²³³ In its report on Malta, for example, GREVIO noted that most campaigns were project-based and dependent on EU funding, and thus called on the authorities to make available sufficient and sustainable funding for awareness-raising campaigns, including to women's support services and women's NGOs.

Monitoring the impact of awareness-raising initiatives

152. GREVIO has addressed the importance of monitoring and evaluating the impact of awareness-raising campaigns in a number of baseline evaluation reports, including those on Austria, Belgium, Malta and Montenegro. By way of example, in its baseline evaluation report on Austria, GREVIO observed that none

227. See GREVIO's baseline reports on: Belgium, paragraph 68; Italy, paragraphs 90-92; and the Netherlands, paragraph 86.

228. See GREVIO's baseline evaluation report on Austria, paragraph 67.

229. See GREVIO's baseline evaluation reports on: Finland, paragraph 57; Italy, paragraph 92; and Monaco, paragraph 43.

230. See GREVIO's baseline evaluation reports on: Albania, paragraph 58; Belgium, paragraph 68; Finland, paragraph 57; France, paragraph 93; Italy, paragraph 92; Montenegro, paragraph 76; the Netherlands, paragraph 86; Portugal, paragraph 86; and Sweden, paragraph 80.

231. See GREVIO's baseline evaluation reports on: Albania, paragraph 58; Belgium, paragraph 68; Italy, paragraph 92; Portugal, paragraph 86; Sweden, paragraph 80; and Turkey, paragraph 106.

232. See GREVIO's baseline evaluation reports on: Austria, paragraph 69; Serbia, paragraph 69; and Spain, paragraph 85.

233. See GREVIO's baseline evaluation reports on: Austria, paragraph 69; Denmark, paragraph 68; France, paragraph 93; Malta, paragraph 65; and Serbia, paragraph 69.

of the campaigns had been evaluated, precluding the possibility of any conclusions being drawn as to their impact. It therefore strongly encouraged the authorities to ensure a stronger role of the federal ministries in conceptualising, implementing and evaluating public awareness-raising activities.²³⁴ Whereas, in the case of and Malta, it strongly encouraged the authorities to carry out research on the impact that awareness-raising campaign have had on the population, including changes in perceptions on sexism, gender equality and gender-based violence.²³⁵

Issues unique to specific parties

153. An issue raised specifically in the baseline evaluation report on Turkey is the need to establish a more conducive climate for feminist NGOs' work, as repressive measures targeting freedom of expression have had a chilling effect on the work of a number of women's rights NGOs and have impacted awareness-raising efforts in the area of violence against women.²³⁶
154. In the baseline evaluation report on the Netherlands, on the other hand, GREVIO highlighted the specific challenges emerging from a gender-neutral approach to domestic violence. It noted that a recent campaign carried out in the context of the national action plan on domestic violence was gender-neutral and that this risked contributing to the lack of awareness of the gendered nature of domestic violence. GREVIO expressed its concern that, overall, the Dutch awareness-raising efforts do not sufficiently emphasise the gendered nature of the different forms of violence against women and their pervasiveness in all aspects of women's lives.²³⁷
155. An issue that was addressed almost exclusively in the baseline evaluation report on Finland was the lack of nation-wide campaigns. GREVIO therefore strongly encouraged the authorities to promote or conduct awareness-raising campaigns and programmes at all levels.²³⁸ At the same time, highlighting the specific challenges that arise in a federally organised state with regard to co-ordination between the different levels of governments/authorities, the baseline evaluation report on Belgium stressed the importance of developing a coherent and comprehensive nation-wide approach with regards to awareness-raising and of adopting guidelines to ensure quality standards and coherence of the messages. It further noted that these measures should be accompanied by impact indicators that can assess the actual impact of the awareness-raising efforts on the attitudes and perceptions in the population. Furthermore, the baseline evaluation report on Belgium highlighted that, according to civil society, awareness-raising campaigns tend to focus on referring victims (and to a lesser extent perpetrators) to support services and are not primarily aimed at changing the values and attitudes underlying gender-based violence.²³⁹ They are, therefore, not primary but rather secondary or tertiary prevention campaigns.²⁴⁰

Article 14 – Education

Introduction

156. Under Article 14 parties must take the necessary steps to include teaching material in formal curricula and at all levels of education (i.e. primary, secondary, tertiary), adapted to the evolving capacity of learners, on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity. It also requires that parties promote the above-mentioned principles in informal educational facilities, as well as in sports, cultural and leisure facilities, and the media.

234. See GREVIO's baseline evaluation report on Austria, paragraph 69.

235. See GREVIO's baseline evaluation reports on: Belgium, paragraph 68; Malta, paragraph 65; and Montenegro, paragraph 76.

236. See GREVIO's baseline evaluation report on Turkey, paragraph 106.

237. See GREVIO's baseline report on the Netherlands, paragraphs 82- 86.

238. See GREVIO's baseline evaluation report on Finland, paragraph 57.

239. See GREVIO's baseline evaluation report on Belgium, paragraphs 67-68.

240. Public health interventions are traditionally characterised in terms of three levels of prevention: Primary prevention – approaches that aim to prevent violence before it occurs. Secondary prevention – approaches that focus on the more immediate responses to violence, such as pre-hospital care, emergency services or treatment for sexually transmitted diseases following a rape. Tertiary prevention – approaches that focus on long-term care in the wake of violence, such as rehabilitation and reintegration, and attempts to lessen trauma or reduce the Long-term disability associated with violence (World Health Organization Report on Violence and Health; Summary, Who, Geneva, 2002, p.10).

Promising practices

Promotion of an education free from gender stereotypes

157. In its baseline evaluation report on Portugal, GREVIO noted that the Portuguese authorities, notably the Commission for Citizenship and Gender Equality (CIG), make available to teachers far-ranging and in-depth material to promote an education free from gender stereotypes. More specifically, CIG has developed, since 2008, a comprehensive set of guides on gender and citizenship for all levels of education, from pre-school to secondary education. The guides propose practical activities to intersect gender equality with a series of cross-cutting thematic areas such as sexual and reproductive health, security (including internet security), sexism and stereotypes and non-violent dating relationships. They also set out a number of proposals to curb gender stereotypes and prevent sexual discrimination in the organisation of schools and in teachers' practice. The guides have been distributed to more than 800 basic and secondary school network libraries, as well as to 16 higher education institutions' libraries. Their implementation has been supported by an extensive exercise of in-service training covering more than 150 schools and half of the continental municipalities, as well as a number of municipalities in the two Autonomous Regions of the Azores and Madeira. GREVIO welcomed this as a good practice, noting, however, that a system of indicators would need to be put in place allowing for the measurement of the extent to which pupils in Portugal have acquired the necessary skills. It further noted the need for data to measure the guides' effective dissemination at the local level.²⁴¹

Setting up a network of persons responsible for the prevention of discrimination

158. France's approach to preventing and combating violence against women in higher education, as well as in schools, institutions, and services under the Ministry of Culture has been recognised as examples of good practice. These measures include the setting up by the Ministry of Culture of a network of "persons responsible for the prevention of discrimination", present in each higher education school in the field of culture, as well as in each public establishment, service and department of the ministry. The latter are officials who have been trained on gender equality and anti-discrimination and on how to prevent and handle sexual and gender-based violence and harassment. In addition, support is given to all higher education schools in the field of culture for the purposes of adopting a charter of commitment to equality between women and men, which includes a section on violence and harassment.²⁴²

Legal obligation for all educational establishments to include the promotion of gender equality and the prevention of gender-based violence and discrimination in their three-year planning

159. Following the ratification of the Istanbul Convention, Italy introduced in 2015 a legal obligation for all educational establishments to include in their three-year planning the promotion of the principles of equal opportunities, gender equality, the prevention of gender-based violence and discrimination, with the aim of educating pupils, teachers and families on these topics. Specific guidelines on the education of respect were issued by the Ministry of Education in 2017 to encourage schools to take up these topics, and their implementation is supported by a national action plan for educating respect, which was launched in 2017 with a budget of 8.9 million euros. In parallel, a national observatory for monitoring and promoting educational and training activities on gender equality and the prevention of violence against women was set up in 2017 (to provide schools with a list of public and private entities with whom to engage in activities in these areas). In addition, the Ministry of Education created a web portal (www.noisiamopari.it) for sharing best practices on activities in schools to prevent gender-based violence against women and to eradicate negative stereotypes based on gender.²⁴³

241. See GREVIO's baseline evaluation report on Portugal paragraphs 88-89.

242. See GREVIO's baseline evaluation report on France paragraphs 99-101.

243. See GREVIO's baseline evaluation report on Italy paragraph 93.

Support for the establishment of education on relationships and emotional and sexual matters beyond formal educational establishments in youth structures

160. With regard to the obligation under Article 14, paragraph 2, of the convention, following the signature of the Istanbul Convention, the French Community Government in Belgium has put in place a specific arrangement to support the development of education focusing on relationships and emotional and sexual matters, in youth structures. It provides a framework for the accreditation of operators to ensure that any activities carried out are of a high quality and provides financial support for accredited operators through annual calls for projects. The programme is supported by a website (www.evras.be) and features a system to monitor its implementation.²⁴⁴

Challenges

Insufficient teaching material on issues such as equality between women and men, gender roles and other aspects required by Article 14

161. In a significant number of GREVIO baseline evaluation reports, including those on Albania, Finland, Italy, Malta, Monaco, Serbia, Sweden, and Turkey GREVIO has encouraged/strongly encouraged the authorities to incorporate, strengthen or review teaching on the various topics addressed under Article 14 of the convention, including on the various forms of gender-based violence against women and girls, in curricula at all levels of formal education.²⁴⁵ In the case of Turkey, GREVIO stressed the need to ensure that teaching material in all types of schools and teaching programmes does not convey stereotyped narratives regarding the roles of women and men.²⁴⁶ The issue of gender stereotyping was also raised in the baseline evaluation report on the Netherlands, albeit in connection to materials used in the privately run civic integration courses for migrants, which, indeed, appeared to endorse and encourage gender stereotyping. GREVIO thus welcomed the decision to bring these back under control of the municipalities from 2020.²⁴⁷
162. Stereotypical attitudes were also criticised in the baseline evaluation report on Sweden, particularly in relation to the portrayal of “honour-related violence” in central policy documents and material, including those used in schools, for its strong focus on “the other”. GREVIO noted in this respect that “honour-based” value systems and their implications for girls and boys seemed to be discussed as exclusively foreign-bred and prevalent among non-ethnic Swedes. In particular, the efforts to identify victims of such type of violence in the school system were criticised for singling out migrant communities and focusing on their membership in such communities, rather than identifying children who might be confronted with violence and control, for example as victims or witnesses of domestic violence. GREVIO, therefore, cautioned against any measures that stigmatise certain communities within Swedish society and may add to their barriers towards integration. It encouraged the authorities to review their central policy documents and materials, including school materials, in order to ensure that specific forms of violence against women and girls are addressed without stigmatisation of and discrimination against those women and girls exposed to them.²⁴⁸

Gender mainstreaming in education in line with Recommendation CM/Rec(2007)13

163. To assist parties in their efforts to ensure gender mainstreaming in education, in its baseline evaluation reports on Andorra, Belgium, France, Italy, and Monaco, GREVIO referred to and invited the authorities to draw from the CM/Rec(2007)13 of the Committee of Ministers of the Council of Europe to member states on gender mainstreaming in education.²⁴⁹

244. See GREVIO's baseline evaluation report on Belgium paragraph 70.

245. See GREVIO's baseline evaluation reports on: Albania, paragraph 62; Finland, paragraph 64; Italy, paragraph 99; Malta, paragraph 70; Monaco, paragraph 49; Serbia, paragraph 75; and Sweden, paragraph 87.

246. See GREVIO's baseline evaluation reports on: Albania, paragraph 62; Monaco, paragraph 49; and Turkey, paragraph 111.

247. See GREVIO's baseline report on the Netherlands, paragraph 92.

248. See GREVIO's baseline evaluation report on Sweden, paragraph 87.

249. See GREVIO's baseline evaluation reports on: Andorra, paragraph 75; Belgium, paragraph 74; France, paragraph 96; Italy, paragraph 99; and Monaco, paragraph 49.

Addressing the prevention of violence against women in the context of sexuality education

164. In its baseline evaluation reports, including those on Albania, France, Italy, the Netherlands, and Portugal, GREVIO has addressed the important role of sexuality in the context of the prevention of violence against women. It has clarified that education on sexuality can provide a means to address some of the topics covered by Article 14 of the convention, in particular the right to personal integrity and the notion that sexual violence is based on the absence of freely given consent. GREVIO has also specified that sexuality education for all boys and girls in schools is essential to guarantee women's sexual and reproductive rights and that it is a full component of the rights to education and to health.²⁵⁰
165. Accordingly, GREVIO has encouraged the Albanian and French authorities to address the prevention of gender-based violence against girls and other issues addressed under Article 14, in the framework of the existing programmes on sexual education and education on sexual and reproductive health rights. In its baseline evaluation report on Portugal, GREVIO found that courses on sexuality exclusively focused on the prevention of unwanted pregnancies and infectious diseases and did not address the social relations between girls and boys and the impact of patriarchal attitudes and stereotypes. GREVIO, therefore, encouraged the Portuguese authorities to ensure an approach that addresses the right to personal integrity, unequal power in the relations between women and men and responsible sexual behaviour. As regards Italy, at the time of GREVIO's evaluation visit, national guidelines for education on affectivity, sexuality and reproductive health in schools were being developed. These guidelines were seen as an important means to introduce pupils to the topic of the right to physical integrity and to a definition of sexual violence in line with the convention. Consequently, GREVIO strongly encouraged the authorities to finalise and implement them.

The need to monitor the use of teaching materials by teachers and pupils' skills

166. The importance of monitoring the use of teaching materials and children's competencies and skills in this area has been addressed in a number of GREVIO's baseline evaluation reports, including those on Denmark, Italy, Portugal, and Turkey.²⁵¹ In its baseline evaluation reports on Denmark, and Turkey, GREVIO stressed the importance of monitoring how teachers make use of existing teaching materials and how they approach issues related to domestic violence and violence against women. Moreover, in its baseline evaluation reports on Italy and Portugal, it encouraged/strongly encouraged the authorities to develop a set of indicators allowing for the measurement of pupils' skills and competences on the topics mentioned in Article 14 of the convention and in relation to all forms of gender-based violence against women.

Teacher training on gender equality and violence against women and girls as well as its prevention and detection

167. The need for mandatory initial and in-service training for teachers and educational staff on gender equality, gender mainstreaming, the prevention of gender-based violence and other issues provided under Article 14 of the convention, was raised in a number of reports, including in the baseline evaluation reports on Finland, France, Italy, and Montenegro.²⁵² The importance of training education professionals on how to detect and prevent violence among pupils and provide support to such victims has also been addressed by GREVIO in its baseline evaluation reports on Denmark, Finland, France, Italy, Malta, Montenegro, and Portugal.
168. As regards, in particular, the baseline evaluation report on Denmark, GREVIO observed that teachers in Denmark are under the obligation to report suspicions of children affected by domestic violence or abuse to the municipality and highlighted the importance that they receive the necessary training and knowledge to detect and adequately deal with such victims.²⁵³ Likewise, GREVIO encouraged/strongly encouraged the authorities of Finland, France, and Portugal, *inter alia*, to provide for mandatory teacher

250. See GREVIO's baseline reports on: Albania, paragraph 62; France, paragraph 96; Italy, paragraph 99; the Netherlands, paragraph 89; and Portugal, paragraph 91.

251. See GREVIO's baseline evaluation reports on: Denmark, paragraph 74; Italy, paragraph 99; Portugal, paragraph 91; and Turkey, paragraph 111.

252. See GREVIO's baseline evaluation reports on: Finland, paragraph 64; France, paragraphs 96 and 98; Italy, paragraph 99; and Montenegro, paragraph 80.

253. See GREVIO's baseline evaluation report on Denmark, paragraph 76.

training programmes on the different forms of violence against women, with the aim of allowing teachers to identify girls and boys at risk or who are victims of violence, and to refer them to appropriate mechanisms of support and protection.²⁵⁴ Although addressed in the baseline evaluation report's analysis under Article 15 of the convention, GREVIO also strongly encourages the Maltese authorities to introduce in education establishments dedicated guidelines/protocols that lay out the preventive action to be undertaken where indications of violence against women exist or there is a risk thereof, including, in particular, in cases of forced marriage and FGM and suggested that dedicated training for teachers on all of the forms of violence against women should be envisaged and strengthened.²⁵⁵

Accompanying education measures with awareness-raising activities in schools and universities

169. GREVIO has encouraged parties such as Albania and Monaco to accompany/complement the integration into the school curriculum of issues such as gender equality and violence against women with specific awareness-raising activities in schools on specific forms of violence.²⁵⁶

Promotion of issues provided under Article 14 in informal educational facilities, as well as in sports, cultural and leisure facilities.

170. Out of the 17 published baseline evaluation reports, only some addressed the obligation provided under Article 14, paragraph 2, in relation to sports, cultural and leisure facilities. Noting that it was unaware of measures taken, in accordance with paragraph 2 of Article 14, to promote the principles of equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships in non-formal education, as well as in sports, cultural and leisure activities, GREVIO invited/encouraged the authorities in Albania and Turkey to take further steps in this regard.²⁵⁷ The baseline evaluation reports on Belgium and Malta, on the other hand, feature examples of the implementation of relevant measures in the context of youth structures, including, in the case of Malta, the involvement of football clubs and local Girl and Boy Scouts in awareness-raising campaigns on violence against women.²⁵⁸

Issues unique to specific parties

171. An issue that featured in the GREVIO baseline evaluation report on Italy is the mounting resistance faced by schools when undertaking educational projects in line with the standards of the convention. GREVIO noted in particular that strong opposition from "anti-gender" movements, have created an intimidating environment. The baseline evaluation report observes that, by raising fears about alleged attempts to introduce children to the "theory of gender", these movements appeared to have pressured schools into bringing many such projects to a halt and ceasing their co-operation with women's specialist organisations. GREVIO has observed that as a result, several schools have avoided addressing the gendered aspects of discrimination and violence against women. In this respect, GREVIO encouraged the authorities to dismantle false assumptions about the content of gender-sensitive education and use stronger language to recall how such education is part of the mandatory educational curricula which all schools are required to apply. Growing resistance and disinformation was also evoked by GREVIO with regards to education on sexuality, which have caused the government's work on "National Guidelines for Education to Affectivity, Sexuality and Reproductive Health in Schools" to come to a halt.²⁵⁹ In this respect, and in light of the important role that comprehensive sexuality education can play to address the topics covered by Article 14 of the convention, GREVIO strongly encouraged the Italian authorities to, *inter alia*, finalise and implement the above-mentioned national guidelines.²⁶⁰

254. See GREVIO's baseline evaluation reports on: Finland, paragraph 64; France, paragraphs 96 and 98; and Portugal, paragraph 91.

255. See GREVIO's baseline evaluation report on Malta, paragraph 70.

256. See GREVIO's baseline evaluation reports on: Albania, paragraph 62; and Monaco, paragraph 49.

257. See GREVIO's baseline evaluation reports on: Albania, paragraph 63; and Turkey, paragraph 111.

258. See GREVIO's baseline evaluation reports on: Belgium, paragraph 70; and Malta, paragraph 69.

259. Paragraph 97 of the baseline evaluation report on Italy stipulates that education on sexuality can provide a means to address the topics covered by Article 14 of the convention and is essential to guarantee women's sexual and reproductive rights and is a full component of the rights to education and to health. It notes that this has been stressed by both the European Committee of Social Rights and the UN Committee on the Rights of the Child, and that, in its concluding observations on the seventh periodic report of Italy, CEDAW recommended that Italy finalise and implement the "National Guidelines for Education to Affectivity, Sexuality and Reproductive Health in Schools" with no further delay.

260. See GREVIO's baseline evaluation report on Italy, paragraphs 96 and 97.

Article 15 – Training of professionals

Introduction

172. Under Article 15 of the convention, parties are required to provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by the scope of this convention, on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimisation. The Explanatory Report to the Istanbul Convention explains that initial vocational training and in-service training should enable the relevant professionals to acquire the appropriate tools for identifying and managing cases of violence, at an early stage, and to take preventive measures accordingly, by fostering the sensitivity and skills required to respond appropriately and effectively. Relevant training should also be supported and reinforced by clear protocols and guidelines that set the standards staff are expected to follow in their respective fields. The second paragraph of Article 15 provides that parties should encourage that the training also covers co-ordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence covered by the scope of this convention.
173. GREVIO baseline evaluation reports have consistently highlighted the need to ensure training for all relevant professions and have addressed specifically law enforcement officials, legal professionals, the judiciary, doctors, nurses, midwives, psychologists, immigration and asylum officers, social workers and social services staff, as well as teachers and educators.

Promising practices

Training of law enforcement officials

174. In its baseline evaluation report on Austria, GREVIO noted that domestic violence, including its gender-based dimension, are encompassed in the two-year basic initial training of law-enforcement officers. As domestic violence cases and emergency barring orders account for a large part of the work of law enforcement agencies, the specific nature of this type of violence and the relevant police measures are an important element of the basic training. Depending on grade and job profile, some law enforcement officers receive more extensive training. For example, prevention officers receive training on forced marriage and FGM in a small training module, and domestic violence prevention officers are trained extensively on how to address warnings to perpetrators who have been barred from their home. Much is done, however, also at the level of in-service training, which is mandatory and organised every three months on various subjects. Domestic violence is covered once or twice a year, and seminars are usually conducted by representatives from the specialist support services.²⁶¹

Laws introducing mandatory training

175. With a view to guaranteeing continuous training for professionals, various parties have passed laws introducing mandatory training. Notwithstanding some limitations noted in the respective baseline evaluation report, in Monaco a legal provision (Law No. 382) stipulates that regular training for professionals who deal with victims of violence shall be put in place in order to help them deal with the victims' problems in the best possible way in their respective spheres of competence. To implement this provision, a consultation was held between representatives of the Ministry of Health and Social Affairs, the Police Department, the Department of Justice, the fire brigade and the sole public hospital, which resulted in the creation of new teaching modules on victim support, demonstrating a multi-agency approach.²⁶² In Andorra, following ratification of the Istanbul Convention, and since the entry into force of Law No. 1/2015, in-service training on gender-based violence and domestic violence has become compulsory for all professionals who are directly or indirectly involved in detecting and preventing gender-based violence and/or protecting and assisting victims concerned. Whilst the country has only a limited number of university courses and higher education or vocational training programmes, under Article 6,

²⁶¹. See GREVIO's baseline evaluation report on Austria, paragraph 76.

²⁶². See GREVIO's baseline evaluation report on Monaco, paragraphs 50-52.

paragraph 8 of Law No. 1/2015, universities in Andorra must promote training, education, and research on violence against women on a cross-cutting basis and ensure gender mainstreaming in particular in education for professionals and health-care professionals.²⁶³

Compulsory training on FGM for a range of professionals

176. In its baseline report on the Netherlands, GREVIO commended the efforts undertaken in the field of prevention of FGM, including the compulsory training module for midwives, the training of youth health care professionals on FGM risk assessments and on working with parents, as well as the work undertaken by the national knowledge centre for FGM in training 110 key persons working on FGM in practicing communities, undertaken as part of the “Chain Approach” to ending FGM described in *Chapter IV, Article 22, promising practices*.²⁶⁴

Training of personnel of specialist support services

177. In Denmark, GREVIO has underlined that professionals working in specialist support services such as shelters, perpetrator programmes and support services for victims of sexual violence, were particularly well trained and had reached a high level of expertise that ensures the respect of victims’ and perpetrators’ rights and needs. It further welcomed that these specialised professionals often provided training for other entities such as law enforcement agencies, the State Administration and the municipality-run social services.²⁶⁵

Introduction of graduate programmes specifically dedicated to the study of violence against women

178. In its report on Spain, GREVIO welcomed that in a move to ensure higher levels of tertiary education on violence against women, many universities across Spain have introduced graduate programmes specifically dedicated to the study of violence against women.²⁶⁶ Moreover, in Sweden, GREVIO noted positively that, following the ratification of the convention and further to the amendment of the Higher Education Ordinance, men’s violence against women has become a compulsory subject for university students within various fields of study.²⁶⁷

Challenges

Shortcomings applicable to all categories of professionals

179. In most of its baseline evaluation reports, including those on Albania, Austria, Belgium, Denmark, Finland, France, Italy, Malta, Montenegro, the Netherlands, Portugal, Serbia, Spain, Sweden, and Turkey, GREVIO has highlighted the need for initial and in-service training for all relevant professions to be systematic and compulsory.²⁶⁸ Moreover, the majority of GREVIO baseline evaluation reports have stressed that training for all professional groups needs to be based on up to date and clear protocols and guidelines based on a gendered understanding of violence against women and domestic violence, that set out the standards staff are expected to follow in their respective field.²⁶⁹ This was highlighted with particular urgency with relation to law enforcement officials and the judiciary in Malta, given the alarmingly low levels of prosecutions and convictions for all forms of violence against women.²⁷⁰ The baseline evaluation reports on Italy, Portugal, and Turkey include findings on the need for training to address professionals’ prejudices and assumptions which stand in the way of delivering effective support and protection for women victims of violence and/or

263. See GREVIO’s baseline evaluation report on Andorra paragraph 76.

264. See GREVIO’s baseline report on the Netherlands, paragraph 101.

265. See GREVIO’s baseline report on Denmark, paragraph 78.

266. See GREVIO’s baseline evaluation report on Spain paragraph 102.

267. See GREVIO’s baseline evaluation report on Sweden, paragraph 89.

268. See GREVIO’s baseline evaluation reports on: Albania, paragraph 69; Austria, paragraphs 75, 79 and 81; Belgium, paragraph 84; Denmark, paragraphs 81, 83, 85 and 86; Finland, paragraph 72; France, paragraphs 107 and 114; Italy, paragraph 107; Malta, paragraph 81; Montenegro, paragraph 89; the Netherlands, paragraphs 100 and 102; Portugal, paragraph 99; Serbia, paragraph 81; Spain, paragraph 104; Sweden, paragraphs 92 and 96; and Turkey, paragraphs 120 and 122.

269. See GREVIO’s baseline evaluation reports on: Albania, paragraph 69; Belgium, paragraphs 84 and 89; Denmark, paragraph 81; Finland, paragraph 73; France, paragraphs 107, 114 and 116; Malta, paragraphs 78, 79, 81 and 82; Montenegro, paragraph 89; the Netherlands, paragraph 100; Portugal, paragraph 99; Serbia, paragraph 81; and Turkey, paragraph 120.

270. See GREVIO’s baseline evaluation report on Malta, paragraphs 73-78.

sexist stereotypes. The baseline evaluation report on Turkey added also the need for training to address “any resistance from professionals” and to be based on the principle of gender equality.²⁷¹

180. The GREVIO baseline reports on Austria, France, Italy, Monaco, and Turkey stressed the need to include the expertise of specialised women’s NGOs in the design and implementation of training, particularly to ensure a gender-based approach to violence.²⁷² The importance of monitoring and evaluating the quality, implementation and impact of the trainings provided was also highlighted in the reports on Albania, Belgium, Italy, Serbia, and Spain.²⁷³ Whereas shortcomings in relation to sufficient funding for training was addressed in the context of the reports on Andorra, Austria, and Belgium.²⁷⁴
181. As regards training on co-ordinated multi-agency co-operation as provided under Article 15, paragraph 2 of the convention, GREVIO noted that attention has been paid to this issue, to varying extents, in a number of parties.²⁷⁵ By way of example, in the case of Turkey, GREVIO noted positively the high-quality training developed for the health sector, which included, amongst other topics, training in multi-agency co-operation for primary and secondary health-care professionals and emergency services. Nonetheless, it found shortcomings in this respect in several parties, including Albania, Belgium, France, Italy, Malta, and Serbia with respect to various categories of professionals and therefore strongly encouraged the relevant authorities to ensure that training encompass this component in order to secure an effective referral system in cases of violence covered by the scope of the convention.²⁷⁶

Shortcomings that are specific to categories of professionals

Training of law enforcement officials

182. The lack of systematic and mandatory training for law-enforcement officers on all forms of violence is discussed under *Chapter VI, Article 50, Challenges, Reporting to, immediate response and investigations by law-enforcement agencies, Insufficient training and/or specialisation of law enforcement officers on violence against women and need for specialised protocols.*

Training of legal professionals

183. Another group of professionals whose training is key to ensure the correct and effective implementation of existing legislation, and thus to hold perpetrators to account, are all legal professionals, including lawyers, prosecutors, and members of the judiciary. The need to establish or expand compulsory initial as well as in-service training on the different manifestations of violence against women, their detection and root causes, as well as the prevention of secondary victimisation is highlighted in the reports on Austria, Belgium, Finland, France, Italy, Malta, Monaco, Montenegro, and Portugal.²⁷⁷ The baseline evaluation report on France, in view of the inadequacies observed with regards to the judicial treatment of violence against women, strongly encouraged the authorities to ensure that training of judges address post-separation violence, its causes and consequences, its detection, the distinction between violence and conflict, the prevention of secondary victimisation and the effects of violence on child victims and witnesses. In this baseline evaluation report, GREVIO also noted that the continued training of judges was left to their discretion and that the number of judges who had accessed training was relatively low. Moreover, it observed that there was no specific training for dealing with child victims and/or witnesses of domestic violence and that this negatively impacted on decisions regarding custody and visitation. Even in those cases in which training is mandatory under the law, such as in Spain, GREVIO noted the need to improve the impact of the existing measures. It observed, in fact, that judicial outcomes, even from the specialist violence against women courts, showed that misunderstandings of the patterns and dynamics of abuse, gender bias and failure

271. See GREVIO’s baseline evaluation reports on: Italy, paragraph 107; Portugal, paragraph 99; and Turkey, paragraph 120.

272. See GREVIO’s baseline evaluation reports on: Austria, paragraph 77; France, paragraph 104; Italy, paragraph 107; Monaco, paragraph 54; and Turkey, paragraph 120.

273. See GREVIO’s baseline evaluation reports on: Albania, paragraph 69; Belgium, paragraph 89; Italy, paragraph 107; Serbia, paragraph 81; and Spain, paragraph 98.

274. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 80; Austria, paragraph 77; and Belgium, paragraph 89.

275. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 77; Belgium, paragraph 76; and Turkey, paragraph 115.

276. See GREVIO’s baseline evaluation reports on: Albania, paragraph 69; Belgium, paragraph 89; France, paragraphs 104 and 107; Italy, paragraph 107; Malta, paragraph 81; and Serbia, paragraph 81.

277. See GREVIO’s baseline evaluation reports on: Austria, paragraph 79; Belgium, paragraph 84; Finland, paragraph 72; France, paragraph 114; Italy, paragraph 107; Malta, paragraphs 79-80; Monaco, paragraph 54; Montenegro, paragraph 89; and Portugal, paragraph 99.

to protect victims in cases of custody arrangements were still prevalent. It therefore strongly encouraged the authorities to evaluate the different training available to the judiciary in order to improve its impact.²⁷⁸

Training of relevant court-appointed professionals

184. In its baseline evaluation report on Italy and Portugal, GREVIO underlined the need for training of social workers that work in courts and who are involved in supporting judicial decision-making processes, including in relation to the requirements of the Istanbul Convention on the settlement of child custody and visitation rights.²⁷⁹ Similarly, the baseline evaluation reports on France and Malta highlighted that the lack of training on domestic violence/violence against women of relevant court-appointed professionals who have been mandated to issue expert opinions concerning visitation and/or custody rights in the context of judicial proceedings, has a serious impact on the quality of such opinion. In Malta, on issues related to custody and visitation rights, GREVIO noted that courts seem to rely on court-appointed experts who have limited knowledge and lack of understanding of violence against women. Moreover, it also noted that child advocates who may be appointed to hear the views of the child and to inform the court's decision on visitation rights and custody issues, have not received any training on violence against women, psychology or interactions with children.²⁸⁰ The insufficient training of court-appointed professionals that support decision-making processes in the area of custody is also discussed in this review, under *Article 31, Challenges, Bias and lack of training among professionals*.

Training of health sector professionals

185. GREVIO baseline evaluation reports acknowledge the key role of different groups of professionals in the health sector, from physicians to nurses, as well as psychologists in identifying victims or women at risk of all forms of violence against women covered under the convention, collecting data, providing appropriate treatment and referring them to specialist support services.

186. A recurrent shortcoming addressed in the majority of baseline evaluation reports, including those on Albania, Austria, Belgium, France, Italy, Malta, Montenegro, the Netherlands, Portugal, and Spain is the absence of and, consequently, the need to introduce compulsory initial and/or in-service training on violence against women, based on clear guidelines which are in line with the provisions of the Istanbul Convention.²⁸¹ In particular, in its baseline evaluation reports on Italy, Malta, the Netherlands, and Portugal, GREVIO stressed the need to improve the skills of health professionals to identify and provide appropriate treatment to victims of FGM, due to lacunae identified in this respect. Inadequacies in the training received by health professionals in treating victims of sexual violence have also been specifically identified in a number of baseline evaluation reports, including those on Albania and Malta.

Training of social workers and education professionals

187. Mandatory initial and in-service training of social workers and social services staff on the different manifestations of violence against women, their detection and root causes, as well as the prevention of secondary victimisation has also been identified as a priority by GREVIO in its baseline evaluation reports on Montenegro and Sweden.²⁸² The need for mandatory initial and in-service training for teachers and educators on all forms of violence against women and on the identification of victims is discussed in this Chapter under *Article 14, Challenges, Teacher training on gender equality and violence against women and girls as well as its prevention and detection*.

Training of immigration and asylum officials

188. The training of immigration and asylum officials are addressed under Chapter VII, *Article 60, paragraph 3, Challenges*.

278. See GREVIO's baseline evaluation report on Spain, paragraph 98.

279. See GREVIO's baseline evaluation reports on: Italy, paragraph 107; and Portugal, paragraph 99.

280. See GREVIO's baseline evaluation report on Malta, paragraph 155.

281. See GREVIO's baseline evaluation reports on: Albania, paragraph 69; Austria, paragraph 75; Belgium, paragraph 84; France, paragraph 107; Italy, paragraph 107; Malta, paragraph 81; the Netherlands, paragraph 102; Portugal, paragraph 99; and Spain, paragraph 104.

282. See GREVIO's baseline evaluation reports on: Montenegro, paragraph 89; and Sweden, paragraph 92.

Issues unique to specific parties

189. An aspect that was specifically raised in the baseline evaluation report on the Netherlands is the lack of acknowledgement of the gendered nature of domestic violence in the training provided to professionals working in the one-stop municipality-based domestic violence support service (Safe Home).²⁸³ In the baseline evaluation report on Belgium, on the other hand, GREVIO addressed the need for the Belgian authorities to co-ordinate between the different levels of governments in the federal system, in order to monitor and evaluate measures taken to implement Article 15 of the convention on compulsory initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence against women.²⁸⁴

Article 16 – Preventive intervention and treatment programmes

Introduction

190. Under Article 16 of the convention, parties are required to set up or support programmes that prevent perpetrators of domestic violence and of sexual violence from re-offending and support them in changing violent behavioural patterns. Making the safety of, the support for and the human rights of victims a primary concern, these programmes should work in close co-ordination with specialist support services for victims.

191. In its evaluation procedures, GREVIO has paid great attention to the setting up of and roll-out of perpetrator programmes for domestic violence – within and outside of custodial settings. The baseline evaluation reports on Albania, Andorra, Austria, Serbia, Spain, and Sweden, among others, contain detailed information in this regard.²⁸⁵ Specific observations and findings on programmes for perpetrators of sexual violence were made by GREVIO in its baseline evaluation reports on Albania, Andorra, France, Spain, and Turkey.²⁸⁶

Promising practices

Application of formalised quality standards for perpetrator programmes

192. In Italy, Relive, a national network that implements perpetrator programmes, has developed consolidated guidelines for perpetrator programmes and supports newly established programmes to reach baseline standards through practice exchange and training. An accreditation process ensures quality standards. GREVIO has highlighted, however, that not all publicly funded perpetrator programmes apply the approach.²⁸⁷

Programme aimed at boys who are witnesses or victims of domestic violence

193. Following ratification of the Istanbul Convention, Andorra introduced a programme to promote non-violent relationships as an essential aspect of an integrated response to violence against women that takes into account the relationship between victims, perpetrators, children, and their wider social environment. GREVIO noted with interest that the programme is also aimed at boys who reproduce violent patterns of behaviour to which they were exposed or of which they were direct victims.²⁸⁸

283. See GREVIO's baseline report on the Netherlands, paragraph 95.

284. See GREVIO's baseline evaluation report on Belgium, paragraph 89.

285. See GREVIO's baseline evaluation reports on: Albania, paragraph 72.a; Austria, paragraph 86; Andorra, paragraph 84; Serbia, paragraphs 89.a and 89.b; Spain, paragraph 112; and Sweden, paragraph 103.

286. See GREVIO's baseline evaluation reports on: Albania, paragraph 72; Andorra, paragraph 86; France, paragraph 122; Spain, paragraph 115; and Turkey, paragraph 131.

287. See GREVIO's baseline evaluation report on Italy paragraphs 108-111.

288. See GREVIO's baseline evaluation report on Andorra, paragraph 82.

Challenges

Ensuring high accessibility and attendance

Perpetrator programmes for domestic violence

194. GREVIO has called on the authorities to increase the number of available programmes for perpetrators of domestic violence in its baseline evaluation reports on Albania, Denmark, Italy, Montenegro, Portugal, Serbia, and Turkey due to the limited offer available.²⁸⁹ As regards in particular the levels of attendance of the existing programmes, most baseline evaluation reports, including those on Austria, Andorra, Denmark, Finland, Italy, Malta, Monaco, the Netherlands, Portugal, Serbia, and Turkey, called on the authorities to increase the levels of attendance of perpetrator programmes for domestic violence, whether voluntary or court ordered.²⁹⁰
195. Judges have the possibility to order that perpetrators attend perpetrator programmes for domestic violence in Andorra, Austria, France, Italy, Malta, Monaco, Montenegro, the Netherlands, Portugal, Serbia, Spain, and Turkey.²⁹¹ Such orders are subject to the perpetrators' prior consent in Italy, Monaco, and Serbia. In the case of Italy, Malta, Spain, and Turkey, however, GREVIO noted that such attendance, in practice, was rarely ordered by courts. Where it was ordered, GREVIO noted in its baseline evaluation reports on Malta and Turkey that no measures were taken if the perpetrator refused to submit to the programme. It also expressed concern that in Austria and Portugal, perpetrator programmes were ordered to replace prosecution, conviction or sentencing and therefore urged the authorities to ensure that the interplay between perpetrator programmes and criminal proceedings does not work against the principle of victims' access to fair and just legal processes. GREVIO has recalled the possibility of integrating referrals to perpetrator programmes into the criminal justice system as a tool to reduce recidivism, including in the probation service, in its baseline evaluation reports on Finland, Malta, the Netherlands, and Serbia, and, in the case of Serbia, to introduce incentive schemes.
196. GREVIO has noted that domestic violence perpetrator programmes exist in prison settings in its baseline evaluation reports on Denmark, Finland, Serbia and Spain, Sweden, and Turkey.²⁹²

Perpetrator programmes on sexual violence

197. In its baseline evaluation reports on Albania, Italy, and Turkey, GREVIO has called on the authorities to increase the number of available programmes for perpetrators of sexual violence, due to the limited offer available.²⁹³ GREVIO has noted the existence of the possibility for courts to order attendance of perpetrator programmes on sexual violence in Austria, Denmark, France, Monaco, Montenegro, Serbia (only for sexual violence committed against children), and Turkey. In the case of Monaco, such measure is ordered only with the prior consent of the perpetrator and medical advice.
198. Moreover, GREVIO has observed that perpetrator programmes for sex offenders are available in prison settings in Denmark, Finland, France, Italy, the Netherlands, Portugal, Serbia, Sweden, and Turkey.²⁹⁴

289. See GREVIO's baseline evaluation reports on: Albania, paragraph 72; Denmark, paragraph 93; Italy, paragraph 117; Montenegro, paragraph 94; Portugal, paragraph 105; Serbia, paragraph 89; and Turkey, paragraph 129.

290. See GREVIO's baseline evaluation reports on: Austria, paragraph 86; Andorra, paragraph 84; Denmark, paragraph 93; Finland, paragraph 79; Italy, paragraph 117; Malta, paragraph 87; Monaco, paragraph 58; the Netherlands, paragraph 107; Portugal, paragraph 105; Serbia, paragraph 89; and Turkey, paragraph 129.

291. See GREVIO's baseline evaluation reports on: Austria, paragraph 86; Andorra, paragraph 84; Denmark, paragraph 93; Finland, paragraph 79; France, paragraphs 117-119; Italy, paragraph 117; Malta, paragraph 85; Monaco, paragraph 58; Montenegro, paragraphs 90-91; the Netherlands, paragraph 107; Portugal, paragraph 105; Serbia, paragraph 89; Spain, paragraphs 107-110; and Turkey, paragraph 129.

292. See GREVIO's baseline evaluation reports on: Denmark, paragraph 93; Finland, paragraph 79; Serbia, paragraph 89; Sweden, paragraph 98; and Turkey, paragraph 129.

293. See GREVIO's baseline evaluation reports on: Albania, paragraph 72; Italy, paragraph 117; and Turkey, paragraph 129.

294. See GREVIO's baseline evaluation reports on: Denmark, paragraphs 94-95; Finland, paragraphs 80-81; France, paragraphs 121-122; Italy, paragraph 115; the Netherlands, paragraph 109; Portugal, paragraph 106; Serbia, paragraphs 91-92; Sweden, paragraphs 103-104; and Turkey, paragraph 130.

Perpetrator programmes that focus on medical treatment

Perpetrator programmes for domestic violence

199. In its baseline evaluation reports on France, Monaco, Montenegro, and Turkey, GREVIO addressed the problematic nature of perpetrator programmes for perpetrators of domestic violence that strongly focus on medical treatment for substance abuse or mental health issues.²⁹⁵ In its baseline evaluation report on Montenegro, in particular, GREVIO noted that the measures in place did not focus on achieving behavioural change in perpetrators of domestic violence by emphasising the need to take responsibility for their violent behaviour and seemed to suggest that overcoming addiction and mental health issues will, in and of itself, put an end to the violence. It therefore strongly encouraged the authorities to move away from perpetrator programmes based exclusively on medical treatment for substance abuse and mental health problems and to set up mandatory psycho-social treatment programmes. Similarly, GREVIO found that in Turkey preventive intervention programmes for domestic violence offenders revolved around the principles of anger management and self-control. It noted that their primary focus should be on the need for perpetrators to take responsibility for their actions and to question their attitudes and beliefs towards women. It further noted that courts and health-care institutions mandated to decide on these measures and their implementation tended to equate them to medical treatment for psychological disorders or problems of addiction and that this approach overlooked the fact that violent behaviour is not an illness and is first and foremost anti-social and criminal behaviour. It clarified that while some perpetrators might also have mental health problems and need medical treatment, the majority of violent men are not psychiatric cases. Moreover, it raised the question of whether health centres offer the proper setting to work with perpetrators of violence and whether health-care professionals are the right professionals to handle their preventive intervention programmes.

Perpetrator programmes on sexual violence

200. As regards programmes for sex offenders that take an exclusively medical approach to sexual violence, in its baseline evaluation report on Turkey, GREVIO criticised legislation on mandatory programmes for sex offenders that foresees compulsory pharmacological treatment while in prison. It expressed its concern regarding the need to obtain the free and informed consent of the person concerned prior to the commencement of an anti-androgen treatment, it being understood that consent can be withdrawn at any time. It further observed that, while acknowledging that under the Istanbul Convention parties can decide how to devise sex-offender treatment programmes that aim at minimising recidivism and successfully reintegrating perpetrators into the community, it is important to take due account of best practices developed internationally that call for a multilayered approach and a combination of different therapies where, for instance, the use of hormonal drugs that reduce sexual drive is paired with cognitive behavioural therapy. GREVIO, therefore, encouraged the authorities to develop treatment programmes for sex offenders which take due account of best practices developed internationally, while guaranteeing a human rights-based approach.²⁹⁶ Likewise, GREVIO noted with concern that programmes for sex offenders tended to favour a medicalised approach to violence, to the detriment of a gender perspective, in its baseline evaluation report on France.

Victim-centred approach and close co-operation with specialist support services

201. Almost all of the baseline evaluation reports published to date identify shortcomings in relation to the obligations provided under Article 16, paragraph 3, relating to the need to ensure a victim-centred approach with regard to victims' safety, support and human rights, as well as the need to ensure close co-operation with specialist support services. In this last respect, for example, in its baseline evaluation report on Denmark, GREVIO noted that shelters had raised concerns over the co-operation with perpetrator programmes (and the municipality) as they perceived their efforts at ensuring the safety of victims undermined by the lack of communication about a perpetrator's progress or attendance rates. These reports also stress the importance of establishing programmes based on recognised common standards and best practices.²⁹⁷

295. See GREVIO's baseline evaluation reports on: France, paragraph 121; Monaco, paragraph 56; Montenegro, paragraph 94; and Turkey, paragraph 130.

296. See GREVIO's baseline evaluation report on Turkey paragraph 131.

297. See GREVIO's baseline evaluation reports on: Albania, paragraph 71; Andorra, paragraph 84; Austria, paragraph 86; Belgium, paragraph 95; Denmark, paragraph 93; Finland, paragraph 79; France, paragraphs 120 and 122; Italy, paragraph 117; Montenegro, paragraph 94; Portugal, paragraph 105; Serbia, paragraph 89; Sweden, paragraph 103; Spain, paragraphs 112 and 115; and Turkey, paragraph 131.

Encouraging perpetrators to examine their attitudes and gendered understanding of violence

202. Shortcomings related to the need to ensure that programmes are designed to encourage perpetrators to take responsibility for their actions, examine their attitudes and beliefs towards women and incorporate a gendered understanding of violence against women are highlighted in various baseline evaluation reports, including those on Belgium, Monaco, the Netherlands, and Turkey,²⁹⁸ where GREVIO has, *inter alia*, strongly encouraged the authorities to ensure that the programmes for perpetrators of domestic violence and sexual violence incorporate a uniform gendered approach and deconstruction of sexist stereotypes.²⁹⁹

Raising the awareness of judges on perpetrator programmes and/or training of relevant professionals

203. The need to publicise more widely the availability of perpetrator programmes and raise awareness in this respect was raised in a number of baseline evaluation reports, including those on Andorra and France. In order to ensure that perpetrator programmes are indeed ordered by the relevant courts, GREVIO has invited the French authorities to carry out training of judges to this effect.³⁰⁰ On this same point, GREVIO positively noted that the Andorran High Council for Justice, which is in charge of organising training for judges and prosecutors, had raised justice professionals' awareness of the importance of promoting access by perpetrators to the treatment programme. GREVIO encouraged the authorities to strengthen this approach.³⁰¹

Impact monitoring and evaluation

204. In the majority of its baseline evaluation reports, notably, Andorra, Belgium, Finland, France, Italy, Malta, the Netherlands, Portugal, Serbia, Spain, and Turkey, GREVIO addressed the need for scientific research and evaluation of the short and long-term impact of perpetrator programmes, in order to assess whether perpetrator programmes actually serve their preventive purpose.³⁰²

Article 17 – Participation of the private sector and the media

Introduction

205. Article 17 of the Istanbul Convention requires parties to actively encourage the media and the private sector to participate in the prevention of violence against women through participation in the elaboration and implementation of policies, and to establish selfregulation mechanisms and codes of ethics, both as employers and as producers of media content and services. It also requires that parties develop and promote, in co-operation with private sector actors, skills among children, parents and educators on how to deal with the information and communications environment that provides access to degrading content of a sexual or violent nature which might be harmful.

Promising practices

Combating violence against women in the media

206. In its baseline evaluation report on Portugal, GREVIO welcomed that the authorities have taken a number of measures to encourage the media to combat stereotypes and promote gender parity. Following the ratification of the convention, ensuring equal visibility, responsibility and participation of women and men in the media has been included as one of the strategic goals of the 2014-2017 National Action Plan for Gender Equality, Citizenship and Non-discrimination. Moreover, Portugal's new Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21) includes the specific objective of ensuring communications free of sexist stereotypes, namely by establishing mechanisms to report sexist content in the media. Several initiatives by the co-ordinating body in this area are recognised as examples of good practices among Council of Europe member states.³⁰³

298. See GREVIO's baseline evaluation reports on: Belgium, paragraph 95; France, paragraph 120; Monaco, paragraph 58; the Netherlands, paragraph 107; and Turkey, paragraph 129.

299. See GREVIO's baseline evaluation report on Belgium, paragraph 95.

300. See GREVIO's baseline evaluation report on France, paragraph 120.c.

301. See GREVIO's baseline evaluation report on Andorra, paragraph 83.

302. See GREVIO's baseline evaluation reports on: Andorra, paragraph 84; Belgium, paragraph 95; Finland, paragraph 79; France, paragraphs 120 and 122; Italy, paragraph 117; Malta, paragraph 87; the Netherlands, paragraph 107; Portugal, paragraph 105; Serbia, paragraph 90; Spain, paragraph 112; and Turkey, paragraph 129.

303. See "Gender equality and the media at national level – Compilation of good practices from member states", Council of Europe, 2014, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680590557>

207. Despite the fact that cases of reporting and advertising that are sexist or are victim-blaming persist, GREVIO has commended Spain for the wide array of legislative measures and institutions that promote balanced and non-stereotypical images of women. Several laws set out specific rules for media coverage of women and reporting on gender-based violence. These include Organic Law 1/2004 on Integrated Protection measures against Gender-based Violence, Law 3/2007 on Effective Equality for Women and Men and the General Audio-visual Law (Law 7/2010). Law 1/2004 and Law 3/2007 prohibit advertising material that use the image of women in a degrading or discriminatory manner and seek to reinforce an image of women that respects their dignity and equality (Articles 10 and 41 respectively). Article 12 of Law 1/2004 provides for a complaint mechanism to ensure the withdrawal or rectification of sexist and harmful content in the media. Institutions and associations working for equality between women and men, including the Government Delegation on Gender-based Violence and the Women's Institute, may lodge legal action for the withdrawal of advertisements deemed illegal. Moreover, the Women's Image Observatory (OIM) ensures the promotion of a balanced, non-stereotypical image of women in media and advertising. It carries out its mandate by monitoring the content of the media and advertising, identifying any sexist, stereotypical or discriminatory advertising and requesting their amendment or removal. It does this on its own initiative, as well as in reaction to complaints received from the general public. As regards publicly owned media, an Observatory on Equality in the Spanish Radio and Television Corporation was set up in 2017 to monitor the existence and application of ethical codes that promote equality and prevent violence against women in the activity of the RTVE Corporation. This Observatory ensures that the content broadcast on any of the media of the RTVE Corporation do not justify, trivialise or incite violence against women.³⁰⁴

Actively partnering with media in order to promote positive gender roles and non-violence

208. GREVIO has welcomed, following Serbia's ratification of the convention, the obligation introduced by the Serbian authorities through the 2014 Law on Public Information and Media to generate public interest information through project financing. By co-funding the production of media content on violence against women, including domestic violence, the Ministry of Culture and Information and the Provincial Secretariat of Culture, Information and Public Relations with Religious Communities are actively partnering with media in order to promote positive gender roles and non-violence.³⁰⁵

Combating violence against women in the private sector

209. In its baseline evaluation report on Portugal, GREVIO welcomed the strong role played by the Portuguese Working Conditions Authority (ACT) in promoting gender equality and combating gender discrimination in the workplace, in particular, through the work of its labour inspectors. The ACT also pursues awareness-raising efforts in the form of campaigns on topics such as sexual harassment at work and equal pay for women and men, that are relayed by national media. It also offers face-to-face counselling and a national telephone information service. GREVIO has commended, in particular, its attention to vulnerable groups of workers, including minors and immigrant workers.³⁰⁶ GREVIO has further welcomed that the Commission for Equality in Labour and Employment (CITE) disseminates information regarding methods of redress for victims of gender discrimination in the workplace, provides legal support to victims and receives complaints on which it renders its legal opinion. The CITE was also the lead authority of a broad multistakeholder initiative which resulted in the development of information material and tools to support self-regulation to prevent and combat sexual harassment in the workplace.³⁰⁷ The CITE and the ACT joined forces in launching a National Action to Promote Gender Equality at Work for the years 2016-17.³⁰⁸ The Ministry of the Economy is also actively involved in promoting corporate responsibility to prevent and combat domestic and gender-based violence. All such measures

304. See GREVIO's baseline evaluation report on Spain, paragraphs 125-129.

305. See GREVIO's baseline evaluation report on Serbia, paragraph 97.

306. See "Gender equality and the media at national level – Compilation of good practices from member states", Council of Europe, 2014: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680590557>.

307. These were the outcomes of an EEA funded project on Sexual and Moral Harassment in the Workplace in Portugal. See: <https://eeagrants.cig.gov.pt/en/resultados/sexual-and-moral-harassment-in-the-workplace/>.

308. <http://cite.gov.pt/pt/acite/campanhas006.html>.

come in support of employers' efforts to set up mechanisms to deal with sexual harassment.³⁰⁹ GREVIO noted that by their number, breadth and quality, the Portuguese authorities' actions in this area constitute an example of promising practice in implementing Article 17 of the Istanbul Convention and send a powerful message of zero tolerance towards gender-based violence in the work environment.³¹⁰

210. GREVIO has welcomed the 2015 amendment to the French Labour Code, enacted following France's ratification of the convention, prohibiting any sexist act, defined as "any act related to the sex of a person the purpose or effect of which is to violate the dignity or create an intimidating, hostile, degrading, humiliating or offensive environment" and engages the employer's responsibility to deploy measures to prevent such acts. Law No. 2018771 of 5 September 2018 also provides for a series of measures, such as the establishment in any company employing at least 250 employees of an adviser responsible for guiding, informing and assisting employees in the fight against sexual harassment and sexist behaviour, aimed at providing victims with better access to information on possible remedies. GREVIO stressed the importance of these measures because they target violence against women as well as other gender-based behaviours which, while not reaching the threshold of severity that would allow them to be qualified as violence under the Istanbul Convention, are often the precursors of violence and/or promote its emergence or minimise it, as a manifestation of the structural inequalities that persist between women and men in the world of employment.³¹¹
211. GREVIO has noted an additional promising practice in Malta. Employers are under the obligation to take effective measures to prevent all forms of discrimination on grounds of sex, in particular harassment and sexual harassment in the workplace, when offering access to employment, vocational training, and promotion. To incentivise employers' respect of gender equality, the National Commission on the Promotion of Equality (NCPE) awards companies an Equality Mark Certification when employers give priority to gender equality. One of the criteria on the basis of which the certification is granted is whether the company has put in place a sexual harassment policy.³¹² To benefit from such certification, the interested company must be audited by the NCPE. The NCPE further assists the company by providing training on gender equality and sexual harassment and through a model sexual harassment policy, made available on the NCPE's website. The Equality Mark Certification is valid for two years and recertification is valid for three years. Companies that obtain this certification can display a logo and are given publicity. Complaints in relation to sexual harassment in the workplace can be lodged before the industrial tribunal, whereas any complaint regarding discrimination at the workplace on grounds of gender can be lodged before the NCPE.³¹³

Government response to the #MeToo Campaign and protection of women against hate speech and threats

212. GREVIO also positively highlighted the approach that the Swedish Government took to respond to the #MeToo Campaign. Amongst the various measures taken, GREVIO noted positively the meetings held between the Ministry of Gender Equality, the Ministry of Justice and the Swedish Police Authority, the Public Prosecutor and the National Swedish Judiciary Administration to discuss sexual offences, sexual harassment and the working environment. Moreover, the Ministry of Culture has taken measures to combat sexual harassment and promote gender equality in the workplace by organising training courses for media producers in receipt of public funding. The dialogue and the initial measures initiated by the Swedish Government with different actors of the work environment has helped underscore the importance of prevention and adequate follow-up by the employment sector.

309. In pursuance of the Portuguese Council of Ministers' Resolution No. 19/2012, the adoption of equality plans is mandatory for state-owned companies in Portugal and is recommended for privately owned companies.

310. See GREVIO's baseline evaluation report on Portugal, paragraph 113.

311. See GREVIO's baseline evaluation report on France, paragraphs 129-130.

312. GREVIO was informed that as of May 2019 the NCPE had awarded the Equality Mark to 91 companies employing over 22 600 employees.

313. See GREVIO's baseline evaluation report on Malta, paragraph 89.

The protection of women journalists from violence against women

213. The baseline evaluation report on Sweden highlights that it is instrumental to improve the position of women in the media sector, in particular by protecting them against any violence aimed at them because they are journalists and because they are women, in order to enable media to break away from stereotypes and attitudes that condone discrimination and violence against women. Sweden's National Action Plan Defending Free Speech - measures to protect journalists, elected representatives and artists from exposure to threats and hatred - aims specifically to protect women working as journalists, artists and elected officials against hate speech and threats, which GREVIO has welcomed.³¹⁴

Challenges

The role of the media with respect to violence against women

214. A recurring issue which was addressed in the baseline evaluation reports on Albania, Andorra, Belgium, Finland, France, Italy, Malta, Monaco, Portugal, Serbia, Sweden, and Turkey is the need to encourage media, including social media, to develop and monitor the use of self-regulatory standards and ethical codes in the area of violence against women and gender equality, and in relation to the non-stereotypical and non-sexist portrayal of women. By way of example, GREVIO highlighted that in Albania media professionals lack guidance and self-regulatory standards, whereas, in the case of Malta, the existing guidelines were issued by the co-ordinating body on violence against women – not by the order of journalists - and were limited in scope and non-binding. The baseline evaluation reports on Finland, Portugal, Serbia, and Sweden, noted that the existing self-regulatory instruments did not address the representation of women in a stereotyped and sexualised manner and/or address the reporting on violence against women and the harm caused by violence to child witnesses. In the baseline evaluation report on Italy, GREVIO noted that while some good practices had been developed by way of self-regulatory guidelines on reporting on gender-based violence and improvements had been made, GREVIO highlighted the lack of a robust monitoring system to measure the progress achieved. Moreover, it underlined that the creation of an independent monitoring mechanism should receive greater support.³¹⁵
215. The importance of training media professionals with regard to the portrayal of and the reporting on women and on violence against women, features in the baseline evaluation reports on Albania, Malta, Montenegro, Portugal, and Spain.³¹⁶ GREVIO noted that whilst in Montenegro, a legal provision is in place providing for mandatory training on gender equality for media professionals, it expressed regret that the training of journalists on how to report on incidents of violence against women, foreseen in the previous Strategy on Protection from Domestic Violence, had not been implemented. In its baseline evaluation report on Portugal, on the other hand, it found that whilst training on violence against women is offered by the Professional Training Centre for Journalists, it is voluntary and therefore fails to reach significant numbers of professionals. GREVIO has therefore, *inter alia*, encouraged the authorities to train media professionals in relation to the non-stereotypical and nonsexist portrayal of women in the media, including in the context of reporting on violence they have suffered.

The position of women in the media sector

216. In its baseline evaluation report on Albania, GREVIO has highlighted emerging evidence showing high levels of harassment and sexual violence targeting women journalists in Council of Europe member states, including Albania. It observed in this respect that it is instrumental to improve the position of women in the media sector, in particular by protecting them against violence aimed at them because they are journalists and because they are women. GREVIO drew the authorities' attention to this area of concern, calling them to incorporate a gender perspective and taking the necessary measures to promote the safety of journalists against any unwarranted interference.³¹⁷ In this respect, as noted above under promising practices, in its baseline evaluation report on Sweden, GREVIO welcomed the National Action Plan Defending Free Speech - measures to protect journalists, elected representatives and artists from exposure to threats and hatred - which protects women working as journalists, artists and elected officials against hate speech and threats.

314. See GREVIO's baseline evaluation report on Sweden, paragraph 110.

315. See GREVIO's baseline evaluation reports on: Albania, paragraph 74; Andorra, paragraph 89; Belgium, paragraph 104; Finland, paragraph 88; France, paragraph 126; Italy, paragraph 122; Malta, paragraph 92; Monaco, paragraph 63; Portugal, paragraph 110; Serbia, paragraph 98; Sweden, paragraph 111; and Turkey, paragraph 136.

316. See the GREVIO baseline evaluation reports on: Albania, paragraph 73; Malta, paragraph 92; Montenegro, paragraph 100; Portugal, paragraph 109; and Spain, paragraph 130.

317. See GREVIO's baseline evaluation report on Albania, paragraph 75.

The role of the private sector and employers with respect to violence against women

217. Some promising practices on the involvement of the private sector in the prevention of violence against women have emerged in France, Malta, and Portugal, as highlighted above in the promising practices. Nonetheless, in the majority of baseline evaluation reports, including those on Albania, Andorra, Austria, Denmark, Italy, Monaco, Montenegro, Serbia, Sweden, and Turkey, GREVIO has called on the authorities to ensure that the private sector/employers take an active part in the prevention of violence against women, for example, by engaging them actively in policy development processes or by encouraging them to develop selfregulatory standards, or, more generally, to take an active part in preventing and combating violence against women in all its forms.³¹⁸ More specifically, in a number of parties, notwithstanding the existence of laws requiring employers to take measures to prevent violence against women – these do not appear to be implemented (i.e. Italy and Montenegro) or its implementation is difficult to assess due to lack of data (i.e. Albania and Turkey).

The role of the ICT sector/on-line services with respect to violence against women

218. GREVIO has also touched upon the role of the information and communication technology (ICT) sector and on-line services in fighting violence against women in its baseline evaluation reports on Belgium and Sweden.³¹⁹ In this last report, in particular, GREVIO encouraged the Swedish authorities to pursue the dialogue initiated in response to the *#MeToo Campaign* with stakeholders of the private sector, the information and communication technology sector and the media to prevent and combat violence targeting women at work, in particular the sexual harassment of women.

Applying international standards and existing guidance

219. In its baseline evaluation reports, GREVIO has encouraged parties to have due regard to relevant international standards.³²⁰ For example, in its baseline evaluation report on Italy and Andorra, GREVIO refers to the Committee of Ministers Recommendation CM/Rec(2013)1 on Gender Equality and the Media, and existing guidance related to the media. In its baseline evaluation reports on Austria and Denmark, it has called on the authorities to refer the guidance provided in the collection of papers on the Istanbul Convention³²¹ to enable parties to tap into the potential offered by the private sector in changing attitudes of the public and overcoming gender stereotypes.³²²

The need to develop and promote skills among children, parents, and educators regarding harmful content in the information and communications environment

220. As regards the requirement that parties develop and promote, in co-operation with private sector actors, skills among children, parents and educators on how to deal with the information and communications environment that provides access to degrading content of a sexual or violent nature which might be harmful, provided under Article 17, paragraph 2, this issue has been addressed in few reports. In the baseline evaluation report on Monaco, for example, GREVIO invited the authorities, in partnership with accredited associations, to devise programmes which will equip children, parents and educators with the necessary skills to take a critical approach to and protect themselves against harmful images and messages of a sexual or violent nature conveyed by the information and communication technologies.³²³

318. See GREVIO's baseline evaluation reports on: Albania, paragraph 77; Austria, paragraph 90; Andorra, paragraph 91; Denmark, paragraph 100; Italy, paragraph 125; Monaco, paragraph 63; Montenegro, paragraph 100; Serbia, paragraph 99; Sweden, paragraph 111; and Turkey, paragraph 133.

319. See GREVIO's baseline evaluation reports on: Belgium, paragraph 104; and Sweden, paragraph 111.

320. Whilst the following international standards were referred to in a footnote in proposals in the reports on Albania [para. 74], the Netherlands [para. 116] and Serbia [para. 98]: "See, *inter alia*, the following Council of Europe instruments: Recommendation No. R (84)17 of the Committee of Ministers to member states on equality between women and men in the media; Recommendation 1555 (2002) of the Parliamentary Assembly of the Council of Europe on the image of women in the media; Recommendation 1799 (2007) of the Parliamentary Assembly of the Council of Europe on the image of women in advertising; Resolution 1751 (2010) and Recommendation 1931 (2010) of the Parliamentary Assembly of the Council of Europe on combating sexist stereotypes in the media. Reference is also to be made to the UNESCO's "Gender-Sensitive Indicators for Media" (GSIM)."

321. Council of Europe publication "Encouraging the participation of the private sector and the media in the prevention of violence against women and domestic violence: Article 17 of the Istanbul Convention (2016), Council of Europe, Strasbourg."

322. See GREVIO's baseline evaluation reports on: Austria, paragraph 90; and Denmark, paragraph 100.

323. See GREVIO's baseline evaluation report on Monaco, paragraph 63.



CHAPTER IV

PROTECTION AND SUPPORT *

Article 18 – General obligations

Introduction

221. Article 18 of the convention sets out a number of general obligations to be respected in the provision of both general and specialist protective and supportive services. These include, *inter alia*, the need for services to act in a concerted and co-ordinated manner with the involvement of all the agencies concerned. Article 18, paragraph 2, in fact, requires parties to the convention to ensure that there are appropriate mechanisms in place that provide for effective co-operation among the following agencies which the drafters have identified as relevant: the judiciary, public prosecutors, law enforcement agencies, local and regional authorities and NGOs and other relevant entities and organisations. In this regard, women’s NGOs and specialist women’s support services play an important role in guaranteeing that the rights of victims are safeguarded in multi-agency co-operation and consequently must be included in the co-ordination mechanisms. Such mechanisms can take the form, for example, of round tables and agreed protocols enabling a number of professionals to cooperate around individual cases in a standardised manner.
222. Article 18, paragraph 3, of the convention provides a number of aims and principles which specialist support services should pursue and be based on. Measures taken should be based on a gendered understanding of violence against women and focus on women’s safety and human rights, taking into account the relationship between victims, perpetrators, children, and their wider environment to address their needs holistically. It also requires specialist support services to aim at the empowerment and economic independence of women victims of violence and to avoid their secondary victimisation. A way to avoid this is to offer services under the same premises, or on the basis of a “one-stop shop”, if possible.

* Segments of this chapter also feature in the 2nd General Report on GREVIO’s Activities, Focus Section: Specialist support services as a lifeline for victims of violence against women – before, during and after the pandemic, albeit analysed under the angle and in the context of the COVID-19 pandemic.

Promising practices

Multi-agency co-operation

223. In its baseline evaluation report, GREVIO has observed that, notwithstanding certain shortcomings identified that need to be overcome, Albania can be considered as an example of best practice of multi-agency co-operation in the region. The various referral mechanisms established at municipal level are articulated around three types of structures: a steering committee responsible for the political direction of the process, a multi-disciplinary technical team tasked with case-management and a local co-ordinator who leads and co-ordinates the work of the technical team. Referral mechanisms have been piloted since 2007 and are composed of representatives from municipalities, the police, the courts, including prosecutors and bailiffs, health offices, employment offices, educational offices and NGOs specialised in violence against women. Whichever member of the mechanism the victim first contacts will set the process in motion by referring the victim to the local co-ordinator and/or the other members of the system. The services provided include both short-term and long-term solutions, such as health-care support, shelter, and protection, including assistance with procedures related to the issue of protection orders. Long-term interventions include psychotherapy, assistance with children and with divorce procedures and reintegration in society. Currently, referral mechanisms are in place in only 29 out of the total of 61 municipalities in Albania. One of the objectives of the on-going National Strategy on Gender Equality was that by the end of 2020, all 61 municipalities were to be equipped with a fully operational referral mechanism and that within these mechanisms, the number and type of available specialised support services would be increased by more than 50%.³²⁴
224. Although limited to intimate partner violence, in its baseline evaluation report on Spain, GREVIO welcomed that the adoption of Organic Law 1/2004 introduced a range of measures in support and protection of victims of intimate partner violence to be offered in an integrated manner and on the basis of multi-agency co-operation among law-enforcement agencies, specialist courts on violence against women, health services and any entities providing legal counselling to women.³²⁵ It specifically requires specialist knowledge and effective service delivery, for example by offering these services in the same facility (“one-stop shop”) and also includes longer-term economic empowerment measures. The limitations which GREVIO found and that are linked to the focus on intimate partner violence only, the variation in effectiveness across the different regions and the need for national guidelines/standards in this area are described in the section below.

Challenges

Multi-agency co-operation mechanisms

225. GREVIO has observed that the majority of parties that have been evaluated have set-up, to varying degrees, multi-agency co-operation structures.³²⁶ A recurring shortcoming identified by GREVIO, including in parties such as Finland, Malta, Montenegro, Serbia, and Spain, is that most models are focused on domestic violence and/or intimate partner violence, failing to provide a multi-agency and comprehensive response to other forms of violence against women as required.³²⁷ GREVIO accordingly, has urged/strongly encouraged the respective authorities, *inter alia*, to develop solutions offering a multi-agency co-ordinated response to all forms of violence against women.
226. A lack of effective co-operation and multi-agency approach to the protection and support of victims in the area of domestic violence was underlined, by way of example, in the baseline evaluation reports of Italy, Denmark, Portugal, and Sweden. In Denmark and Sweden, GREVIO noted that services and entities tended to operate in isolation instead of providing co-ordinated support to victims through co-operation

324. See GREVIO's baseline evaluation report on Albania, paragraphs 82-83.

325. See GREVIO's baseline evaluation report on Spain, paragraph 133.

326. See GREVIO's baseline reports on: Albania, paragraphs 82-83; Andorra, paragraphs 93-94; Belgium, paragraph 107; Finland, paragraph 91; France, paragraphs 133-134; Italy, paragraph 128; Malta, paragraph 95; Montenegro, paragraphs 103-104; the Netherlands, paragraphs 119-121; Portugal, paragraphs 116-117; Serbia, paragraphs 102-103; and Sweden, paragraphs 114-115.

327. See GREVIO's baseline reports on: Finland, paragraph 91; Malta, paragraph 97; Montenegro, paragraph 106; Portugal, paragraph 118; Serbia, paragraph 104; and Spain, paragraph 134.

and multi-agency mechanisms.³²⁸ It therefore strongly encouraged these parties to set up institutionalised structures for co-operation among the different governmental and non-governmental agencies and service providers to ensure adequate forms of multi-agency co-operation based on a gendered understanding. On the other hand, GREVIO noted in its baseline evaluations on Italy and Portugal that although a framework to establish multi-agency approach existed, difficulties in providing multi-agency co-operation were related to implementation. The lack of effective co-ordination was in fact caused by gaps such as the exclusion of key agencies in co-operation agreements, insufficient detail on the operationalisation of co-operation agreements or lack of common guidelines/protocols with functions and responsibilities clearly defined and assigned.³²⁹

227. In its baseline evaluation report on the Netherlands, GREVIO noted that despite there being a number of policies and protocols in place to ensure multi-agency co-ordination, that are extended to some degree to other forms of violence against women in addition to domestic violence, the main institutional structure for such co-ordinated response raised serious concerns. GREVIO observed that significant obstacles remained that prevented women from obtaining protection, many of them linked to the gender-neutral approach and lack of focus on women's rights and needs, which discouraged victims to approach such structures. It accordingly urged the Dutch authorities to review the gender-neutral approach to the protection and support of victims and to ensure that all measures taken are based on a gendered understanding of violence against women and domestic violence while focusing on the human rights and safety of victims, as well as on their empowerment and economic independence.³³⁰
228. In several baseline evaluation reports, including those on Albania, France, Spain, and Turkey, GREVIO has pointed to the uneven implementation of the existing multi-agency co-ordination structures and referral mechanisms at the local level.³³¹ In Andorra, on the other hand, the local administrative entities ("comuns"), are only marginally involved in the inter-institutional co-operation effort.³³²

NGO's involvement in co-operation mechanisms

229. GREVIO has consistently stressed in its findings the importance of the role of women's NGO's in the provision of services to victims of violence and of their involvement in formal co-ordination structures, even where no specific shortcomings had been identified in that respect in the relevant party. In countries such as Denmark, Finland, Italy, Montenegro, and Sweden, where clear problems have been identified in relation to multi-agency co-ordination, the need to include specialist women's support services run by NGOs in formal co-operation structures has been strongly encouraged.³³³ GREVIO has also pinpointed very limited participation of women's NGO's in the existing formal and informal co-operation structures including in Andorra, Belgium, Italy, Montenegro, and Serbia.³³⁴ It has therefore strongly encouraged the authorities to involve NGOs that support women victims of violence in inter-institutional co-operation mechanisms by establishing effective channels of co-operation with them.

Gendered understanding of violence against women and a focus on women's safety and human rights to underpin protective and specialist support services

230. GREVIO noted in its baseline evaluation reports on Monaco, Turkey and to a certain extent in Belgium, that the governmental specialist support services are often based on a family mediation approach.³³⁵ This approach places a great emphasis on keeping families together and mediation in the resolution of conflicts, which may fail to take account of the unequal relationship between victims and perpetrators and may run counter to protecting victims and prioritising women's needs and safety. GREVIO noted in its baseline evaluation report on the Netherlands that policies governing support services generally lacked a gendered

328. See GREVIO's baseline reports on Denmark, paragraph 103; and Sweden, paragraph 114.

329. See GREVIO's baseline reports on: Italy, paragraphs 128-130; and Portugal, paragraph 116.

330. See GREVIO's baseline report on the Netherlands, paragraph 125.

331. See GREVIO's baseline evaluation reports on: Albania, paragraph 84; France, paragraph 135; and Turkey, paragraph 144.

332. See GREVIO's baseline evaluation report on Andorra, paragraph 94.

333. See GREVIO's baseline reports on: Denmark, paragraph 106; Finland, paragraph 93; Italy, paragraph 130; Montenegro, paragraph 107; and Sweden, paragraph 116.

334. See GREVIO's baseline evaluation reports on: Andorra, paragraphs 94 and 96; Belgium, paragraph 109; Italy, paragraph 130; Montenegro, paragraph 104; and Serbia, paragraph 105.

335. See GREVIO's baseline evaluation reports on: Belgium, paragraphs 108 and 172; Monaco, paragraphs 65-70; and Turkey, paragraphs 145-146.

understanding of violence against women and that this is reflected in the terminology used by such policies, which uses “persons directly involved” to designate both victims and perpetrators. As a result, many of the programmes and measures implemented to combat domestic violence, including service provision, are gender-neutral and fail to recognise or address the persisting challenges to the safety of women and children who predominantly suffer domestic violence at the hands of male perpetrators. Additionally, further to the merging of domestic violence and child protection services, no women-specific services exist.³³⁶ On the other hand, in its GREVIO baseline evaluation report on Portugal, GREVIO noted that, despite the fact that the majority of support services for domestic violence victims are run by civil society organisations, they are mostly managed by organisations with a gender-neutral and assistance-based approach, intervening also in other social areas. GREVIO thus strongly encouraged the authorities to ensure that the provision of protection and support services by both private and public entities is based on a gendered understanding of violence against women.³³⁷ As regards the situation in Belgium, GREVIO noted in its baseline evaluation report that there appears to be a disconnect between NGOs and services operating on the ground on the one hand and law enforcement and the judiciary on the other, because their understanding of violence against women differs.³³⁸ GREVIO has consistently identified the provision of training to relevant stakeholders including a component on the recognition of gendered dynamics, and the impact and consequences of violence on victims as a necessary pathway to ensure service provision based on a gendered understanding.

Avoiding secondary victimisation and empowering women, including through the set-up of one-stop shop services

231. GREVIO has addressed findings on the obligation to ensure service provision that avoids secondary victimisation (and, in some cases, that ensures victims’ empowerment and economic independence) to most parties that have been evaluated, including Albania, Belgium, Malta, Montenegro, the Netherlands, Spain, and Turkey.³³⁹ By way of example, gaps were identified by GREVIO in its baseline evaluations on the Netherlands in this respect, with disempowering and revictimising interventions having been noted. These included examples of instances in which women victims of gender-based violence had been expected by support services to accommodate perpetrators’ behaviour, change their own behaviour or otherwise risk losing access to their children for “non-co-operation”.³⁴⁰ In Montenegro, the GREVIO baseline evaluation report noted many examples of secondary victimisation such as the tendency to downplay the violence and suggest reconciliation and the insistence on mediation in divorce proceedings between the victim and the perpetrator.³⁴¹
232. One way to reduce secondary victimisation is by setting up one-stop shop services. Only a few parties have set in motion initiatives that go in this direction. In its GREVIO baseline evaluation report on Sweden, GREVIO noted that there have been some examples of local municipalities that have re-arranged their response to domestic violence so as to offer services to victims through a number of agencies, including law enforcement agencies, in a co-ordinated manner and under the same roof, significantly reducing the risk of secondary victimisation. However, this endeavour has not been replicated and extended.³⁴² On the other hand, the GREVIO baseline evaluation report on Belgium noted that the party had established “Family Justice Centres” which act as a one-stop shop for case co-ordination, co-support and consultation, following a referral from a professional.³⁴³ GREVIO, however, observed in this report that their focus on child abuse and domestic violence, the lack of recognition of the gendered nature of violence against women and the potential for tending towards alternative dispute resolution, may question this model’s ability to contribute towards women’s empowerment and the avoidance of secondary victimisation. In its baseline evaluation report on Andorra GREVIO welcomed that the government-run body providing specialised support services to victims of gender-based violence operated on a “one-stop shop” basis, with the caveat, however, that the expertise offered did not cover all forms of violence against women, and that its resources needed to be increased in order to perform all its tasks effectively and sustainably.³⁴⁴

336. See GREVIO’s baseline evaluation report on the Netherlands, paragraphs 119-125.

337. See GREVIO’s baseline evaluation report on Portugal, paragraphs 120-122.

338. See GREVIO’s baseline evaluation report on Belgium, paragraph 108.

339. See GREVIO’s baseline evaluation reports on: Albania, paragraph 84; Belgium, paragraph 109; Malta, paragraph 98; Montenegro, paragraphs 105 and 107; the Netherlands, paragraphs 125 and 126; Spain, paragraph 137; and Turkey, paragraph 153.

340. See GREVIO’s baseline evaluation report on the Netherlands, paragraphs 123-126.

341. See GREVIO’s baseline evaluation report on Montenegro, paragraphs 105 and 124.

342. See GREVIO’s baseline evaluation report on Sweden, paragraphs 114-116.

343. See GREVIO’s baseline evaluation report on Belgium, paragraphs 108-109.

344. See GREVIO’s baseline evaluation report on Andorra, paragraph 116.

Requirement to not make access to services subject to the victim's willingness to press charges or testify against the perpetrator

233. Problems have been identified in this respect in various parties, including in Spain and Turkey. For example, in some parts of Spain, women's access to domestic violence shelters will depend on official recognition of her as a victim of intimate partner violence, with women's access barred to such shelters where protection orders are denied.³⁴⁵ In Turkey, ŞÖNİMs (specialist support services for victims of violence) and all public institutions providing support to victims are under a legal obligation to report violence, or the risk thereof, to law-enforcement agencies and courts, and professionals failing to comply with the duty to report violence incur criminal liability. Although reporting is not a prerequisite to access services in ŞÖNİMs and women's shelters, it is very common for the first ones to report cases of violence to law enforcement agencies. This rooted practice within ŞÖNİMs may determine women's decisions to seek support from these services, affecting their rights to receive protection and support regardless of her willingness to press charges. For this reason, GREVIO strongly encouraged the authorities to develop, within and/or in addition to state-run services, alternative, low threshold specialist support services acting in the interest of victims and giving them the choice to decide whether or not to press charges against the perpetrator.³⁴⁶
234. Similar situations of mandatory reporting of instances of violence against women imposed by the law on professionals/civil servants with a potential to affect victims' help seeking behaviour, have been noted in Andorra, Italy, Malta, Montenegro, the Netherlands, Serbia, and Spain.³⁴⁷ GREVIO's understanding and approach has developed and further refined itself over time. Earlier reports have encouraged/strongly encouraged the respective authorities to ensure that the duty to report is tempered by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy, whilst also ensuring the safety of all, especially minors. More recent reports such as those on Andorra and Malta, while reiterating the latter finding, have specified that "to this end the authorities should review the obligation for professionals to report cases of violence against women and their children, other than in situations in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the convention has been committed and further serious acts are to be expected; and that this may well require making the obligation to report contingent upon the prior consent of the victim, unless the victim is a child or is unable to protect her/himself due to disabilities". GREVIO has noted in this respect that while the imposition of reporting obligations on professionals does not run counter to Article 28 of the Istanbul Convention, blanket reporting obligations may raise issues around the provision of victim-centred and gender-sensitive support services.³⁴⁸

Article 19 – Information

Introduction

235. Article 19 of the convention requires that victims of violence receive comprehensive information, including information on support services available, their opening hours and contact details, as well as information on their rights and procedures to seek protection and support. This obligation requires parties to take a wide array of measures, such as the dissemination of information through leaflets, posters, digital means (websites), etc. It also requires that all relevant agencies and professionals proactively inform women, using above-mentioned information. Additionally, Article 19 requires information to be tailored to serve groups of victims who are at risk of social exclusion or have difficulties accessing services, namely migrant and asylum seeking women, women with disabilities or women in rural areas.

Promising practices

236. Sweden has adopted several measures to ensure access to information for women victims of all forms of violence. It has developed examples of active outreach to inform victims on their rights and the services available, involving several sectors and levels of government (social services, law enforcement agencies, schools). For example, under the "Come to Us" campaign, the Swedish law enforcement agencies made available on-line information in 18 different languages on the importance

345. See GREVIO's baseline evaluation report on Spain, paragraph 135.

346. See GREVIO's baseline evaluation report on Turkey, paragraphs 150 and 153.

347. See GREVIO's baseline evaluation reports on: Andorra, paragraph 134; Italy, paragraph 164; Malta, paragraph 138; Montenegro, paragraphs 146-147; Serbia, paragraph 148; and Spain, paragraph 181.

348. See GREVIO's baseline evaluation reports on: Andorra, paragraph 146; and Malta, paragraph 140.

of reporting crimes such as domestic violence, forced marriage and “honour-related violence”, how to report such crimes, how a criminal investigation is conducted and the help that is available to victims. Another promising example is the on-line portal www.youmo.se which offers young migrants information on important questions around sexuality, family relations, marriage, and violence/control and what their rights are in Sweden, in six languages. At the municipal level, social services case workers and health care staff play an important role in making referrals to specialist support services and in offering information. Moreover, in the education system, school support staff are available to confide in and seek help from, and many are specifically trained in recognising and handling cases of children exposed to domestic violence, sexual abuse, forced marriage or other “honour-related” forms of violence. Particular efforts are aimed at boys and girls who are victims of sexual abuse.³⁴⁹

237. Portugal’s approach to awareness-raising on the harmful practice of FGM has also been positively noted by GREVIO, as noted in *Chapter III, Promising Practices, FGM prevention across national borders*.

Challenges

238. Most parties envisage the obligation to provide comprehensive information to victims. Nonetheless, in its baseline evaluation reports on Albania, Italy, Malta, Montenegro, Serbia, and Turkey, GREVIO has noted that not all relevant stakeholders pro-actively and systematically provided information on services and measures available to protect and support women.³⁵⁰ It has therefore encouraged the authorities to sustain their efforts aimed at ensuring that all women victims of gender-based violence receive adequate and timely information allowing them to take informed decisions and to exercise effectively their rights to support and protection.
239. Another deficiency identified by GREVIO is that, with the exception of Sweden (see above in promising practices), most parties fail to provide information on support in relation to all forms of violence against women, with efforts being mainly focused on domestic violence. Denmark and Finland have also undertaken efforts to provide information and support to victims of sexual violence, and in Denmark’s case, also regarding “honour-related violence”, however, information available for victims of other forms of violence remains limited.³⁵¹ GREVIO has accordingly stressed consistently the need to ensure that victims receive timely information on available support services and legal measures for all forms of violence against women, in a format and language they understand.³⁵²
240. GREVIO baseline evaluation reports, including those on Andorra, Albania, Italy, Malta, the Netherlands, Portugal, and Spain, have also consistently stressed the importance of providing adequate and timely information tailored to specific groups of victims who are at risk of social exclusion or have difficulties accessing services, in a language and format that they understand.³⁵³

Issues unique to specific parties

241. A specific limitation mentioned in the baseline evaluation report on Portugal concerns its Domestic Violence law which includes a provision on the victim’s “right to choose not to receive information”. The report highlights that data provided by the authorities reveal that 3% of all victims of domestic violence waive their right to information and that 8% of victims waive their status of victim, which translates into a large proportion of victims not being informed of their rights.³⁵⁴
242. In its baseline evaluation report on the Netherlands, GREVIO noted that a significant amount of information on the different support services that are available was on-line and that despite the high levels of digital literacy in the Netherlands, information must also be made available through outreach work, to make it accessible to victims at the time or in the manner they need.³⁵⁵ It therefore encouraged the authorities, *inter alia*, to ensure that any information made available reaches particularly vulnerable women through outreach work.

349. See GREVIO’s baseline evaluation report on Sweden, paragraphs 117-120.

350. See GREVIO’s baseline evaluation reports on: Albania, paragraph 84; Italy, paragraph 131; Malta, paragraph 99; Montenegro, paragraph 109; Serbia, paragraph 107; and Turkey, paragraph 156.

351. See GREVIO’s baseline evaluation reports on: Denmark, paragraph 109; and Finland, paragraph 96.

352. See GREVIO’s baseline evaluation reports on Andorra, paragraph 100; Italy, paragraph 133; Malta, paragraph 101, the Netherlands, paragraph 132; Serbia, paragraph 109; and Spain, paragraph 140.

353. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 100; Albania, paragraph 90; Italy, paragraph 133; Malta, paragraph 101; the Netherlands, paragraph 132; Portugal, paragraph 126; and, Spain, paragraph 140.

354. See GREVIO’s baseline evaluation report on Portugal, paragraph 124.

355. See GREVIO’s baseline evaluation report on the Netherlands, paragraphs 128-129.

Article 20 – General support services

Introduction

243. The Istanbul Convention distinguishes between general support services provided under Article 20 of the convention, which are not exclusively designed for victims but serve the public at large, and specialist support services, underlining that they are complementary. General support services refer to public social welfare services such as social services, housing services, (un)employment services, public education and training services, public psychological and legal counselling services, financial support services, as well as health care services. Such services must address the specific needs of women victims of gender-based violence and ensure that they are treated in a supportive manner.
244. To that end, paragraph 2 highlights the need to adequately resource these services and to train the relevant professionals on the different forms of violence against women, the specific needs of victims and how to respond to them in a supportive manner.

Promising practices

245. GREVIO has noted that parties have undertaken efforts to mainstream the issue of violence against women into the help and support provided by social welfare services in a variety of ways, for example, by drawing up action protocols, tools and guidelines for professionals or by establishing prioritised access to public housing for women victims of domestic violence.
246. By way of example, GREVIO noted positively the efforts undertaken in Portugal to mainstream the issue of violence against women into general support services, following the signature and/or ratification of the Istanbul Convention. Notably, under Law No. 80/2014, it introduced a property rental support scheme for victims of domestic violence and gave preferential access to public housing to women who live in shelters. The protocol “Municipalities in Solidarity with Domestic Violence Victims”, to which 42% of municipalities in Portugal have adhered since its establishment in 2012 also enables the support of women leaving shelters either through priority access to social housing or other means of social support. GREVIO has noted in this connection that it is a crucial step in helping women to rebuild their lives and stay safe, as too many women are forced to return to their abusive partners and spouses due to lack of financial means.³⁵⁶ Bearing in mind problems at the level of implementation, Belgium and the Netherlands also prioritise victims’ access to public housing under the relevant regulations, by granting victims of intimate partner violence priority status³⁵⁷ or awarding priority points to victims who leave their homes due to intimate partner violence.³⁵⁸
247. Positive measures have been taken also in Denmark, where guidelines for social workers at the municipalities level provide guidance on how to assist victims of domestic violence who may turn to them. The aim is to ensure that women can build a life without violence, either through the general assistance provided by the municipality or through referrals to specialist services such as shelters. For a woman seeking refuge at a shelter, the municipality is obliged to provide initial and co-ordinated counselling to identify their needs and offer solutions.³⁵⁹
248. In the area of health-care, in its baseline evaluation report on Serbia GREVIO positively noted that the use of health mediators has helped to overcome the low confidence of Roma women on the health-care sector and is leading to higher levels of reproductive health and the prevention of early marriage. Such distrust stemmed, *inter alia*, from the extensive reporting obligations imposed on the medical sector.³⁶⁰ GREVIO has also noted in its baseline evaluation report on Denmark that training initiatives in recent years have rendered many medical professionals competent in identifying victims of domestic violence and that, as a result, the health sector, including general practitioners in private practice, serve as a knowledgeable first point of contact for victims.³⁶¹

356. See GREVIO’s baseline evaluation report on Portugal, paragraph 127.

357. See GREVIO’s baseline evaluation report on the Netherlands, paragraph 149.

358. See GREVIO’s baseline evaluation report on Belgium, paragraph 118.

359. See GREVIO’s baseline evaluation report on Denmark, paragraph 110.

360. See GREVIO’s baseline evaluation report on Serbia, paragraph 120.

361. See GREVIO’s baseline evaluation report on Denmark, paragraph 111.

Challenges

249. Taking into account the diverse models and ways in which parties administer public welfare services and the varying levels of development of the welfare state across evaluated parties, a comparative assessment of compliance with this specific provision of the convention is challenging. This notwithstanding, most parties provide general support services at the local level/municipality level. GREVIO has noted in respect of several parties, including Albania, Italy, or Spain, that the high level of regional autonomy has resulted in uneven access for victims to general support services and different levels of resources made available to such services.³⁶²
250. GREVIO reports have consistently addressed victims' access to adequate general support services, such as housing services, employment services, public education and training services, financial support, and childcare. GREVIO has found in parties such as Belgium, Finland, France, Italy, Malta, the Netherlands, Portugal, and Turkey that public housing and financial assistance are usually the two types of services that victims find more difficult to access even where the law foresees helpful measures.³⁶³ By way of example, in its baseline evaluation report on Turkey, GREVIO highlighted that although victims of domestic violence are entitled to temporary financial aid under the laws, data indicates that in practice a very low proportion of women benefit from such aid.³⁶⁴ Similarly, although Italy has introduced a law that grants special leave for domestic violence victims who are employed, allowing them time to organise their recovery from the violence without renouncing their employment, very few women benefit from this measure in practice.³⁶⁵ Regarding housing, in the Netherlands the law on housing grants victims of domestic violence priority status, however, in practice, this regulation is not implemented by all municipalities due to lack of affordable housing.³⁶⁶

Insufficient training of professionals operating in general support services

251. As regards the treatment of victims in a supportive manner, in its baseline evaluation reports on Albania, Andorra, Belgium Italy, Montenegro, and Serbia, GREVIO identified some issues with regards to the training of the relevant professionals that are directly involved in the provision of social services in relation to the gendered dynamics of violence. The same reflections can also be observed in relation to professionals in the health sector, for example, in the reports on Finland and Spain. GREVIO has observed in this connection that such lack of training hinders their ability to properly address victims' needs and support them.³⁶⁷ GREVIO has particularly underlined the need to carry out training for professionals of general support services in Monaco because these are the only services provided to victims of violence - consequently, an understanding of the gendered nature of violence is key to providing appropriate and relevant services for these women.³⁶⁸

The provision of adequate support tailored to the individual specificities of vulnerable women

252. In its baseline evaluation reports on Finland, the Netherlands, Serbia, and Sweden, GREVIO has also identified shortcomings with regards to the provision of adequate support tailored to the individual specificities of vulnerable women, specifically regarding ethnic minorities such as Sami and Roma women, migrant women, as well as women with disabilities, as these women experience cultural, language or other barriers when turning to social and health care services. It has accordingly strongly encouraged the parties to ensure that service provision pay particular attention to the needs of women victims who are or may be exposed to intersectional discrimination.³⁶⁹

362. See GREVIO's baseline evaluation reports: on Albania, paragraph 94; Italy, paragraph 141; and, Spain, paragraph 146.

363. See GREVIO's baseline evaluation reports on: Belgium, paragraph 119; Finland, paragraph 104; France, paragraph 146; Italy, paragraph 141; Malta, paragraph 104; the Netherlands, paragraph 150; Portugal, paragraph 129; and Turkey, paragraph 164.

364. See GREVIO's baseline evaluation report on Turkey, paragraph 160.

365. See GREVIO's baseline evaluation report on Italy, paragraph 138.

366. See GREVIO's baseline evaluation report on the Netherlands, paragraph 149.

367. See GREVIO's baseline evaluation reports on: Albania, paragraph 99; Andorra, paragraph 106; Belgium, paragraph 119; Finland, paragraphs 105-106; Italy, paragraph 141; Montenegro, paragraph 119; Serbia, paragraph 117; and Spain, paragraph 152.

368. See GREVIO's baseline evaluation report on Monaco, paragraphs 73, 74 and 76.

369. See GREVIO's baseline evaluation reports on: Finland, paragraph 98; the Netherlands, paragraph 150; Serbia, paragraph 114; and Sweden, paragraph 126.

Insufficient funding

253. Another trend that has been identified across evaluated parties is that many general support services have insufficient funding and/or human resources. More specifically, in its baseline evaluation reports on Albania, Andorra, Montenegro, Serbia, and Turkey, it has noted insufficient funding for social services in order to support victims of all forms of violence against women and respond to their short and long-term needs.³⁷⁰ Such shortage in the case of Andorra was extended also to the health-care sector.³⁷¹

Access to health-care services

254. As regards access to health-care services, GREVIO has noted that many parties are equipped with health-care protocols with standardised care paths covering the identification of victims, screening, diagnostic, treatment, referral, documentation, as well as standardised forms to document the injuries experienced by victims to the police, mainly in relation to intimate partner violence.³⁷² Shortcomings have however been identified in the implementation of such protocols and minimum standards in parties such as Albania and Portugal.³⁷³ GREVIO has also highlighted in its baseline evaluation reports on Albania and France weak co-ordination of health-care professionals with the existing referral mechanisms.³⁷⁴ Moreover, it has also identified lack of awareness on violence against women, its identification and referral to specialist services in its baseline evaluation reports on Albania, Belgium, Finland, and Spain.³⁷⁵

255. The absence of common protocols to identify and address the different forms of violence against women other than domestic violence, such as for example FGM, has been specifically addressed by GREVIO, including in its baseline reports on France, Finland, Malta, and Serbia.³⁷⁶ Moreover, lack of standardised protocols and guidelines that set clear procedures in the provision of treatment and care to victims of sexual violence have been noted in GREVIO baseline evaluation reports, including those on Malta, the Netherlands, Serbia, and Spain.³⁷⁷ As regards Spain in particular, although many regions have issued guidelines or protocols for health professionals on standardised approaches to victims of sexual violence, GREVIO was concerned with the absence of a national protocol dedicated specifically to this form of violence. It noted in this respect that the lack of a clear common protocol has caused different levels of quality of care.³⁷⁸ Lastly, an issue that has been raised, including in the baseline evaluation report on Sweden, is that, notwithstanding their heightened vulnerability, victims of gender-based violence who have a history of substance abuse and/or are in prostitution are frequently subjected to discriminatory attitudes by some health-care staff. Consequently, GREVIO has requested the Swedish authorities to address negative attitudes and stereotypes among professionals that hamper adequate protection and support to victims.³⁷⁹

Article 22 – Specialist support services

Introduction

256. Specialist support services play a key role in the convention in securing the protection of victims from further violence, supporting, and assisting them in overcoming the multiple consequences of such violence and rebuilding their lives. They aim to ensure the complex task of empowering victims through assistance catered to their specific needs, including the needs of women who are subject to multiple discrimination and/or women in rural areas. Their approach, therefore, must always be victim-centred and based on a gendered understanding of violence against women. The convention recognises that service provision is thus best

370. See GREVIO's baseline evaluation reports: on Albania, paragraph 94; Andorra, paragraph 106; Montenegro, paragraphs 114 and 119; Serbia, paragraphs 111 and 117; and Turkey, paragraph 164.

371. See GREVIO's baseline evaluation report on Andorra, paragraph 104.

372. See GREVIO's baseline evaluation reports: on Andorra, paragraph 108; Albania, paragraph 95; Denmark, paragraph 111; Finland, paragraph 105; Malta, paragraph 105; the Netherlands, paragraph 147; Portugal, paragraph 128; Serbia, paragraph 118; and Spain, paragraphs 147-148.

373. See GREVIO's baseline evaluation reports on: Albania, paragraph 95; and Portugal, paragraph 128.

374. See GREVIO's baseline evaluation reports: on Albania, paragraph, 95; and France, paragraph 142.

375. See GREVIO's baseline evaluation reports: on Albania, paragraph 95; Belgium, paragraph 117; Finland, paragraph 105; and, Spain, paragraph 149.

376. See GREVIO's baseline evaluation reports on: Finland, paragraph 105; France, paragraph 144; Malta, paragraph 105; Serbia, paragraph 118; and Spain, paragraph 151.

377. See GREVIO's baseline evaluation reports on: Malta, paragraph 131; the Netherlands, paragraph 170; and Serbia, paragraph 118.

378. See GREVIO's baseline evaluation report on Spain, paragraph 175.

379. See GREVIO's baseline evaluation report on Sweden, paragraph 131.

ensured by women's organisations and by support services provided, for example, by local authorities with specialist and experienced staff and with in-depth knowledge of gender-based violence against women.

257. More specifically, under Article 22 of the convention, parties are under the obligation to provide short and long-term specialist services to victims of any form of violence covered by the Istanbul Convention in adequate geographical distribution. This includes shelter and safe accommodation, immediate medical support, the collection of forensic medical evidence in cases of rape and sexual assault, short and long-term psychological counselling, trauma care, legal counselling, advocacy, and outreach services. It also encompasses telephone helplines to direct victims to the right type of service and specific services for children as victims or witnesses.

Promising practices

258. As regards assistance provided in relation to FGM, GREVIO observed that the French authorities have adopted some good practices. These include the promotion of research and prevention – through the support of specialist organisations such as the Group for the Abolition of FGM, Forced Marriage and Other Harmful Traditional Practices (GAMS) – and the monitoring of children at risk by Maternal and Child Protection Centres (PMI), as well as restorative surgery operations. Specialised care units are dedicated to the care of victims through multi-disciplinary teams of sexologists, gynaecologists, psychologists and ethnologists.³⁸⁰ Likewise, while noting certain specific limitations, the baseline evaluation report on the Netherlands describes the set-up of “Consultation hours on FGM” in 11 locations throughout the Netherlands. Moreover, medical treatment limiting functional impairments caused by FGM (such as in relation to the urinary tract or efflux of menstrual blood) are covered by the Health-care Insurance Act.

Challenges

Focus on specialist support services that assist victims of domestic violence

259. A recurring challenge that has been noted by GREVIO is that most countries have developed a wider and stronger network of specialist support services that assist victims of domestic violence, while specialist support services for victims of other forms of violence such as sexual violence, FGM, forced marriage, forced abortion and sterilisation or sexual harassment are, if at all, available in a much lower number. Consequently, many GREVIO baseline evaluation reports have consistently addressed the need to set up specialist support services for forms of violence other than domestic violence.³⁸¹ In the same vein, and with a view to filling, on a needs basis, the gaps in service provision, GREVIO has urged/strongly encouraged Austria and Spain to carry out a comprehensive mapping of existing specialist support services for all forms of violence against women other than domestic violence.³⁸² In its report on Italy, it welcomed the mapping that had been done but suggested that any further mapping exercises take into account the methodology developed by the Council of Europe to chart the various support services available for women who are victims of the different forms of violence by taking into account key principles of service provision as set out in Article 18 of the convention.³⁸³

Inadequate number and/or distribution of specialist services for domestic violence

260. Nonetheless, even when it comes to specialist support services for victims of domestic violence, inadequacies have been identified in terms of the number and/or distribution of such specialist services and the types of specialist services made available to victims of domestic violence to achieve their empowerment.³⁸⁴ In this last respect, the offer of long-term counselling in the area of psychological counselling and trauma care was found to be scarce in several parties reviewed, including in Denmark and Sweden.³⁸⁵

380. See GREVIO's baseline evaluation report on France, paragraph 143.

381. See GREVIO's baseline evaluation reports on: Andorra, paragraph 116; Austria, paragraph 107; Belgium, paragraph 125; France, paragraph 149; Malta, paragraph 114; Portugal, paragraph 137; Serbia, paragraph 125; and Spain, paragraph 160.

382. See GREVIO's baseline evaluation reports on: Austria, paragraph 107; and Spain, paragraph 137.

383. See GREVIO's baseline evaluation report on Italy, paragraph 149. See also Mapping Support Services for Victims of Violence Against women in line with the Istanbul Convention standards, Methodology, and tools, Prof. Liz Kelly Roddick Chair on Violence Against Women, London Metropolitan University, Strasbourg, December 2018.

384. See GREVIO's baseline evaluation reports on: Albania, paragraph 106; Belgium, paragraph 125; Denmark, paragraph 118; Finland, paragraph 111; France, paragraph 149; Italy, paragraph 151; Malta, paragraph 114; Montenegro, paragraph 125; and Turkey, paragraphs 167-168.

385. See GREVIO's baseline evaluation reports on: Denmark, paragraph 119; and Sweden, paragraph 137.

Lack of specialist support services for women victims of on-line violence

261. In view of the growing incidence of digital manifestations of violence against women, including in the context of domestic violence, the availability of specialist support services for women victims of on-line violence could usefully be included in any future mapping exercises. While GREVIO is increasingly expanding its attention on the level of support and protection from violence against women experienced in the digital sphere, it has to date witnessed very little dedicated support services that comprehensively address the complex issues involved.

Shortcomings in the provision of specialist support services catered to the needs of specific groups of victims

262. In parties such as Austria, Belgium, Italy, Portugal, and Sweden, GREVIO baseline evaluation reports have also consistently identified shortcomings in the provision of specialist support services catered to the needs of specific groups of victims such as children and women at the intersection of discrimination, notably, women with mental health issues, victims with a history of substance abuse, women with intellectual or physical disabilities, irregular migrant women and women from ethnic minorities, in particular Roma women and Sami women.³⁸⁶

The provision of specialist support services by state run institutions

263. In the GREVIO baseline evaluation reports of Andorra, Monaco, and Turkey, GREVIO highlighted that the provision of both general and specialist services takes place through state-run institutions.³⁸⁷ GREVIO has noted in this respect in its baseline evaluation report on Turkey that, while this is not contrary to the requirements of the convention, there are inherent limitations to such an approach because good practice and research shows that both state and civil society organisations are needed to provide support to victims. Certain victims will in fact hesitate to report their experiences of violence to state-run agencies and many women are more likely to disclose their experiences to independent women's NGOs acting in absolute confidentiality. What is more, unlike Andorra and Monaco, the GREVIO report on Turkey highlights that all public institutions (including those providing specialist support services) are under a legal obligation to report violence or the risk thereof to law-enforcement agencies and courts. Because this obligation may dissuade women victims from seeking support from specialist services and receiving the needed protection, GREVIO strongly encouraged the Turkish authorities to develop, within and/or in addition to state-run services, alternative, low threshold specialist support services acting in the interest of victims and giving them the choice to decide whether or not to press charges against the perpetrator.

Article 23 – Shelters

Introduction

264. Shelters are one category of specialist support services envisaged under Article 22 of the convention. Their purpose is to ensure immediate, around-the-clock, access to safe accommodation for victims. Shelters do not only provide accommodation, but support women to face the multiple and interrelated problems they face, helping them to regain their self-esteem and the abilities and capacities that are necessary for their future independent life. Article 23 of the convention calls for shelters to be set up in sufficient numbers to provide appropriate temporary accommodation for all victims. However, the number of shelter places should depend on the actual need. Shelters for other forms of violence need to address the specific protection and support needs of victims and the number will depend on the need.

Promising practices

265. Further to the ratification of the convention by parties, GREVIO has noted an increase in support structures for victims of violence against women and domestic violence, or the improvement of existing ones. By way of example, Portugal has focused on providing extra support to specific

386. See GREVIO's baseline evaluation reports on: Austria, paragraph 107; Belgium, paragraph 125; Italy, paragraph 151; Portugal, paragraph 136; and Sweden, paragraph 136.

387. See GREVIO's baseline evaluation reports on Andorra, paragraphs 112-116; Monaco, paragraphs 71-76; and Turkey, paragraphs 150-153 and 165 - 168.

groups of women, by opening a new shelter for women victims of domestic violence that belong to the LGBTI community.³⁸⁸ Montenegro has addressed the existing shortage of shelters in the northern part of the country by funding an NGO-run and licensed domestic violence shelter in that area.³⁸⁹ GREVIO has further recorded a dramatic increase in shelters in Turkey for women victims of violence against women.³⁹⁰

Challenges

Insufficient number of shelters for victims of domestic violence

266. In many cases, GREVIO baseline evaluation reports address Articles 22 and 23 and jointly, and therefore shortcomings and trends mentioned above are also applicable to this section. Although Article 23 requires that shelters offer safe and secure accommodation to victims of all forms of violence, GREVIO reports have primarily focused on shelters for victims of domestic violence. Several GREVIO baseline evaluation reports such as those on France and Italy have highlighted difficulties in determining the number of shelters and beds that are effectively available for victims' safe accommodation, noting discrepancies in the information provided by state authorities and that provided by civil society.³⁹¹ The baseline evaluation reports of France and Italy have in fact noted that state authorities included in the figures generic emergency accommodation, not catered to the needs of victims of gender-based violence women.³⁹²
267. The Explanatory Report to the Istanbul Convention refers to the need to set up one family place per 10 000 head of population.³⁹³ With the exception of Austria and Malta (the latter being very close to the target), most parties have not attained this target. The lack of available emergency accommodation for women and their children was particularly stressed in the baseline evaluation reports on France and the Netherlands.³⁹⁴ Indeed in France, a large proportion of the places that are available for victims of domestic violence are not women's shelters, but emergency accommodation created within other types of services (for instance, for the homeless), which do not provide adequate services to address the needs of women victims of gender-based violence and help them to recover. GREVIO has noted in this connection, that under no circumstances should the creation of new places in generalist structures be considered as a suitable measure to ensure safe accommodation for victims and their children. Accordingly, it has urged the French authorities, *inter alia*, to recognise the principle that only accommodation in dedicated, single-sex and specialised structures can meet the requirements of the convention. It has therefore called the authorities to increase the number and/or capacity of such facilities to meet the needs of all victims and to ensure that women victims and their children have access to adequate and appropriate living conditions therein, as well as support and empowerment services through multi-disciplinary teams trained in the issue of violence against women. In its baseline evaluation report on the Netherlands, GREVIO has noted that the number of places available has increasingly dropped as a consequence of the new model for the allocation of resources for shelters that aims to match the distribution of shelter places with the demand. However, while some regions have been required to reduce their number of shelter places and those regions required to increase theirs did not, leading to an overall fall in the number of shelter places.

Barriers in accessing safe accommodation for victims belonging to vulnerable groups or with male children

268. In most baseline evaluation reports, barriers in accessing safe accommodation have been identified for victims belonging to vulnerable groups such as women with disabilities or older women.³⁹⁵ In its baseline evaluation reports on Albania, Austria, and Portugal, GREVIO observed that women with mental health issues are not admitted to shelters,³⁹⁶ whereas in its baseline evaluation reports on Austria, Malta, and

388. See GREVIO's baseline evaluation report on Portugal, paragraph 133.

389. See GREVIO's baseline evaluation report on Montenegro, paragraph 129.

390. See GREVIO's baseline evaluation report on Turkey, paragraph 169.

391. See GREVIO's baseline evaluation reports on: France, paragraphs 154-156; and Italy, paragraphs 146-151.

392. See GREVIO's baseline evaluation report on France, paragraphs 154-156.

393. Explanatory Report, paragraph 135.

394. See GREVIO's baseline evaluation reports on: France, paragraphs 154-156; and the Netherlands, paragraphs 159 and 165.

395. See GREVIO's baseline evaluation reports on: Albania, paragraph 105; Austria, paragraph 106; Finland, paragraph 116; France, paragraph 154; Italy, paragraph 148; Malta, paragraph 117; the Netherlands, paragraph 163; Portugal, paragraph 133; Serbia, paragraphs 129-130; Spain, paragraph 163; and Turkey, paragraph 177.

396. See GREVIO's baseline evaluation reports on: Albania, paragraph 105; Austria, paragraph 106; and Portugal, paragraph 133.

Turkey, GREVIO observed the exclusion from shelters of women who have issues of substance abuse due to staffs' lack of expertise in the area.³⁹⁷ Likewise, barriers in accessing shelters are experienced by women whose children include boys above a certain age as noted in the GREVIO baseline evaluation reports on Austria, Belgium, Portugal, and Turkey.³⁹⁸ Finally, GREVIO has observed the exclusion of migrant and asylum seeking women from sheltered accommodation in its GREVIO baseline evaluation reports on Austria, Belgium (with regards to women present in the country unlawfully, who have no income and no entitlement to public assistance), France, Portugal, Serbia, Spain and, indirectly, in Malta.³⁹⁹ In some of these parties, in fact, the modalities in which shelters are funded, in practice, exclude the coverage of accommodation for this category of women.

The imposition of mandatory referrals of victims to shelters by government bodies

269. Another trend that GREVIO has noted with concern in its baseline evaluation reports on Malta and Montenegro is the imposition of mandatory referrals of victims to shelters by government bodies providing specialist support services.⁴⁰⁰ GREVIO has in fact noted that this might prevent some women from coming forward to seek help due to a possible lack of trust in the authorities. At the same time, mandatory referrals would stand in the way of self-referrals by victims themselves. GREVIO has accordingly strongly encouraged the authorities to remove mandatory referrals to access domestic violence shelters, including by offering women victims of domestic violence the possibility to self-refer.

Article 24 – Telephone helplines

Introduction

270. Under Article 24 of the convention, parties are required to set up state-wide telephone helplines available 24 hours, 7 days a week and free of charge to ensure easy and confidential access to information and counselling by trained professionals on all forms of violence against women in all relevant languages. Helplines with a widely advertised public number that provides support and crisis counselling and refers to face-to-face services is one of the most important ways of enabling victims to find help and support and forms the cornerstone of any support and advice service in relation to all forms of violence against women.⁴⁰¹

Promising practices

271. Several countries such as Albania, Finland, Monaco, Montenegro, and Serbia have set up national helplines in recent years, in response to the entry into force of the Istanbul Convention. Montenegro has introduced a single national helpline for women and children victims of domestic violence that is free of charge and available round the clock, albeit not addressed to all victims of violence against women.⁴⁰² Albania, through an agreement between the government and a feminist NGO, also set up a women's helpline in 2016 devoted to violence against women, covering the entire territory and operating free of charge and 24/7.⁴⁰³ Finland introduced its Nollalinja helpline in 2016 in response to the entry into force of the convention and Monaco has launched its anonymous, free-of-charge helpline for victims of domestic violence.⁴⁰⁴

272. The Swedish national telephone helpline on violence against women (*Kvinnofridslinjen*) stands out for addressing all forms of violence against women, with well-trained and experienced social workers and nurses who refer callers to locally available specialist support services and

397. See GREVIO's baseline evaluation reports on: Albania, paragraph 105; Austria, paragraph 106; Malta, paragraph 117; and Turkey, paragraph 177.

398. See GREVIO's baseline evaluation reports: on Austria, paragraph 106; Belgium, paragraph 123; and Turkey, paragraph 177.

399. See GREVIO's baseline evaluation reports: on Austria, paragraphs 106-107; France, paragraph 154; Malta, paragraph 118; Portugal, paragraph 133; Serbia, paragraph 132; and Spain, paragraph 165.

400. See GREVIO's baseline evaluation reports: on Malta, paragraphs 37-38; and Montenegro, paragraphs 40 and 43.

401. Explanatory Report, paragraph 136.

402. See GREVIO's baseline evaluation report on Montenegro, paragraph 132.

403. See GREVIO's baseline evaluation report on Albania, paragraph 107.

404. See GREVIO's baseline evaluation reports on: Finland, paragraph 118; and Monaco, paragraph 82.

where more than 50% of women in Sweden know of the existence of such helpline.⁴⁰⁵ Worthy of mention in terms of accessibility, is also the Spanish national helpline on intimate partner violence, which is available in 52 languages and is accessible for callers with disabilities through visual interpretation services, textphone and an on-line chat forum.⁴⁰⁶

Challenges

Absence of dedicated helplines and/or failure to provide around-the-clock services

273. While all parties have set up a helpline that can, to various degrees, provide women victims of gender-based violence support and information, many do not sufficiently comply with the requirements provided under Article 24 of the convention to be considered national helplines for victims of violence against women. In its baseline evaluation reports, GREVIO has noted that helplines need to be specifically aimed at women victims of violence against women and domestic violence and that the staff providing information and counselling need to be trained in this area. In its baseline evaluation reports on Malta, the Netherlands, Portugal, and Turkey, GREVIO noted that the parties had made available various emergency and support helplines, but none of them were dedicated telephone helplines catered to the needs of women victims of violence, nor specialised in providing advice on the different forms of gender-based violence against women with qualified staff.⁴⁰⁷ Accordingly, GREVIO urged these four countries to set up a dedicated telephone helpline addressing women victims of different forms of violence within the scope of the Istanbul Convention and run by specialist staff trained in all these forms of violence.
274. In its baseline evaluation reports on Belgium, France, or Monaco, GREVIO noted that while the parties have dedicated helplines to address gender-based violence against women, they failed to provide around-the-clock services, seriously limiting victims' access to information and support.⁴⁰⁸ In Portugal and Andorra, while the national helplines are, in principle, accessible around-the-clock, after office working hours callers are redirected to other emergency telephone services serviced by staff that are not sufficiently trained on violence against women.

Shortcomings in the scope of the national helplines

275. GREVIO has also identified shortcomings in the scope of the national helplines in Albania, Finland, Malta, Monaco, Montenegro, Portugal, and Spain, where the existing helplines are limited to provide information and support solely to victims of domestic violence.⁴⁰⁹ The national helpline set up in Albania is designed to serve all victims of violence against women. However, in practice it is advertised as a domestic violence hotline.⁴¹⁰ In Turkey, the only nation-wide specialist helpline devoted to domestic violence run by an NGO currently lacks the means to ensure 24/7 coverage.⁴¹¹ In Finland, even though its national telephone helpline is in principle on all forms of violence against women and domestic violence, it appears to focus only on intimate partner violence and it is unclear to what extent it frames violence against women, including intimate partner violence, as gender-based violence.⁴¹² In Denmark, a nation-wide helpline provides information and support to victims of domestic violence, dating violence and "honour-related violence", but does not cover rape and sexual violence, FGM, forced marriage and forced abortion and sterilisation.⁴¹³ A specific helpline for victims of stalking exists, but only covers 16 hours per week.⁴¹⁴

405. See GREVIO's baseline evaluation report on Sweden, paragraph 141.

406. GREVIO's baseline evaluation report on Spain, paragraph 165.

407. See GREVIO's baseline evaluation reports on: Malta, paragraph 121; the Netherlands, paragraph 166; Portugal, paragraph 141; and Turkey, paragraph 181.

408. See GREVIO's baseline evaluation reports on: Belgium, paragraph 126; France, paragraph 158; and Monaco, paragraph 82.

409. See GREVIO's baseline evaluation reports on: Albania, paragraph 107; Finland, paragraph 119; Malta, paragraph 120; Monaco, paragraphs 82-85; Montenegro, paragraph 133; Portugal, paragraph 140; and Spain, paragraph 166.

410. See GREVIO's baseline evaluation report on Albania, paragraph 107.

411. See GREVIO's baseline evaluation report on Turkey, paragraph 181.

412. See GREVIO's baseline evaluation report on Finland, paragraph 120.

413. See GREVIO's baseline evaluation report on Denmark, paragraph 126.

414. Ibid.

Ensuring due respect for the confidentiality and anonymity of all callers

276. In its baseline evaluation report on Malta and Serbia, GREVIO has raised some concerns with regards to the practice of keeping records of the calls and the risks that it poses in terms of ensuring due respect for the confidentiality and anonymity of all callers.⁴¹⁵ In Malta, the victim's identity is disclosed to the police only where there is an imminent risk of harm. The data is kept as evidence in the event that the victim wishes to press charges and in order to identify patterns of abuse and risk factors. In Serbia, records of all calls are kept should they be requested upon the order of a court. GREVIO expressed concern in this respect and recalled the Istanbul Convention's requirement to ensure confidentiality and due regard for the anonymity of callers. It specified that this can be achieved in many ways and does not require a complete ban on the recording of any data of callers. It must, however, be ensured that the identity of callers is under no circumstances disclosed to helpline staff and that personal data, that is, any information relating to an identified or identifiable individual, is adequately protected against unauthorised access, alteration or dissemination.

Article 25 – Support for victims of sexual violence

Introduction

277. Under Article 25 of the convention, parties are required to provide a set of holistic services to victims of sexual violence, including immediate medical care and trauma support combined with forensic examinations, as well as short and long-term psychological counselling and therapy to ensure the victim's recovery. Such services should be provided by trained and specialised staff in an appropriate manner to respond to the victims' needs, preferably within rape crisis or sexual violence referral centres established in sufficient number through the country to ensure their easy access. Rape crisis centres typically offer long-term help that centres on counselling and therapy by offering face-to-face counselling, support groups and contact with other services. They also support victims during court proceedings by providing woman-to-woman advocacy and other practical help. Sexual violence referral centres, on the other hand, may specialise in immediate medical care, high-quality forensic practice, and crisis intervention. They can for instance be set up in a hospital setting to respond to recent sexual assault by carrying out medical checks and referring the victim to specialised community-based organisations for further services. They also may concentrate on immediate and adequate referral of the victim to appropriate, specialised organisations as to provide the necessary care. The recommendation is to set up one of the above-mentioned centre per every 200 000 inhabitants.⁴¹⁶

Promising practices

278. Before the entry into force of the Istanbul Convention, a range of Council of Europe member states did not have specialist support service for women victims of sexual violence which would offer medical support, forensic examinations, the storage of DNA and counselling as required by Article 25 of the Istanbul Convention. The monitoring by GREVIO has shown that the parties outlined below have established or significantly increased such services. The GREVIO baseline evaluation report on Belgium indicates that three support centres for victims of sexual violence (CPVSS) have been set up in Belgium and there are plans to roll out CPVSS nation-wide. They are based on a multi-disciplinary collaborative model and holistic approach that offers immediate medical care, psychological support related to trauma they have suffered, and a forensic examination to gather evidence for prosecution. After the care received, victims can, if they wish, file a complaint and be interviewed by a police officer on site. This represents an example of a one-stop shop approach which can significantly reduce secondary victimisation. Moreover, Finland, has set up a sexual violence referral centre in its capital and is launching a roll-out of such a centre, accompanied by satellite support centres in each province to fill the existing gap in service provision for victims of rape and sexual violence. The need for high-quality sexual violence referral centres has increasingly gained recognition in a number of countries, including in Austria and Portugal; as a result, support services have been established or increased these countries.⁴¹⁷

415. See GREVIO's baseline evaluation report on Serbia, paragraph 136.

416. Explanatory Report, paragraph 142.

417. See GREVIO's baseline evaluation reports on: Austria, paragraph 100; and Portugal, paragraph 142.

279. In its baseline evaluation report on Denmark, GREVIO welcomed the development of a highly specialised network of 10 centres for victims of rape and sexual violence. These centres provide assistance to women and girls over 15 years of age who have been victims of sexual violence in the form of medical care and trauma support combined with forensic examinations. GREVIO noted that victims could seek these services any time after the assault took place, including several years later. It further observed that the standard procedure for medical and forensic examination is carried out irrespective of whether the victim wants to report and that evidence is collected and stored up to 3 months or longer if the victims requests it, so that it can be used for future judicial proceedings, in compliance with the standards set by Article 25.⁴¹⁸
280. In Turkey, GREVIO has commended the setting up of 31 Child Monitoring Centres (CMCs), which are hospital units specialising in assisting child victims of sexual abuse and/or forced marriage. The Turkish authorities are considering how to replicate the model of CMCs for the purpose of creating sexual violence referral centres or rape crisis centres for adult victims that match the requirements of Article 25 of the convention.

Challenges

Distribution of specialist support services in the area of sexual violence

281. As has already been mentioned in this report, domestic violence is the form of violence that has been addressed the most in the different parties that have been evaluated, to the detriment of other forms of violence, such as sexual violence. Except for Denmark, no other party that has been evaluated by GREVIO complies with the standard of one rape crisis or sexual violence referral centre per 200 000 inhabitants. In Albania, Montenegro, and Turkey, the GREVIO findings reported no rape crisis centres or sexual violence referral centres to address the needs of victims of sexual violence.⁴¹⁹ In Austria, Belgium, France, Italy, the Netherlands, Portugal, Serbia, Spain, and Sweden, there are rape crisis centres and/or sexual violence referral centres, but, in most cases, in insufficient numbers to ensure a proper coverage and an easy access by women victims of sexual violence.⁴²⁰ GREVIO has consistently addressed the need to set up sufficient rape crisis centres or sexual violence referral centres for all these countries.

Limitations to medical care and forensic examinations in the area of sexual violence

282. Despite the absence and/or insufficient distribution of specialist support services in the area of sexual violence in most countries, nevertheless, medical care and forensic examinations are conducted in all parties that have been evaluated, albeit with several limitations. In most of its baseline evaluation reports, including those on Andorra, Italy, Malta, Monaco, Montenegro, the Netherlands, Serbia, and Turkey, however, insufficient training or lack of sensitivity of the professionals involved in providing medical care and conducting forensic examinations has been noted.⁴²¹ Moreover, lack of standardised protocols and guidelines that set clear procedures in the provision of treatment and care to victims of sexual violence have been noted in the GREVIO baseline evaluation reports on the Malta, the Netherlands, and Spain.⁴²²
283. Other limitations with regards to immediate medical care and forensic examinations have been identified in some countries. For example, in France, Malta and Spain the taking of forensic evidence is subject to the victim having filed a complaint.⁴²³ Evidence, thus, is not stored systematically for use in case the victims wishes to report the crime, even if at a later stage. In Belgium, in places other than the CPVS, not all victims have access, systematically and irrespective of whether they file a complaint, to a gynecological examination that would make it possible to gather evidence of rape for the purposes of any future legal proceedings.⁴²⁴

418. See GREVIO's baseline evaluation report on Denmark, paragraphs 121-124.

419. See GREVIO's baseline evaluation reports on Albania, paragraph 109; Montenegro, paragraph 135; and Turkey, paragraph 186.

420. See GREVIO's baseline evaluation reports on Austria, paragraphs 100-101; Belgium, paragraphs 130-131; France, paragraph 161; Italy, paragraph 155; Portugal, paragraph 142; Serbia, paragraphs 140 and 142; Spain, paragraph 175; and Sweden, paragraphs 143 and 144.

421. See GREVIO's baseline evaluation reports on: Andorra, paragraph 128; Italy, paragraph 158; Malta, paragraphs 130 and 131; Monaco, paragraph 87; Montenegro, paragraph 137; the Netherlands, paragraph 174; Serbia, paragraph 143; and Turkey, paragraph 186.

422. See GREVIO's baseline evaluation reports on: Malta, paragraph 131; the Netherlands, paragraph 170; and Spain, paragraph 175.

423. See GREVIO's baseline evaluation reports on: France, paragraph 161; Malta, paragraph 125; and Spain, paragraph 172.

424. See GREVIO's baseline evaluation report on Belgium, paragraph 131

In the case of Serbia, outside of the Autonomous Province of Vojvodina, where some specialist services that perform forensic examinations exist, victims rely on non-specialist examiners for forensic evidence, and the certificates from forensic examiners are subject to a fee, constituting a financial burden and an obstacle to women's access to justice.⁴²⁵ In the Netherlands, although the taking of forensic evidence is free of charge, medical health services are funded by insurance, therefore, victims are usually required to pay a personal contribution. This represents a financial burden that not all women can afford and may therefore disincentivise women to seek support.⁴²⁶

Rape kits

284. In its baseline evaluations reports on Serbia and Sweden, GREVIO noted that rape kits were made available within the few rape referral centres/specialist support services in place, and were likewise provided to general practitioners on duty in other hospital settings so that they could carry out the relevant forensic examinations.⁴²⁷ GREVIO stressed in this respect that professionals performing such examinations should be specialised, and that counselling and support services should be made available to compensate the lack of specialist sexual violence referral centres.

Provision of long-term counselling

285. Across the parties that have been evaluated, GREVIO noted that long-term counselling was far less available than immediate medical and trauma care. GREVIO noted this specifically in its baseline evaluation report on Denmark, highlighting the highly professional nature of the existing sexual violence referral centres, but noting the insufficient provision of Long-term psychological counselling.⁴²⁸ Insufficient provision of long-term psychological counselling was also noted in Finland, France, Serbia, and Sweden.⁴²⁹ Indeed, generally, more support services appear to be available to respond to recent episodes of sexual violence than past violence.⁴³⁰ This runs counter to the nature and dynamics of this form of violence, in respect of which a great deal of stigma, shame and guilt are still associated and is one of the reasons why many victims do not immediately seek help but wait days, weeks, months and sometimes even years.

Issues unique to specific parties

The ability for victims of sexual violence to access support services, including when they wish to terminate their pregnancy, in parties where abortion is penalised

286. In its more recent baseline evaluation reports on Andorra and Malta GREVIO has addressed victims' ability to access support services for victims of sexual violence, including when they wish to terminate their pregnancy.⁴³¹ These reports noted that several European studies reveal that a significant proportion of women who decide to use emergency contraception or resort to an abortion, and all the more so in cases of successive abortions, have suffered sexual violence, often committed by a former or a current intimate partner.⁴³² Because in these countries recourse to abortion is penalised even in the event of rape, GREVIO noted that it is necessary to examine, within the limits of the scope of the convention, the impact of this context on the application of Article 25. Women victims of sexual violence, including in the context of domestic violence, face many risks relating to their sexual and reproductive health such as sexually transmitted infections, unwanted pregnancies, stillbirths, obstetric complications, and recourse to non-medical abortion practices. These harmful effects are amplified by attacks on the right to self-determination of these women when

425. See GREVIO's baseline evaluation report on Serbia, paragraph 142.

426. See GREVIO's baseline evaluation report on the Netherlands, paragraph 170.

427. See GREVIO's baseline evaluation reports on: Finland, paragraph 124; Serbia, paragraph 141; and Sweden, paragraph 143.

428. See GREVIO's baseline evaluation report on Denmark, paragraph 125.

429. See GREVIO's baseline evaluation reports: on Finland, paragraphs 125-126; France, paragraph 164; Serbia, paragraph 142, and Sweden, paragraphs 143 and 145.

430. See GREVIO's baseline evaluation report on Finland, paragraphs 122 and 126.

431. See GREVIO's baseline evaluation reports on: Andorra, paragraphs 124-128; and Malta, paragraphs 127-130.

432. See, for example, Citernes A. et al. (2015), "IPV and repeat induced abortion in Italy: A cross sectional study", in *The European Journal of Contraception & Reproductive Health Care*, 20(5), 344-349; Öberg M. et al. (2014), "Prevalence of intimate partner violence among women seeking termination of pregnancy compared to women seeking contraceptive counselling", in *Acta Obstetrica et Gynecologica Scandinavica*, 93(1), 45-51; Pinton A. et al. (2017), "Existe-t-il un lien entre les violences conjugales et les interruptions volontaires de grossesses répétées?", in *Gynécologie, Obstétrique, Fertilité & Sénologie*, 45 (7-8), pp. 416-420; Lewis N. et al. (2018), "Use of emergency contraception among women with experience of domestic violence and abuse: a systematic review", in *BMC Women's Health*, 18 (156).

perpetrators control their ability to make autonomous choices on reproduction. Such control can have the effect of hampering their access to contraception and/or forcing them to carry an unwanted pregnancy to term or conversely, requiring them to terminate a pregnancy. In these complex situations, women experience grave psychological suffering linked to sexual violence but also to coercion on their reproductive rights. GREVIO noted that because sexual violence has a direct impact on the sexual and reproductive health of victims, its consequences need to be addressed by support services so that victims' traumatism can adequately be tended to and negative life-long consequences can be prevented. GREVIO expressed concern about these obstacles to the self-determination of victims of rape, which affect all the more women with little financial and social autonomy. Taking into account that abortion very much remains a taboo in these countries, GREVIO also expressed its concern that fear of stigma and prosecution may discourage victims of sexual violence who wish to terminate their pregnancy from seeking the necessary support services, including psychological support. GREVIO therefore urged the authorities to take additional measures to guarantee all victims of sexual violence access to specialist support services for sexual violence, as well as longer-term psychological support, ensuring that the reproductive choices of women victims of rape do not constitute a barrier to their access.

The detection of cases of underage and forced marriages by medical personnel

287. Recent changes to the Law on Civil Registration Services in Turkey, allowing the verbal notification of births that occur without the assistance of medical personnel, has raised concerns about a loophole that encourages families to pressure underage brides or abused children into giving birth at home to avoid prosecution. In that regard GREVIO noted that the new responsibilities conferred to the health centres and medical personnel to notify civil registration offices of births should also be applied to births that take place at home without medical supervision, to ensure that cases of underage and possibly forced marriages are detected by health-care personnel.⁴³³ It therefore urged the Turkish authorities to ensure that cases of underage and possibly forced marriages are detected, namely by health-care personnel, even in cases when birth takes place without medical supervision and notifications are done verbally. It further urged to measure progress in this field, in particular by collecting data regarding the number of cases of sexual violence and forced marriages registered by the Child Monitoring Centres and other health-care establishments.

Article 26 – Protection and support for child witnesses

Introduction

288. Exposure to physical, sexual, or psychological violence and abuse between parents or other family members has a severe impact on children. It breeds fear, causes trauma and adversely affects their development. Indeed, research has shown that children who witness one parent's assaults on another in the home often develop emotional problems and cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.⁴³⁴ For this reason, Article 26 sets out the obligation to ensure that, when providing services and assistance to victims with children who have witnessed violence, their rights and needs are taken into account. While this is most relevant to domestic violence cases, it is important to bear in mind that other forms of violence may also be witnessed by children. The term "child witnesses" refers not only to children who are present during the violence and actively witness it, but to those who are exposed to screams and other sounds of violence while hiding close by or who are exposed to the long term consequences of such violence. It is important to recognise and address the victimisation of children as witnesses of all forms of violence covered by the scope of this convention and their right to support. Paragraph 2 therefore calls for age and developmentally appropriate best evidence-based psychosocial interventions that are specifically tailored to children to cope with their traumatic experiences where necessary. All services offered must give due regard to the best interests of the child.

289. GREVIO evaluation reports have prevalently, although not exclusively, focused on the protection and support of children who have witnessed domestic violence.

433. See GREVIO's baseline evaluation report on Turkey, paragraph 185.

434. "Problems associated with children's witnessing of domestic violence", Jeffrey L. Edleson, VAW Net, available at http://vawnet.org/sites/default/files/materials/files/2016-09/AR_Witness.pdf.

Promising practices

290. Many parties recognise directly or indirectly the harmful effects that witnessing domestic violence has on children and provide for the obligation to inform the relevant authority, be it the municipality, child protection or child welfare services, of any suspicion or confirmed incident whereby a child has witnessed or has been a direct victim of violence.⁴³⁵ In some countries such as Montenegro and Italy, GREVIO has observed that the commission of domestic violence in the presence of children entails aggravated sentences.⁴³⁶ Moreover, once again in Italy, as well as in the Netherlands, committing violence against women in the presence of a child is equated to a form of child abuse.⁴³⁷ In Andorra, Montenegro, and Turkey, witnessing such violence is considered tantamount to experiencing it directly as legislation calls for the same level of protection and support by statutory agencies.⁴³⁸ By way of example, Andorran legislation defines all women who have been the object of gender-based violence as well as their minor children as “victims” so that they can be granted the right to social, psychological and medical support.⁴³⁹ In its baseline evaluation report on Spain, GREVIO commended the official recognition of children’s victimisation when they witness intimate partner violence. It noted that the applicable legislation includes children who are underage or under the guardianship or custody of women who are victims of intimate partner violence in the scope of the holistic support and protection offered by this law.⁴⁴⁰

Specialist support services for child witnesses

291. Bearing in mind the difficulties encountered in its practical implementation, nonetheless, in its baseline evaluation report on Spain, GREVIO welcomed a recent change to Article 156 of the Civil Code that removes the requirement of both parents’ consent for psychological counselling and support for common children. The perpetrator can thus no longer prevent his children from attending much-needed counselling sessions – a frequent obstacle to children receiving psychological support.⁴⁴¹
292. Worth of notice is also the Danish Stalking Centre, which offers psychological support to children who have witnessed the effects of the stalking on their parent(s).⁴⁴²

Special protection measures for child witnesses

293. In its baseline evaluation report on Denmark, GREVIO noted positively the Children’s Houses, available across the five regions of Denmark which offer professional support and psychological counselling for child victims of sexual abuse. Their child-friendly environment may be also used by law enforcement agencies to carry out interviews with children who have witnessed domestic violence.⁴⁴³

Challenges

Specialist support services for child witnesses in shelters

294. Despite the recognition of the harmful effects of witnessing violence, the analysis of the reports published to date reveals that parties mostly fail to provide appropriate and sufficient access to specialised and age-appropriate services for children. In several parties, including Austria, Turkey and Finland, such services are provided in shelters only, and therefore are timebound - with the departure from the shelter entailing the termination of such essential specialist support.⁴⁴⁴ In other parties such as the Netherlands, Portugal,

435. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 130; Austria, paragraph 116; Denmark, paragraph 131; Finland, paragraph 128; Italy, paragraph 159; Monaco, paragraph 96; Montenegro, paragraph 140; the Netherlands, paragraph 175; Spain, paragraph 178; and Turkey, paragraph 191.

436. See GREVIO’s baseline evaluation reports: on Italy, paragraph 159; and Montenegro, paragraph 140.

437. See GREVIO’s baseline evaluation reports: on Italy, paragraph 159; and the Netherlands, paragraph 175.

438. See GREVIO’s baseline evaluation reports on: Montenegro, paragraph 140; and Turkey, paragraph 181. In Montenegro’s case it is the Protocol on Actions, Prevention of and Protection Against Family Violence which equalled clearly witnessing DV with experiencing it.

439. See GREVIO’s baseline evaluation report on Andorra, paragraph 130.

440. See GREVIO’s baseline evaluation report on Spain, paragraph 178.

441. See GREVIO’s baseline evaluation report on Spain, paragraph 178.

442. See GREVIO’s baseline evaluation report on Denmark, paragraph 130.

443. See GREVIO’s baseline evaluation report on Denmark, paragraph 130.

444. See GREVIO’s baseline evaluation reports on: Austria, paragraph 118; Denmark, paragraph 131; Finland, paragraph 128; and Turkey, paragraph 192.

Serbia, and Sweden, shelters support children accompanying their mothers, but such services are not specialised and tailored to address their specific needs.⁴⁴⁵ In Portugal's case, for instance, GREVIO noted insufficient specialised personnel to tend to children's needs and/or difficulties in accessing schools and thus urged the authorities to further develop specialist support services for children, including in shelters.⁴⁴⁶ In its baseline evaluation report on Belgium, on the other hand, GREVIO noted that provision of services for children relies on the initiative of individual shelters, with no structural support from the state.⁴⁴⁷

Specialist support services provided outside of shelters

295. GREVIO has observed that access to counselling services outside of shelters is even more limited. In its baseline evaluation report on Malta, it observed that dedicated services for children who are victims of domestic violence are not provided for and that extremely long waiting periods have been reported in accessing psychological counselling services, including where children are concerned.⁴⁴⁸ It therefore strongly encouraged the authorities to introduce dedicated services for children who are victims or witnesses of all forms of violence against women, such as age-appropriate psychosocial counselling. In some parties such as Austria, Finland, France, Montenegro, and Spain, specialised counselling services for children who are direct or indirect victims of violence are indeed available and are mostly offered by women's specialist support organisations. GREVIO has, however, highlighted either insufficient funding hindering the promptness and sustainability of the assistance and/or insufficient coverage throughout the country and, accordingly, urged/strongly encouraged the authorities to ensure the provision of age appropriate psychological counselling for child witnesses of all forms of violence throughout the country and in conditions that ensure continuity and quality/ or to strengthen financial provision.⁴⁴⁹
296. Other general support services, such as social services and child protection services may provide support and protection to children witnesses of domestic violence. In its baseline evaluation reports, including those on France and Italy, GREVIO explained that staff from general support services may not have the required training or expertise to support and protect children victims of domestic violence.⁴⁵⁰ It therefore, *inter alia*, urged the authorities to step up efforts to ensure wider levels of awareness among the professionals concerned, such as social workers, legal and health professionals, and psychologists, of the harmful effects of witnessing domestic violence on children and to provide access for child witnesses to appropriate, agespecific support services based on a gendered understanding of violence against women and pay due regard to the best interests of the child.

Securing the protection of the woman victim of gender-based violence as a primary measure of safety for the child/lack of a gendered understanding of domestic violence

297. GREVIO has observed that rather than ensuring the protection of the woman victim of gender-based violence as the primary measure to ensure the safety for children, many parties interpret the best interest of the child in a very narrow manner. GREVIO has emphasised in this respect that the safety of children is strongly linked to the safety of adults and that by helping women victims of domestic violence secure protection, children are also helped. The healing process is greatly enhanced if children are permitted to stay within their own home and with their attachment figures. GREVIO consistently has advocated for the focus to be placed onto securing protection for the abused parent as a primary measure of safety before exploring other avenues of protection for the child.⁴⁵¹ In Denmark, on the contrary, the removal of the child from the family home and therefore, from their mother, is always an option.⁴⁵² Likewise, in its baseline evaluation reports on Turkey and Serbia, GREVIO has noted the practice of placing the child with other family members or in foster care.⁴⁵³ It has therefore urged the authorities, *inter alia*, to ensure that children who witness domestic violence receive counselling and support, while at the same time ensuring their safety in conditions that allow them to remain with the non-abusive parent, preferably in their own home.

445. See GREVIO's baseline evaluation reports on: Malta, paragraph 135; the Netherlands, paragraph 177; Serbia, paragraph 145; and Sweden, paragraph 147.

446. See GREVIO's baseline evaluation report on Portugal, paragraph 137.

447. See GREVIO's baseline evaluation report on Belgium, paragraph 134.

448. See GREVIO's baseline evaluation report on Malta, paragraph 135.

449. See GREVIO's baseline evaluation reports on: Austria, paragraph 117; Finland, paragraph 129; France, paragraph 165; Montenegro, paragraph 143; and, Spain, paragraph 179.

450. See GREVIO's baseline evaluation reports on: France, paragraph 169; and Italy, paragraph 161.

451. See GREVIO's baseline evaluation report on Denmark, paragraph 133.

452. See GREVIO's baseline evaluation report on Denmark, paragraph 133.

453. See GREVIO's baseline evaluation reports on: Serbia, paragraph 145; and Turkey, paragraph 193.

298. In its baseline evaluation reports, including those on Italy and France, GREVIO noted that barriers for child witnesses/victims with regards to support and protection are linked to the judicial practice of granting joint parental custody in cases of domestic violence, which result in the perpetrator impeding the counselling of their children in some cases. For more information on the practice of granting joint parental custody in cases of domestic violence, see *Chapter V, Article 31, Challenges*.⁴⁵⁴

Article 28 – Reporting by professionals

Introduction

299. Article 28 aims to ensure that where confidentiality rules are imposed by domestic law on certain professionals, such rules do not constitute an obstacle to the possibility, under appropriate conditions, of their reporting to the competent organisations or authorities if they have reasonable grounds to believe that a serious act of violence has been committed and further serious acts of violence are to be expected. This Article has been assessed in ten out of the 17 GREVIO baseline evaluation reports.⁴⁵⁵

Promising practices

300. After Finland's ratification of the convention, and with a view to improving the prevention of homicides, in particular within families, legislative amendments were introduced in 2015 to the Act on the Status and Rights of a Social Welfare Client as well as the Act on the Status and Rights of a Patient to allow professionals who had previously been bound by confidentiality rules to notify statutory agencies where they suspect a risk to the life of a woman or child in the context of domestic violence.⁴⁵⁶

Challenges

Exceptions to confidentiality rules enabling reporting by professionals

301. In addition to Finland, Monaco changed its legal framework relating to reporting by professionals, allowing disclosure of professional secrecy where the victim is a minor or a person unable to protect himself or herself on account of his or her age or physical or mental incapacity. In these cases, professionals are allowed to inform the competent administrative or judicial authorities of cases which come to their attention of deprivation or abuse in respect of such persons. In all other cases the victim must give his or her consent for the matter to be reported. GREVIO noted in this respect that the general rule that applies to victims of rape or sexual assault and that is formalised in a protocol is respect for their autonomy. This protocol does not integrate the concept of immediate danger enabling professionals to override the victim's consent where a woman is in serious danger. It therefore encouraged the authorities to standardise and/or formalise the circumstances requiring reporting by professionals in cases of serious danger irrespective of the victim's consent, whether she is an adult or a minor.⁴⁵⁷

Mandatory reporting of professionals in certain cases

302. The main shortcoming identified by GREVIO in the reports where this topic is covered, however, relates to the fact that in many parties the legislation in place requires certain professionals/civil servants, including health-care professionals, to report incidents of violence to law enforcement authorities, regardless of the victim's consent. As analysed in depth under Article 18 of this report, *Access to services not to be made subject to the victim's willingness to press charges or testify against the perpetrator*, GREVIO has noted that while the imposition of reporting obligations on professionals does not run counter to Article 28 of the

454. See GREVIO's baseline evaluation reports on: France, paragraph 166; and, Spain, paragraph 178. In Spain's case, legal changes have been made to ensure that no permission needs to be granted from the abusive parent. However, as GREVIO found "abusive parents still need to be informed of any counselling offered to their children, leaving women and the children themselves in fear of retaliation if they do opt for counselling. It may also endanger their safety, in particular where visitation rights have been granted" - paragraph 178.

455. Notably those on Andorra, Finland, France, Italy, Malta, Monaco, Montenegro, the Netherlands, Serbia, and Spain.

456. See GREVIO's baseline evaluation report on Finland, paragraph 134.

457. See GREVIO's baseline evaluation report on Monaco, paragraphs 88-93.

Istanbul Convention, blanket reporting obligations may raise issues around the provision of victim-centred and gender-sensitive support services that respect victims' autonomy. Situations of mandatory reporting of instances of violence against women imposed by the law on professionals/civil servants with a potential to affect victims' help seeking behaviour have been noted in Andorra, Italy, Malta, Montenegro, the Netherlands, Serbia, Spain, and Turkey.⁴⁵⁸

Issues unique to specific parties

303. In its baseline evaluation report, GREVIO noted that in France, only professionals in the civil service are required to report crimes of which they become aware in the discharge of their duties. Other professionals, and in particular doctors who have a private practice, are exempted from the obligation of professional secrecy, and may report violence under certain conditions. GREVIO, however, noted a very low number of reports of cases of violence made by professionals and indicated that this may be related to the need to improve training of professionals in the identification of victims of violence and of the links between intimate partner violence and violence against children.⁴⁵⁹

458. See GREVIO's baseline evaluation reports on: Andorra, paragraph 134; Italy, paragraph 164; Malta, paragraph 138; Montenegro, paragraphs 146-147; Serbia, paragraph 148; Spain, paragraph 181; and Turkey, paragraphs 150 and 153.

459. See GREVIO's baseline report on France, paragraph 171.



CHAPTER V

SUBSTANTIVE LAW

Civil Law

Article 29 – Civil lawsuits and remedies

Introduction

304. Under Article 29, parties are required to provide victims with adequate civil remedies against the perpetrator (Article 29, paragraph 1) as well as against state authorities that have failed in their duty to diligently prevent, investigate, and punish such acts of violence (Article 29, paragraph 2). Article 29, paragraph 2, is therefore closely linked with Article 5, paragraph 2, which enshrines the overarching principle of due diligence in relation to acts covered by the scope of this convention perpetrated by non-state actors. Failure to comply with this obligation can result in legal responsibility and civil law needs to offer remedies to address such failure. These remedies include, inter alia, civil law action for damages which need to be available for negligent and grossly negligent behaviour. The extent of state authorities' civil liability remains governed by the internal law of the parties which have the discretion to decide what kind of negligent behaviour is actionable.⁴⁶⁰
305. Because GREVIO's analysis under Article 29 of the convention has mainly focused on civil remedies against the state authorities that have failed in their duty to diligently prevent, investigate and punish such acts of violence, this section of the review will focus on this aspect of Article 29. Civil law measures against the perpetrator such as emergency barring or protection orders are generally analysed in GREVIO baseline evaluation reports under Articles 52 and 53 and will therefore be addressed under those articles in this review.⁴⁶¹

Promising practices

306. GREVIO positively noted in its baseline evaluation reports on Finland, Montenegro, and Serbia that in these parties criminal offences are in place to enforce the diligent discharging of professional obligations, notably for refraining to or negligently performing official duties and for other improper behaviour in an official capacity.⁴⁶² In Sweden, a new provision in the law makes it possible for natural or legal persons to obtain damages from the state or municipality for violations of the

460. Explanatory Report, paragraph 162.

461. For a review of GREVIO's findings on civil law measures against the perpetrator such as barring or restraining orders, see *Chapter VI, Articles 52 and 53*.

462. See GREVIO's baseline evaluation reports on: Finland, paragraph 137; Montenegro, paragraph 155; and Serbia, paragraph 156.

European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).⁴⁶³ In its report on Spain, GREVIO has welcomed the own-initiative investigations made systematically by the Spanish Ombudsperson in all cases that concern the murder of women or of their children, which shed light on poor responses by the criminal justice system in individual cases.⁴⁶⁴ GREVIO has also welcomed the enshrinement of the principle of state due diligence in Spain's Organic Law 1/2004 on Integrated Protection Measures on Gender-based Violence with respect to intimate partner violence and the awareness and understanding of the implications of the due diligence principle by state officials, including those in the criminal justice system. This notwithstanding, GREVIO expressed the need to extend the recognition of this principle in respect of all other forms of violence within the scope of the convention.⁴⁶⁵

Challenges

High threshold

307. Despite the fact that under the convention, parties have the discretion to decide the kind of civil remedies that are made available as well as the type of behaviour that is actionable under internal law (negligent/grossly negligent), GREVIO has expressed concerns where the domestic law sets out a very high threshold, requiring the act or failure to be unlawful. This is the case in Austria where there is a requirement of deliberate wrongful and unlawful acts by the state officials.⁴⁶⁶ GREVIO noted in its baseline evaluation report on Austria that proving an individual's unlawful act is very difficult, particularly where courts tend to grant individual state agents a wide margin of discretion and where protection measures are not decided upon by one official but are the result of a chain of action. In this respect, GREVIO invited the Austrian authorities to consider the use of disciplinary measures in cases of misconduct or failure of state officials to take appropriate action in relation to cases of violence against women and domestic violence. In Italy, while a civil claim can be brought against law enforcement, social workers, and the judiciary for poorly handling cases of violence against women, it is limited to gross negligence or wilful disregard of the duty to protect life and must be lodged with the Prime Minister after exhausting all other available means of redress.⁴⁶⁷ Accordingly, GREVIO has stressed that the obligation stemming from Article 29 should not be viewed as being limited to gross negligence or wilful disregard on the part of the judiciary of the duty to protect life, and has urged the Italian authorities to take measures to fill the legislative gap caused by the absence of effective civil remedies against any state authority that has failed to take the necessary preventive or protective measures within the scope of its powers.⁴⁶⁸

Ineffective implementation of civil remedies

308. A further trend that has been noted across the parties that have been evaluated is the lack of adequate implementation of the available civil remedies against state authorities' violation of their due diligence obligation. In its baseline evaluation reports, including those on Albania, Andorra, Finland, the Netherlands, Spain, and Turkey, GREVIO observed that existing redress measures had either not been used or used in a limited number of cases.⁴⁶⁹ The lack of information hampered states' ability to assess the reasons preventing victims from accessing such remedies. Accordingly, GREVIO invited these authorities to collect data on the numbers of civil claims lodged by women victims of violence and their outcome, identify the prevailing reasons preventing victims from accessing such remedies, and then, based on these findings, take measures to address such causes.⁴⁷⁰

463. See GREVIO's baseline evaluation report on Sweden, paragraph 153.

464. See GREVIO's baseline evaluation report on Spain, paragraph 188.

465. See GREVIO's baseline evaluation report on Spain, paragraphs 26-27.

466. See GREVIO's baseline evaluation report on Austria, paragraph 123.

467. See GREVIO's baseline evaluation report on Italy, paragraph 170.

468. See GREVIO's baseline evaluation report on Italy, paragraphs 170 and 172.

469. See GREVIO's baseline evaluation reports on: Albania, paragraph 113; Andorra, paragraph 141; Finland, paragraph 138; the Netherlands, paragraph 188; and Turkey, paragraph 202.

470. See GREVIO's baseline evaluation reports on: Albania, paragraph 113; and Turkey, paragraph 203.

309. Moreover, GREVIO has noted in a number of baseline evaluation reports, including those on Albania, Andorra, Malta, Montenegro, Sweden, and Turkey, low awareness by the public of existing complaint mechanisms and/or available legal measures.⁴⁷¹ For this shortcoming, GREVIO's findings urged/strongly encouraged the authorities to ensure that victims are made aware of the civil responsibility of public officials and are provided information on the available remedies.⁴⁷²
310. In order to ensure that state officials respect their duty of due diligence, GREVIO has urged/strongly encouraged the authorities in its baseline evaluation reports on Austria, Albania, Montenegro, Serbia, and Spain to, alternatively, clearly state the principle of civil responsibility of public officials in codes of conduct, make use of disciplinary measures and/or to carry out relevant training for state officials.⁴⁷³

Inadequate data collection

311. GREVIO reports have consistently highlighted the inadequacies of data collection on the use of available remedies and their outcomes in order to monitor progress in this area, identify barriers faced by victims and addressing them. Several countries, including those mentioned under the sub-section *ineffective implementation of civil remedies*, as well as Belgium, Denmark, France, Serbia, and Spain, could not provide GREVIO with statistical data on the number of claims lodged by women victims and their outcomes,⁴⁷⁴ the number of appeals (in the case of France)⁴⁷⁵ or data on whether victims of all forms of violence use the available remedies (Malta).⁴⁷⁶ GREVIO accordingly strongly encouraged/urged the authorities, *inter alia*, to monitor progress in this area by keeping data on numbers of civil claims and their outcome.

Issues unique to specific parties

312. A problem specifically mentioned in the baseline evaluation report on Montenegro is the lenient approach taken towards those law enforcement officials who are perpetrators of violence against women and who are often subject to disciplinary action and fines rather than criminal charges in order to allow them to remain in their position.⁴⁷⁷ In Sweden, the situation of migrant women was highlighted when reviewing financial and language barriers that prevent women from suing state actors for liability.⁴⁷⁸
313. Turkey's repeated failure to respect its due diligence obligation under the ECHR have been addressed in a number of cases brought before the European Court of Human Rights (ECtHR). This concerns, more specifically, the failure of state officials in the police and judiciary to perform their duties to protect victims, as well as prevent and punish violence against women.⁴⁷⁹ In its baseline evaluation report, GREVIO pointed to data indicating that when women victims of intimate partner or domestic related physical and/or sexual violence report to law-enforcement agencies, in over 80% of cases the statement of the victim is not taken and in roughly 60% of cases law-enforcement officers do not direct victims to support services or refer the matter to the prosecutors and courts.⁴⁸⁰

471. See GREVIO's baseline evaluation reports on: Albania, paragraph 114; Andorra, paragraphs 141 and 142; Malta, paragraphs 144-146; Montenegro, paragraph 156; Sweden, paragraphs 152 and 156; and Turkey, paragraph 203.

472. See GREVIO's baseline evaluation reports on: Albania, paragraph 114; Andorra, paragraph 142; Malta, paragraph 146; Sweden, paragraph 156; and Turkey, paragraph 203.

473. See GREVIO's baseline evaluation reports on: Albania, paragraph 113; Austria, paragraph 127; Montenegro, paragraph 159; and Spain, paragraph 190.

474. See GREVIO's baseline evaluation reports on: Andorra, paragraph 142; Belgium, paragraph 141; Denmark, paragraph 140; France, paragraph 175; Malta, paragraph 146; Serbia, paragraph 159; Spain, paragraph 190; and Turkey, paragraph 203.

475. See GREVIO's baseline evaluation report on France, paragraph 176.

476. See GREVIO's baseline evaluation report on Malta, paragraph 146.

477. See GREVIO's baseline evaluation report on Montenegro, paragraph 157.

478. See GREVIO's baseline evaluation report on Sweden, paragraph 152.

479. See GREVIO's baseline evaluation report on Turkey, paragraph 27.

480. See GREVIO's baseline evaluation report on Turkey, paragraphs 32-33.

Article 30 – Compensation

Introduction

314. Article 30 sets out the right to compensation for damages suffered as a result of any of the offences established under the Istanbul Convention. Paragraph 1 establishes the principle that it is primarily the perpetrator who is liable for damages and restitution (primary compensation) while paragraph 2 establishes a subsidiary obligation for the state to compensate (secondary compensation). Paragraph 3 aims to ensure that compensation be granted within a reasonable time, meaning within an appropriate timescale.
315. Primary compensation is, in principle, available to women victims of violence in all parties reviewed, either during criminal proceedings or by bringing a separate civil lawsuit. Regarding state compensation, it should be noted that Article 30, paragraph 2 is open to reservations and that out of the 17 parties evaluated so far by GREVIO, four have entered a reservation, namely Andorra, Malta, Monaco, and Serbia.⁴⁸¹ GREVIO noted that the authorities of these parties are required to provide an explanation of the grounds for the reservation upon expiry of its period of validity and prior to its renewal.⁴⁸² In addition, three parties do not have state compensation schemes and have not entered a reservation, namely Albania, Montenegro, and Turkey, with Montenegro and Turkey, however, having formulated a draft law in this connection.⁴⁸³ The remaining ten parties that have been evaluated, indeed, provide for secondary compensation to women victims of violence.⁴⁸⁴

Promising practices

316. In its baseline evaluation report on Montenegro, GREVIO observed that to ensure victims' access to primary compensation, free legal aid is offered to victims of domestic violence, as well as the waiving of court fees.⁴⁸⁵ In Sweden, on the other hand, secondary compensation can be granted for both physical and psychological suffering, without a threshold being imposed on the level of severity of the crime.⁴⁸⁶ Furthermore, children who have witnessed violence against a parent by an intimate partner are also specifically entitled to criminal injuries compensation from the state, if it has harmed the child's confidence and trust in a person with whom he or she has a close relationship. GREVIO has pointedly welcomed this strong recognition of the suffering of children who witness domestic violence.

Challenges

Lack of data

317. A common shortcoming for both primary and secondary compensation is the lack of data collected by authorities and made available to GREVIO. In most parties that have been reviewed, in fact, GREVIO noted that there is little to no information available on the extent to which victims receive compensation in practice, making it challenging to evaluate the effectiveness of compensation mechanisms.⁴⁸⁷

Primary compensation: shortcomings in criminal proceedings

318. In several baseline evaluation reports, GREVIO has identified shortcomings linked to a restrictive approach taken towards primary compensation, in the context of criminal proceedings. In Albania, for example,

481. See GREVIO's baseline evaluation reports on: Andorra, paragraph 144; Malta, paragraph 148; Monaco, paragraph 104; and Serbia, paragraph 164.

482. See GREVIO's baseline evaluation reports on: Malta, paragraph 150; Monaco, paragraph 105; and Serbia, paragraph 165.

483. See GREVIO's baseline evaluation reports on: Albania, paragraph 115, Montenegro, paragraph 161; and Turkey, paragraph 204.

484. See GREVIO's baseline evaluation reports on: Austria, paragraph 130; Belgium, paragraph 143; Denmark, paragraph 143; Finland, paragraph 141; France, paragraph 177; Italy, paragraph 177; the Netherlands, paragraph 194; Portugal, paragraph 155; Spain, paragraph 194; and Sweden, paragraph 158.

485. See GREVIO's baseline evaluation report on Montenegro, paragraph 160.

486. See GREVIO's baseline evaluation report on Sweden, paragraphs 158-160.

487. See GREVIO's baseline evaluation reports on: Albania, paragraph 115; Andorra, paragraph 143; Denmark, paragraph 144; Finland, paragraph 141; France, paragraph 177; Malta, paragraph 147; Montenegro, paragraph 160; Serbia, paragraph 162; Sweden, paragraph 161; and Turkey, paragraph 204.

compensation is limited to economic damage.⁴⁸⁸ In Malta, on the other hand, compensation is available for moral damages only in relation to categories of offences that are subject to punishment of at least three years of imprisonment, excluding as a result, the payment of moral damages for many offences provided under the Istanbul Convention.⁴⁸⁹ In Montenegro, a compensation claim can be lodged only if such action does not substantially delay the proceedings.⁴⁹⁰ In its baseline evaluation reports on the Netherlands and Portugal, GREVIO noted with concern that access to compensation is made dependent on the victim filing the claim within a specific timeframe and thus encouraged the authorities, *inter alia*, to remove any de jure and de facto barriers which prevent women victims of violence from claiming compensation.⁴⁹¹

319. In addition to the above-mentioned shortcomings, in its baseline evaluation report on Italy, GREVIO noted with concern that in order to access compensation, victims must become a party to the criminal proceedings. It observed in this respect that victims are thus required to back the prosecution with a testimony and supply supporting evidence, often leading courts to shifting the focus from the conduct of the offender to that of the victim.⁴⁹² GREVIO raised the concern, in particular, that a victim who takes the positive step of becoming a party to the criminal case is at odds with the enduring stereotype that a “reliable” victim is fragile, remissive and unwilling to pursue compensation, which can result in victims being met with disbelief and subjected to frequent secondary victimisation. Moreover, in its baseline evaluation reports on Italy and the Netherlands, GREVIO also noted the presence of stereotypes within the judiciary that negatively impacted the assessment of the victims’ credibility. It accordingly strongly encouraged the authorities, *inter alia*, to take measures to facilitate victims’ access to compensation in civil and criminal proceedings and ensure that such reparation is promptly attributed and proportionate to the gravity of the harm suffered.

Primary compensation: shortcomings in civil proceedings

320. In its baseline evaluation reports, GREVIO identified a number of obstacles for victims in claiming compensation through civil proceedings. Notably, high court fees were noted in its baseline evaluation reports on Austria, Albania, Italy, and Serbia;⁴⁹³ the impossibility to claim damages in family proceedings was noted in Malta;⁴⁹⁴ and high evidentiary thresholds and delays were noted in Italy. GREVIO also underlined in its baseline evaluation report on Serbia that criminal courts’ practice of referring the matter of compensation to civil courts raises challenges for the victim, due to the prolonged nature and uncertainty of civil law suits which often require giving additional testimony and entail additional meetings with the perpetrators that can be traumatic for the victim, in addition to causing additional costs and delays.⁴⁹⁵ Accordingly, GREVIO has called on parties such as Andorra and Austria⁴⁹⁶ to take action to improve the effectiveness of civil proceedings, by making more use of awarding primary compensation; in the case of Albania, Italy, Monaco, the Netherlands, Portugal, and Turkey GREVIO has called the authorities to adopt measures to ensure effective access to primary compensation;⁴⁹⁷ and, in the case of Albania, Finland, Malta, Sweden, and Turkey GREVIO has called on the authorities to enhance the monitoring of compensation procedures through data collection.⁴⁹⁸

Secondary compensation: restrictive eligibility criteria and narrow scope of application

321. GREVIO noted in several baseline evaluation reports that state compensation was awarded on the basis of eligibility criteria which were too restrictive. In Austria, for example, both migrant women who are unlawful residents, or victims who have waived their rights to claim compensation during criminal proceedings, are not eligible for state compensation.⁴⁹⁹ Moreover, GREVIO noted with concern that state compensation

488. See GREVIO’s baseline evaluation report on Albania, paragraph 115.

489. See GREVIO’s baseline evaluation report on Malta, paragraph 147.

490. See GREVIO’s baseline evaluation report on Montenegro, paragraph 160.

491. See GREVIO’s baseline evaluation report on: the Netherlands, paragraph 193; and Portugal, paragraph 154.

492. See GREVIO’s baseline evaluation report on Italy, paragraph 175.

493. See GREVIO’s baseline evaluation reports on: Albania, paragraph 115; Austria, paragraph 131; Italy, paragraph 176; and Serbia, paragraph 162.

494. See GREVIO’s baseline evaluation report on Malta, paragraph 147.

495. See GREVIO’s baseline evaluation report on Serbia, paragraph 162.

496. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 145; and Austria, paragraph 132.

497. See GREVIO’s baseline evaluation reports on: Albania, paragraph 116; Italy, paragraph 179; Monaco, paragraph 105; the Netherlands, paragraph 197; Portugal, paragraph 158; and Turkey, paragraph 205.

498. See GREVIO’s baseline evaluation reports on: Albania, paragraph 116; Finland, paragraph 178; Malta, paragraph 149; Sweden, paragraph 162; and Turkey, paragraph 205.

499. See GREVIO’s baseline evaluation report on Austria, paragraph 130.

was narrowly provided in Portugal,⁵⁰⁰ where state compensation is limited to permanent disability or total temporary incapacity to work for at least 30 days, and in Spain,⁵⁰¹ where its scheme only applies to serious offences resulting in serious physical or psychological harm or death and proof of permanent incapacity with a degree of disability of at least 33%, or a temporary incapacity of more than six months.

Delays of the proceedings

322. In its baseline evaluation reports on Belgium, Italy, and Spain, GREVIO noted with concern significant waiting periods to receive compensation or payment of therapy and psychological counselling for victims. It highlighted that delays of the proceedings can act as a deterrent to pursuing further action and can be detrimental to the victim by affording the perpetrator further time to organise his insolvency, as found in Italy.⁵⁰² Accordingly, GREVIO has strongly encouraged/invited the Belgian, Italian, and Spanish authorities, to ensure that compensation is granted within a reasonable time.⁵⁰³

Issues unique to specific parties

323. A problem specifically mentioned in Spain is the low amounts that women who are victims of violence against women receive as compensation. The average payment is only 25% of the total amount and on average takes five years. There is little use of available measures to secure assets to ensure payments after conviction, allowing perpetrators to use insolvency declarations without any investigations ordered by the court and allowing small instalments.⁵⁰⁴

Article 31 – Custody, visitation and safety

Introduction

324. Article 31 seeks to ensure that incidents of violence covered by the convention, in particular domestic violence, are taken into account in decisions on custody and visitation rights to ensure that the exercise of these rights do not harm the rights and safety of the victim or children. Paragraph 1 aims at ensuring that judicial authorities do not issue contact orders without taking into account incidents of violence against the non-abusive carer as much as against the child itself, while paragraph 2 lays out the obligation to ensure that the exercise of any visitation and custody rights does not jeopardise the rights and safety of the victim and/or the children.

Promising practices

325. In its baseline evaluation report, GREVIO considered that Austria has established an excellent legal basis on which to prevent the granting of custody to abusive parents, following the signature of the Istanbul Convention.⁵⁰⁵ While GREVIO noted that this provision does not yet appear to be well known among the judiciary, it pointed that the civil code foresees the notion of “reducing the risk of a child to suffer violence or to witness violence inflicted upon people close to them” when considering the best interest of the child. Moreover, in Austria a group of professionals (social workers, psychologists, and child pedagogues) are available as part of an institution called “family court assistance”, set up in 2013 following the signature of the Istanbul Convention, to assist family judges in reaching satisfactory decisions. In France, GREVIO noted with interest the “measure of accompaniment under protection” which provides for the child to be accompanied by an adult other than a family member during the exercise of visitation rights.⁵⁰⁶

500. See GREVIO’s baseline evaluation report on Portugal, paragraph 155.

501. See GREVIO’s baseline evaluation report on Spain, paragraph 194.

502. See GREVIO’s baseline evaluation report on Italy, paragraph 176.

503. See GREVIO’s baseline evaluation reports on: Belgium, paragraph 144; Italy, paragraph 179; and Spain, paragraph 194.

504. See GREVIO’s baseline evaluation report on Spain, paragraph 194.

505. See GREVIO’s baseline evaluation report on Austria, paragraphs 133-137.

506. See GREVIO’s baseline evaluation report on France, paragraphs 179-185.

Challenges

Shortcomings in the legal framework and/or implementation

326. In all parties to the convention GREVIO has observed shortcomings in the legal framework and/or implementation as regards the obligation to ensure the safety of victims and their children in the decision on and exercise of custody and visitation rights.
327. In several parties, namely Albania, Belgium, Italy, Monaco, and Turkey, GREVIO found that there was no explicit reference to domestic violence as a legal criterion to be taken into account when deciding on custody and/or visitation rights.⁵⁰⁷ Accordingly, GREVIO strongly encouraged/urged the authorities of these states, *inter alia*, to explicitly recognise the need to take into account incidents of violence covered by the scope of the Istanbul Convention in the determination of custody and visitation rights of children⁵⁰⁸ and to amend the law to remedy existing gaps.⁵⁰⁹ In its baseline evaluation report on Malta, on the other hand, GREVIO noted that although incidents of domestic violence are explicitly provided as a cause for forfeiture of custody rights, they are not explicitly referred to as instances giving rise to forfeiture of visitation rights when separation is pronounced.⁵¹⁰ On another point, in its baseline evolution report on Serbia, GREVIO noted that legislation did not acknowledge the harm that witnessing violence by one parent against the other has on a child. GREVIO thus urged the authorities, *inter alia*, to ensure the recognition of witnessing violence against a close person as jeopardising the best interest of the child.⁵¹¹ As regards parties such as Andorra, Austria, Finland, France, the Netherlands, Portugal, Spain, and Sweden, that do have a legal basis to prevent the granting of parental responsibility including custody and visitation to abusive parents, GREVIO has found that the relevant provisions are rarely applied.⁵¹²

The use of mediation in the context of separation proceedings

328. As is analysed in detail under Article 48 of this review, GREVIO has observed in a number of parties that victims of domestic violence wishing to separate may be required to undergo mediation as a first step – a procedure that can be decisive in determining custody and visitation rights. GREVIO has noted that in these cases victims are particularly vulnerable due to the power imbalance that is typical in cases of domestic violence and that this power imbalance is likely to impair the ability of the victim to negotiate and reach acceptable agreement that ensures, *inter alia*, the children's and the mother's safety.

Bias and lack of training among professionals

329. In several baseline evaluation reports, GREVIO noted that parties tend to give priority to the presumed best interest of the child, which is deemed to be to maintain contact with both parents at all costs, regardless of the violence children have witnessed. In countries such as Austria, France, Italy, Portugal, and Spain, GREVIO observed that the joint exercise of parental authority was generally maintained, even in the event of a final criminal conviction for violence committed against the other parent or where a protection order exists.⁵¹³ In its baseline evaluation reports on Belgium, Italy, and Portugal, GREVIO criticised the tendency of the judiciary to consider domestic violence as mere disputes between parents.⁵¹⁴ More generally, GREVIO observed in Austria, Montenegro, Portugal, Serbia, Sweden, and Turkey a lack of understanding among judges and other professionals of the harm born by children in witnessing domestic violence.⁵¹⁵

507. See GREVIO's baseline evaluation reports on: Albania, paragraphs 117-120; Belgium, paragraphs 145-149; Italy, paragraphs 180-187; Monaco, paragraphs 106-110; and Turkey, paragraph 207.

508. See GREVIO's baseline evaluation reports on: Albania, paragraph 121; Belgium, paragraph 150; Italy, paragraph 188; Malta, paragraph 159; and Monaco, paragraph 111.

509. See GREVIO's baseline evaluation reports on: Albania, paragraph 121; Belgium, paragraph 150; Denmark, paragraph 159; Italy, paragraph 188; Malta, paragraph 159; and Monaco, paragraph 111.

510. See GREVIO's baseline evaluation reports on Malta, paragraphs 151-158.

511. See GREVIO's baseline evaluation reports on: Montenegro, paragraphs 163-167; and Serbia, paragraphs 166-171.

512. See GREVIO's baseline evaluation reports on: Andorra, paragraphs 146-150; Austria, paragraphs 133-137; Finland, paragraphs 143-149; France, paragraphs 179-185; the Netherlands, paragraphs 198-204; Portugal, paragraphs 159-163; Spain, paragraphs 196-206; and Sweden, paragraphs 163-170.

513. See GREVIO's baseline evaluation reports on: Austria, paragraphs 133-137; France, paragraphs 179-185; Italy, paragraphs 180-187; Portugal, paragraphs 159-163; and Spain, paragraphs 196-206.

514. See GREVIO's baseline evaluation reports on: Belgium, paragraph 148; Portugal, paragraphs 159-163; and Italy, paragraphs 180-187.

515. See GREVIO's baseline evaluation reports on: Austria, paragraphs 133-137; Montenegro, paragraphs 163-167; Serbia, paragraphs 166-171; Sweden, paragraphs 163-170; and Turkey, paragraphs 206-211.

330. In its baseline evaluation reports on Italy and Malta, GREVIO underlined the lack of expertise and understanding of violence against women of court-appointed experts whose contributions are relied upon by judges to reach their decisions. It thus, *inter alia*, urged the authorities to ensure that only those professionals, particularly psychologists and child psychiatrists, who are attuned to the issue of violence against women and the requirements of the Istanbul Convention, can be appointed by courts to provide advice on issues of custody and visitation in situations of violence against women.⁵¹⁶ As regards more specifically France, GREVIO noted that it had been informed of numerous cases where expert reports on the mental health status of children in these proceedings were entrusted to psychiatrists untrained in violence against women and its traumatic consequences on child witnesses. This resulted in the non-recognition of violence suffered by children, as well as in the secondary victimisation of victims, for example when they attributed the psychological state of children to “parental alienation syndrome”⁵¹⁷ – a concept which is recognised not to exist.⁵¹⁸ It therefore strongly encouraged the French authorities to provide all health professionals with systematic and mandatory initial and on-going training on the different forms of violence, including the effects of such violence on victims and child victims and witnesses, in order to enable them to provide medical advice in legal proceedings concerning child visitation/custody rights.⁵¹⁹ Shortcomings related to the lack of training of court-appointed professionals are also discussed in this review under *Article 15, Challenges, Shortcomings that are specific to categories of professionals, Training of relevant court-appointed professionals*.
331. A further worrying trend is the demonstration of bias against women who raise issues of domestic violence in proceedings related to custody and visitation. In its baseline evaluation reports on Denmark and Italy, GREVIO noted with concern that victims who raise the issue of domestic violence as a reason for not attending meetings in the presence of the perpetrators or not agreeing to custody or visitation, are labelled as an uncooperative parent and thus, paradoxically, “unfit for parenting”.⁵²⁰ Similarly, in Sweden the notion of an abused mother as unfit to fully care for her children is generally established.⁵²¹ Accordingly, GREVIO has regularly stressed the need to provide appropriate training,⁵²² together with the development of professional guidelines, including on the level of violence required and/or what tests should be applied by judges in reaching a decision on custody and visitation rights,⁵²³ with a view to raising awareness among the professionals concerned as to the harmful effects of exposure to violence on children.

Insufficient consultation by courts of all relevant professionals, when considering episodes of violence

332. In its baseline evaluation reports on Italy and Malta, GREVIO also raised the problematic lack of consultation of family courts with criminal courts when taking decisions on custody and visitation, including on whether criminal proceedings are pending against the father of the victim’s children or have been brought in the past.⁵²⁴ The baseline evaluation report on Italy, Montenegro, and Portugal have also stressed the importance, to the same end, of consulting and co-ordinating with other relevant bodies and/or professionals, including, but not limited to, law-enforcement agencies, health and education authorities, and specialist women’s support services. GREVIO has accordingly urged the authorities to ensure that family courts take into account any episodes of violence, including by consulting with all relevant professionals and/or or to conduct its own investigations.⁵²⁵

516. See GREVIO’s baseline evaluation reports on: Italy, paragraphs 180-188; and Malta, paragraphs 155-159.

517. See Violence against Women: Psychological violence and coercive control Study, Study requested by the FEMM Committee, European Parliament, 2020, p. 35. This study notes that although the phenomenon of the “parental alienation syndrome” lacks universal clinical or scientific definition, it is generally referred to the presumption that a child’s fear or rejection of one parent (typically the non-custodial parent) stems from the malevolent influence of the preferred (typically custodial) parent. In its baseline evaluation reports GREVIO has consistently referred to the statement of December 2017 by the European Association for Psychotherapy (EAP), which draws attention to the fact that the concepts of “parental alienation syndrome” (PAS) and “parental alienation” (PA) are unsuitable for use in any psychotherapeutic practice. This statement by the EAP, which is made up of 128 psychotherapy organisations from 41 European countries, acts as a guiding principle for European psychotherapists.

518. See GREVIO’s baseline evaluation report on France, paragraph 106.

519. See GREVIO’s baseline evaluation report on France, paragraph 107.

520. See GREVIO’s baseline evaluation reports on: Denmark, paragraph 154; and Italy, paragraph 185.

521. See GREVIO’s baseline evaluation report on Sweden, paragraph 164.

522. See GREVIO’s baseline evaluation reports on: France, paragraph 186; and Sweden, paragraph 171.

523. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 151; Belgium, paragraph 150; Italy, paragraph 188; Malta, paragraph 159; Montenegro, paragraph 168; the Netherlands, paragraph 205; Portugal, paragraph 164; and Spain, paragraph 206.

524. See GREVIO’s baseline evaluation reports on: Italy, paragraphs 180-188; and Malta, paragraphs 155-159.

525. See GREVIO’s baseline evaluation reports on: Italy, paragraph 188; Montenegro, paragraph 168; and Portugal, paragraph 164.

Systematic screening of cases related to the determination of custody and visitation rights

333. In many baseline evaluation reports, such as France, Italy, Montenegro, the Netherlands, and Portugal, GREVIO observed that judges do not screen cases related to the determination of custody and visitation rights for domestic violence.⁵²⁶ Moreover, GREVIO also observed that judges do not conduct risk assessments or ask for the disclosure of the risk assessment and safety plans drawn up by law-enforcement agencies and/or other competent stakeholders, with a view to taking them into account and determining the best interest of the child.⁵²⁷ It has therefore, strongly encouraged/urged the authorities of Denmark, Italy, Montenegro, the Netherlands, and Portugal to conduct screening of family court applications and include a mandatory question regarding violence,⁵²⁸ and/or called on the authorities of Belgium, Denmark, France, and Italy to undertake⁵²⁹ or, in the case of Montenegro and Portugal to disclose risk assessments originating from other authorities.⁵³⁰

Shortcomings related to supervised visitation

334. A number of shortcomings were observed in the implementation of Article 31, paragraph 2, regarding the facilities and the personnel responsible for enabling supervised visitation. GREVIO noted that several parties lacked the necessary resources/infrastructure to ensure safe supervised visitation. By way of example, in its baseline evaluation reports on France and Andorra, GREVIO observed that such meeting spaces were more equipped to deal with conflictual relationships than cases involving violence. It therefore drew the authorities' attention to the high risks to victims and children posed by maintaining contact between the victim and the perpetrator, without protection and appropriate measures.⁵³¹ In the absence of suitable arrangements, in fact, victims may feel that the only way to protect their children from violence is to refuse to comply with decisions on visitation rights. In its baseline evaluation report on Malta, in particular, GREVIO noted that the lack of adequate infrastructure meant that victims had to wait in the same waiting area as the perpetrator, thus endangering the physical safety and psychological well-being of victims and their children and perpetuating the cycle of power and control.⁵³²
335. As regards sufficient trained personnel for supervised visitation, GREVIO noted substantial shortcomings in this regard in its baseline evaluation reports on Andorra, Austria, Malta, Montenegro, and Spain.⁵³³ In its report on Montenegro and Spain, it highlighted the demonstration of bias by such staff towards women victims of domestic violence.⁵³⁴ Other concerns included the lack of a general obligation to inform the judicial authorities where such staff detects exposure to violence during the visit, such as in the case in Spain.⁵³⁵ GREVIO has accordingly strongly encouraged the authorities to build in safeguards to the procedure such as offering parents separate appointments and separate waiting areas in courts⁵³⁶ and/or monitoring court practices.⁵³⁷

Issues unique to specific parties

336. GREVIO expressed particular concern with respect to decisions taken on custody and visitation in Denmark. It identified a gap in the legislation and the absence of a legal obligation of the competent authorities to take into account instances of domestic violence when deciding on custody and visitation rights (as noted above). Moreover, it noted that family courts did not exist and that conflicts about custody and visitation were not resolved in an adversarial procedure presided over by a neutral authority but through a system of joint meetings between the two parents, guided or mediated by the State Administration. GREVIO found this system to be inappropriate for couples whose relationships have been marred by violence. It also noted

526. See GREVIO's baseline evaluation reports on: France, paragraph 182; Italy, paragraph 187; Montenegro, paragraph 165; the Netherlands, paragraphs 200-202; and Portugal, paragraph 160.

527. See GREVIO's baseline evaluation reports on: Denmark, paragraph 161; Italy, paragraph 186; Montenegro, paragraph 165; the Netherlands, paragraph 204; and Portugal, paragraph 160.

528. See GREVIO's baseline evaluation reports on: Denmark, paragraph 159; Italy, paragraph 188; Montenegro, paragraph 168; the Netherlands, paragraph 205; and Portugal, paragraph 164.

529. See GREVIO's baseline evaluation reports on: Belgium, paragraph 150; Denmark, paragraph 159; France, paragraph 186; and Italy, paragraph 188.

530. See GREVIO's baseline evaluation reports on: Montenegro, paragraph 168; and Portugal, paragraph 164.

531. See GREVIO's baseline evaluation reports on: Andorra, paragraphs 146-150; and France, paragraphs 179-185.

532. See GREVIO's baseline evaluation reports on Malta, paragraphs 158-159.

533. See GREVIO's baseline evaluation reports on: Andorra, paragraphs 146-150; Austria, paragraphs 133-137; and Malta, paragraphs 151-158.

534. See GREVIO's baseline evaluation reports on: Montenegro, paragraphs 163-167; and Spain, paragraphs 196-206.

535. See GREVIO's baseline evaluation report on Spain, paragraph 202.

536. See GREVIO's baseline evaluation reports on: Italy, paragraph 188; Montenegro, paragraph 168; and Portugal, paragraph 164.

537. See GREVIO's baseline evaluation reports on: Albania, paragraph 121; Andorra, paragraph 151; Belgium, paragraph 150; France, paragraph 186; Italy, paragraph 188; Portugal, paragraph 164; and Turkey, paragraph 212.

with concern that it had received information on several cases that had culminated with the imprisonment of mothers who had not been able to convince the State Administration of the safety risk which visitation with the father could present to their child and who had not complied with visitation decisions. GREVIO thus found that ultimately incidents of domestic violence were not taken into account in decisions on custody and visitation and that the exercise of visitation and custody rights in Denmark frequently endangered the physical safety and psychological wellbeing of domestic violence victims and their children.⁵³⁸

337. A unique problem raised in the baseline evaluation report on Sweden is the concerning practice whereby shelters ask victims to move out if a perpetrator is suspected of using visitation with the children to locate the whereabouts of the family, and subsequently the shelter.⁵³⁹ In its baseline evaluation report on Serbia, GREVIO discussed the alarming practice of removing children from their mother's care in cases of domestic violence, particularly in the Roma community, which appeared to equate the inability to protect children to a lack of parental ability.⁵⁴⁰
338. GREVIO has addressed the authorities' use of the so-called principle of "parental alienation syndrome"⁵⁴¹ in its baseline evaluation report on France,⁵⁴² and thereafter in a number of recent reports, namely the baseline evaluation reports on Andorra, Belgium, Italy, and Spain.⁵⁴³ In this respect, GREVIO consistently called for the relevant professionals to be informed of the absence of scientific grounds for the "parental alienation syndrome", and, in the case of Italy, for banning its use.

Article 32 – Civil consequences of forced marriages

Introduction

339. Article 32 requires that "marriages concluded under force may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim". The aim of this provision is to ensure that where women and girls free themselves from marriages concluded without their free consent, they do not have to bear any consequences regarding their civil status.

Promising practices

340. GREVIO noted that the Monaco civil law provides for broader protection than that afforded by the convention. The affected spouse or public prosecutor can in fact bring a civil action for annulment if consent to the marriage is vitiated not only by violence but also by coercion resulting from reverential fear.⁵⁴⁴

Challenges

Gaps in the legal framework

341. Out of the 17 baseline evaluation reports, only six have addressed Article 32, three of which did so jointly with Article 37 on forced marriage, notably those on Albania, Monaco, and Turkey.⁵⁴⁵ In several of these

538. See GREVIO's baseline evaluation report on Denmark, paragraphs 148-160.

539. See GREVIO's baseline evaluation report on Sweden, paragraphs 163-170.

540. See GREVIO's baseline evaluation report on Serbia, paragraph 171.

541. See Violence against Women: Psychological violence and coercive control Study, Study requested by the FEMM Committee, European Parliament, 2020, p. 35. This study notes that although the phenomenon of the "parental alienation syndrome" lacks universal clinical or scientific definition, it is generally referred to the presumption that a child's fear or rejection of one parent (typically the non-custodial parent) stems from the malevolent influence of the preferred (typically custodial) parent. In its baseline evaluation reports GREVIO has consistently referred to the statement of December 2017 by the European Association for Psychotherapy (EAP), which draws attention to the fact that the concepts of "parental alienation syndrome" (PAS) and "parental alienation" (PA) are unsuitable for use in any psychotherapeutic practice. This statement by the EAP, which is made up of 128 psychotherapy organisations from 41 European countries, acts as a guiding principle for European psychotherapists.

542. See GREVIO's baseline evaluation report on France, paragraphs 179-185.

543. See GREVIO's baseline evaluation reports on: Andorra, paragraphs 146-150; Belgium, paragraphs 145-149; Italy, paragraphs 180-187; and Spain, paragraphs 196-206.

544. See GREVIO's baseline evaluation report on Monaco, paragraph 117.

545. See GREVIO's baseline evaluation reports on: Albania, paragraphs 140-144; Finland, paragraph 152; Monaco, paragraph 117; the Netherlands, paragraph 209; Serbia, paragraph 174; and Turkey, paragraph 244.

reports, GREVIO identified gaps in the legal framework. For example, GREVIO found that in Finland no legal provisions are in place that would allow to void, annul or dissolve forced marriages, whereas in Turkey, the legal provisions that are in place define forced marriage in a non-comprehensive manner, failing to capture all cases of marriage to which a spouse has not voluntarily consented.⁵⁴⁶ In the Netherlands, the law only provides for the annulment of a forced marriage over which the Netherlands has jurisdiction, leaving those women who have married abroad or have entered into a religious marriage with limited options to secure an annulment. Moreover, it observed that the time limit of six months of marriage after which annulment is no longer possible unduly restricted the ability of women victims of forced marriage to seek annulment. GREVIO, therefore, called for measures to strengthen the legal remedies for women in situations of forced marriage in order to regain their unmarried civil status, in particular by removing the time limit on annulments and by offering the legal entitlement to void or dissolve a marriage.⁵⁴⁷

Undue financial or administrative burden

342. A recurrent shortcoming identified in GREVIO's baseline evaluation reports is the undue financial or administrative burden placed on victims seeking to void, annul or dissolve a forced marriage. In Albania and the Netherlands, as indicated above, GREVIO noted with concern short time limits for filing a request for invalidation, highlighting that such conditions under which the invalidation of a forced marriage may be requested are restrictive.⁵⁴⁸ In its baseline evaluation report on Serbia, GREVIO recalled the importance of enabling victims of forced marriage to free themselves, including by ensuring easy access to free of charge legal procedures.⁵⁴⁹

Issues unique to specific parties

343. GREVIO's baseline evaluation report on Turkey focused on the need to also consider economic and social consequences of forced marriage dissolution and looked at how women might fear to claim dissolution of forced marriages due to economic hardship. The findings called for programmes aimed at addressing the economic and social needs of women whose marriages will be rendered voidable.⁵⁵⁰

Criminal Law

344. The convention does not call for the establishment of a specific offence of domestic violence, rather the criminalisation of its constituent elements, with the exception of economic violence. For this reason, a number of GREVIO baseline evaluation reports, including those on Albania, Denmark, Montenegro, the Netherlands, Portugal, and Serbia specifically address this issue in introductory comments regarding criminal law before addressing specific articles of Chapter V,⁵⁵¹ with the reports on Albania, Montenegro, and Portugal referring to the discussion under Chapter I.⁵⁵²

Article 33 – Psychological violence

Introduction

345. Article 33 requires parties to criminalise psychological violence, which is described as the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats. While some baseline evaluation reports address only psychological violence,⁵⁵³ others have analysed the offence of psychological violence in conjunction with that of domestic violence.⁵⁵⁴

546. See GREVIO's baseline evaluation reports on: Finland, paragraph 151; and Turkey, paragraph 244.

547. See GREVIO's baseline evaluation report on the Netherlands, paragraphs 207-209.

548. See GREVIO's baseline evaluation reports on: Albania, paragraph 142; and the Netherlands, paragraph 207.

549. See GREVIO's baseline evaluation report on Serbia, paragraph 173.

550. See GREVIO's baseline evaluation report on Turkey, paragraph 244.

551. See GREVIO's baseline evaluation reports on: Albania, paragraph 122; Denmark, paragraph 161; Montenegro, paragraph 169; the Netherlands, paragraph 210; Portugal, paragraph 169; and Serbia, paragraph 175.

552. See Chapter I, Article 3.

553. See GREVIO's baseline evaluation reports on: Albania, paragraphs 123-126; Belgium, paragraphs 152-154; Denmark, paragraphs 162-163; Finland, paragraphs 156-158; France, paragraphs 187-188; and Turkey, paragraphs 213-216.

554. See GREVIO's baseline evaluation reports on: Andorra, paragraphs 153-156; Austria, paragraphs 139 and 144; Malta, paragraphs 161-164; Monaco, paragraph 113; Montenegro, paragraphs 171-177; Serbia, paragraphs 176-178; Spain, paragraphs 209-213; and Sweden, paragraphs 173-177.

Promising practice

346. GREVIO has welcomed the introduction by Sweden of the offence “gross violation of a woman’s integrity” as a specific domestic violence offence which aims to capture the continuum of violence – psychological, physical and sexual – which women face at the hands of men who were or still are their spouse or live-in intimate partner. GREVIO noted that this offence is comprehensive as it applies to a range of threatening or violent behaviour by current and former spouses and partners, irrespective of whether the couple has lived together. It also stressed that it represents a real shift in paradigm because it recognises domestic violence as a gendered phenomenon by defining men as perpetrators and women as victims.⁵⁵⁵ Furthermore, the general offence of insulting behaviour was amended in 2019, following the signature and ratification of the Istanbul Convention, to cover a wider range of behaviour, including “direct accusations, disparaging comments or humiliating behaviour” where it is intended to violate the other person’s self-esteem or dignity.

Challenges

General offences that are ill-suited to capture the offence of psychological violence

347. In many parties evaluated by GREVIO, including Andorra, Austria, Belgium, Denmark, Finland, Monaco, the Netherlands, and Turkey, psychological violence as defined by Article 33 is not expressly provided for in criminal law as a dedicated offence but is captured by other general offences such as coercion or threats.⁵⁵⁶ GREVIO has identified a number of shortcomings to this approach. Typically, such general offences set the threshold of conduct very high to be considered criminal behaviour and are designed to sanction single isolated events, rather than a pattern of repeated and prolonged abuse committed through acts which do not, per se, necessarily reach the threshold of criminalisation.⁵⁵⁷ GREVIO has pointed out that psychological violence, as understood by the convention, may be employed at early stages of the cycle of violence or, throughout, in order to control the victim.⁵⁵⁸ These general offences are therefore often not adapted and do not capture the harm experienced by victims of psychological violence. Furthermore, as noted in the baseline evaluation reports on Austria and the Netherlands, without a criminal offence adequately covering psychological violence, law enforcement agencies are ill-equipped to respond to this type of violence. GREVIO has therefore, *inter alia*, strongly encouraged the authorities to consider introducing a new provision that would better fit the Istanbul Convention’s framework in order to effectively criminalise all acts that seriously impair the psychological integrity of a person.

Offence of domestic violence rarely used for psychological violence

348. In its baseline evaluation reports on Albania, France, Montenegro, Portugal, and Serbia, GREVIO observed that although stand-alone offences of psychological violence are not in place, these parties have introduced specific offences of domestic violence where forms of psychological violence may be prosecuted.⁵⁵⁹ In spite of this, GREVIO has remarked that these provisions are rarely used to prosecute psychological violence alone, but rather psychological violence coupled with physical violence. GREVIO therefore called on the authorities of Austria, Denmark, Finland, and Monaco to introduce a specific criminal offence of psychological violence to capture more adequately the criminal conduct covered by Article 33⁵⁶⁰ or, in the case of Albania, Belgium, Malta, Montenegro, Serbia, and Turkey, to remedy the gap in criminal legislation.⁵⁶¹

555. See GREVIO’s baseline evaluation report on Sweden, paragraphs 173-177.

556. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 153; Austria, paragraphs 139 and 144; Belgium, paragraphs 152-153; Denmark, paragraphs 162-163; Finland, paragraphs 156-158; Monaco, paragraph 113; the Netherlands, paragraphs 214-218; and Turkey, paragraphs 213-216.

557. See GREVIO’s baseline evaluation reports on: Albania, paragraph 126; Austria, paragraph 144; Belgium, paragraph 152; Denmark, paragraph 162; Finland, paragraph 156; Monaco, paragraph 113; the Netherlands, paragraph 214; and Turkey, paragraph 215.

558. See GREVIO’s baseline evaluation reports on: Albania, paragraph 126; Austria, paragraph 144; Denmark, paragraphs 162-163; and the Netherlands, paragraph 216.

559. See GREVIO’s baseline evaluation reports on: Albania, paragraphs 123-126; France, paragraphs 187-188; Montenegro, paragraphs 172; Portugal, paragraph 169; and Serbia, paragraphs 176-178.

560. See GREVIO’s baseline evaluation reports on: Austria, paragraph 145; Denmark, paragraph 164; Finland, paragraph 159; and Monaco, paragraph 121.

561. See GREVIO’s baseline evaluation reports on: Albania, paragraph 127; Belgium, paragraph 154; Malta, paragraph 165; Montenegro, paragraph 178; Serbia, paragraphs 179-180; and Turkey, paragraph 217.

Limited use of the criminal provisions

349. Regardless of whether evaluated parties criminalise psychological violence under general or specific offences, GREVIO noted in its baseline evaluation reports on Andorra, Denmark, Finland, Malta, the Netherlands, Spain, Sweden, and Turkey that lack of data collection on the number of opened investigations, prosecutions and convictions made it difficult to draw conclusions as to how operational these provisions were in holding domestic abusers accountable for psychological violence.⁵⁶² Another concern expressed by GREVIO in its baseline evaluation reports on Belgium, Denmark, France, Malta, and Serbia was the low levels of awareness and knowledge of the offence of psychological violence among the criminal justice sector.⁵⁶³ Accordingly, GREVIO has encouraged/strongly encouraged the authorities of Andorra, France, and Spain to improve the collection of data across the criminal justice sector on cases that relate to psychological violence.⁵⁶⁴ Moreover, it has encouraged/strongly encouraged the authorities of Andorra, France, Montenegro, Serbia, Spain, Sweden, and Turkey to strengthen the training of the relevant professionals in the criminal justice system and to develop protocols to raise the awareness of the professionals concerned in this area.⁵⁶⁵

Issues unique to specific parties

350. A unique issue identified in Montenegro was the parallel sanctioning regime for domestic violence offences provided for under the Criminal Code and in the Law on Domestic Violence Protection (LDVP).⁵⁶⁶ While the LDVP and its misdemeanour offence of domestic violence were originally introduced to ensure higher reporting rates and a more efficient response, GREVIO noted several difficulties arising from the co-existence of two domestic violence offences, including confusion between the two offences, disparity between sanctions imposed and the creation of a hierarchy of domestic violence offences. It therefore urged the authorities to ensure, through all available means such as protocols, training of professionals and legislative change, more operational clarity between the misdemeanour offence of domestic violence and that of a criminal law nature.

Article 34 – Stalking

Introduction

351. Under Article 34, parties must take legislative or other measures to ensure that the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing them to fear for their safety, is criminalised. This provision refers to a course of conduct consisting of repeated significant incidents and is intended to capture the criminal nature of a pattern of behaviour whose individual elements, if taken on their own, do not always amount to criminal conduct.

Promising practices

352. GREVIO's baseline evaluation reports show that progress has been achieved, as most parties that have been evaluated by GREVIO have introduced a dedicated offence of stalking, including following the signature and/or ratification of the convention as is the case in Albania, Finland, Montenegro, Portugal, and Serbia.⁵⁶⁷ A promising practice highlighted by GREVIO in its baseline evaluation report on Albania is that the new offence of stalking primarily refers to the intent of the perpetrator, placing the focus on a behaviour-based definition rather than on a result-based

562. See GREVIO's baseline evaluation reports on: Andorra, paragraph 154; Denmark, paragraph 163; Finland, paragraph 158; Malta, paragraphs 163-164; the Netherlands, paragraph 218; Spain, paragraph 210; Sweden, paragraph 177; and Turkey, paragraph 216.

563. See GREVIO's baseline evaluation reports on: Belgium, paragraph 153; Denmark, paragraph 163; France, paragraph 188; Malta, paragraph 164; and Serbia, paragraph 178.

564. See GREVIO's baseline evaluation reports on: Andorra, paragraph 157; France, paragraph 189; Spain, paragraph 214.

565. See GREVIO's baseline evaluation reports on: Andorra, paragraph 157; France, paragraph 189; Montenegro, paragraph 178; Serbia, paragraph 180; Spain, paragraph 214; Sweden, paragraph 178; and Turkey, paragraph 217.

566. See GREVIO's baseline evaluation report on Montenegro, paragraphs 171-177.

567. See GREVIO's baseline evaluation reports on: Albania, paragraph 129; Finland, paragraph 160; Italy, paragraph 5; Malta, paragraph 166; Montenegro, paragraph 170; the Netherlands, paragraph 220; Portugal, paragraph 3; Serbia, paragraph 181; Spain, paragraph 214; and Sweden, paragraph 179.

one. The Albanian provision also extends the offence to cover behaviour directed not only towards victims but also towards individuals close to the victim, which reflects common tactics of stalkers.⁵⁶⁸ In addition, GREVIO noted with particular interest that in Sweden, the list of offences which constitute stalking include the violation of a non-contact order, which seems to allow law-enforcement agencies to deal with ex-partner stalking.⁵⁶⁹

Challenges

General offences that are ill-suited to capture the offence of stalking

353. While most states evaluated by GREVIO have established a dedicated offence for stalking, as has Albania, Finland, France, Italy, Montenegro, the Netherlands, Portugal, Serbia, Spain, and Sweden,⁵⁷⁰ a few countries such as Monaco and Turkey continue to rely on general criminal provisions, such as assault, threat or coercion, in combination with protection order schemes.⁵⁷¹ In its baseline evaluation reports on Monaco and Turkey, GREVIO found this approach to be problematic, as such provisions did not adequately cover the constituent elements of the offence of stalking as defined under Article 34 nor did they reflect the seriousness of this offence.⁵⁷² In that regard, Turkey was urged to establish a new dedicated offence of stalking, while Monaco was strongly encouraged to review the criminal law to ensure it captured the criminal nature of stalking.

Stalking offences not in line with the convention

354. Where state parties have introduced dedicated offences for stalking, GREVIO has identified in its baseline evaluation reports on Finland and Spain shortcomings with regards to the constitutive elements of the offence and/or additional requirements that are not in line with the convention.⁵⁷³ For instance in its baseline evaluation report on Finland, GREVIO expressed its concern that according to the *travaux préparatoires* of the Finnish criminal code, a prerequisite for stalking is that the victim has expressed their concern that the acts are unwanted, even though the offence of stalking as defined in the criminal code does not require this.⁵⁷⁴ Indeed, GREVIO noted that law-enforcement authorities did place high relevance on the victims' own behaviour and that there had been instances in which stalking had been considered by the court to commence only after the victim had requested the perpetrator to stop.⁵⁷⁵ Moreover, as regards Spain, victims are asked to prove that the insistent and repeated threatening behaviour of the stalker has caused them a serious alteration of their daily routine, effectively reversing the burden of proof by focusing on the behaviour of the victim rather than that of the perpetrator.⁵⁷⁶

Lack of effective implementation and preventive measures

355. A further trend that has been noted in its baseline evaluation reports on Finland, Malta, the Netherlands, and Serbia is the lack of effective implementation.⁵⁷⁷ More specifically, GREVIO has expressed concern around the inadequate guidance provided to criminal justice professionals on how to handle the complex nature of stalking and avoid placing a disproportionate weight on the victims' behaviour. By way of example, GREVIO has strongly encouraged the Finnish authorities⁵⁷⁸ to revise or reform the existing guidance to ensure that the offence of stalking does not require that the acts are made against the victim's will, and encouraged the Dutch authorities to improve and implement investigation and prosecution guidelines.⁵⁷⁹ GREVIO has further observed that low levels of implementation are linked to poor awareness and understanding of the dangers of stalking, and particularly, about ex-partner stalking. In its baseline evaluation reports on

568. See GREVIO's baseline evaluation report on Albania, paragraph 130.

569. See GREVIO's baseline evaluation report on Sweden, paragraph 179.

570. See GREVIO's baseline evaluation reports on: Albania, paragraph 129; Finland, paragraph 160; France, paragraph 187; Italy, paragraph 5; Malta, paragraph 166; Montenegro, paragraph 170; the Netherlands, paragraph 220; Portugal, paragraph 171; Serbia, paragraph 181; Spain, paragraph 215; and Sweden, paragraph 179.

571. See GREVIO's baseline evaluation reports on: Monaco, paragraph 114; and Turkey, paragraph 219.

572. See GREVIO's baseline evaluation reports on: Monaco, paragraph 114; and Turkey, paragraphs 220-221.

573. See GREVIO's baseline evaluation reports on Finland, paragraph 160; and Spain, paragraph 215.

574. See GREVIO's baseline evaluation report on Finland, paragraph 160.

575. See GREVIO's baseline evaluation report on Finland, paragraph 160.

576. See GREVIO's baseline evaluation report on Spain, paragraphs 215-219.

577. See GREVIO's baseline evaluation reports on: Finland, paragraphs 160-164; Malta, paragraphs 166-168; the Netherlands, paragraphs 220-222; and Serbia, paragraph 182.

578. See GREVIO's baseline evaluation report on Finland, paragraphs 160-164.

579. See GREVIO's baseline evaluation report on the Netherlands, paragraph 222.

Serbia,⁵⁸⁰ GREVIO made a broad call for criminal justice professionals to work towards a better understanding of the concept and dangers of stalking, whereas in other reports, such as those on Finland, Malta, and the Netherlands, GREVIO encouraged/strongly encouraged the authorities to conduct specialised training on the gendered and serious nature of stalking.⁵⁸¹ Moreover, GREVIO called for the application of preventive operational measures to avoid re-offending in the baseline evaluation reports on Finland, Malta, the Netherlands, and Spain.⁵⁸² By way of example, in Spain, GREVIO called for specialist preventive operational measures, in particular in relation to post-separation stalking such as through the use of electronic bracelets in addition to protection orders.⁵⁸³

Lack of effective and dissuasive punishment

356. GREVIO also highlighted the issue of effective and dissuasive punishment, particularly in relation to aggravated forms of stalking, an overlapping issue with Article 45 (sanctions and measures). While GREVIO welcomed the fact that aggravating forms of stalking are considered in Malta and Spain,⁵⁸⁴ concern was raised that the punishment for stalking is weak in some countries, such as Finland.⁵⁸⁵

Collection of data on stalking

357. A new trend that emerged from the most recent evaluation reports, such as France, Malta, and Spain, is the focus on improving the collection of data on stalking, including its on-line dimension as regards Spain.⁵⁸⁶

Issues unique to specific parties

358. Only Denmark used its right to make a reservation to Article 34 and opt for non-criminal sanctions instead of criminal sanctions to respond to stalking.⁵⁸⁷ While states have the possibility to make such a reservation, GREVIO questioned the effectiveness and persuasiveness of the Danish restraining order regime as it is only after the stalker has violated the restraining order that criminal prosecution can occur. In its baseline evaluation report on Serbia, GREVIO observed that the trivialisation of stalking within public discourse and a general lack of understanding by society of its serious consequences, as well as the related media backlash, have hampered the implementation of the new offence.⁵⁸⁸

Article 35 – Physical violence

359. Article 35 requires parties to ensure that the intentional conduct of committing acts of physical violence against another person is criminalised. Not many baseline evaluation reports have addressed specifically this Article of the convention. Where GREVIO baseline evaluation reports have addressed physical violence, such as in the cases of Albania, Andorra, Monaco, and Spain, it was typically done in conjunction with psychological violence (Article 33) and consisted of a description of the general offences that could encompass different forms of physical violence.⁵⁸⁹ In other baseline evaluation reports, such as those on Denmark, Montenegro and Sweden, GREVIO has addressed physical violence under the discussion of domestic violence.⁵⁹⁰ No GREVIO findings specific to physical violence have been made.

580. See GREVIO's baseline evaluation report on Serbia, paragraph 183.

581. See GREVIO's baseline evaluation reports on: Finland, paragraph 16; Malta, paragraph 1684; and the Netherlands, paragraph 222.

582. See GREVIO's baseline evaluation reports on: Finland, paragraph 164; Malta, paragraph 168; the Netherlands, paragraph 222; and Spain, paragraph 219.

583. See GREVIO's baseline evaluation report on Spain, paragraph 219.

584. See GREVIO's baseline evaluation report on Malta, paragraphs 166-168.

585. See GREVIO's baseline evaluation report on Finland, paragraphs 160-164.

586. See GREVIO's baseline evaluation reports on: France, paragraph 189; Malta, paragraph 168; and Spain, paragraph 219.

587. See GREVIO's baseline evaluation report on Denmark, paragraph 165.

588. See GREVIO's baseline evaluation report on Serbia, paragraph 182.

589. See GREVIO's baseline evaluation reports on: Albania, paragraphs 131-134; Andorra, paragraph 155; Monaco, paragraph 113; and Spain, paragraph 213.

590. See GREVIO's baseline evaluation reports on: Denmark, paragraph 161; Montenegro, paragraphs 171-177; and Sweden, paragraph 173.

Article 36 – Sexual violence, including rape

Introduction

360. Article 36 requires parties to criminalise all forms of non-consensual acts of a sexual nature, including rape. The central element of the convention's definition of sexual violence is the lack of consent given voluntarily as the result of the person's free will. Paragraph 1 of Article 36 covers all forms of sexual acts which are performed on another person without their freely given consent and which are carried out intentionally. This includes: a) engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object; b) engaging in other non-consensual acts of a sexual nature with a person; and c) causing another person to engage in non-consensual acts of a sexual nature with a third person. Paragraph 2 of Article 36 foresees that consent must be given voluntarily as the result of the person's free will, as assessed in the context of the surrounding circumstances, while paragraph 3 specifies that paragraph 1 also applies to acts committed against former or current spouse or partners.

Promising practices

361. Out of the 17 parties evaluated by GREVIO so far, three have an offence of sexual violence based on the lack of freely given consent, namely Belgium, Malta, and Sweden.⁵⁹¹ GREVIO has positively noted that Malta and Sweden have amended their legislation on sexual violence following their ratification of the Istanbul Convention to comply with Article 36.
362. A sterling example of promising practice has been noted by GREVIO in Sweden, where intercourse or any other sexual act with a person "who is not participating voluntarily" is criminalised.⁵⁹² GREVIO has observed that under this offence, participation must be voluntary and perceived to be so as passivity cannot be, *per se*, considered a sign of voluntary participation. It has further noted that Sweden has introduced the two new offences of "negligent rape" and "negligent sexual abuse" which shift the onus on the perpetrator to ensure that all sexual acts are engaged in voluntarily, as opposed to the traditional focus on the victim's behaviour, including her appearance and actions prior, during and after the act. Reports show that the number of reported instances of rape has increased since the new rape legislation came into force. Prior to the changes to the law, in fact, many rape cases were dismissed due to a lack of evidence, and, in cases where prosecution did not result in a conviction, this was often due to shortcomings in the evidence.⁵⁹³ GREVIO also commended Belgium for its definition of sexual violence which rests on the victim's lack of consent. The criminal code of Belgium defines rape as "any act of sexual penetration, of whatever nature and by whatever means, committed in respect of a person who has not given consent".⁵⁹⁴ Another practice worthy of note is the recent amendments to the criminal code of Malta, which GREVIO noted were more explicit than the convention in requiring not only that consent "be assessed in the context of the surrounding circumstances" but that attention should be given to the "state of that person at the time, taking into account that person's emotional and psychological state, amongst other considerations".⁵⁹⁵ GREVIO has encouraged the Maltese authorities to monitoring the implementation of the newly drafted offence of rape by collecting statistics.
363. Finally, and bearing in mind that GREVIO has not yet had the opportunity to assess this development, it is extremely promising that following GREVIO's baseline evaluation of Denmark and its urging that the party amend its rape law in line with the standard of the convention, Denmark amended its law on 17 December 2020 by criminalising sex without explicit consent. In order to bring a rape charge, the law previously required proof of violence, threat or evidence that the victim was unable to fend off the assault, whereas the new provision now clearly states that if both parties do not consent to sex, then it is rape.

591. See GREVIO's baseline evaluation reports on: Belgium, paragraphs 155-156; Malta, paragraphs 169-171; and Sweden, paragraphs 181-183.

592. See GREVIO's baseline evaluation report on Sweden, paragraphs 181-183.

593. See "The New Consent Law in Practice an Updated Review of the Changes in 2018 to the Legal Rules Concerning Rape", Swedish National Council for Crime Prevention (Brå), 2020, p. 5.

594. See GREVIO's baseline evaluation report on Belgium, paragraph 155.

595. See GREVIO's baseline evaluation report on Malta, paragraphs 169-171.

Challenges

Additional steps needed to bring legislation in line with the Istanbul Convention

364. While several parties such as Austria, Montenegro, and Portugal have passed new laws following their ratification of the Istanbul Convention to criminalise non-consensual sexual acts and have departed from narrower definitions of sexual offences that required proving the offender's use of force or threats, GREVIO identified that additional steps would be required to bring those legislations fully in line with the convention.⁵⁹⁶ For example, GREVIO noted in its baseline evaluation report on Austria that while the offence of "violation of sexual integrity" covers instances of sexual intercourse or equivalent conduct "against the will of a person", this means that for non-consensual sexual acts to be punishable under Austrian legislation, the victim must express her opposing will verbally or otherwise, hence not covering instances where the victim remains passive but does not consent. GREVIO further noted with concern that in Austria and Montenegro, recent amendments criminalising non-consensual sexual acts only concerned acts involving penetration or the equivalent; while in Portugal, amendments to sexual coercion and rape offences did not definitely do away with the requirement of the use of force, since the term "constrain" was used to qualify these sexual offences. GREVIO noted that this was not sufficient to break away from the long-standing practice of courts to require proof of the victim's resistance in order to sentence the perpetrator.

Criminal offences not based on the notion of freely given consent

365. A significant number of parties, notably, Albania, Andorra, Finland, France, Italy, Monaco, the Netherlands, Serbia, and Spain continue to require as constituent elements of the offence of sexual violence, including rape, the use of violence, coercion, compulsion, threat, intimidation or a state or situation of the victim which makes her incapable of resisting.⁵⁹⁷ GREVIO did, however welcome the law reform efforts which were being discussed in the Netherlands, Serbia, and Spain at the time of GREVIO's respective evaluations. In its baseline evaluation reports on Andorra, Finland, and Spain, GREVIO has clearly stated that the above-mentioned approach requiring elements of violence, coercion and threat, do not fully capture the realities of women experiencing sexual violence and their coping mechanisms to such violence, which includes, reactions such as flight, fight, freeze, flop or befriend. As noted in the baseline evaluation report on Spain, research on the neurobiology of sexual trauma, conducted on victims of rape, shows that "freezing" (so-called "tonic immobility") is a common reaction by victims associated with subsequent post-traumatic stress disorder (PTSD) and severe depression.⁵⁹⁸ This conflicts with the requirement that prosecutions of sexual offences are to be based on a context-sensitive assessment of the evidence in order to establish on a case-by-case basis whether or not the victim has freely consented to the sexual act.⁵⁹⁹ GREVIO has therefore strongly encouraged/urged the relevant parties to amend legislation covering sexual violence so that it is based on the notion of freely given consent as required by Article 36 of the convention.

Gaps in the type of sexual acts covered by the law

366. Likewise, GREVIO noted in its baseline evaluation reports on Albania, Austria, Monaco, Montenegro, Sweden and Turkey that the criminal laws did not cover the specific conduct referred to in Article 36, paragraph 1, indent c, namely causing another person to engage in non-consensual acts of a sexual nature with a third person.⁶⁰⁰ GREVIO noted consistently that the scope of criminal intent is wider than under the crime of

596. See GREVIO's baseline evaluation reports on: Austria, paragraphs 140-142; Montenegro, paragraphs 179-180; and Portugal, paragraph 174.

597. See GREVIO's baseline evaluation reports on: Albania, paragraphs 135-138; Andorra, paragraphs 158-161; Denmark, paragraphs 174-176; Finland, paragraphs 165-168; France, paragraphs 190-195; Italy, paragraphs 189-190; Monaco, paragraph 116; the Netherlands, paragraphs 223-225; Serbia, paragraphs 184-186; and Spain, paragraphs 220-224.

598. See GREVIO's baseline evaluation reports on Spain, paragraph 221, including its footnote 110, that states that: "Research studies show that a substantial number of victims do not resist the perpetrator in any way: tonic immobility is described as an involuntary, temporary state of motor inhibition in response to situations involving intense fear. In various studies, significant immobility was reported by 37% to 52% of sexual assault victims". See Moller A., Sondergaard H. P. and Helstrom L (2017), "Tonic immobility during sexual assault – a common reaction predicting post-traumatic stress disorder and severe depression", *Acta Obstetrica et Gynecologica Scandinavica*, 2017; 96: pp. 932-938.

599. Explanatory Report, paragraph 192.

600. See GREVIO's baseline evaluation reports on: Albania, paragraphs 135-138; Austria, paragraphs 140-142; Monaco, paragraph 116; Montenegro, paragraphs 179-180; Sweden, paragraphs 181-183; and Turkey, paragraphs 222-225.

aiding and abetting because it aims to capture more than the instigation or the act of facilitating a crime. It in fact aims to criminalise the malevolent conduct of abrogating a woman's sexual self-determination. GREVIO has therefore called these parties to criminalise the non-consensual sexual behaviour described in paragraph 1, indent c of Article 36 of the convention.

Sanctions

367. In a number of baseline evaluation reports, including those on Finland and Andorra, GREVIO specifically noted the low sanctions imposed for sexual violence offences.⁶⁰¹ Furthermore, in its baseline evaluation reports on Denmark, Finland, and Serbia, GREVIO has warned against the creation of a hierarchy of victims on the basis of their characteristics, such as age, helplessness, dependence, disability or others, calling for appropriate legislative measures to send the message that rape is rape. Nonetheless, where the circumstances of the act are particularly violent, abusive, and traumatising, aggravating circumstances should be applied to ensure a sanction commensurate with the gravity of the act.⁶⁰²

Issues unique to specific parties

368. The baseline evaluation report on France raised the unique issue of the so-called judicial practice of "correctionalisation" which makes it possible to reclassify the crime of rape as a sexual assault offence and to try it before a criminal court instead of the court of assises, a court which tries more serious crimes, provided that the victim does not object.⁶⁰³ GREVIO noted that while "correctionalisation" might be seen as more expeditious, it minimises the seriousness of rape and requires women victims of rape to bear the consequences of a less than expeditious court system. As regards the offence of rape involving "mature" minors in Albania, GREVIO recalled that the minimum age for sexual consent should not rely on arbitrary criteria and that puberty is not an indicator of becoming an adult.⁶⁰⁴

Article 37 – Forced marriage

Introduction

369. Under Article 37 parties are required to criminalise two types of conduct: 1) forcing a person to enter into a marriage; and 2) luring a person abroad with the intention of forcing this person to marry against their will (even if the marriage has not been concluded). The core element of forced marriage is the absence of consent of the victim.

Promising practices

370. GREVIO has noted that parties such as Albania, Andorra, Italy, Malta, Serbia, Spain, and Sweden, have established autonomous criminal offences that cover both the conduct of forcing a person to enter into a marriage and luring a person abroad with this purpose, including following the signature and/or ratification of the Istanbul Convention as regards Albania, Andorra, and Spain.⁶⁰⁵

371. In its baseline evaluation report on Sweden, GREVIO found that the criminal code fully complied with the requirements of the convention and that the relevant offence encompassed both forcing an adult or child into marriage and luring an adult or child abroad for the purposes of a forced marriage. GREVIO noted with particular interest that both offences also cover the act of forcing someone into a customary marriage, if it is entered into in accordance with rules that apply within a group.⁶⁰⁶ A similar practice was highlighted in Portugal, where the offence of forced marriage can also be invoked in the case of informal marriages with no legal standing.⁶⁰⁷

601. See GREVIO's baseline evaluation reports on: Andorra, paragraph 161; and Finland, paragraph 167.

602. See GREVIO's baseline evaluation reports on: Denmark, paragraph 178; Finland, paragraph 167; and Serbia, paragraph 186.

603. See GREVIO's baseline evaluation report on France, paragraphs 190-195.

604. See GREVIO's baseline evaluation report on Albania, paragraphs 135-138.

605. See GREVIO's baseline evaluation reports on: Albania, paragraph 141; Andorra, paragraph 163; Italy, paragraph 192; Malta, paragraph 173; Serbia, paragraph 188; Spain, paragraphs 226-227; and Sweden, paragraph 185.

606. See GREVIO's baseline evaluation report on Sweden, paragraphs 185-189.

607. See GREVIO's baseline evaluation report on Portugal, paragraph 171.

Furthermore, in Sweden, innovative approaches have been taken that seek to prevent girls from being taken abroad, particularly during the summer holiday period, to be married against their will, such as encouraging girls who fear being forced into marriage during a holiday in the country of origin of their family to carry a spoon in their private garments in order to set off the alarm at the security check. The aim is to allow the girl to be taken aside and spoken to by a trained counsellor about her situation. The latter can then provide information on measures of support and protection.

Challenges

Dedicated criminal offences not covering all conduct

372. Progress has been achieved in Albania, Andorra, Italy, Malta, Serbia, Spain, and Sweden, which have recently established autonomous criminal offences that cover both types of conduct covered by Article 37.⁶⁰⁸ However, GREVIO noted a few shortcomings in some of these parties, such as low penalties in Albania, or a restrictive scope of application in Serbia and Spain. Notably, GREVIO noted in its baseline evaluation report on Serbia that only the luring of adults was criminalised. It further observed in its baseline evaluation report on Spain that there were concerns regarding how the criminal element of “seriousness of the intimidation” might restrict the scope of application of the offence. Parties such as Montenegro and Portugal have also adopted specific criminal offences on forced marriage, albeit not covering the conduct of luring a person abroad for the purposes of forced marriage (Article 37, paragraph 2).⁶⁰⁹ In these cases, GREVIO accordingly called for a review/revision of the legislation in line with Article 37 of the convention.

General offences that are ill-suited to sufficiently cover the offence of forced marriage

373. GREVIO identified specific challenges in its baseline evaluation reports on Finland, France, the Netherlands, and Turkey, where the parties have indicated that the offences of violence, abduction or the offence of human trafficking are used to capture the offence forced marriage.⁶¹⁰ While noting that the Istanbul Convention does not require establishing specific offences for each form of violence against women, and recognising, at the same time, the potential overlap between forced marriage and trafficking in human beings, GREVIO has clarified that the offence of trafficking in human beings often does not cover all forms of forced marriage. Accordingly, it called on Finland, the Netherlands, and Turkey to introduce a dedicated criminal offence for forced marriage. Moreover, in its baseline evaluation reports on Belgium, Finland, and Monaco, GREVIO noted that the general offences did not cover the conduct of luring a person to a third country for the purposes of forced marriage (Article 37, paragraph 2).⁶¹¹ GREVIO consequently requested Belgium, Finland, France, Montenegro, and Portugal to review the criminal laws and/or the criminalise the conduct which was not yet covered by the provisions in place.⁶¹²

Low reporting and conviction rates

374. Despite the progress achieved in the criminal legal framework, GREVIO noted with concern the low rates of reported cases, prosecutions and convictions for the offence of forced marriage, despite available research in some states such as Albania, Andorra, Finland, Malta, the Netherlands, Serbia, and Sweden, showing that such incidents are on the rise.⁶¹³ In order to build strong cases for prosecution, GREVIO has emphasised in some parties such as Malta, Spain, and Sweden the need for victim support, as victims

608. See GREVIO's baseline evaluation reports on: Albania, paragraphs 140-144; Andorra, paragraphs 163-165; Italy, paragraphs 192-194; Malta, paragraphs 173-175; Serbia, paragraphs 188-189; Spain, paragraphs 226-230; and Sweden, paragraphs 185-189.

609. See GREVIO's baseline evaluation reports on: Montenegro, paragraph 191; and Portugal, paragraph 171.

610. See GREVIO's baseline evaluation reports on: Finland, paragraphs 170-174; France, paragraphs 197-198; the Netherlands, paragraphs 227-229; and Turkey, paragraphs 235-244.

611. See GREVIO's baseline evaluation reports on: Belgium, paragraph 158; Finland, paragraphs 170-174; and Monaco, paragraph 117.

612. See GREVIO's baseline evaluation reports on: Belgium, paragraph 159; Finland, paragraph 175; France, paragraph 199; Montenegro, paragraph 192; and Portugal, paragraphs 170-171.

613. See GREVIO's baseline evaluation reports on: Albania, paragraphs 140-144; Andorra, paragraphs 163-165; Finland, paragraphs 170-174; Malta, paragraphs 173-175; the Netherlands, paragraphs 227-229; Serbia, paragraphs 188-189; and Sweden, paragraphs 185-189.

might hesitate to be involved in a conviction of a close family member.⁶¹⁴ Another challenge underlined in the baseline evaluation reports on Monaco and Montenegro was the requirement under the law to ask for an annulment of the marriage, before criminal proceedings could be initiated.⁶¹⁵ GREVIO highlighted how this issue raises significant legal and practical barriers for the victim. Furthermore, in the baseline evaluation reports on Malta and Serbia, GREVIO noted with concern a worrying tendency of the authorities to view forced marriages that have been celebrated according to the own customs of certain ethnic communities (as opposed to civil marriages) as part of their own customs or traditions and as practices that are not recognised in the state party.⁶¹⁶ Consequently, these authorities have considered that they do not prompt the application of criminal law provisions. GREVIO has accordingly called for awareness-raising, training of the relevant professionals and/or protocols in Albania, Andorra, Malta, the Netherlands, and Spain.⁶¹⁷ Also, with a view to improving the implementation of the legal framework as well as the rate of reporting and conviction, GREVIO has requested the authorities from Albania, Montenegro, and Serbia to remove the identified procedural obstacles.⁶¹⁸

Overlap between child and forced marriage

375. The issue of child marriage and the overlap with forced marriage was highlighted in the baseline evaluation reports on Albania, Andorra, Malta, Montenegro, Serbia, and Turkey.⁶¹⁹ While GREVIO wished to distinguish between arranged and forced marriages, as the first does not fall within the scope of Article 37, as well as between underage marriage and forced marriage, it pointed out that the young age of brides means that they are at a higher risk of not being able to express their full and free consent to a marital union, or to resist a forced marriage. GREVIO recalled that early and forced marriages are widely acknowledged as a harmful practice that violates, abuses, or impairs human rights and is linked to and perpetuates other harmful practices and human rights violations.

Article 38 – Female genital mutilation

Introduction

376. Article 38 aims to criminalise the traditional practice of cutting away certain parts of the female genitalia. Each sub-paragraph of Article 38 covers a different type of conduct: sub-paragraph (a) criminalises the act of excising, infibulating or performing any other mutilation to the female genitals; sub-paragraph (b) covers the act of assisting the perpetrator to perform such acts by coercing or procuring an adult woman to undergo any acts of FGM; whereas sub-paragraph (c) covers the act of assisting the perpetrator when a girl is involved and includes inciting in addition to coercing and procuring. The drafters felt it important to differentiate between adult women and girls because the conduct to incite a girl involves the intentional exertion of influence on a girl who herself does not harbour the intention of undergoing FGM.

Promising practices

377. In its baseline evaluation report on Malta, GREVIO welcomed the existence of a dedicated offence in line with the convention and noted with interest that any third party who “knowingly fails to avert FGM, by making a complaint or any other manner” may also be criminally liable.⁶²⁰

614. See GREVIO's baseline evaluation reports on: Malta, paragraph 175; Spain, paragraphs 230; and Sweden, paragraph 187.

615. See GREVIO's baseline evaluation reports on: Montenegro, paragraph 186; and Monaco, paragraph 117.

616. See GREVIO's baseline evaluation reports on: Malta, paragraph 174; and Serbia, paragraphs 188-189.

617. See GREVIO's baseline evaluation reports on: Albania, paragraph 145; Andorra, paragraphs 163-165; Malta, paragraphs 173-175; the Netherlands, paragraphs 227-229; and Spain, paragraphs 226-230.

618. See GREVIO's baseline evaluation report on: Montenegro, paragraph 192; and Serbia, paragraph 190.

619. See GREVIO's baseline evaluation reports on: Albania, paragraphs 140-144; Andorra, paragraphs 163-165; Malta, paragraphs 173-175; Montenegro, paragraphs 183-191; Serbia, paragraphs 188-189; and Turkey, paragraphs 235-244.

620. See GREVIO's baseline evaluation report on Malta, paragraphs 177-180.

Challenges

Gaps in the legal framework

378. While GREVIO identified parties such as Italy, Monaco, Montenegro, Portugal, Serbia, and Spain as having introduced dedicated offences for FGM,⁶²¹ in some cases following the signature and/or ratification of the Istanbul Convention, other parties such as Albania, Andorra, Finland, the Netherlands, and Turkey have chosen to criminalise FGM through the application of broader offences such as intentional injury or aggravated assault.⁶²² Other parties to the convention also criminalise FGM although GREVIO did not offer findings in this regard. In both sets of parties, GREVIO has identified gaps in the criminalisation of the conduct set out in Article 38. Notably, GREVIO noted that the conduct of coercing or procuring a woman to undergo FGM (indent b) and the conduct of inciting, coercing or procuring a girl to undergo FGM (indent c) appeared to remain outside the scope of provisions that cover FGM in most reviewed parties.⁶²³ The baseline evaluation reports on Andorra, Finland, Serbia, and Spain provided a detailed analysis regarding how the requirement to criminalise aiding or abetting the commission of FGM, which stems from Article 41, of the convention differs from Article 38 indent b and c both in terms of the constituent element of the crime (*actus reus*) and the scope of intent (*mens rea*). They specify that these two sub-paragraphs require the criminalisation of the behaviour that involves the intentional exertion of influence or coercion on a girl who herself does not harbour the intention of undergoing FGM. They seek to ensure that criminal liability incurs, for example, where relatives or community members incite, coerce or procure a girl to undergo FGM but do not take an active part in ensuring the procedure is carried out. Aiding and abetting would require the actual commission of FGM, whereas the act of coercing or procuring an adult woman (Article 38b) or inciting, coercing or procuring a girl (Article 38b) involves a behaviour that is below the threshold of aiding and abetting and irrespective of the final commission of the act of excision, infibulation or any other mutilation. In the nine above-mentioned state reports where such challenges were identified, GREVIO included findings to review the criminal laws to ensure alignment with the convention.

Low rates of reporting, prosecution, and conviction

379. A challenge identified by GREVIO in its baseline evaluation reports on Finland, Malta, the Netherlands, and Spain is the low number of reports and the absence of prosecutions for FGM.⁶²⁴ Moreover, GREVIO noted in its baseline evaluation reports on Albania, Andorra and Serbia that there have been no recorded convictions.⁶²⁵ Another common trend that has been identified across a number of parties, including Albania, Andorra, Finland, Malta, Spain and Turkey is the low level of awareness, knowledge and understanding of FGM by professionals and society.⁶²⁶ By way of example, GREVIO expressed concern in its baseline evaluation report on in Malta that there was a lack of an understanding on how to identify children at risk or potentially at risk of being taken out of the country to perform FGM and that preventive action was not being taken. It stressed the importance for all relevant professionals, including those in education establishments to be made aware of this issue and have a clear protocol to follow in such cases. Accordingly, GREVIO strongly encouraged the authorities of Albania, Malta, and Turkey to provide training and guidelines to all professionals who may be in contact with women and girls at risk of FGM.⁶²⁷ In its baseline evaluation reports on the Netherlands and Serbia, GREVIO also noted the need for better data collection to determine the effectiveness of the criminal provisions.⁶²⁸

621. See GREVIO's baseline evaluation reports on: Italy, paragraphs 195-196; Monaco, paragraph 118; Montenegro, paragraph 170; Portugal, paragraph 170; Serbia, paragraphs 191-192; and Spain, paragraphs 232-234.

622. See GREVIO's baseline evaluation reports on Albania, paragraphs 146-147; Andorra, paragraphs 167-168; Finland, paragraphs 176-177; the Netherlands, paragraph 231; and Turkey, paragraphs 246-247.

623. See GREVIO's baseline evaluation reports on: Albania, paragraph 130; Andorra, paragraphs 167-168; Finland, paragraphs 176-177; Italy, paragraphs 195-196; Monaco, paragraph 118; Serbia, paragraphs 191-192; Spain, paragraphs 232-234; and Turkey, paragraphs 246-247.

624. See GREVIO's baseline evaluation reports on: Finland, paragraph 177; Malta, paragraph 178; the Netherlands, paragraph 231; and Spain, paragraph 232.

625. See GREVIO's baseline evaluation reports on: Albania, paragraph 147; Andorra, paragraph 168; and Serbia, paragraph 192.

626. See GREVIO's baseline evaluation reports on: Albania, paragraphs 146-147; Andorra, paragraphs 167-168; Finland, paragraphs 176-177; Malta, paragraph 177-180; Spain, paragraphs 232-234; and Turkey, paragraphs 246-247.

627. See GREVIO's baseline evaluation reports on: Albania, paragraph 148; Malta, paragraph 181; and Turkey, paragraph 248.

628. See GREVIO's baseline evaluation reports on: the Netherlands, paragraph 232; and Serbia, paragraphs 191-192.

Issues unique to specific parties

380. The baseline evaluation report on Serbia as the only report where the analysis showed that the offence of FGM was limited to only the outer parts of a woman's genitalia rather than "any and all" parts of a woman's genitalia and limited to adult women, not minor girls.⁶²⁹ The baseline evaluation report on Spain mentioned the concern that parents convicted for the genital mutilation of their girls lose their parental rights as ancillary punishment to imprisonment, and the girls are subsequently taken into care, resulting in reluctance to disclose.⁶³⁰

Article 39 – Forced abortion and forced sterilisation

Introduction

381. Under Article 39, paragraph 1, parties are required to criminalise the intentional termination of pregnancy without the prior and informed consent of the victim. Under Article 39, paragraph 2, parties are required to criminalise the performance of a surgery that has the purpose or effect of terminating a woman's capacity to naturally reproduce if this is done without her prior and informed consent.

Challenges

Legal framework and lack of data

382. All of the reviewed parties have criminalised forced abortion. Conversely, forced sterilisation has been introduced as a specific criminal offence only in France, Malta, Portugal, Spain, and Turkey.⁶³¹ In parties such as Belgium, Italy, and Serbia forced sterilisation can be prosecuted under other offences such as aggravated personal injury, grievous bodily harm or assault.⁶³² However, GREVIO noted in its baseline evaluation reports on Malta, Italy, and Turkey that the absence of data makes it difficult to assess the effective implementation of the legal framework.

Shortfall in protection of women who lack capacity to consent

383. Lacunae with regards to the protection of women who lack capacity to consent have been noted in several baseline evaluation reports, including those on Belgium, France, Serbia, and Spain.⁶³³ In Serbia, GREVIO expressed concern with regards to the situation of women with disabilities in residential institutions who are particularly vulnerable to forced abortion. It noted that with respect to women with disabilities who are under guardianship, guardians frequently appear to give consent to an abortion on the assumption that this is in the best interest of the woman concerned. GREVIO clarified in this respect that more must be done to ensure that the medical intervention legally consented to by the guardian is in line with the actual will of the woman concerned and has called on the authorities of Belgium, France, Serbia to ensure the respect for women's informed and free consent, in particular where women with disabilities are concerned. In Spain, GREVIO noted that guardians can no longer authorise sterilisation and that power is now accorded to judges. Concerns remained, however, on the lack of transparency of these procedures. It expressed in particular the concern that procedures for legal incapacitation may be initiated with a view to authorising the sterilisation of women with disabilities. It also stressed that in view of the far-ranging implications of sterilisation, more must be done to ensure that the reproductive rights of women with disabilities are respected by offering them the full range of birth control options without resorting to invasive and permanent measures such as sterilisation. It therefore urged the Spanish authorities to ensure that in any procedures authorising the sterilisation of legally incapacitated women, less invasive birth control options are considered, with due regard to the best interest and self-determination of the women concerned. Moreover, it encouraged the authorities to pursue their efforts to ensure that women with disabilities who undergo consensual sterilisation can make their decision on the basis of sufficient

629. See GREVIO's baseline evaluation report on Serbia, paragraphs 191-192.

630. See GREVIO's baseline evaluation report on Spain, paragraphs 232-234.

631. See GREVIO's baseline evaluation reports on: France, paragraph 200; Malta, paragraph 182; Portugal, paragraph 170; Spain, paragraph 236; and Turkey, paragraph 249.

632. See GREVIO's baseline evaluation reports on: Belgium, paragraph 160; Italy, paragraph 198; and Serbia, paragraph 194.

633. See GREVIO's baseline evaluation reports on: Belgium, paragraph 160; France, paragraph 200; Serbia, paragraph 194; and Spain, paragraph 236.

information designed in a disability-accessible manner, which is presented to them by professionals who are trained on gender and disability issues. GREVIO has also noted that at the time of the evaluation, a draft law was being discussed that would repeal judicial authorisation of sterilisation and require the full and informed consent of women with disabilities. This law was adopted on 15 October 2020.

Issues unique to specific parties

384. GREVIO's baseline evaluation report on Albania noted with concern the phenomenon of sex selection and the alarming levels of skewed sex ratio at birth. While the convention does not address explicitly sex selection abortion, instances where women are pressured to undergo a sex selection abortion might qualify as forced abortion, or psychological, or physical violence.⁶³⁴ Accordingly, GREVIO invited the Albanian authorities to raise awareness around the issue of sex selection abortions and to build capacity of professionals to detect and prevent this form of violence.

Article 40 – Sexual harassment

Introduction

385. The offence of sexual harassment defined in Article 40 captures any form of unwanted verbal, non-verbal or physical conduct, of a sexual nature, with the purpose or effect of violating the dignity of a person. Sexual harassment is neither limited to the workplace nor to the family and can occur in multiple contexts, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment. The convention allows parties to choose whether to sanction perpetrators of this offence either through criminal or non-criminal sanctions. Eight of the reviewed state parties, notably, Albania, Andorra, France, Malta, Portugal, Serbia, Spain, and Turkey, have a dedicated offence for sexual harassment which imposes criminal sanctions.⁶³⁵ Other parties, including Finland, Italy, Monaco, Montenegro, and the Netherlands address sexual harassment through broader criminal offences. Some of these parties, notably, Finland, Italy, and Montenegro, concurrently, also cover some conducts typical of sexual harassment through other legislation that imposes non-criminal sanctions.⁶³⁶

Promising practice

386. In its baseline evaluation report, GREVIO positively noted the recent amendments introduced in France, following the ratification of the Istanbul Convention, that criminalise a wide spectrum of behaviour as sexual harassment.⁶³⁷ This includes verbal and non-verbal conduct not only of a sexual nature, but also of a *sexist* nature, as well as verbal and non-verbal conduct imposed on the same victim by a plurality of individuals, acting either in isolation or together, even when it is not repeated. The amendments also establish the new offence of sexist insult, which does not require a pattern of behaviour, thus making it possible to punish an isolated incident. GREVIO also noted the existence, since 2016, of the dedicated offence of revenge porn to prosecute sexual harassment committed on the Internet.

Challenges

Gaps in the scope of the offence

387. In several evaluation reports, GREVIO has noted with concern a limited scope of application of the respective criminal offences, when compared to the requirements of the convention. In its baseline evaluation report on Monaco, for example, GREVIO noted that the offence added the additional requirement that

634. See GREVIO's baseline evaluation report on Albania, paragraphs 149-151.

635. See GREVIO's baseline evaluation reports on: Albania, paragraphs 154-155; Andorra, paragraph 170; France, paragraph 203; Malta, paragraph 183; Portugal, paragraphs 173-174; Serbia, paragraph 198; Spain, paragraphs 240-241; and Turkey, paragraph 251.

636. See GREVIO's baseline evaluation reports on: Finland, paragraph 180; Italy, paragraph 199; Monaco, paragraph 120; Montenegro, paragraph 194; and the Netherlands, paragraph 233.

637. See GREVIO's baseline evaluation report on France, paragraph 203.

the conduct result in the deterioration of the health of the victim, which is a higher threshold compared to that required by the convention - that it violates a person's dignity.⁶³⁸ In its reports on Finland, Italy, Portugal, Serbia, and Spain on the other hand, GREVIO observed gaps in the type of conduct that is criminalised.⁶³⁹ By way of example, in Portugal and Spain, the wording of the offence is more restrictive than that of the convention, requiring exhibitionist behaviour, a sexual proposal or requesting "favours" of a sexual nature. Finally, GREVIO noted a more restrictive scope of application of the offence in Spain as regards the contexts that are covered by the offence, which in Spain are limited to the workplace, education establishments or businesses.⁶⁴⁰ GREVIO has therefore consistently highlighted, irrespective of whether there is a dedicated offence for sexual harassment, that any conduct of a sexual nature which has the purpose or effect of violating the dignity of the victim should be sanctioned, in all spheres of life. It has also encouraged/strongly encouraged the authorities of Monaco, the Netherlands, Portugal, and Spain to revise the criminal offences in order to ensure align them with Article 40 of the convention.⁶⁴¹

Gaps in civil law sanctions

388. GREVIO has identified shortcomings in those state parties that sanction sexual harassment with non-criminal sanctions. It noted in its baseline evaluation report on Finland (for those conducts that are covered under equality legislation and/or labour law), for example, that compensation could only be ordered against the employer, rather than the perpetrator.⁶⁴² Whereas, in its baseline evaluation reports on Finland, Italy, and Montenegro, it also criticised that the offence applied in limited contexts, such as in the workplace or in the public sector.⁶⁴³ Once again in its baseline evaluation report on Finland, GREVIO also noted a higher threshold, such as requiring damage to the victim's health. It accordingly strongly encouraged the authorities of Finland, Italy, and Montenegro to take the necessary measures to ensure that sexual harassment experienced in all areas of life is subject to a legal sanction.

Ineffective implementation of the legal framework

389. GREVIO has also raised issues relating to the ineffective implementation of the legal framework in a number of parties, including Albania and Andorra, where the offence of sexual harassment is rarely applied. GREVIO noted in particular in its baseline evaluation reports on Albania and Monaco that this is possibly due to victims' limited awareness of available mechanisms of redress, low awareness among legal professionals, as well as fear of damaging repercussions, including job loss.⁶⁴⁴ It further remarked lack of meaningful data regarding prevalence rates and convictions, as well as non-criminal sanctions handed down for this offence, in parties such as Albania, Finland, France, Italy, Malta, and Montenegro, making it difficult to assess the effectiveness of the legal framework.⁶⁴⁵ It accordingly strongly encouraged these authorities, *inter alia*, to strengthen data collection and monitoring in order to assess the effectiveness of the response system in this area as well as its progress.⁶⁴⁶

Issues unique to specific parties

390. The baseline evaluation report on Serbia specifically expressed the concern that the media backlash against the introduction of the offence of sexual harassment and stalking may have contributed to low reporting.⁶⁴⁷

638. See GREVIO's baseline evaluation report on Monaco, paragraph 120.

639. See GREVIO's baseline evaluation reports on: Finland, paragraph 180; Italy, paragraph 199; Portugal, paragraph 174; Serbia, paragraph 198; and Spain, paragraph 240.

640. See GREVIO's baseline evaluation report on Spain, paragraph 240.

641. See GREVIO's baseline evaluation reports on: Monaco, paragraph 121; the Netherlands, paragraph 236; Portugal, paragraph 175; and Spain, paragraph 242.

642. See GREVIO's baseline evaluation report on Finland, paragraph 180.

643. See GREVIO's baseline evaluation reports on: Finland, paragraph 180; Italy, paragraph 199; and Montenegro, paragraph 194.

644. See GREVIO's baseline evaluation reports on: Albania, paragraph 155; and Monaco, paragraphs 122-123.

645. See GREVIO's baseline evaluation reports on: Albania, paragraph 155; Andorra, paragraph 168; Finland, paragraph 181; France, paragraph 204; Italy, paragraph 200; Malta, paragraph 184; Montenegro, paragraph 195; and Turkey, paragraph 251.

646. See GREVIO's baseline evaluation reports on: Albania, paragraph 156; on Andorra, paragraph 172; and Malta, paragraph 184.

647. See GREVIO's baseline evaluation report on Serbia, paragraph 199.

Article 42 – Unacceptable justifications for crimes, including crimes committed in the name of so-called “honour”

Introduction

391. This Article sets out the obligation for parties, in paragraph 1, to ensure that culture, custom, religion, tradition or so-called “honour”, are not regarded as justification for any of the acts of violence covered by the scope of the convention. This means that parties are required to ensure that criminal law and criminal procedural law do not permit as justifications claims of the accused justifying his or her acts as committed in order to prevent or punish a victim’s suspected, perceived or actual transgression of cultural, religious, social or traditional norms or customs of appropriate behaviour.

Challenges

Unacceptable justifications of crime

392. Only four GREVIO baseline evaluation reports, notably, those on Albania, Italy, Portugal, and Turkey have addressed Article 42 of the convention as these parties allow for a mitigation of punishment that lead to unacceptable justifications of crimes and victim-blaming in cases of violence against women.⁶⁴⁸ In its baseline evaluation report on Albania, GREVIO noted with concern that the mitigating factors of “motivations of positive moral and social values” and “psychiatric distress caused by provocation or the unfair actions of the victim or some other person” are used to justify violence and blame the victim. In its baseline evaluation report on Turkey, GREVIO noted that despite the reform of the Turkish criminal code, which removed the possibility of reducing sentences under the motive of “unjust provocation” for custom killings and further amendments made to ensure that not only the perpetrator of the crime but also members of the family council that took the decision to perform such a killing are charged with the crime, the unjust provocation clause is still in place and can be applied in all *other* cases of violence against women, including killings in the name of “honour”.⁶⁴⁹ GREVIO has, however, also noted in its baseline evaluation reports on Italy and Portugal, that courts continue to invoke the perpetrator’s motives such as “hurt feelings” or “jealousy” to downplay violence and justify a reduced sentence. In its baseline evaluation reports on Italy and Turkey, GREVIO also highlighted the need for further research into the application of mitigating circumstances, to verify whether and to what extent unjustifiable reasons for decreasing the sentences are used. In response to these identified challenges, both baseline evaluation reports on Italy and Turkey call for the dismantling of the concept that the honour and prestige of a man or the family are intrinsically associated with the conduct or presumed conduct of the women related to them, as well as for training of judicial professionals and monitoring of judicial practices, including through data collection.⁶⁵⁰ In its baseline evaluation reports on Albania and Portugal, GREVIO called for criminal law reform to eliminate from the legislation any provisions carrying the potential to reduce the sentencing on account of the victim’s supposed transgressions of cultural, religious, social or traditional norms or customs of appropriate behaviour.⁶⁵¹

Issues unique to specific parties

393. GREVIO’s baseline evaluation report on Turkey refers to reports of women and girls being forced or pressured to commit suicide.⁶⁵² Such reports would indicate that since Turkey has tightened the punishments for crimes committed in the name of “honour”, rather than such deaths being stopped, lives are being ended by different means. Parents are trying to spare their sons from the harsh punishments associated with killing their sisters by pressuring the daughters to take their own lives instead. In that regard, GREVIO has urged the Turkish authorities to ensure that suicides, accidents, and deaths of women which might disguise killings in the name of “honour” are effectively investigated and prosecuted.⁶⁵³

648. See GREVIO’s baseline evaluation reports on: Albania, paragraphs 157-159; Italy, paragraphs 202-205; Portugal, paragraphs 176-178; and Turkey, paragraphs 252-258.

649. The provision on unjust provocation establishes as a general mitigating circumstance the fact that the offence was committed “in a state of anger or severe distress caused by an unjust act”.

650. See GREVIO’s baseline evaluation reports on: Italy, paragraph 205; and Turkey, paragraph 256.

651. See GREVIO’s baseline evaluation reports on: Albania, paragraph 159; and Portugal, paragraph 178.

652. See GREVIO’s baseline evaluation report on Turkey, paragraph 255.

653. See GREVIO’s baseline evaluation report on Turkey, paragraph 253.

Article 45 – Sanctions and measures

Introduction

394. Article 45 requires parties to impose sanctions which are “effective, proportionate and dissuasive”. While this Article is closely linked to Articles 33 to 41 which establish a number of criminal offences, it applies to all types of sanctions, regardless of whether they are of a criminal nature or not. GREVIO underlines that where effective, proportionate and dissuasive sanctions are missing, a counter-productive message is sent to perpetrators implying that committing violence against women, even repeatedly, is not a serious crime.⁶⁵⁴ Ultimately, this leads to a high danger of repetition and escalation of violence, to the detriment of girls’ and women’s right to live free from violence. Further, such a practice goes against the due diligence obligation enshrined in Article 5, paragraph 2, of the convention.

Promising practices

395. GREVIO took positive note of the role played by Turkey’s higher courts in reversing judicial sentences set at the lower limits of the law or who have annulled undue sentence reductions. It noted that this countered the judicial practice of lower instance courts to reduce sentences in cases of domestic violence, despite the existence of proportionate sanctions in the law.⁶⁵⁵

Challenges

Weak sanctions prescribed by law

396. While much discretion is left to the states as to the available possible sanctions for the different types of offence, some of GREVIO’s baseline evaluation reports highlight the existence of weak or lenient sanctions foreseen by the law, such as Albania’s⁶⁵⁶ provisions on forced marriage which foresee a fine or imprisonment of up to three months, and Montenegro’s⁶⁵⁷ offence of domestic violence for which the penalties foreseen are lower compared to similar offences committed outside the family context.

Limited use of the range of sanctions

397. In several baseline evaluation reports, GREVIO expressed concern that judges in their sentencing practice do not easily resort to the full range of punishments that are available.⁶⁵⁸ A recurring challenge identified in its baseline evaluation reports on Serbia and Turkey is the limited use of the range of sanctions by the courts and the tendency to rely more on suspended sentences (Turkey)⁶⁵⁹ and conditional sentences in (Serbia).⁶⁶⁰ In its baseline evaluation reports on Finland, Monaco, Montenegro and Turkey, GREVIO also underlined the problematic use of fines in cases of violence against women, particularly domestic violence, as this punishment can have a negative impact on the victim and create additional insecurities for women and children as victims.⁶⁶¹ Moreover, in its reports on Montenegro and Turkey, GREVIO noted with concern the tendency of the judiciary to apply milder sanctions, which raised the issue of the potential influence of stereotypes on the professional opinion of judges.⁶⁶² GREVIO raised concerns about the limited to no data collection in Albania, Finland, and Turkey, explaining that the absence of data makes it challenging to assess whether, in practice, courts impose sanctions that are proportionate to the seriousness of an offence.⁶⁶³ In response to these challenges, GREVIO strongly encouraged the authorities, *inter alia*, to ensure - through legislative measures and the effective training of members of the judiciary and prosecution services - that sentences and measures imposed for domestic violence offences are effective, proportionate and dissuasive as required by Article 45.⁶⁶⁴

654. See GREVIO’s baseline evaluation report on Turkey, paragraph 261.

655. See GREVIO’s baseline evaluation report on Turkey, paragraph 261.

656. See GREVIO’s baseline evaluation report on Albania, paragraph 160.

657. See GREVIO’s baseline evaluation report on Montenegro, paragraph 198.

658. See GREVIO’s baseline evaluation reports on: Serbia, paragraph 201; and Turkey, paragraph 260.

659. See GREVIO’s baseline evaluation report on Turkey, paragraph 260.

660. See GREVIO’s baseline evaluation report on Serbia, paragraph 201.

661. See GREVIO’s baseline evaluation reports on: Finland, paragraph 183; Monaco, paragraph 130; Montenegro, paragraph 198; and Turkey, paragraph 260.

662. See GREVIO’s baseline evaluation reports on: Montenegro, paragraph 200; and Turkey, paragraph 261.

663. See GREVIO’s baseline evaluation reports on: Albania, paragraphs 160-161; Finland, paragraph 183; and Turkey, paragraph 259.

664. See GREVIO’s baseline evaluation reports on: Finland, paragraph 185; Monaco, paragraph 130; Montenegro, paragraph 201; Serbia, paragraph 202; and Turkey, paragraph 263.

Issues unique to specific parties

398. In its baseline evaluation report on Monaco, GREVIO noted that the absence of the option for judges to resort to alternatives to or adjustments of prison sentences *ab initio* has the effect of limiting the number of custodial sentences handed down in cases involving violence against women and domestic violence.⁶⁶⁵ Another unique challenge was highlighted in the baseline evaluation report on Turkey, where the option of deferring the verdict for five years, which is available under the law, means that if the perpetrator of violence abstains from re-offending during this period of time, all the legal consequences of his act are eliminated and he can be acquitted.⁶⁶⁶ Where recidivism occurs after the expiry of the five-year period, the suspended sentence no longer counts as a previous conviction for the purposes of aggravating the punishment. GREVIO noted with concern that these mechanisms act as a source of impunity for the offender.

Article 46 – Aggravating circumstances

Introduction

399. Article 46 requires parties to ensure that a number of circumstances (listed in indents a to i) may be taken into consideration as aggravating circumstances in the determination of the penalty for offences established in the convention. Parties have flexibility in implementing this provision, given that the various legal systems in Europe have different approaches to aggravating circumstances.
400. The aggravating circumstances foreseen by the convention are mostly taken into account and provided for in the legislation of the states reviewed by GREVIO. Depending on the legal system, some of the aggravating circumstances may form part of the elements of the crime, thus qualifying them as more serious offences punishable by harsher sentences or may be set out in specific criminal law provisions. Another approach consists of establishing a non-exhaustive list of aggravating circumstance in the law coupled with awareness-raising on the convention for the judiciary.

Promising practices

401. In its baseline evaluation report on Austria, GREVIO welcomed the fact that the perpetrator's specific motivation for his actions such as gender bias and misogyny may aggravate the nature of the offence.⁶⁶⁷ GREVIO noted that if applied consistently and adequately, this is an interesting example of ensuring that the gendered nature of violence against women is reflected in criminal justice outcomes. Similarly, in its baseline evaluation report on Andorra, GREVIO noted that the aggravating circumstance of discrimination on the ground of sex provided for in the criminal code is of particular interest as this makes it possible to take into account the gendered aspect of various manifestations of violence against women.⁶⁶⁸ Another promising practice was found in Albania, where GREVIO highlighted that the criminal code goes further than what is required under Article 46 of the convention by contemplating stronger sanctions in cases of offences committed during the period of validity or after the issuance of a protection order.⁶⁶⁹

Challenges

Limited scope of application of aggravating circumstances

402. GREVIO identified a number of challenges regarding the scope of application of aggravating circumstances. For instance, in its baseline evaluation reports on Belgium, France, Monaco, and Portugal, GREVIO noted that aggravating circumstances were applied only to sexual offences or domestic violence offences, rather

665. See GREVIO's baseline evaluation report on Monaco, paragraph 129.

666. See GREVIO's baseline evaluation report on Turkey, paragraph 260.

667. See GREVIO's baseline evaluation report on Austria, paragraph 147.

668. See GREVIO's baseline evaluation report on Andorra, paragraph 173.

669. See GREVIO's baseline evaluation report on Albania, paragraph 168.

than to all forms of violence against women covered by the convention.⁶⁷⁰ GREVIO also noted with concern a limited application of the aggravating circumstance foreseen in sub-paragraph a, namely “that the offence was committed against a former or current spouse or partner as recognised by internal law, by a member of the family, a person cohabitating with the victim or a person having abused her or his authority” because not all the categories of victims listed in Article 46 are covered under the relevant provisions (Turkey)⁶⁷¹ and/or, in the case of Montenegro, due to a restrictive definition of family.⁶⁷² GREVIO has further noted the non-implementation of the above-mentioned aggravating circumstance in cases of sexual offences in Monaco⁶⁷³ and Turkey. Another shortcoming identified by GREVIO was that Italy, France and Portugal’s legal frameworks did not envisage the aggravating circumstance foreseen in sub-paragraph h, namely that “the offence resulted in severe physical or psychological harm for the victim”.⁶⁷⁴ The most recurring shortcoming was related to sub-paragraph d, namely “that the offence was committed against or in the presence of a child”. In its baseline evaluation reports on Belgium, Denmark, Finland, Monaco, the Netherlands, Serbia, and Turkey,⁶⁷⁵ GREVIO emphasised how an offence committed in the presence of a child constitutes a form of victimisation of the child in itself and strongly encourages the Dutch, Finnish, and Serbian authorities, *inter alia*, to ensure that the presence of children is considered as an aggravating circumstance by the judiciary.⁶⁷⁶

Lack of information provided to the judiciary on aggravating circumstances laid out by Article 46 of the convention

403. While the convention places an obligation on parties to ensure that these aggravating circumstances are available for judges to consider when sentencing perpetrators, a re-occurring challenge identified by GREVIO is the lack of efforts made to inform the judiciary of the set of aggravating circumstances as laid out by Article 46, whether through sentencing guidelines (e.g. Denmark, Montenegro, Sweden)⁶⁷⁷ or training (e.g. Montenegro). In response to these challenges, GREVIO has consistently called on parties to ensure that all of the aggravating circumstances set out in Article 46 may be taken into consideration in the determination of the sentence in relation to each of the offences provided for in the convention.
404. In several baseline evaluation reports, including those on Albania, France, Monaco, Portugal and Turkey, GREVIO called for criminal law reform to address the gaps,⁶⁷⁸ whereas in the baseline evaluation reports on Denmark, Finland, and Sweden, it addressed the need to ensure that judges are aware of all aggravating circumstances listed in Article 46 of the convention and that these are, in practice, effectively applied.⁶⁷⁹ The baseline evaluation report on Belgium refers to the need to look at both the legislation and judicial practice.⁶⁸⁰

Issues unique to specific parties

405. In its baseline evaluation report on Denmark, GREVIO noted that being in a relationship with the perpetrator, currently or in the past, seemed to be considered as a mitigating factor rather than an aggravating circumstance, leading to more lenient sentences for perpetrators who are violent with their partners than those who are violent with strangers.⁶⁸¹

670. See GREVIO’s baseline evaluation reports on: Belgium, paragraph 166; France, paragraphs 207-208; Monaco, paragraph 131; and Portugal, paragraph 180.

671. See GREVIO’s baseline evaluation report on Turkey, paragraph 265.

672. See GREVIO’s baseline evaluation report on Montenegro, paragraph 203.

673. See GREVIO’s baseline evaluation report on Monaco, paragraph 131.

674. See GREVIO’s baseline evaluation reports on: France, paragraph 207; Italy, paragraph 206; and Portugal, paragraph 179.

675. See GREVIO’s baseline evaluation reports on: Belgium, paragraph 166; Finland, paragraph 186; Monaco, paragraph 135; the Netherlands, paragraph 240; Serbia, paragraph 203; and Turkey, paragraph 265.

676. See GREVIO’s baseline evaluation reports on: Finland, paragraph 188; the Netherlands, paragraph 240; and Serbia, paragraph 205.

677. See GREVIO’s baseline evaluation reports on: Denmark, paragraph 181; Montenegro, paragraph 204; and Sweden, paragraph 194.

678. See GREVIO’s baseline evaluation reports on: Albania, paragraph 169; France, paragraph 210; Monaco, paragraph 132; Portugal, paragraph 181; and Turkey, paragraph 266.

679. See GREVIO’s baseline evaluation reports on: Denmark, paragraph 182; Finland, paragraph 188; and Sweden, paragraph 195.

680. See GREVIO’s baseline evaluation report on Belgium, paragraph 167.

681. See GREVIO’s baseline evaluation report on Denmark, paragraph 180.

Article 48 – Prohibition of mandatory alternative dispute resolution processes or sentencing

Introduction

406. Article 48, paragraph 1, requires parties to prohibit the mandatory participation in any alternative dispute resolution (ADR) processes, including mediation and conciliation, in relation to cases of all forms of violence against women covered by the convention. This provision stems from the principle that violence against women is a manifestation of unequal power relations and that victims of such violence can never enter the ADR processes on a level equal to that of the perpetrator. Article 48, paragraph 2, aims at preventing another unintended consequence which legal measures may have on the victim, requiring parties to ensure that any fine that a perpetrator is ordered to pay shall not indirectly lead to financial hardship on the part of the victim.

Promising practices

407. A promising practice in this area was highlighted in the baseline evaluation report on Spain where the law expressly prohibits mediation in cases of intimate partner violence. Cases must be referred to the specialist violence against women courts where incidents of violence are disclosed during mediation processes and an assessment must always take place before proposing mediation.⁶⁸²

Challenges

Alternative dispute resolution processes in criminal proceedings

408. While none of the reviewed parties provide for mandatory ADR processes in the context of criminal proceedings in their laws, GREVIO has observed a number of problematic practices that are in contravention to the convention. In countries such as Albania and Turkey, for example, where the criminal law allows for conciliation in certain cases of private prosecution, without making it mandatory, GREVIO noted that many victims still perceive it as compulsory due to lack of information on the procedure and their rights.⁶⁸³ In other countries, such as the Netherlands and Serbia, where the laws authorise the deferral of prosecution in specific cases, GREVIO noted with concern that the decisions to defer are made exclusively by prosecutors with the perpetrator's consent, without consulting the victims.⁶⁸⁴ In Finland, while mediation is not intended to replace an investigation, GREVIO was informed that it often does.⁶⁸⁵ It therefore urged the Finnish authorities to reconsider the power vested in the police to propose mediation as a criminal justice measure in domestic violence cases. In its baseline evaluation on Turkey, GREVIO also noted with concern the practice where courts proposed mediation despite there being an existing restraining or protection order and explicit exceptions in the law to mediation in cases involving spousal violence. It therefore strongly encouraged the Turkish authorities to reform the law and expand the inapplicability of criminal mediation to categories of victims beyond the current spouse. GREVIO showed concern that all of these practices send the worrying message that domestic violence is not a crime fit for criminal conviction, which is contrary to the purposes of the convention. In response to these challenges, in its baseline evaluation reports on Albania, Belgium, France, and Turkey, GREVIO strongly encouraged/urged the authorities to take measures that ensure free consent, having regard to power imbalances and with safeguards that fully respect the rights, needs and safety of victims.⁶⁸⁶ It also strongly encouraged the authorities of Belgium, France and Turkey to ensure that victims receive adequate information, particularly on the non-mandatory nature of mediation.

409. A common challenge identified by GREVIO in several baseline evaluation reports is the lack of understanding, by legal professionals, of the dynamics of violence and the dangers of ADR processes in cases of violence

682. See GREVIO's baseline evaluation report on Spain, paragraph 243.

683. See GREVIO's baseline evaluation reports on: Albania, paragraphs 171-172; and Turkey, paragraphs 268-269.

684. See GREVIO's baseline evaluation reports on: the Netherlands, paragraph 242; and Serbia, paragraph 206.

685. See GREVIO's baseline evaluation report on Finland, paragraph 189.

686. See GREVIO's baseline evaluation reports on: Albania, paragraphs 171-172; Belgium, paragraph 170; France, paragraph 212; and Turkey, paragraph 270.

against women. In countries such as Belgium, France, and the Netherlands that allow voluntary criminal mediation, GREVIO feared that criminal justice professionals may not understand the dynamics of such violence and hence may not appreciate that a victim may feel unable to refuse mediation for fear of future violence or reprisals by the perpetrator.⁶⁸⁷ Accordingly, GREVIO called for the provision of training for legal professionals, including judges, prosecutors, police, mediators and legal professionals in Belgium, France, Serbia, and Turkey,⁶⁸⁸ and the development of clear protocols and guidance for professionals in Finland, and the Netherlands.⁶⁸⁹

Mandatory alternative dispute resolution processes in civil proceedings

410. Regarding civil ADR processes, GREVIO has criticised the mandatory nature of family mediation in countries such as Albania and Belgium,⁶⁹⁰ as well as the absence of a clear prohibition of mandatory ADR processes in cases of violence against women in France and Monaco.⁶⁹¹ GREVIO noted that this generates legal uncertainty and a lack of clarity for family courts and mediation units on how to deal with these cases. In response to these challenges, GREVIO has called on the authorities of Albania, Belgium, France, Italy, and Monaco, to take legislative and other measures to clearly prohibit the mandatory participation in ADR processes where there is violence against women.⁶⁹²
411. In its baseline evaluation report on Denmark, GREVIO noted that practices requiring a joint meeting with the abusive parent at the relevant authorities in order to reach a decision on child custody, residence or visitation rights may be tantamount to mandatory mediation. While this is not formally called mediation, separated parents who do not agree over custody must attend a joint meeting at the State Administration with the aim of reaching a mutually acceptable decision.⁶⁹³ Attendance is quasi-mandatory as any refusal, in practice, can have negative consequences for the party who refuses (the victim). GREVIO has therefore urged the Danish authorities to recognise the power imbalances in relationships marred by violence and to ensure that parents with a history of abuse are granted separate meetings with the State Administration in order to reach a decision on child custody/residence/visitation which does not jeopardise the rights and safety of the mother and her children.⁶⁹⁴
412. In several baseline evaluation reports, including those on Italy, Montenegro, and Turkey, GREVIO also found that despite a prohibition of ADR processes in cases of violence against women, it remained widely used in practice.⁶⁹⁵ In countries where mandatory mediation is prohibited in cases of violence against women, such as Andorra and Portugal, GREVIO drew attention to the risk that mediation may still be proposed or continued where a woman has not previously mentioned that she has experienced intimate partner violence.⁶⁹⁶ Similar concerns were shared by GREVIO in its baseline evaluation reports on France, Italy, Montenegro, Portugal, and Turkey, where GREVIO highlighted that there was a lack of systematic detection of domestic violence by professionals or no obligation placed on judges or mediators to actively screen family law cases for domestic violence.⁶⁹⁷ GREVIO explained that placing the onus for disclosing on victims disregards their reluctance to speak out, be it for fear of not being believed, losing custody over their children or of incurring further violence. In its baseline evaluation report on Malta, GREVIO noted that while ordinarily, parties are required to undergo mediation before proceeding with the separation, when evidence of domestic violence is presented along with the request for separation, courts should summon within four days the parties and determine whether mediation can be dispensed, as well as decide on interim injunctions/protection orders. This notwithstanding, GREVIO had received reports indicating that victims encounter serious obstacles in obtaining hearings that dispense with mediation and that decide on the needed interim injunctions in respect of residence and contact and that serious physical violence is required before the court will take the allegation of

687. See GREVIO's baseline evaluation reports on: Belgium, paragraph 168; France, paragraph 211; and the Netherlands, paragraph 242.

688. See GREVIO's baseline evaluation reports on: Belgium, paragraph 170; France, paragraph 212; Serbia, paragraph 208; and Turkey, paragraph 270.

689. See GREVIO's baseline evaluation reports on: Finland, paragraph 193; and the Netherlands, paragraph 247.

690. See GREVIO's baseline evaluation reports on: Albania, paragraphs 173-174; and Belgium, paragraph 171.

691. See GREVIO's baseline evaluation reports on: France, paragraph 213; and Monaco, paragraph 138.

692. See GREVIO's baseline evaluation reports on: Albania, paragraph 175; Belgium, paragraph 174; France, paragraph 217; Italy, paragraph 188; and Monaco, paragraph 140.

693. See GREVIO's baseline evaluation report on Denmark, paragraph 185.

694. See GREVIO's baseline evaluation report on Denmark, paragraph 186.

695. See GREVIO's baseline evaluation reports on: Italy, paragraph 209; Montenegro, paragraphs 206-207; and Turkey, paragraph 271.

696. See GREVIO's baseline evaluation reports on: Andorra, paragraph 174; Italy, paragraph 209; and Portugal, paragraph 182.

697. See GREVIO's baseline evaluation report on France, paragraph 213.

domestic violence seriously. It therefore urged the Maltese authorities to take measures to ensure that the exemption from mediation in proceedings dealing with separation, custody and visitation rights in cases of violence, including domestic violence, is implemented in practice and that hearings for interim injunctions/protection orders are heard swiftly.

413. In response to all of these challenges, GREVIO called on the authorities of Belgium, Italy, Malta, Montenegro, Portugal, and Turkey to ensure the training for professionals such as family judges, lawyers and mediators.⁶⁹⁸ Moreover, it strongly encouraged the authorities of Belgium, France, Italy, Malta, and Portugal to develop professional guidelines or screening methods on the systematic detection of domestic violence.

Issues unique to specific parties

414. In Malta, while the law does not provide for mandatory participation in ADR processes in criminal proceedings, GREVIO noted a worrying trend where lawyers representing the perpetrator attempt to negotiate a “deal” whereby the victim agrees to refuse to testify in criminal proceedings in exchange for a favourable civil settlement. This phenomenon is made possible, on the one hand, due to the *de facto* mandatory mediation in relation to separation and custody/visitation issues, and, on the other hand, because criminal proceedings rely heavily on the victim’s testimony and fail to properly look into other types of evidence. While this practice, in principle, is not permitted by the law, it does not appear that steps are being taken to end it.⁶⁹⁹

698. See GREVIO’s baseline evaluation reports on: Belgium, paragraph 174; Italy, paragraph 188; Malta, paragraph 188; Montenegro, paragraph 208; Portugal, paragraph 183; and Turkey, paragraph 272.

699. See GREVIO’s baseline evaluation report on Malta, paragraph 187.



CHAPTER VI

INVESTIGATION, PROSECUTION, PROCEDURAL LAW AND PROTECTIVE MEASURES

415. Chapter VI addresses one of the core aims of the convention - to provide support and assistance to organisations and law enforcement agencies to effectively cooperate in the adoption of an *integrated approach* to eliminating violence against women and domestic violence (as provided under Article 1, indent e of the convention). The provisions contained in Chapter VI cover the procedural aspects of implementation of the substantive law that is outlined in Chapter V and reinforce other rights and duties, such as the requirements of the due diligence obligation provided under Article 5, paragraph 2, of the convention. Taken as a whole, the provisions of Chapter VI outline the components of what GREVIO considers an “adequate response from law-enforcement agencies and the criminal justice sector,” or, in other words, how gender-sensitive law enforcement and criminal justice systems should operate.

Article 49- General obligations

Introduction

416. Article 49 presents obligations that frame much of Chapter VI and are therefore also reiterated in reference to other specific articles. For this reason, many baseline evaluation reports address the issues provided under Article 49 under other articles of the convention, such as Articles 50, 51, 52, and 56.
417. Law enforcement or judicial actors often do not prioritise incidents of violence against women and domestic violence, in comparison to other violent crimes. The convention drafters noted that this situation contributes to impunity for perpetrators and reinforces the misconception that certain levels of such violence are “acceptable” in society.⁷⁰⁰ A consequence of assigning low priority to incidents of violence against women and domestic violence are delays in initiating investigations and judicial processes, which, in turn, may lead to loss of vital evidence and an increased risk to the victim of repeated violence. For these reasons, Article 49, paragraph 1, of the convention requires that parties ensure that investigations and judicial proceedings are conducted without undue delay, while at the same time respecting the rights of victims during each stage of these processes. The obligation to proceed without undue delay is reinforced in other convention articles, notably Article 50 (requiring an immediate law enforcement response) as well as Articles 52 and 53 (both addressing protection of victims in immediate danger).

⁷⁰⁰. Explanatory Report, paragraph 255.

418. Article 49, paragraph 2, of the convention requires that all investigations and prosecutions of cases of violence covered by the convention are carried out in an effective manner, and that they conform to the fundamental principles of human rights and reflect a gendered understanding of violence.

Challenges

419. The duty to ensure investigations and judicial proceedings without delay is addressed under *Article 50, Challenges, Reporting to, immediate response and investigations by law-enforcement agencies*.

Effective investigation and prosecution with a gendered understanding of violence

420. GREVIO has consistently referred to the need for a gendered understanding of violence against women in the context of investigations and has expressed concern over a lack of such understanding in a number of its baseline evaluation reports, including those on Belgium, France, Malta, Montenegro, the Netherlands, Portugal, and Serbia.⁷⁰¹ This aspect is also analysed under *Article 50, Challenges, Lack of a gendered understanding of violence against women in the context of investigations*

421. GREVIO has also consistently referred to the need for a gendered understanding of violence against women when implementing particular procedures, notably, in the context of Article 51 on risk assessment, Article 52 on emergency barring orders and Article 56 on victim protection measures. By way of example, in its baseline evaluation report on Serbia, in the context of its analysis of Article 52 on emergency barring orders, GREVIO expressed concern that mutual barring orders were frequently imposed on both spouses/partners, which in turn suggests that the context and history of violence and primary aggressor analysis are not sufficiently taken into account and that the police tend to wrongly identify both parties as mutual aggressors.⁷⁰²

Article 50- Immediate response, prevention and protection

Introduction

422. Article 50 of the convention requires law enforcement agencies to react promptly and appropriately in cases of violence against women by offering victims immediate protection and engaging in the prevention of violence, such as by making use of preventative operational measures and in the efficient collection of evidence. GREVIO reports focus on the application of Article 50 at key stages of the criminal justice process: reporting and investigation, prosecution and conviction.

Promising practices

Prioritisation of cases that concern violence against women

423. GREVIO has noted positively in its baseline evaluation report on Portugal that it had put measures in place to prioritise handling of violence against women and domestic violence cases. More specifically, following the ratification of the Istanbul Convention by Portugal, Law No. 72/2015 was introduced, establishing as an objective of criminal policies for the biennium 2015-17, the principle that domestic violence and sexual violence-related offences should be investigated as a matter of priority. Moreover, law No. 112/2009 requires criminal courts to deliberate on urgent coercive measures within the maximum deadline of 48 hours from the moment the violence was reported. Officials met by GREVIO explained that this rule entails an obligation for law-enforcement agencies to promptly notify prosecution services about domestic violence cases, thus constituting the basis for the swift intervention of courts.⁷⁰³

701. See GREVIO's baseline evaluation reports on: Belgium, paragraph 181; France, paragraph 221; Malta, paragraph 196; Montenegro, paragraph 211; the Netherlands, paragraphs 252 and 256; Portugal, paragraph 189; and Serbia, paragraph 231.

702. See GREVIO's baseline evaluation report on Serbia, paragraph 232.

703. See GREVIO's baseline evaluation report on Portugal, paragraph 187.

424. Following the GREVIO evaluation visit to France and in order to address the inadequacy of the institutional response to domestic violence, the French authorities announced in the context of a symposium (“Grenelle”) on intimate partner violence, that specialised prosecutors would be designated in the 172 courts in France and overseas departments and that emergency chambers would be tested on an experimental basis. According to the authorities, this would ensure that cases are processed within two weeks and improve co-operation between various judicial actors, ultimately speeding up the proceedings in cases of intimate partner violence.⁷⁰⁴

Police units specialised on domestic violence/violence against women and specifically trained police officers

425. In its baseline evaluation reports on Albania, France, Italy, and Spain, GREVIO positively noted that these parties had set up specialised police units on violence against women.⁷⁰⁵ In Albania, in particular, it found that, the setting up of special units to handle domestic violence cases, together with initial and on-going quality training ensured that law enforcement officials treated violence against women as seriously as any other violent offence. In its baseline evaluation report on Sweden, GREVIO noted that each police district had investigators specially trained on sexual offences and domestic violence.⁷⁰⁶ Whereas in the Netherlands, it found that while there were specialist police officers for sexual offences, there were none for domestic violence.⁷⁰⁷ In its baseline evaluation report on Denmark, GREVIO pointed to the national strategy on intimate-partner violence adopted in 2007 which requires the setting up of special units in the 12 police districts, improved multi-agency co-operation and the effective implementation of protection orders, but noted that not all police units had in fact turned this into practice.⁷⁰⁸

Guidelines and protocols for law enforcement authorities

426. GREVIO has welcomed initiatives to formalise guidance and standardise law enforcement and judicial measures related to violence against women. In Belgium, for example, the Ministry of Justice and the Board of Principal Crown Prosecutors have developed several joint circulars (on intimate partner violence, sexual assault and “honour-related violence”, FGM, forced marriage and forced legal cohabitation) that set forth minimal measures for all police and judicial work and also formalise a multi-disciplinary approach between the criminal justice system, health system and victim services.⁷⁰⁹ GREVIO noted, nonetheless, that such guidelines failed to reflect a gendered understanding of the forms of violence against women they cover.

427. Following ratification of the Istanbul Convention by Andorra, the police force and the state-supported victim support services on gender-based violence negotiated a co-operation protocol with the aim of harmonising police activities with the standards of the Istanbul Convention. The protocol sets out the main guidelines for police measures to combat and prevent violence, starting victims’ first contact with the police until their referral to specialist support services. Apart from requiring victims to be informed of their rights, the protocol establishes an obligation to create optimum conditions for victims to be heard and for their complaints to be registered, while paying particular attention to the possible presence of child victims and/or witnesses. GREVIO has noted that the protocol explicitly prohibits “any attitude that makes victims feel guilty or minimises the violence” in order to prevent secondary victimisation. It also insists on the proactive role that the law enforcement agencies should play in finding evidence that can corroborate victims’ claims and/or support a judicial investigation. The protocol is reinforced through additional internal police circulars. A standard model complaint has also been drafted and lists all the questions and information that must be covered by the police officer in charge of assisting victims.⁷¹⁰

704. See GREVIO’s baseline evaluation report on France, paragraph 220.

705. See GREVIO’s baseline evaluation reports on: Albania, paragraph 177; France, paragraph 224, Italy, paragraph 214; and Spain, paragraph 245.

706. See GREVIO’s baseline evaluation report on Sweden, paragraph 198.

707. See GREVIO’s baseline evaluation report on the Netherlands, paragraph 250.

708. See GREVIO’s baseline evaluation report on Denmark, paragraph 189.

709. See GREVIO’s baseline evaluation report on Belgium, paragraphs 176-178.

710. See GREVIO’s baseline evaluation report on Andorra, paragraphs 179-180.

428. GREVIO also welcomed Monaco's practice, albeit non-formalised, to provide support and optimal guidance for victims by law enforcement officers. This included: measures to address victims' comfort and safety, including the provision of dedicated reception premises satisfying the requirements of confidentiality, care taken to never leave the victim alone in reception areas; accompanying the victim from district police stations or to the hospital; and giving the victim the choice of being heard and assisted by either a male or female member of staff and/or interpreter.⁷¹¹

Evidence collection

429. GREVIO noted in its baseline evaluation reports on Denmark and Portugal some positive practices in collecting evidence. In Denmark, for instance, although limited to the area of Copenhagen, a comprehensive approach to the collection of evidence on psychological violence is taken. Prosecutors routinely build cases and prosecute violations of protection orders based on evidence of intimidation or threats from e-mails, text messages and recorded incoming calls as much as from the statements of victims and witnesses. In Portugal, the police have made efforts to improve the collection of crime scene evidence, including photographic evidence of injuries or other signs of violence, statements from neighbours, and documentation of the presence of weapons, beyond the victim's/witness' statement.⁷¹²

Prosecutorial and judicial practices

430. GREVIO has highlighted positive trends in the adoption of protocols and specialisation in the prosecution and adjudication of violence against women cases. For example, following the ratification of the Istanbul Convention, the Public Prosecution Service in the Netherlands adopted in 2016 instructions on domestic violence and child abuse and on sexual offences that detail how such forms of violence should be identified and prosecuted. The instructions provide explicit information about protecting the rights of victims and avoiding secondary victimisation.⁷¹³

431. In Italy, the High Judiciary Council adopted guidelines for judicial proceedings in cases of gender-based violence. Such cases are assigned to specialist prosecutorial units/magistrates. Monitoring and evaluation of the implementation of the guidelines found that a large percentage of prosecutorial offices have adopted protocols describing how to handle such cases that cover the investigative stage and set "stringent deadlines as to the maximum duration of enquiries." It also found that a high number of offices have formalised co-operation with victim support services that are engaged during judicial proceedings as well as others that deal with preventing violence against women. Moreover, GREVIO noted a promising practice adopted by the Prosecutorial offices of the Court of Tivoli (Eastern Rome), which it suggested being replicated around the country. More specifically, prosecutors in this court have enacted a series of measures to ensure a prompt and effective response to cases of gender-based violence against women. These measures range from increasing the number of prosecuting attorneys dealing with such crimes and prioritising these investigations, to ensuring the swift adoption of the necessary precautionary protective measures, placing their implementation under the tight supervision of prosecutors and creating a fast-track for the related trials. Moreover, prosecutors in Tivoli have developed innovative practices: based on an extended interpretation of the anti-mafia legislation in Italy, they apply the special restraining measures foreseen under this legislation to perpetrators of domestic violence who continue to pose a risk to the safety of the victim after serving their prison sentence. All these measures take place within a robust inter-institutional network, involving statutory agencies and women's organisations, and are complemented by a wide array of preventive measures (training, information for victims, awareness-raising, and outreach activities in the community). Since their introduction, reporting rates of cases of domestic violence against women have doubled.⁷¹⁴

711. See GREVIO's baseline evaluation report on Monaco, paragraph 75.

712. See GREVIO's baseline evaluation reports on: Denmark, paragraph 197; and Portugal, paragraph 192.

713. See GREVIO's baseline evaluation report on the Netherlands, paragraph 263.

714. See GREVIO's baseline evaluation report on Italy, paragraphs 218 and 223.

Reforms that impact on conviction rates

432. Following the entry into force of the Istanbul Convention, Sweden amended its legislation to bring it in line with the requirement of Article 36. It introduced a definition of rape that is based on the absence of consent to the sexual act and included a new offence entitled “negligent rape” to ensure criminal liability in cases where sexual acts or intercourse are carried out without any reasonable measures taken to establish the victim’s consent. The amendments in substantive law have had positive procedural repercussions as well. The focus in investigations/prosecutions has in fact been shifted onto the obligation of the accused to be aware of the consent given and thus allows the prosecution of cases which, before the change in law, would not have come within the criminal law definition of rape. Recent reports show that, as a result of these amendments, the number of prosecutions of non-consensual sexual acts has risen up to 75%. The new legislation, therefore, helps to curb impunity for sexual violence/rape and sends the message that sexual acts for which consent has not been established incur criminal liability.⁷¹⁵

Comprehensive criminal justice response to domestic violence

433. In Spain, cases involving domestic violence are managed by special units in the Prosecutor’s Office and heard by dedicated courts, with the objective of providing a “holistic legal response” to this form of violence. The courts have joint jurisdiction over criminal (crimes and misdemeanours) and civil matters (e.g. protection orders, custody issues and divorce). All prosecutors, judges and court clerks working in this system undergo special training.⁷¹⁶

Challenges

Reporting to, immediate response and investigations by law-enforcement agencies

434. GREVIO has found that most investigations that are opened in the area of violence against women concern domestic violence, to a certain extent sexual violence and very marginally other forms of violence against women such as psychological violence, stalking, forced marriage, FGM, forced abortion and forced sterilisation, and sexual harassment. For instance, in its baseline evaluation report on Andorra, GREVIO concluded that the police focused on violence between partners and/or committed in a domestic setting and pay insufficient attention to other manifestations of gender-based violence, such as harassment, sexual harassment, and sexual violence.⁷¹⁷

Insufficient training and/or specialisation of law enforcement officers on violence against women and need for specialised protocols

435. The lack of systematic and mandatory training for law-enforcement officers on all forms of violence against women has serious ramifications for the responses to such violence and the ensuing criminal investigations, including possible delays in opening investigations or failure to do so altogether. The need to introduce or step up the provision of mandatory initial and in-service trainings on all forms of violence covered under the convention, beyond domestic violence, is highlighted in the majority of baseline evaluation reports, including those on Belgium, Denmark, Finland, France, Italy, Malta, Montenegro, the Netherlands, Portugal, Serbia, Spain, Sweden, and Turkey.⁷¹⁸ In its baseline evaluation report on Malta, GREVIO has clarified that such training should, *inter alia*, address the concept of power and control and the need to adequately record patterns of abuse in the context of domestic violence; instruct on how and where to receive reports and interview victims in a manner that prevents secondary victimisation; and sensitise and prepare police officers to deal with reports from women who are in a particularly vulnerable situation such as women with disabilities and women in prostitution.⁷¹⁹ Training on the role of law-enforcement

715. See Report of the Swedish National Council for Crime Prevention (Brå), “The new consent law in practice: An updated review of the changes in 2018 to the legal rules concerning rape” published in 2020.

716. See GREVIO’s baseline evaluation report on Spain, paragraph 252.

717. See GREVIO’s baseline evaluation report on Andorra, paragraph 181.

718. See GREVIO’s baseline evaluation reports on: Belgium, paragraph 84; Denmark, paragraph 81; Finland paragraph 72; France, paragraph 229(a); Italy, paragraph 107; Malta, paragraph 78; Montenegro, paragraph 89; the Netherlands, paragraph 258; Portugal, paragraph 99; Serbia, paragraph 215; Spain, paragraph 104; Sweden, paragraph 96; and Turkey, paragraph 282(b).

719. See GREVIO’s baseline evaluation report on Malta, paragraph 78.

agencies in seeking evidence and building a case fit for prosecution is also consistently underlined across the baseline evaluation reports.⁷²⁰

436. GREVIO baseline evaluation reports have highlighted progress in the adoption of standard operating procedures (SOPs), protocols and checklists that systematise and guide law enforcement response in cases of violence against women. At the same time, baseline evaluation reports including those on Albania, Malta, Montenegro, Serbia, and Spain reveal that most efforts to standardise police procedures have been made in reference to domestic violence cases, whereas, those on Denmark and Sweden focus on domestic violence and rape.⁷²¹ Such guidance is therefore not provided in relation to other forms of violence. The baseline evaluation reports on Finland, Serbia, and Spain, respectively, identified the need for further guidance in relation to cases of “honour-related” offenses, forced marriage and sexual violence, stalking and the use of digital technologies in cases of intimate partner violence.⁷²² Moreover, as is discussed in the subsection of this Article on Challenges, *Reporting to and investigations by law enforcement agencies, collection of evidence*, GREVIO has noted that in certain cases such protocols fail to provide guidance on how to comprehensively collect evidence and build a case fit for prosecution. Finally, GREVIO has drawn attention to the inconsistent use of protocols and guidelines as decisions on whether to proceed are too often based on police officers’ individual assessment or influenced by gender stereotypes and patriarchal culture (see below in the next subsection).⁷²³

Delays in opening investigations or failure to do so

437. GREVIO has noted delayed police response to victims’ complaints in its baseline evaluation reports on Belgium, Italy, France, Malta, Montenegro, Portugal, Spain, Sweden and Turkey.⁷²⁴ Delayed or insufficient police responses have been attributed, *inter alia*, to lack of training of law enforcement officers on violence against women, including on a gendered understanding of such violence, entrenched stereotypes and patriarchal attitudes. As specified in its baseline evaluation reports on Montenegro and Turkey, such attitudes lead to inaction because individual officials minimise the violence and seek justification either in the victim’s behaviour or that of the perpetrator (e.g. attributing the violence to substance abuse, mental illness, poverty).⁷²⁵ In its baseline evaluation report on Turkey, GREVIO noted specifically that victim-blaming attitudes were also evident in cases of sexual violence in which law-enforcement officers were improperly influenced by prejudices and assumptions that victims had consented to sexual activity. In its baseline evaluation reports on Italy, Malta, and Turkey, GREVIO also noted that such attitudes lead police officers to often treat reported instances of domestic violence as mere disputes between couples/a private matter and to view their own role as one designed to “reconcile” the couple, often failing to record such incidents. Moreover, in the case of Italy, GREVIO noted that in many cases police officers still stigmatise women and treat individual cases with a “one-size-fits-all” approach.⁷²⁶ Finally, in its baseline evaluation reports on the Netherlands and Montenegro, GREVIO also noted that the lack of specialisation of law enforcement officers can lead to cases of violence against women being routed out of the criminal justice system. In Montenegro, for instance, cases of domestic violence are often treated as misdemeanours, and in the Netherlands, emphasis has been placed on social, rather than criminal, interventions.⁷²⁷ GREVIO has accordingly called upon these parties to equip law enforcement officers to respond promptly, swiftly and appropriately to cases of domestic violence and other forms of violence against women, including by taking practical steps such as on-the-job training and mentoring schemes to actively overcome persisting attitudes, beliefs and practices that stand in the way of a law enforcement response to violence against women. Moreover, to ensure that cases proceed without delay, GREVIO has encouraged the Portuguese authorities to collect data in order to track the average time that lapses from one stage of the criminal

720. See in this respect Chapter VI of this horizontal review, Challenges, Reporting to, immediate response and investigations by law-enforcement agencies, collection of evidence.

721. See GREVIO’s baseline evaluation reports on: Belgium, paragraph 185; Italy, paragraph 217; Malta, paragraph 200; Montenegro, paragraph 214; Spain, paragraph 251; Sweden, paragraph 204; and Turkey, paragraph 282(a).

722. See GREVIO’s baseline evaluation reports on: Finland, paragraph 202; Serbia, paragraph 215; and Spain, paragraph 251.

723. See GREVIO’s baseline evaluation report on Denmark, paragraph 190.

724. See GREVIO’s baseline evaluation reports on: Belgium, paragraph 180; France, paragraph 220; Italy, paragraph 217; Malta, paragraph 100; Montenegro, paragraph 214; Portugal, paragraph 188; Spain, paragraph 250; Sweden paragraph 204; and Turkey, paragraph 282.

725. See GREVIO’s baseline evaluation report on Montenegro, paragraph 211.

726. See GREVIO’s baseline evaluation reports on: Italy, paragraph 216; and Malta, paragraph 196.

727. See GREVIO’s baseline evaluation reports on: Montenegro, paragraph 212; and the Netherlands, paragraph 259.

proceeding to another with the aim of possibly identifying where delays and bottlenecks occur in the justice chain, as well as to determine whether cases drop out of the justice chain entirely.⁷²⁸

438. In the case of Sweden, on the other hand, GREVIO noted that the cause of the delays were linked to the authorities' prioritisation of and channelling of financial resources to gang-related crimes at the expense of swift investigations into crimes such as sexual offences and domestic violence. Indeed, GREVIO noted that victims of rape and domestic violence often had to wait several months before any action would be taken. It therefore urged the authorities to reinforce law enforcement's investigative capabilities significantly to reduce the backlog of domestic violence and rape cases, and to take immediate measures to ensure a prompt and appropriate response by law enforcement agencies in all cases of violence against women.

Lack of a gendered understanding of violence against women in the context of investigations

439. A lack of a gendered understanding of violence against women in the context of investigations can lead law enforcement officers to consider cases of domestic violence as family disputes, as outlined in the preceding sub-section. In its baseline evaluation reports on France and Portugal, GREVIO specified that common stereotypes held by law enforcement officials included assumptions that victims made false allegations about violence, particularly about sexual violence, minimising the serious nature of violence against women.⁷²⁹ The lack of a gendered understanding of violence was found to be a significant barrier to victims reporting violence to criminal justice professionals. In reference to the situation in France, GREVIO highlighted the importance of tapping into the expertise of existing victim support organisations, both to train relevant professionals and to support victims to increase disclosure of violence to law enforcement officers.⁷³⁰
440. The lack of a gendered understating of violence against women was also raised in the baseline evaluation report on Belgium, with one important difference. GREVIO noted the existence of considerable criminal policy guidelines to help law enforcement authorities and prosecutors identify and address violence against women; however, such guidelines failed to acknowledge the unequal power relations between women and men that make the former particularly vulnerable to violence – leading to the classification of cases of domestic violence as family disputes.⁷³¹ GREVIO also raised law enforcement's failure to recognise domestic violence as a manifestation of unequal power relations and/or consider the context or history of the violence in its baseline evaluation report on the Netherlands.⁷³² It noted in fact, a tendency to view domestic violence as "mutual violence", considering both parties as perpetrators and not taking into account the context and history of violence and a primary aggressor analysis.
441. Linked to the lack of a gendered understanding of violence against women is the phenomenon of dual reporting, observed by GREVIO in its baseline evaluation reports on Malta, Montenegro, and Serbia. GREVIO noted that victims were frequently charged with committing a crime because the perpetrator concurrently filed a complaint for insults or other trivial offences, which were seen as having equal value, dissuading many victims from reporting domestic violence. Or, in the case of Serbia, victims had been charged with making false accusations by prosecution services, even where they had invoked their right not to testify against their spouse.⁷³³

Low reporting – victims' lack of trust and measures taken to instil confidence

442. A number of GREVIO reports, including those on Belgium, France, Sweden, and Turkey, recall that victims' lack of trust and confidence in law enforcement agencies prevents them from turning to them for help.⁷³⁴ As highlighted in its baseline evaluation reports on Malta, Spain, and Sweden, for instance, this applies all the more to women with disabilities, migrant women, women from rural areas, Roma women, and women in prostitution.⁷³⁵

728. See GREVIO's baseline evaluation reports on Portugal, paragraph 188.

729. See GREVIO's baseline evaluation reports on: France, paragraph 221; and Portugal, paragraph 190.

730. See GREVIO's baseline evaluation report on France, paragraph 222.

731. See GREVIO's baseline evaluation reports on: Belgium, paragraph 181; and Italy, paragraph 216.

732. GREVIO baseline evaluation report on the Netherlands, paragraphs 252 and 256.

733. See GREVIO's baseline evaluation reports on: Malta, paragraph 196; Montenegro, paragraph 211; and Serbia, paragraph 231.

734. See GREVIO's baseline evaluation reports on: Belgium, paragraph 184; France, paragraph 223; Sweden, paragraph 201; and Turkey, paragraph 281.

735. See GREVIO's baseline evaluation reports on: Malta, paragraph 197; Spain, paragraph 249; and Sweden, paragraph 201.

443. In order to help instil trust in law enforcement authorities, Article 50 of the convention requires, *inter alia*, providing for an adequate number of female law enforcement officers, including at high levels of responsibility. It further requires hearing victims without delay by specially trained, and where appropriate female staff in premises that are designed to establish a relationship of trust between the victim and the law enforcement personnel.⁷³⁶ GREVIO has welcomed in its baseline evaluation reports on Albania, Austria, Denmark, Turkey and Finland, the rising number of women joining police forces, but has observed that it is still insufficient to allow victims to interact with officers of the same sex when reporting or during investigations. As regards specifically the adequacy of police stations' premises, GREVIO has noted in a number of reports, including those on Albania, France, and Malta that police premises were not conducive to victim reporting, as they either did not allow for anonymous or confidential interviews or because the buildings were not accessible to women with disabilities.⁷³⁷

Evidence collection

444. The role of law-enforcement agencies in collecting evidence before referring a case to prosecution has also been consistently underlined across the baseline evaluation reports due, generally, to the low number of cases that are prosecuted and the low number of convictions. In its baseline evaluation reports on Austria, France, the Netherlands, Spain, and Turkey, GREVIO has stressed the importance of pro-actively and rigorously collecting all relevant evidence in addition to the victim's statement.⁷³⁸ This is especially important to ensure effective *ex officio* prosecution of crimes of violence against women, as required by Article 55 of the convention.⁷³⁹ GREVIO has specified, in particular, that law enforcement authorities' collection of evidence should entail documenting injuries (with the consent of the woman victim of gender-based violence), taking photographs of the crime scene, collecting DNA samples, taking statements from neighbours and any other potential witnesses, for example. GREVIO has accordingly strongly encouraged/urged the authorities to take measures to improve the collection of multiple forms of evidence in cases of violence against women so that reliance on the victim's testimony is lessened.

445. Specific attention has also been brought by GREVIO to problems encountered in the process of obtaining and storing evidence in cases of rape, where forensic evidence is gathered from the victim only if she reports the crime to the police. GREVIO has noted in this respect that women who do not want to lodge a report to the police in the immediate aftermath of a rape are thus denied the possibility of preserving valuable medical evidence should they decide to seek justice later.⁷⁴⁰ Likewise, in its baseline evaluation report on Spain, GREVIO noted that the use of forensic evidence in court is barred where it was collected without the order of a judge – which is often the case because women self-refer to a sexual assault referral centre first, rather than report to the police. GREVIO observed that this was in contravention to the convention, which aims to ensure that forensic evidence and other services can be provided to victims of rape to secure evidence for a trial at a later stage.⁷⁴¹

Prosecution and convictions

446. GREVIO has consistently drawn attention to the problem of low rates of prosecution and convictions for all forms of violence against women. At the same time, in its baseline evaluation reports on Sweden and Turkey, GREVIO has acknowledged that insufficient data presents a challenge to assessing whether cases indeed proceed along the criminal justice chain.⁷⁴² GREVIO has recalled that low conviction rates erode victims' confidence in the criminal justice system, sending messages that perpetrators will not be held accountable, and this, in turn, contributes to the problem of low reporting to law enforcement authorities.⁷⁴³

447. GREVIO has explored the factors that contribute to low prosecution and conviction rates. These included low levels of awareness and professional capacity concerning violence against women and lack of specialised training for prosecutors or judges (in this respect please see *Chapter III, Article 15, Challenges, Shortcomings that*

736. Explanatory Report, paragraph 258.

737. See GREVIO's baseline evaluation reports on: Albania, paragraph 177; France, paragraph 225; and Malta, paragraph 197.

738. See GREVIO's baseline evaluation reports on: Austria, paragraph 153; France, paragraph 226; the Netherlands, paragraph 256; Spain, paragraph 247; and Turkey, paragraph 280.

739. Ensuring the possibility of *ex officio* prosecution was commented on in the baseline evaluation reports on Austria, France and Turkey.

740. See GREVIO's baseline evaluation report on Malta, paragraph 78.

741. See GREVIO's baseline evaluation report on Spain, paragraphs 254-256.

742. See GREVIO's baseline evaluation reports on: Sweden, paragraph 209; and Turkey, paragraph 283.

743. See GREVIO's baseline evaluation reports on: Belgium, paragraph 189; Italy, paragraph 222; and Portugal, paragraph 195.

are specific to categories of professionals, Training of legal professionals);⁷⁴⁴ lack of guidance on case-building and over-reliance on victim testimony as primary evidence;⁷⁴⁵ and, as regards sexual violence and rape, the influence of bias and stereotyping.⁷⁴⁶ In its baseline evaluation report on Serbia, GREVIO also noted the reluctance to apply criminal law in the prosecution of forced marriage cases occurring in Roma communities, which raised questions of whether cultural or customary practices were being used to justify inaction in contravention of Article 42 of the convention.⁷⁴⁷

448. The interconnectedness of professionals in the justice chain means that shortcomings in the investigation stage can have a detrimental effect on prosecutions. In its baseline evaluation reports on Austria and Montenegro, GREVIO pointed to the insufficient oversight of law enforcement by prosecutors, for example, because they did not order further investigation and based their decisions on the charges to be brought on limited available evidence. GREVIO noted that, in the case of Austria, this resulted in the tendency among prosecutors to not open criminal cases of domestic violence. Whereas, in the case of Montenegro, it led prosecutors to classify such cases as misdemeanours.⁷⁴⁸
449. GREVIO has emphasised that criminal justice is not the only appropriate response to violence against women, as it must be part of a comprehensive and integrated response encompassing at once prevention, protection, prosecution, and integrated policies.⁷⁴⁹ At the same time, GREVIO has called attention to the problematic use of alternative sanctions that do not impose criminal liability on perpetrators. For instance, GREVIO has expressed concern about the extensive use of diversionary measures in cases of domestic violence and stalking in Austria and in Belgium.⁷⁵⁰ It also expressed concern that a large share of perpetrators of domestic violence in Spain do not receive prison sentences and are also not required to attend perpetrator programmes.⁷⁵¹ In its baseline evaluation report on Turkey, GREVIO urged the authorities to ensure that the use of civil protection orders does not replace or defer criminal action.⁷⁵² GREVIO has therefore stressed that the lack of criminal convictions impedes the spirit and principles of the Istanbul Convention which aim at an effective criminal justice response for all forms of violence against women. With a view to putting an end to the impunity of perpetrators and preventing the risk of recidivism, GREVIO has strongly encouraged the authorities, *inter alia*, to ensure that sentencing in cases of violence against women is commensurate with the gravity of the offence and preserves the dissuasive function of penalties.

Analysis and identification of the causes of attrition

450. A number of GREVIO reports draw attention to the phenomenon of attrition in cases of sexual violence and rape, as well as domestic violence. GREVIO has consistently encouraged the authorities to analyse the factors that contribute to attrition and to address them. In recent reports, GREVIO has offered some guidance as to what such analysis processes should encompass. In its baseline evaluation report on France, Italy, and the Netherlands, for instance, GREVIO has referred to the importance of reviewing sex-disaggregated administrative data and case law and has strongly encouraged the authorities to analyse the handling of criminal cases by law-enforcement agencies, prosecutorial offices and courts in order to verify where attrition occurs and to identify possible gaps in the institutional response to violence against women.⁷⁵³ In the case of Malta, it strongly encouraged the authorities to identify and address legislative and procedural factors that contribute to the low levels of conviction.⁷⁵⁴ Whereas, in the case of Serbia, GREVIO suggested that the authorities assess the factors that prevent victims from testifying in court.⁷⁵⁵

744. See GREVIO's baseline evaluation reports on: Malta, paragraph 203; and Montenegro, paragraph 220.

745. See GREVIO's baseline evaluation reports on: Malta, paragraph 203; and Serbia, paragraph 216.

746. See GREVIO's baseline evaluation reports on: Finland, paragraph 208; and Sweden, paragraph 211.

747. See GREVIO's baseline evaluation report on Serbia, paragraph 216.

748. See GREVIO's baseline evaluation reports on: Austria, paragraph 160; and Montenegro, paragraph 216.

749. See GREVIO's baseline evaluation report on Belgium, paragraph 186.

750. See GREVIO's baseline evaluation reports on: Austria, paragraph 163; and Belgium, paragraph 188.

751. See GREVIO's baseline evaluation report on Spain, paragraph 253.

752. See GREVIO's baseline evaluation report on Turkey, paragraph 286.

753. See GREVIO's baseline evaluation reports on: France, paragraph 233(a); Italy, paragraph 225; and the Netherlands, paragraph 269.

754. See GREVIO's baseline evaluation report on Malta, paragraph 207.

755. See GREVIO's baseline evaluation report on Serbia, paragraph 219.

Article 51- Risk assessment and risk management

Introduction

451. Article 51 requires parties to take measures, through legislation and by other means, to ensure that victim safety is central to any intervention in cases of violence against women. All relevant professionals, not only law enforcement, are obliged to assess and take steps to manage the safety risks to a particular victim on a case-by-case basis, including the risk of repeated and lethal violence and, if necessary, to provide co-ordinated support. Such assessment must also duly take into account at all stages of the investigation and application of protective measures, the fact that the perpetrator possesses or has access to firearms.⁷⁵⁶

Promising practices

452. GREVIO has welcomed the risk assessment process adopted by law enforcement agencies in Portugal, adopted following the ratification of the Istanbul Convention. Risk assessment is mandatory in cases of domestic violence, and it is based on standardised forms. After the risk assessment is completed, a safety plan is developed for the victim, an application for protective measures is made, and the seizure of weapons and information sharing is also provided for. GREVIO noted that the risk assessment process has become an indispensable working tool and has enhanced contact and co-operation between law enforcement agencies and specialist services.⁷⁵⁷

Challenges

Lack of standardised and systematised procedures

453. The majority of baseline evaluation reports analysed under this review have adopted a tool or protocol to standardise the risk assessment procedure. Certain parties such as Denmark, Finland, Italy, and Malta have adopted and adapted internationally recognised risk assessment tools.⁷⁵⁸ Conversely, other parties, including among others, France, Portugal, and Spain, have developed their own model.⁷⁵⁹ Nevertheless, GREVIO baseline evaluation reports have highlighted several shortcomings in the use of these standardised processes.

454. GREVIO has urged parties, including Italy and Serbia, to ensure that risk assessment instruments are available for all forms of violence covered by the convention, and are not only applied in cases of domestic violence.⁷⁶⁰ The baseline evaluation reports on Malta and Turkey, on the other hand, highlight that risk assessments are not systematically carried out,⁷⁶¹ whereas the excessive lengthiness of the risk assessment procedure has been raised both in Malta and the Netherlands.⁷⁶² Accordingly, GREVIO has, *inter alia*, strongly encouraged the authorities to ensure that an assessment of the victim's risk is carried out systematically and speedily by all relevant authorities in co-operation, providing co-ordinated protection and support.

455. On a different point, in its baseline evaluation report on Belgium, GREVIO criticised the fact that certain risk assessment tools used by the authorities tended to place the victim and the perpetrator on an equal footing and disregarded the inequalities created by domestic violence.⁷⁶³ GREVIO baseline evaluation reports, including those on Italy and Montenegro, have also recalled the importance that procedures for risk assessment and management be repeated at all relevant stages of proceedings.⁷⁶⁴ It has clarified, in fact,

756. Explanatory Report, paragraph 260.

757. See GREVIO's baseline evaluation report on Portugal, paragraphs 201-202.

758. These tools include such SARA (the Spousal Assault Risk Assessment), MARAC (the Multi-Agency Risk Assessment Conference tool), DASH (Domestic Abuse, Stalking and Honour Based Violence), SAM (Stalking Assessment and Management) and PATRIARCH, the Assessment of Risk for Honour-Based Violence. See GREVIO's baseline evaluation reports on: Denmark, paragraph 202; Finland, paragraph 211; Italy, paragraph 227; and Malta, paragraph 209.

759. See GREVIO's baseline evaluation reports on: France, paragraph 234; Portugal, paragraph 201; and Spain, paragraph 260.

760. See GREVIO's baseline evaluation reports on: Italy, paragraph 233(a); and Serbia, paragraph 227.

761. See GREVIO's baseline evaluation reports on: Malta, paragraph 213; and Turkey, paragraph 287.

762. See GREVIO's baseline evaluation reports on: Malta, paragraph 213; and the Netherlands, paragraph 272.

763. See GREVIO's baseline evaluation report on Belgium, paragraph 193.

764. See GREVIO's baseline evaluation report on Italy, paragraph 233(b).

that if risk assessment and management processes are not reliable and on-going, victims may be lulled into a false sense of security, while they are exposed to the danger of repeated, or potentially lethal, violence.⁷⁶⁵

Insufficient multi-agency co-ordination and co-operation

456. GREVIO reports have consistently expressed concern over the fact that risk assessment procedures, even when formalised, are not fully integrated into multi-agency co-operation efforts. In its report on the Netherlands, GREVIO recalled that a risk assessment is not a goal in and of itself, but a first step to ensuring co-ordinated safety measures and support to victims.⁷⁶⁶ In its baseline evaluation reports on Malta and Serbia, GREVIO clarified that when risk assessments are based on information from limited sources (in this case, law enforcement and the state specialist domestic violence agency), key information from other stakeholders such as schools or neighbours, is missed and co-ordination is compromised.⁷⁶⁷ Similarly, GREVIO drew attention to the fact that in Spain the risk assessment tool is based almost exclusively on information from law enforcement and that there is no efficient mechanism in place to consider information from other relevant sources, including the judiciary.⁷⁶⁸ In comparison, GREVIO has welcomed the co-ordination in place in Serbia between the prosecution service, law enforcement, social work centres and, by invitation, women's support services. These stakeholders together develop individual protection and support plans for victims of domestic violence. GREVIO found, however, that it is very important that specialist women's support services systematically attend co-ordination meetings which allows victims to be represented by specialist women's services in which they have trust.⁷⁶⁹ Indeed, GREVIO has strongly encouraged parties, including, Denmark, Montenegro, and Spain to ensure that women's specialist support services are included systematically in multi-agency co-ordination processes for risk assessment and management.⁷⁷⁰
457. In requiring multi-agency co-operation to protect high-risk victims, the drafters of the convention intended that risk assessment processes also include mechanisms such as a safety plan for the victim, to co-ordinate safety and support.⁷⁷¹ A weakness raised by GREVIO in its baseline evaluation reports on Albania, France, and the Netherlands is that risk assessment protocols are not sufficiently integrated with other protection measures, namely protection orders or temporary restraining orders.⁷⁷² In the case of the Netherlands, for example, GREVIO noted that because the risk assessment required for obtaining an emergency barring order was lengthy, this discouraged the police from seeking such an order. Finally, in its baseline evaluation report on Malta, GREVIO has suggested that protective mechanisms such as panic buttons for victims and offender monitoring through tagging can increase the effectiveness of risk assessments.⁷⁷³

Homicide reviews

458. GREVIO baseline evaluation reports such as those on Italy, Belgium, Malta, and Portugal have noted the lack of retrospective reviews into the deaths of women victims of violence and have encouraged the authorities to introduce systems to analyse this phenomenon. GREVIO has drawn attention to the importance of such domestic violence homicide review mechanisms as a means to analyse the effectiveness of risk assessment practises.⁷⁷⁴ In this context, GREVIO has noted the call issued by the UN Special Rapporteur on violence against women, its causes and consequences to establish a mechanism to monitor femicides or gender-related killings of women so that measures can be proposed to prevent such crimes.⁷⁷⁵

Access to firearms

459. Under Article 51, paragraph 2 of the convention risk assessment processes must take into account, at all stages of the investigation and application of protective measures, information about the access to or possession of firearms by perpetrators. In its baseline evaluation reports on Andorra and Montenegro,

765. See GREVIO's baseline evaluation report on Montenegro, paragraph 223.

766. See GREVIO's baseline evaluation report on the Netherlands, paragraph 274.

767. See GREVIO's baseline evaluation reports on: Malta, paragraph 212; and Serbia, paragraphs 222 and 223.

768. See GREVIO's baseline evaluation report on Spain, paragraph 261.

769. See GREVIO's baseline evaluation report on Serbia, paragraphs 222 and 223.

770. See GREVIO's baseline evaluation reports on: Denmark, paragraph 203; Montenegro, paragraph 227; and Spain, paragraph 261.

771. Explanatory Report, paragraph 261.

772. See GREVIO's baseline evaluation reports on: Albania, paragraph 181; France, paragraph 235; and the Netherlands, paragraph 272.

773. See GREVIO's baseline evaluation report on Malta, paragraph 214(d).

774. See GREVIO's baseline evaluation reports on: Belgium, paragraph 196(c); Italy, paragraph 233(d); Malta, paragraph 214(c); and Portugal, paragraph 206.

775. See GREVIO's baseline evaluation report on France, paragraph 236.

GREVIO noted positively that specific protocols require law enforcement agencies to establish whether a known perpetrator of domestic violence possesses firearms or other weapons.⁷⁷⁶ On the other hand, in its baseline evaluation reports on Finland, France, Monaco, and Serbia, GREVIO has raised concerns about whether proper efforts have been made to assess the perpetrator's access to firearms when carrying out risk assessments.⁷⁷⁷

Article 52- Emergency barring orders

Introduction

460. Under Article 52 of the convention, in situations of immediate danger (where harm is imminent), authorities are granted the power to order the perpetrator to leave the residence of the victim or person at risk for a specific period of time and to prohibit the perpetrator from entering the residence or contacting the victim or person at risk. The drafters of the convention left it to the discretion of parties to determine the duration of an emergency barring order (EBO) – usually of short-term nature - and the competent authority to issue such orders.⁷⁷⁸ In its baseline evaluation reports, GREVIO has clarified that EBOs are a tool for law-enforcement agencies and criminal justice actors to react quickly to a situation of immediate danger without lengthy proceedings. They are tools intended to prevent a crime and are thus intended to put safety first.⁷⁷⁹ EBOs should therefore be time-bound and incident-based, with the possibility of renewal in the case of continued danger and with longer-term protection being granted by a court through a protection order, upon application of the victim. Under Article 52 of the convention, EBOs should moreover ensure the safety of victims without forcing them to hurriedly seek safety in a shelter or elsewhere. The burden of leaving the home is in fact shifted to the perpetrator who should be ordered to vacate immediately the residence of the victim and barred from returning “for a sufficient period of time” and contacting the victim and her children, where applicable.⁷⁸⁰ Moreover, the emergency barring order should in principle extend to children in need of protection and should have immediate effect, even if the order must be confirmed by a court or other legal authority afterwards. The EBO should also be accompanied by the availability of support to the victim, such as specialist support services, legal advice and help, shelters, medical help, and psychological support counselling.
461. The objectives of Article 52 are complementary to those of Article 53 on restraining or protection orders for victims of all forms of violence against women, which are intended to offer longer-term protection. GREVIO baseline evaluation reports at times address Articles 52 and 53 of the convention jointly and issue combined findings. For the purpose of this horizontal review, however, areas of progress and shortcomings highlighted by GREVIO are discussed separately for Articles 52 and 53 of the convention.

Promising practices

462. GREVIO has taken positive note of the approach taken by the Swedish authorities concerning violations of protection and barring orders - as they are not only subject to fines and imprisonment but may also be charged as an offence of stalking. The recent changes to the Non-contact Order Act make breaches of non-contact orders with electronic monitoring a separate crime subject to a prison sentence of up to two years.⁷⁸¹

776. See GREVIO's baseline evaluation reports on: Andorra, paragraph 187; and Montenegro, paragraph 224.

777. See GREVIO's baseline evaluation reports on: Finland, paragraph 212; France, paragraph 235; Monaco, paragraph 145; and Serbia, paragraph 224.

778. Explanatory Report, paragraph 264.

779. See GREVIO's baseline evaluation report on: Denmark, paragraph 207; and Malta, paragraph 218.

780. See for more information “Emergency barring orders in situations of domestic violence: Article 52 of the Istanbul Convention”, Collection of papers on the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence available at <https://rm.coe.int/article-52-convention-istanbul-english-version/168073cae6>.

781. See GREVIO's baseline evaluation report on Sweden, paragraph 221.

Challenges

Infrequent use of emergency barring orders

463. GREVIO has drawn attention to the fact that the aim to protect the right of women victims of domestic violence and their children to safety and to remain in their own homes is undermined when EBO's are used infrequently in practice. In its baseline evaluation report on Montenegro, GREVIO noted a certain reluctance to issue EBO's stemming from procedural issues and attitudes about men as the head of the household.⁷⁸² In Finland, GREVIO also noted that they rarely expel perpetrators unless the threat of danger is very high. In this respect, GREVIO has clarified that under Article 52 of the convention, EBOs are to be issued in cases of immediate danger. This does not necessarily require the risk of death or other serious violence, which would represent an unacceptably high threshold. They should, therefore, also be issued for less serious violence.⁷⁸³

Emergency barring orders to be available *ex officio*

464. In its baseline evaluation report on Denmark, GREVIO noted the low use of EBOs by the Danish National Police force in cases of domestic violence and that, according to the police, this could be explained by the preference that most victims have for shelters. Moreover, it observed that the police tended to warn the perpetrators or accept their offers to leave voluntarily instead. In this respect, GREVIO clarified that as a measure of protection, emergency barring orders should not depend on the will of the victim and must be ordered *ex officio* as part of the state obligation to prevent any act of violence covered by the Istanbul Convention that are perpetrated by non-state actors.⁷⁸⁴ The above consideration was also made in respect of Finland, whereby first responder patrol police are not authorised to issue EBOs⁷⁸⁵ and with respect to Sweden, where police tend to use other measures, such as taking victims to a protected address.⁷⁸⁶ GREVIO has also urged the authorities of Albania and Turkey to ensure that law enforcement authorities make pro-active use of their authority to issue protective orders when a victim is in immediate danger, without relying on a statement from the victim.⁷⁸⁷

Response to immediate danger without lengthy proceedings or high evidentiary requirements

465. In a number of baseline evaluation reports, including those on Malta, Spain and Sweden, GREVIO noted failures in the procedures in place to adequately react to the immediacy of the danger, due for example, to the excessive length of such procedures or due to excessively high evidentiary thresholds. As regards failures due to the lengthiness of procedures, GREVIO noted that, although Spain has a system of specialised courts that operate around the clock, it could still take up to 72 hours for an order to be issued. In the case of Malta, GREVIO noted that a thorough risk assessment was required, as well as an investigation indicating that the victim was at a high risk of violence and that this could not be considered in line with the standards of the convention, *inter alia*, due to the lengthiness of the risk assessment. Moreover, it added that making EBOs dependent on the outcome of the risk assessment is questionable as EBOs should err on the side of safety and risk assessments may not always be accurate, as demonstrated by the numerous gender-based killings of women who had been assessed as being low risk in Europe. As regards excessively high evidentiary thresholds, GREVIO noted, for example, that in the case of Sweden, prosecutors required evidence of the commission of a crime or of the abuser's intention to commit a serious crime in order to issue a protection order.⁷⁸⁸

Weaknesses in victim protection

466. GREVIO has also noted in its baseline evaluation report on Albania that the practice of limiting the perpetrator to part of the shared home,⁷⁸⁹ or limiting the protection only to victims who live together with

782. See GREVIO's baseline evaluation report on Montenegro, paragraphs 234-237.

783. See GREVIO's baseline evaluation report on Finland, paragraph 221.

784. See GREVIO's baseline evaluation report on Denmark, paragraph 207.

785. See GREVIO's baseline evaluation report on Finland, paragraph 220.

786. See GREVIO's baseline evaluation report on Sweden, paragraphs 223-334.

787. See GREVIO's baseline evaluation reports on: Albania, paragraph 188(c); and Turkey, paragraph 300.

788. See GREVIO's baseline evaluation reports on: Malta, paragraph 219; Spain, paragraph 267; and Sweden, paragraph 223.

789. See GREVIO's baseline evaluation report on Albania, paragraph 191(a).

the perpetrator on a regular basis, as was noted in the case of Finland and the Netherlands,⁷⁹⁰ made the relative EBOs ineffective in terms of victim protection and prevention of violence. In its baseline evaluation report on the Netherlands, GREVIO drew attention to the fact that temporary restraining orders apply only to the victim's home, not the victim herself. Thus, this form of order would not be applicable to cases of stalking when the victim and perpetrator do not live together.⁷⁹¹

Applicability of emergency barring orders to children

467. In its reports on Albania, Austria, Denmark, Sweden, and Finland, GREVIO drew attention to the gaps in the protection offered by EBOs or protective orders when they allowed perpetrators of domestic violence to maintain contact with their children.⁷⁹² GREVIO has explained that one of the purposes of an EBO - to create distance between the abusive partner and the victim in the physical sense as much as in the emotional sense - is undermined if the victim must facilitate contact or visitation between the abuser and the children.⁷⁹³

Support to victims when an emergency barring order is issued

468. GREVIO has reiterated the critical nature of the multi-agency approach to the implementation of both EBOs and other protective orders. Accordingly, GREVIO has encouraged law enforcement authorities in Finland and in France to ensure inter-institutional co-operation between all relevant actors in implementing protective orders. In the baseline evaluation report on Finland, in particular, it encouraged the authorities to take an active approach to referring victims to specialist women's support services.⁷⁹⁴

Enforcement and sanctions for breaches of emergency barring orders

469. In its baseline report on Andorra, GREVIO noted that there was no data collected on the use of EBOs.⁷⁹⁵ Whereas, in the case of Malta, GREVIO observed that there was no centralised system that would allow to record and monitor the issue and/or breaches of EBOs and thus urged the authorities to step up efforts to monitor and enforce EBOs, including through protocols/regulation and technical means such as electronic tagging.⁷⁹⁶ The issue of monitoring compliance with EBOs was also raised by GREVIO in the baseline evaluation report on Belgium, where it referred to the usefulness of electronic tagging, regular meetings with the perpetrator and providing victims with alarms.⁷⁹⁷ As regards sanctions for breaches of EBOs, GREVIO has highlighted in its baseline evaluation reports on Belgium and Monaco, that monetary fines may not be sufficiently dissuasive and that criminal sanctions are preferable.⁷⁹⁸ It has noted in fact that violations of protective orders, in general, are very likely to signal a situation of high risk for the victim, which the responsible authorities should take into account when deciding how to punish a perpetrator who violated an order.⁷⁹⁹

Article 53- Restraining or protection orders

Introduction

470. Under Article 53 of the convention, victims of all forms of violence against women should be able to obtain a protection order irrespective of, or in addition, to other legal proceedings. Protection orders should thus be available to the victim under civil law, whether or not they choose to set in motion any other legal proceedings such as criminal or divorce proceedings, for instance.

790. See GREVIO's baseline evaluation reports on: Finland, paragraph 218; and the Netherlands, paragraph 282.

791. See GREVIO's baseline evaluation report on the Netherlands, paragraph 283.

792. See GREVIO's baseline evaluation reports on: Albania, paragraph 184; Austria, paragraph 180; Denmark, paragraph 201; Finland, paragraph 224; and Sweden, paragraph 228.

793. See GREVIO's baseline evaluation report on Denmark, paragraph 201.

794. See GREVIO's baseline evaluation reports on: Finland, paragraph 225; and France, paragraph 246(e).

795. See GREVIO's baseline evaluation report on Malta, paragraph 221.

796. See GREVIO's baseline evaluation report on Andorra, paragraph 191.

797. See GREVIO's baseline evaluation report on Belgium, paragraph 199.

798. See GREVIO's baseline evaluation reports on: Belgium, paragraph 199; and Monaco, paragraph 150.

799. See GREVIO's baseline evaluation report on Turkey, paragraph 302.

471. As noted above, Articles 52 and 53 of the convention are complementary and in many national legal systems, a protective order is first issued on an emergency basis to remove an abuser from the home and can be prolonged, if needed, to continue the protection of the victim and her children. GREVIO baseline evaluations, in these cases, have issued joint findings for these two articles. It is also important to note that, because some of the principles underlying EBOs also apply to restraining or protective orders - such as the requirement that they also protect children, the need to ensure co-ordination with victim support services and the need for sanctions to be effective - these issues are not repeated in this section. The reader is therefore referred to the analysis under Article 52 in this respect.

Promising practices

472. GREVIO has commended the Spanish system for ensuring compliance with protection orders, which entails significant monitoring of perpetrators through GPS tracking, as well as systematic analysis of violations of protective orders that is also factored into on-going risk assessments.⁸⁰⁰

Challenges

Availability for all forms of violence against women

473. An important difference with EBOs is that, under the convention, restraining or protection orders should be available to victims of all forms of violence against women, beyond domestic violence. GREVIO has noted, however, that in several parties, including France, Monaco, and Portugal, protection orders are only available for victims of domestic violence. GREVIO has accordingly urged these authorities to ensure that such orders are also available for forms of violence against women such as FGM, forced marriage and stalking.⁸⁰¹

Availability to victims irrespective of, or in addition to, other legal proceedings

474. Article 53, paragraph 2, of the convention requires that protection orders be made available to victims irrespective of, or in addition to other legal proceedings and can also be introduced in subsequent legal proceedings. In several GREVIO baseline evaluation reports, including those on Malta, Monaco, Montenegro, and Portugal, GREVIO has noted the tendency for legal frameworks to link the issue of protection orders to criminal proceedings or specific types of proceedings. GREVIO has recalled, in this respect, that protective orders should be available to victims under civil law, regardless of whether they choose to set in motion any other legal proceedings, including criminal proceedings. Moreover, it has clarified that that many victims who would like to apply for protection orders are not prepared to press criminal charges or to initiate a divorce for various complex reasons, and legal frameworks should nevertheless still offer them protection.⁸⁰²

Lack of continuity between emergency barring orders and protection orders in the protection afforded to victims

475. GREVIO has paid particular attention to the potential gaps in protection that may occur after an EBO has expired and before a protection or restraining order can be issued or implemented. For example, although Serbia's legal framework provides for EBOs as well as protection orders under family law, criminal law and misdemeanour law, GREVIO strongly encouraged the authorities to ensure that there is a consistent approach between the system of emergency protection and the various long-term protection orders in order to avoid gaps in the protection of the victim.⁸⁰³ While noting promising practises in Spain in the adoption of integrated protection measures for victims of intimate partner violence, GREVIO also highlighted the risk of gaps in the current framework. It therefore stated that more needed to be done to achieve continuity of protection and complementarity between protection orders (once they expire) and ways to assist women to achieve long-term empowerment and recovery.⁸⁰⁴

800. See GREVIO's baseline evaluation report on Spain, paragraph 266.

801. See GREVIO's baseline evaluation reports on: France, paragraph 246 (b); Monaco, paragraph 158; and Portugal, paragraph 219.

802. See GREVIO's baseline evaluation reports on: Malta, paragraph 223; Monaco, paragraph 151; Montenegro, paragraph 231; and Portugal, paragraph 213.

803. See GREVIO's baseline evaluation report on Serbia, paragraph 240.

804. See GREVIO's baseline evaluation report on Spain, paragraph 271.

Training of relevant professionals on the use and importance of protection orders

476. In numerous baseline evaluation reports, GREVIO has noted low levels of use of restraining or protection orders. Some of the factors behind such low level of implementation are an inadequate understanding by law enforcement, prosecution services, judges and lawyers of the role and importance of temporary protection orders and protection orders in breaking the cycle of violence, a lack of familiarity with how to implement them and limited guidance in this respect. In its baseline evaluation reports on Belgium, Denmark, Finland, France, Malta, and Monaco, GREVIO has called on parties to provide and/or improve the training of the relevant professionals on the use of protection orders, specifically noting that the lack of understanding of the positive impacts of protection orders contributes to their low use.⁸⁰⁵

Administrative and financial burdens to accessing protection orders

477. GREVIO observed in its baseline evaluation reports on Serbia that victims who apply for some types of protection measures must pay a fee and therefore strongly encouraged the Serbian authorities to remove any financial barriers to applications for protection orders made by victims.⁸⁰⁶ Whereas in its baseline evaluation reports on Monaco and Montenegro, it noted failures to inform victims that they could file for protection orders.⁸⁰⁷

Monitoring of the issue and violation of protection orders

478. A number of baseline evaluation reports, including those on Italy, Malta, and Turkey, have raised problems around the recording, monitoring and analysis of protection orders in order to track patterns in the requests, grants and violations of such orders. The baseline evaluation reports on Italy and Turkey urge the authorities to monitor and analyse progress in this area through data collection highlighting, in particular, the forms of violence for which protective measures are issued, whether a measure was requested by a victim or issued *ex officio*, the average duration of protection orders, the number of renewals of protection orders sought by the same victim, the number of breaches of protection orders and whether all breaches were appropriately sanctioned.⁸⁰⁸

Article 55 - *Ex parte* and *ex officio* proceedings

Introduction

479. Under Article 55 of the convention investigations into or prosecution of physical violence, sexual violence, including rape, forced marriage, FGM, and forced abortion or forced sterilisation should not be wholly dependent upon a report or complaint filed by a victim; proceedings may continue even if the victim withdraws her or his statement. Criminal investigations and proceedings for the above-mentioned offences should thus not place the onus of initiating such proceedings and securing convictions on the victim, due to the particularly traumatising nature of these offences.⁸⁰⁹ Under Article 78, parties can enter a reservation to Article 55, paragraph 1, with respect to Article 35 on physical violence, for minor offenses of physical violence.

480. Under Article 55, paragraph 2, parties should take the necessary legislative or other measures to ensure the possibility for governmental and non-governmental organisations and domestic violence counsellors to assist and/or support victims, at their request, during investigations and judicial proceedings concerning the offences established in accordance with this convention. The drafters of the convention recognised that specific support to empower victims and encourage them to go through with criminal proceedings can be an important factor in increasing victim reporting and also their participation as witnesses in criminal trials.⁸¹⁰ The type of support envisioned by Article 55 of the convention differs from legal aid covered under

805. See GREVIO's baseline evaluation reports on: Belgium, paragraph 203(a); Denmark, paragraph 208; Finland, paragraph 225; France, paragraph 246; Malta, paragraph 80; and Monaco, paragraph 153(a).

806. See GREVIO's baseline evaluation report on Serbia, paragraph 240.

807. See GREVIO's baseline evaluation reports on: Monaco, paragraph 153(b); and Montenegro, paragraph 235.

808. See GREVIO's baseline evaluation reports on: Italy, paragraph 241; Malta, paragraph 221; and Turkey, paragraph 305(g).

809. Explanatory Report, paragraph 279.

810. Explanatory Report, paragraph 282. See GREVIO's baseline evaluation report on Turkey, paragraph 314.

Article 57 of the convention as it includes activities such as psychologically/emotionally preparing victims to endure testifying in front of the accused, accompanying victims to court and/or assisting them in any other practical and emotional way.⁸¹¹

Promising practices

Victim support during investigations and judicial proceedings

481. In its baseline evaluation report on Spain, GREVIO welcomed as a promising practice the set-up of a network of Victim Support Offices. These offices operate through a multi-agency and victim-centred approach and aim to provide comprehensive, co-ordinated and specialist assistance to victims of crime and to respond to their specific legal, psychological, and social needs. The Victim Support Offices provide assistance in four phases: reception-guidance, information, intervention and follow-up. Specialised reports on individual assistance, drawn up by the offices, are transmitted to the relevant prosecutorial and judicial authorities where they inform the adoption of protection measures. Victims are also assisted to apply for compensation.⁸¹²
482. In its baseline evaluation reports on Finland and Sweden, GREVIO positively noted that victim support was made available during all stages of criminal proceedings, starting from the investigation and pre-trial stages.⁸¹³ In Denmark, victim support lawyers can offer assistance as soon as a crime is reported, before a victim makes a first statement, and can support victims in claims for compensation from perpetrators.⁸¹⁴ GREVIO has highlighted the value of continuous support for victims when civil proceedings result from a criminal act, such as claims for damages as well as divorce and custody proceedings in domestic violence cases, as is granted in Austria in the form of psycho-social assistance.⁸¹⁵

Challenges

Collection of all relevant evidence in addition to the victim's statement with a view to ensuring effective *ex officio* prosecution

483. Although not addressed in the analysis under Article 55 of the convention, but rather, under Article 50, a number of baseline evaluation reports including those on Austria, France, Malta, Serbia, and Turkey have observed that while the offences referred to under Article 55 are offences in respect of which the authorities must act *ex officio*, insufficient evidence collection by law enforcement authorities and overreliance on the victim's testimony, lead to cases being dropped where the victim withdraws her statement or refuses to testify. As recalled above, GREVIO has stressed the importance of pro-actively and comprehensively collecting all relevant evidence in addition to the victim's statement, also with a view of ensuring effective *ex officio* prosecution of crimes of violence against women, as required by Article 55 of the convention.⁸¹⁶

Requirement for the victim to file a complaint for certain offences

484. On another more specific point, as stated above, the Istanbul Convention allows parties to enter a reservation to Article 55, paragraph 1, in respect of Article 35 for minor offences of physical violence. GREVIO noted in its baseline evaluation reports on Italy, Portugal, and Turkey that although these three state parties had not entered such reservation, the prosecution of minor offences of physical violence as well as some forms of sexual violence, required a victim complaint in order to proceed. GREVIO found this to be in violation of Article 55 of the convention.⁸¹⁷ Accordingly, it urged the relevant authorities to amend their national legislation to conform with the rules regarding *ex parte* and *ex officio* prosecution.

811. Ibid.

812. See GREVIO's baseline evaluation report on Spain, paragraph 273.

813. See GREVIO's baseline evaluation reports on: Finland, paragraph 227; and Sweden, paragraph 232.

814. See GREVIO's baseline evaluation report on Denmark, paragraphs 213-214.

815. See GREVIO's baseline evaluation report on Austria, paragraph 182.

816. See GREVIO's baseline evaluation reports on: Austria, paragraph 152; France, paragraph 226; Malta, paragraph 203; Serbia, paragraph 212; and Turkey, paragraph 280.

817. See GREVIO's baseline evaluation reports on: Italy, paragraph 245; Portugal, paragraph 223; and Turkey, paragraph 313.

Victim support during investigations and judicial proceedings

485. The baseline evaluation reports that have been reviewed reveal that parties, in most cases, provide victim support through victim support lawyers, free of charge.⁸¹⁸ In its baseline evaluation reports on Finland and the Netherlands, GREVIO noted that support is usually granted under general provisions on crime victim support by generalist lawyers. It has therefore strongly encouraged the authorities to provide gender-specific victim support services and comprehensive support that can help to avoid secondary traumatisation.⁸¹⁹ In this connection, it has recalled in its baseline evaluation reports on Finland, Portugal, and Turkey, the key role that specialist women's non-governmental organisations and domestic violence counsellors can play due to their expertise in the area of violence against women.⁸²⁰ GREVIO, however, in its baseline evaluation report on Serbia, has expressed concern that NGOs tend to have limited human and financial resources and, therefore, cannot meet the needs of all victims.⁸²¹ In its baseline evaluation report on Montenegro, GREVIO noted that the law provides that "confidants", including NGOs/woman's organisations can act in support of victims by attending all procedures and actions. In this respect, several women's support services that offer such services reported difficulties in assuming this role because not all judges were familiar with such possibility and/or did not allow them to assist the victim. GREVIO noted in this respect that it is in the interest of the judiciary and prosecution services to ensure victims' rights in criminal proceedings as it increases the likelihood that they will not abandon the case.⁸²²
486. GREVIO has also clarified in its baseline evaluation reports on Denmark and Sweden that access to victim support should be made available early in the investigation stage.⁸²³

Victim support provided in other legal proceedings

487. In its baseline evaluation report on Portugal, GREVIO noted that support tends to concentrate on accompanying the victim throughout the criminal proceedings, leaving them on their own when it comes to other types of legal proceedings, such as proceedings related to child custody. It has expressed the concern that this leaves them vulnerable and often unable to defend their rights and interests, such as for the purposes of negotiating an agreement on parental responsibilities with the violent father.⁸²⁴ It therefore strongly encouraged the authorities to provide such support not only in criminal proceedings but also in related civil proceedings, such as those instituted to settle a compensation claim, a divorce or custody in domestic violence cases.

Provision of victim support to child witnesses

488. Moreover, it has expressed concern over the lack of adequate support during legal proceedings to child witnesses, thereby undermining the role they can play in supporting prosecutorial action in domestic violence cases, notably, in Austria and Portugal.⁸²⁵ In the case of Austria, in particular, GREVIO noted that children who have witnessed domestic violence, no matter how serious the abuse, are not eligible for any court assistance, unless they have witnessed the death of one of their parents. GREVIO has clarified in this respect that, whether they have experienced or witnessed domestic violence, children are extremely affected by it and in need of support and assistance when telling their story to the authorities. With the help of psycho-social support, the burden of giving a statement or testifying in court would be significantly eased and might even improve the quality of their statement, in turn providing much needed evidence. It therefore invited the Austrian authorities to amend the eligibility criteria for psychosocial and legal court assistance to ensure that all child (direct or indirect) victims may benefit from such assistance.

818. See GREVIO's baseline evaluation reports on: Austria, paragraph 182; Denmark, paragraph 213; Finland, paragraph 226; Portugal, paragraph 224; Sweden, paragraph 230; and Turkey, paragraph 315.

819. See GREVIO's baseline evaluation reports on: Finland, paragraph 230; and the Netherlands, paragraph 297.

820. See GREVIO's baseline evaluation reports on: Finland, paragraph 230; Portugal, paragraph 226; and Turkey, paragraph 316.

821. See GREVIO's baseline evaluation report on Serbia, paragraph 242.

822. See GREVIO's baseline evaluation report on Montenegro, paragraphs 242 and 243.

823. See GREVIO's baseline evaluation reports on: Denmark, paragraph 215; and Sweden paragraph 233.

824. See GREVIO's baseline evaluation report on Portugal, paragraph 225.

825. See GREVIO's baseline evaluation reports on: Austria, paragraphs 184-185; and Portugal, paragraph 226.

Article 56 - Measures of protection during investigations and judicial proceedings

Introduction

489. Article 56 of the convention sets forth a non-exhaustive list of procedures designed to protect victims of violence at all stages of proceedings, during investigations and at trial, covering - but not limited to - victims who are witnesses.⁸²⁶ Article 56 includes a list of obligations referring to nine areas of protection. The drafters intended this list to be indicative, and parties may adopt additional protection measures that are more favourable than those provided in the convention.

Promising practices

General measures of protection

490. In its baseline evaluation report on Denmark, while noting that very little information was conveyed on their actual use, GREVIO welcomed the range of protective measures provided under the law to keep victims safe from intimidation and retaliation during court proceedings. These include the hiding of any addresses, occupation and even names of victims and witnesses as well as the holding of hearings in camera; ordering the defendant to leave the court room during the testimony of a victim or witness; video-recording of children's testimony and, under specific and limited circumstances, those of adults. Law enforcement agencies may also notify the court and request, for example, the use of separate waiting rooms at court. For all victims of crime asked to testify in court, a specific contact person within law enforcement is provided for any questions and concerns victims may have and leaflets on the different steps of the investigation and criminal proceedings are available in several languages. Moreover, where perpetrators have been sentenced to a prison term for sex offences or other serious offences victims must be notified of the perpetrator's release or escape and of major media coverage of the perpetrator and his acts.⁸²⁷

Protection of child victims and child witnesses

491. Once again in Denmark, GREVIO positively noted the use of "Children's Houses", available across the five regions of Denmark, offering professional support and psychological counselling for child victims of sexual abuse. Their child-friendly environment may also be used by law enforcement agencies to carry out interviews with children who have witnessed domestic violence.⁸²⁸ Moreover, stemming from its 2017-2020 National Strategy on the Rights of Children, Portugal has set up specifically designed rooms for child witnesses of domestic violence to carry out interviews.⁸²⁹

Challenges

Protecting victims from intimidation, retaliation, and repeat victimisation

492. Out of the parties in respect of which GREVIO has issued findings concerning Article 56 of the convention, almost all have a range of measures to protect victims under procedures for the protection of victims and witnesses of crimes.⁸³⁰ Parties such as Austria and Portugal, furthermore, provide for special attention to victims that are particularly vulnerable, including victims of domestic violence, sexual violence, and other forms of violence.⁸³¹ GREVIO baseline evaluation reports illustrate that the most progress has been made with respect to: Article 56, paragraph 1, indent a of the convention, in offering protection to victims from intimidation, retaliation, and repeat victimisation; Article 56, paragraph 1, indent g, in limiting contact between victims and perpetrators in police stations and courts; and Article 56, paragraph 1, indent i, in allowing victims to testify outside of the

826. Explanatory Report, paragraph 283.

827. See GREVIO's baseline evaluation report on Denmark, paragraphs 216-218.

828. See GREVIO's baseline evaluation report on Denmark, paragraph 130.

829. See GREVIO's baseline evaluation report on Italy, paragraph 147.

830. GREVIO has issued findings on Article 56 for Albania, Austria, Denmark, France, Italy, Malta, Monaco, Montenegro, Portugal, and Turkey.

831. See GREVIO's baseline evaluation reports on: Austria, paragraph 186; and Portugal, paragraph 227.

presence of the alleged perpetrator. By way of example, procedural laws in Italy, Montenegro, Portugal, and Turkey call for the use of special interview rooms and waiting areas that allow victims to remain separated from perpetrators.⁸³² Whereas, GREVIO observed that in Albania, Austria and Montenegro, victims can testify via video link - although GREVIO reports point out that victims are not always afforded this protection in practice.⁸³³

493. Intimidation and secondary victimisation can occur not only at the hands of perpetrators but also when criminal justice procedures are not based on a gendered understanding of violence. For this reason, in its baseline evaluation report on Turkey, GREVIO strongly encouraged the authorities to anchor protection measures on a gendered understanding of violence against women.⁸³⁴ In respect of Malta and Portugal, GREVIO, in particular, raised the issue of victims having to repeat statements multiple times - during investigations and again in court.⁸³⁵
494. As regards the obligation provided under Article 56, paragraph 1, indent e of the convention, to provide appropriate support services to victims so that their rights and interests are presented and duly taken into account (and repeated victimisation is avoided), please see the analysis under Article 55, Victim support during investigations and judicial proceedings.
495. Finally, in its baseline evaluation report on Malta, GREVIO encouraged the authorities to reduce the risk of secondary victimisation of victims with disabilities, both by ensuring that police stations and court rooms are accessible and by making use of procedures that allow victims with developmental disabilities to understand and take part in proceedings.⁸³⁶

Insufficient provision of information to victims

496. In its baseline evaluation reports on France, Italy, Malta, Monaco and Turkey, GREVIO identified weaknesses in the provision of information to victims about the fact that a perpetrator has escaped from custody or has been temporarily or permanently released, even in cases in which the victim and/or members of her family might be in danger, as is required under Article 56, paragraph 1, indent b.⁸³⁷ Moreover, it identified shortcomings in its baseline evaluation report on Montenegro in relation to the provision of information on progress of the proceedings, as provided under Article 56, paragraph 1, indent c.⁸³⁸

Insufficient protection of child victims and child witnesses

497. As referred to above, under promising practices, GREVIO has pointed out some initiatives put in place in Denmark and Portugal that can contribute towards protecting children during criminal proceedings or police investigation. GREVIO has issued findings under Article 56, paragraph 2 of the convention as regards the protection of the rights and interests of children, as victims or witnesses, in its baseline evaluation report on Monaco where it encouraged the authorities to improve existing protection measures.⁸³⁹ It has also encouraged the Danish authorities to ensure that victim protection extends to administrative procedures on custody and visitation decisions.⁸⁴⁰ Other GREVIO baseline evaluation reports, such as those on Montenegro⁸⁴¹ and Portugal, for example, note that child victims/witnesses of crimes are recognised as particularly vulnerable and are therefore afforded special protection in legal proceedings; for instance, they should be interviewed by trained staff and should be able to testify without the presence of the perpetrator.⁸⁴²

832. See GREVIO's baseline evaluation reports on: Italy, paragraph 248; Montenegro, paragraph 241; Portugal, paragraph 227; and Turkey, paragraph 317.

833. See GREVIO's baseline evaluation reports on: Albania, paragraph 201; Austria, paragraph 186; and Montenegro, paragraph 243.

834. See GREVIO's baseline evaluation report on Turkey, paragraph 318.

835. See GREVIO's baseline evaluation reports on Malta, paragraph 229; and Portugal, paragraph 227.

836. See GREVIO's baseline evaluation report on: Malta, paragraphs 230-231.

837. See GREVIO's baseline evaluation reports on: France, paragraph 250; Italy, paragraph 317; Monaco, paragraph 155; Malta, paragraph 230; and Turkey, paragraph 317.

838. See GREVIO's baseline evaluation report on Montenegro, paragraph 244.

839. See GREVIO's baseline evaluation report on Monaco, paragraph 158.

840. See GREVIO's baseline evaluation report on Denmark, paragraph 219.

841. See GREVIO's baseline evaluation report on Montenegro, paragraph 241.

842. See GREVIO's baseline evaluation report on Portugal, paragraph 227.

Article 57- Legal aid

Introduction

498. The Istanbul Convention recognises that in order for victims of violence against women and domestic violence to effectively access justice, they must be afforded the right to legal assistance and to free legal aid. Although Article 57 does not provide an automatic right to free legal aid, GREVIO reports have highlighted a number of common elements that are needed to ensure that legal aid guaranteed under internal law is accessible to victims in practice.⁸⁴³

Promising practices

499. In Spain, bar associations are legally required to set up systems of duty lawyers who are specialised in intimate partner violence and gender-based violence.⁸⁴⁴

Challenges

Procedural and administrative barriers to accessing legal aid and/or eligibility thresholds

500. GREVIO has identified in its baseline evaluation reports on Finland, Serbia, and Turkey shortcomings in relation to the accessibility of legal aid, linked to lengthy or complex processes to demonstrate eligibility.⁸⁴⁵ Moreover, it has observed in its baseline evaluation reports on France, Italy, and Malta, income thresholds that do not take into consideration the specific financial status of women, especially women with children.⁸⁴⁶

501. In its baseline evaluation reports on Andorra and Montenegro, GREVIO found that women did not benefit from legal aid or legal assistance because they were not informed of this possibility.⁸⁴⁷

Insufficient specialisation of legal aid lawyers

502. In a number of baseline evaluation reports, including those on Albania and Turkey, GREVIO has addressed the lack of expertise in the area of violence against women of legal aid lawyers and has therefore urged the authorities to ensure that they are trained in this respect.⁸⁴⁸

Legal assistance offered by NGOs

503. In several parties, GREVIO has noted that NGOs that are specialised in violence against women and that offer legal assistance are not integrated into or co-ordinated with state legal aid systems.⁸⁴⁹ GREVIO baseline evaluation reports have suggested that engaging NGO expertise can improve overall access to legal support and advice. More specifically, in its baseline evaluation report on Turkey, GREVIO strongly encouraged the authorities to involve NGOs in the training of legal aid lawyers.⁸⁵⁰

Scope of legal aid

504. An important issue that has been raised by GREVIO in its baseline evaluation reports is the need to increase access to legal aid at the early stages of proceedings. GREVIO noted in its baseline evaluation report on Spain that, in cases of sexual violence and rape, the assistance of legal aid lawyers from the time that a formal investigation or administrative procedure is initiated is a critical form of support for victims.⁸⁵¹ Moreover,

843. Explanatory Report, paragraph 295.

844. See GREVIO's baseline evaluation report on Spain, paragraph 274.

845. See GREVIO's baseline evaluation reports on: Finland, paragraph 234; Serbia, paragraph 249; and Turkey, paragraph 319.

846. See GREVIO's baseline evaluation reports on: France, paragraph 252; Italy, paragraph 251; and Malta, paragraph 233.

847. See GREVIO's baseline evaluation reports on: Andorra, paragraph 199; and Montenegro, paragraph 248.

848. See GREVIO's baseline evaluation reports on: Albania, paragraph 206; and Turkey, paragraph 320.

849. See GREVIO's baseline evaluation reports on: Albania, paragraph 204; and Montenegro, paragraph 247.

850. See GREVIO's baseline evaluation report on Turkey, paragraph 320.

851. See GREVIO's baseline evaluation report on Spain, paragraph 276.

it highlighted in its baseline evaluation report on Malta that victims were in need of pre-litigation legal advice during civil proceedings.⁸⁵²

505. While practices vary across parties, GREVIO has found that in several countries, including Spain and Sweden, legal aid provisions tend to be limited to domestic violence. GREVIO has accordingly encouraged the expansion to all forms of violence covered by the Istanbul Convention.⁸⁵³
506. Lastly, in recent baseline evaluation reports, GREVIO has distinguished between access to primary legal aid (legal advice and referrals to the relevant services) and secondary legal aid (specialised legal support) and has drawn attention to potential restrictions of victims to secondary legal aid. More specifically, it has expressed satisfaction with the legal aid system of Andorra, where public specialist support service covers both primary and secondary aid and the latter is provided by a specially-trained lawyer.⁸⁵⁴ On the other hand, in its baseline evaluation report on Belgium, GREVIO expressed concern that recent reforms of the legal aid system restrict victims' access to secondary legal aid. More specifically, it noted that in Flanders, the reform under way seemed to further restrict access to secondary legal aid with the aim of steering victims towards extrajudicial solutions such as so-called primary legal aid, consisting of practical and/or legal advice, referral to general or specialist support services and alternative dispute resolution methods.⁸⁵⁵

Asylum seeker's access to legal aid

507. Problems faced by asylum seekers in accessing legal aid and/or the insufficient specialisation of legal aid lawyers they are provided with, is discussed in *Chapter VII, Challenges, Inadequate training and or availability of other professionals concerned in the asylum determination process on gender-based violence (including interpreters and specialist lawyers)*.

852. See GREVIO's baseline evaluation report on Malta, paragraph 236.

853. See GREVIO's baseline evaluation reports on: Spain, paragraphs 276 and 278; and Sweden, paragraph 236.

854. See GREVIO's baseline evaluation report on Andorra, paragraph 198.

855. See GREVIO's baseline evaluation report on Belgium, paragraph 204.



CHAPTER VII

MIGRATION AND ASYLUM

General introduction on Article 59 - Residence status

508. Article 59 of the Istanbul Convention contains a number of distinct sub-sections addressing different problems faced by migrant women, victims of gender-based violence. Among others, these provisions seek to reduce their dependencies on the perpetrator by offering access to an autonomous residence permit. Article 59, paragraph 1, of the convention provides for access to an autonomous residence permit for women who have entered in a party pursuant to family reunification rules and who are victims of violence against women and domestic violence. Article 59, paragraph 2, requires parties to protect from expulsion migrant women who are dependent upon a family reunification visa and whose abusive spouse/partner is facing expulsion. Article 59, paragraph 3, provides for access to a renewable residence permit to migrant women based on either their personal situation or their co-operation with authorities in reporting or prosecuting a criminal offence. Under Article 59, paragraph 4, parties must ensure that migrant women who lose their residence status in a party as a result of being taken abroad for the purposes of forced marriage, regain such status.
509. In the absence of an express reservation, parties are required to adopt measures to address each and every sub-section of Article 59. GREVIO baseline evaluation reports adopted thus far have mostly focused on an analysis of compliance with Article 59, paragraph 1. More recent baseline evaluation reports such as those on Italy and Belgium, however, have broadened the analysis to address systematically compliance with all paragraphs under Article 59.

Article 59, paragraph 1 - Autonomous residence permit in difficult circumstances

Introduction

510. As described in the Explanatory Report to the convention, most parties require spouses or partners to remain married or in a relationship for a given period of time before they can be granted an autonomous residence permit. Fear of deportation or loss of residence status is often used by perpetrators to prevent victims of violence against women and domestic violence from seeking help from authorities or from separating from the perpetrator. As a result, many victims whose residence status is dependent on that of the

perpetrator stay in the violent relationships.⁸⁵⁶ The aim of Article 59, paragraph 1, is to break that cycle and give the victim the opportunity to leave the violent relationship irrespective of the duration of the marriage or the relationship, without worrying about losing her residence status. Article 59, paragraph 1, therefore requires parties to take the necessary legislative or other measures to ensure that migrant victims whose residence status is conditional on marriage or on being in a relationship, in the event of the dissolution of the marriage or the relationship, are granted “in the event of particularly difficult circumstances” an autonomous residence permit of a limited validity. The Explanatory Report also clarifies that being a victim of the forms of violence covered by the scope of the convention committed by the spouse or partner or condoned by the spouse or partner, should be considered as a particularly difficult circumstance. Article 59, paragraph 1, also aims to address cases of forced marriages, where victims are forced to remain married for the probationary period unless they are prepared to be deported upon divorce.

511. The convention leaves it to the party to decide issues such as the duration of the autonomous residence permit, as well as, for example, what evidence is to be produced by the victim to support her request for an autonomous residence permit on grounds of violence against women. The Explanatory Report to the convention explains that this evidence may be, for example, police records, a court conviction, a barring or protection order, medical evidence, an order of divorce, social services records, or reports from women’s NGOs, to name a few.⁸⁵⁷
512. Article 11 of the Istanbul Convention requires parties to monitor the implementation of relevant legislation and policies through the collection of disaggregated data. In its reports on Andorra and Denmark, GREVIO recalls that such an approach is beneficial in order to measure the efficacy of measures implemented to protect migrant women.⁸⁵⁸

Promising practices

513. Following the ratification of the Istanbul Convention, Portugal amended its rules to facilitate migrant victims’ access to an autonomous residence permit by removing the requirement of a criminal conviction of the perpetrator, requiring instead that the perpetrator has been charged by the prosecution service. As a result, residence permits now can be granted on exceptional grounds in cases of legal separation, divorce, or widowhood or when the victim’s partner has been charged by the prosecution service for domestic violence, irrespective of the duration of the relationship.⁸⁵⁹ GREVIO has welcomed this step but has also clarified as is discussed below, that reports by entities such as social services, domestic violence shelters, or Victim Support Offices should also be recognised by the authorities.
514. GREVIO also praised Spain for ensuring that its domestic legislation is compatible with Article 59, paragraph 1. Women who derive their residence status from their spouses or partners, as well as those who are in an irregular situation, can turn to the authorities for protection and, if recognised as a victim of intimate partner violence, will be given leave to remain in Spain. GREVIO also welcomed the fact that approval rates for requests for temporary residence on the grounds of exceptional circumstances (such as intimate partner violence) have remained high, varying between 75% and 85% from 2012 to 2016.⁸⁶⁰
515. Bearing in mind that GREVIO has not yet had the opportunity to assess this development, it is extremely promising that, following the publication of GREVIO’s baseline evaluation report on Italy, the authorities have taken steps to implement the call to ensure that the applicable legislation and/or the implementation affords foreign women an autonomous residence permit in the event of particularly difficult circumstances (such as being a victim of gender-based violence). Notably, in January 2021, the Tribunal of Bari issued for the first time in Italian jurisprudence, a decree which interprets Article 18bis of the Immigration law in light of the Istanbul Convention. With this decree, the tribunal ordered the competent authorities to issue an autonomous residence permit for a migrant woman, victim of domestic violence. It found in particular that, when interpreting the requirement of “ a real and present danger”, psychological violence and the victim’s freedom of

856. Explanatory Report, paragraph 301.

857. Explanatory Report, paragraphs 301-305.

858. See GREVIO’s baseline evaluation reports on: Andorra, paragraph 206; and Denmark, paragraph 228.

859. See GREVIO’s baseline evaluation report on Portugal, paragraph 230.

860. See GREVIO’s baseline evaluation report on Spain, paragraph 280.

self-determination must also be taken into account, thus overcoming the restrictive requirements imposed by Article 18 bis when issuing autonomous residence permits (see below under *Challenges, Unreasonable requirements and/or unattainable evidential criteria and thresholds*).

516. Finally, although GREVIO noted that migrant women in Portugal continued to be unaware of their rights, GREVIO welcomed the active steps that have been taken by the Portuguese authorities under the various strategies on migration and gender-based violence to disseminate general information regarding domestic violence and gender-based violence among migrant communities.⁸⁶¹ Moreover, it adopted, following the ratification of the Istanbul Convention, a new tool for collecting data on the number of domestic violence cases registered in migrant communities.

Challenges

517. Whilst the vast majority of parties have made notable progress in enacting domestic legislation or measures giving effect to Article 59, paragraph 1, Albania and Andorra appear to be the exceptions, as no such measures exist for migrant women.⁸⁶² Moreover, GREVIO has encouraged Denmark, France, the Netherlands, and Sweden, to continue with their efforts of providing women victims of domestic violence with the means to escape, including by not revoking their residence permit based on family reunification.⁸⁶³ Nevertheless, a number of legal shortcomings and practical barriers obstructing access to an autonomous resident permit were identified in GREVIO's baseline evaluation reports.

Discrimination

518. Contrary to the non-discrimination clause foreseen by Article 4, paragraph 3, of the convention, a number of parties including Austria, Belgium, France, Sweden, and Turkey, have implemented measures that either expressly or indirectly exclude certain groups of migrant women from accessing an autonomous residence permit based on their nationality or the nationality of their spouse/partner, even in the event of particularly difficult circumstances. GREVIO has noted that this is in contravention of both the letter and the spirit of Article 59, paragraph 1. For example, Austria and Turkey exclude certain women from accessing an autonomous residence permit in cases of domestic violence, based on the nationality of their sponsoring spouse. More specifically, in Austria, differing criteria and nature of residence permits are granted depending on the nationalities of the parties involved. Whereas in Turkey, only migrant women married to a Turkish national are able to apply for an autonomous residence permit.⁸⁶⁴ France, on the other hand, excludes all Algerian women from the national legislative framework on residence rights and creates uncertainty by placing their access to protection within the remit of prefectural discretion.⁸⁶⁵ In this respect, GREVIO has emphasised that any conflict of laws arising from bilateral agreements between France and Algeria does not exonerate France from its obligations under the Istanbul Convention. The legislation in Belgium was described by GREVIO as being extremely complex and disjointed. In its baseline evaluation report, GREVIO found, more specifically, that women already living in Belgium who apply for family reunification or women joining a third-country national with a temporary residence permit, are offered lesser protection. Finally, GREVIO noted that Sweden excludes all migrant women who derive their residence permit from a spouse with recognised refugee status or subsidiary protection from accessing the protection of an autonomous residence permit in difficult circumstances.⁸⁶⁶

Unreasonable requirements and/or unattainable evidential criteria and thresholds

519. Parties are at liberty to establish the conditions relating to the granting of autonomous residence permits to migrant women pursuant to Article 59, paragraph 1. However, these conditions must be realistic and sensitive to the situation of migrant women who are seeking to escape abuse and violence at the hands

861. See GREVIO's baseline evaluation report on Portugal, paragraphs 231-232.

862. See GREVIO's baseline evaluation reports on: Albania, paragraph 209; and Andorra, paragraph 206.

863. See GREVIO's baseline evaluation reports on: Denmark, paragraph 228; France, paragraph 259(b); the Netherlands, paragraph 307, and Sweden, paragraph 245.

864. See GREVIO's baseline evaluation reports on: Austria, paragraphs 191-194; and Turkey, paragraph 334.

865. See GREVIO's baseline evaluation report on France, paragraphs 257 and 259.

866. See GREVIO's baseline evaluation report on Sweden, paragraph 240.

of their sponsoring spouse/partner. Concern regarding unreasonable requirements and/or unattainable evidential criteria and standards of proof have given rise to the largest number of findings made by GREVIO.

520. As regards unreasonable requirements imposed by parties, in its baseline evaluation report on Belgium, GREVIO highlighted that the practice of imposing an application fee of 385 euros as well as requiring official photographic identity and a fixed abode (that is not a shelter) in order to submit a request for a humanitarian residence permit failed to understand the precariousness of a victim's circumstances.⁸⁶⁷ In its baseline evaluation report on Sweden, GREVIO noted with concern the established practice of requiring a relationship that a woman was leaving to be of a certain duration, which is clearly in violation of the convention. Moreover, it noted the application of an overly restrictive interpretation of violence, focussing on whether the relationship had ended primarily because of the violence, which in turn had to be "serious" or consist of "repeated incidents of degrading treatment".⁸⁶⁸ GREVIO concluded that this approach increased the likelihood of victims remaining in a violent situation for immigration reasons. In Denmark, exceptions to the revocation of a residence permit obtained on the basis of marriage or cohabitation following a divorce is possible where this would present particular hardship for spouses, provided that the migrant can prove attachment to Denmark. Attachment can be proved through attendance of a language course or studies in Denmark, or where the victim has parental responsibility for a child enrolled in school in Denmark. GREVIO noted that this condition is particularly prohibitive for migrant women who are victims of violence against women, because they frequently find themselves isolated and in a situation of dependency, due to the abuse of the perpetrator who may control their social interaction and engagement with society.
521. In its baseline evaluation reports on Finland, Italy, Montenegro, the Netherlands, Serbia, and Spain, GREVIO has identified unattainable evidential criteria and/or thresholds imposed by the authorities in order for victims to benefit from an independent residence permit. More specifically, GREVIO has criticised the requirement to produce a criminal conviction of the perpetrator in Finland and in Spain, as well as the requirement to produce evidence of violence from both the police/prosecutor service and a care provider such as a shelter, health care or support worker in order to be granted an autonomous residence permit, applied by the Netherlands. Accordingly, GREVIO has, *inter alia*, strongly encouraged/urged the authorities to take all the needed measures to remove excessively high evidential barriers, such as the requirement of a criminal conviction of the abuser.⁸⁶⁹ Similarly, GREVIO considered that Italy's threshold of requiring the violence to pose a "real and present danger" did not comply with the definition of domestic violence given in Article 3d of the convention and noted that authorities often fail to acknowledge physical or economic violence as high-risk situations.⁸⁷⁰ In the case of Montenegro and Serbia, GREVIO invited the authorities to apply a standard of proof that is attainable for migrant women.⁸⁷¹ In particular, GREVIO called on these parties to take into consideration the isolation and language barriers experienced by migrant women and their dependency on their abuser when setting conditions.

Lack of awareness amongst migrant women of their rights

522. The existence of domestic laws and policies offering a means of escape and protection to migrant women experiencing abuse are futile in the absence of awareness of these measures amongst those they seek to assist. In several baseline evaluation reports, including those on Finland, Malta, the Netherlands, Portugal, Serbia and Spain, GREVIO has recalled the need for parties to take pro-active steps to promote awareness amongst migrant women of their rights, noting with concern that some women in abusive relationships are unaware that they can apply for their own residence permit. Accordingly, GREVIO has, *inter alia*, suggested that parties inform migrant women upon their arrival or through contact with social services of their rights and the protection available in the event of domestic violence, to ensure that migrant women experiencing abuse can actually seek help and support to escape abusive relationships – without jeopardising their right to remain in the country.⁸⁷²

867. See GREVIO's baseline evaluation report on Belgium paragraph 211.

868. See GREVIO's baseline evaluation report on Sweden, paragraphs 241-243 and 245.

869. See GREVIO's baseline evaluation reports on Denmark, paragraphs 226 and 228; Finland, paragraphs 237 and 242; the Netherlands, paragraphs 306-307; and Spain, paragraphs 282 and 284(a).

870. See GREVIO's baseline evaluation report on Italy, paragraphs 255-256 and 259(a).

871. See GREVIO's baseline evaluation reports on: Montenegro, paragraphs 251 and 254; and Serbia, paragraphs 253-254(a).

872. See GREVIO's baseline evaluation reports on: Finland, paragraph 241; Malta, paragraph 241(a); the Netherlands, paragraph 306; Portugal, paragraph 233; Serbia, paragraph 254(b); and Spain, paragraph 281.

Inadequate awareness, training, and sensitivity of front-line staff

523. The act of fleeing an abusive relationship places a victim at increased risk. It is therefore of the utmost importance that professionals likely to come in contact with migrant women victims of violence are adequately trained not only on the applicable legislation but also the dynamics of abuse, the risk factors involved and how to refer them to more specialist support services.
524. However, inadequate staff training and awareness of the rights and needs of migrant women victims of violence has emerged as a common feature in a number of GREVIO's baseline evaluation reports, including those on Finland, France, and Portugal. In Portugal, GREVIO noted that NGOs attributed the absence of recorded cases of victims that have benefited from the grant of an autonomous residence permit to statutory agencies' lack of knowledge on the applicable legislation.⁸⁷³ In its baseline evaluation report on Finland, GREVIO observed that the Finnish Immigration Service have been known to separate mothers from their children in the context of deportation and that this deters victims from reporting abuse and seeking protection.⁸⁷⁴ In France, a number of regional disparities and misapplication of the relevant law by officials were identified, such as a refusal to register applications for a residence permit from migrant women, a failure to provide proof of the submission of an application, incorrectly requesting payment of an application fee and requesting various forms of proof not prescribed by law (for example, proof of divorce, of a criminal conviction or proof of a protection order).⁸⁷⁵ Finally, in Belgium, GREVIO noted that lack of transparency of the applicable law gave rise to inconsistency in decision-making by immigration officials between the French and Flemish-speaking sections of the immigration agency.⁸⁷⁶ Accordingly, GREVIO has called the authorities to ensure awareness-raising, capacity building and training of the staff concerned,⁸⁷⁷ as well as to develop general policy and guidance.⁸⁷⁸

Issues unique to specific parties

525. Monaco has reserved the right not to apply, in whole or in part, Article 59 based on the fact that all migrant women are granted autonomous residence permits to live in Monaco.⁸⁷⁹ Although the justification for the reservation was deemed reasonable, GREVIO identified that, in reality, migrant women may have to rely on a spouse's/partner's financial savings and support in order to prove sufficient financial resources in order to obtain an independent residence permit. This gives rise to dependency and the risk of economic or psychological violence and may present a barrier to victims being able to prove financial independence in order to escape violence.

Article 59, paragraph 2 – Protection for victims from expulsion alongside perpetrators of abuse

Introduction

526. A migrant woman who joins a spouse/partner pursuant to family reunification rules is dependent upon the continuation of the relationship for the purposes of her residence permit. Should an abusive or violent spouse/partner face expulsion, the migrant woman faces the prospect of repatriation alongside the perpetrator and the continuation of abuse in the country of origin. Article 59, paragraph 2, seeks to offer protection by requiring parties to provide access to an autonomous residence permit for the victim to prevent future harm. Only the baseline evaluation reports on Andorra, Belgium, Montenegro and Serbia address parties' compliance with Article 59, paragraph 2 of the convention and only Serbia was found to be offering domestic law that adequacy prevents repatriation of a victim with her abusive spouse⁸⁸⁰

873. See GREVIO's baseline evaluation report on Portugal, paragraphs 230-231.

874. See GREVIO's baseline evaluation report on Finland, paragraph 241.

875. See GREVIO's baseline evaluation report on France, paragraphs 256 and 259 (b)

876. See GREVIO's baseline evaluation report on Belgium paragraph 209.

877. See GREVIO's baseline evaluation reports on: Finland, paragraph 241; France, paragraph 259b; and Portugal, paragraph 233.

878. See GREVIO's baseline evaluation report on France, paragraph 259b.

879. See GREVIO's baseline evaluation report on Monaco, paragraphs 162-165.

880. See GREVIO's baseline evaluation report on Serbia, paragraph 252.

Challenges

527. In Montenegro, GREVIO noted that no provisions were in place to prohibit the expulsion of domestic violence victims who have joined their spouses under a family reunification scheme and who face repatriation because of expulsion proceedings initiated against their abusive spouse or partner.⁸⁸¹ While Belgium offers victims the opportunity to avoid expulsion on humanitarian grounds, GREVIO showed the limitations of the applicable provisions when assessed in the context of the situation of migrant women who are victims of violence. Expulsion can be stayed on humanitarian grounds – but such application is subject to a fee and proof of an abode that is not a domestic violence shelter.⁸⁸² In Andorra, victim status has no impact on expulsion proceedings instituted against a violent spouse in that women victims of gender-based violence whose residence status depends on their spouse can only avoid expulsion if they have a job offer.⁸⁸³

Article 59, paragraph 3 – Renewable residence permit based on the personal situation or co-operation with the authorities

Introduction

528. Article 59, paragraph 3, of the Istanbul Convention places the obligation on parties to issue victims with a renewable residence permit if their personal situation would render it unreasonable for them to leave the party or their continued presence in the party is required due to their co-operation with the competent authorities in the investigation or prosecution of a criminal offence.

Promising practices

529. Sweden has implemented provisions compatible with Article 59, paragraph 3, sub-paragraph b, namely access to a residence permit based on participation in an investigation or a hearing of a criminal case.⁸⁸⁴ In its baseline evaluation report on Montenegro, GREVIO noted that foreign victims of domestic violence may be granted a temporary residence permit for humanitarian reasons where they cooperate with the authorities for the purposes of criminal investigations or proceedings.⁸⁸⁵ However, while welcoming this possibility, GREVIO called for the interpretation of the conditions set that consider the specific difficulties which victims may experience in seeking help, such as isolation and dependency on their abuser.

Challenges

530. In its baseline evaluation reports on Andorra, Belgium, and Italy, GREVIO noted that no measure had been taken to implement all or part of paragraph 3 of Article 59, and hence called the authorities to remedy that situation.⁸⁸⁶ France was criticised for expressly excluding Algerian women from any protection available that is based on personal circumstances.⁸⁸⁷

Article 59, paragraph 4 – Reinstatement of residence permit lost as a result of forced marriage abroad

Introduction

531. Migrant women who possess a residence permit in a party and are taken abroad for the purposes of forced marriage, may be at risk of losing their residence permit as a result of prolonged absence from the territory. Article 59, paragraph 4, requires parties to provide for the possibility for such victims to regain their residence status.

881. See GREVIO's baseline evaluation report on Montenegro paragraphs 252 and 254.

882. See GREVIO's baseline evaluation report on Belgium, paragraphs 211-212

883. See GREVIO's baseline evaluation report on Andorra paragraph 202.

884. See GREVIO's baseline evaluation report on Sweden, paragraph 244.

885. See GREVIO's baseline evaluation report on Montenegro, paragraph 251.

886. See GREVIO's baseline evaluation reports on: Andorra, paragraphs 205-206; Belgium, paragraphs 212-213 and 215; and Italy, paragraphs 257 and 259(b).

887. See GREVIO's baseline evaluation report on France, paragraph 258.

Promising practices

532. GREVIO has welcomed Dutch policy in this area, including the guidelines on identifying and dealing with forced marriage and abandonment abroad, issued in 2017 by the Dutch Centre of Forced Marriage and Abandonment, following the signature of the Istanbul Convention, and the training for professionals on this issue. Victims can apply for a provisional or humanitarian residence permit enabling their return to the Netherlands. There are awareness-raising campaigns, advice leaflets and a ticket fund to pay for a return ticket although some NGOs expressed concern that the fund is insufficient to meet the need.⁸⁸⁸

Challenges

533. Many parties have failed to enact legislation or measures to ensure compliance with Article 59, paragraph 4, which GREVIO has criticised in its baseline evaluation reports on Andorra, Belgium, France, Italy, Montenegro, and Spain.⁸⁸⁹

Article 60 - Gender-based asylum claims

Article 60, paragraph 1 – Gender-based violence recognised as a form of persecution

Introduction

534. Article 60, paragraph 1, requires parties to recognise gender-based violence against women as a form of persecution within the meaning of Article 1 A.2 of the 1951 Convention relating to the Status of Refugees. The objective is to ensure a gendered approach to the consideration of how and why women and girls experience persecution.

Promising practices

535. Across the 17 country evaluations undertaken to date, with the exception of Albania in which it was explicitly noted that gender-based violence is not mentioned as a form of persecution, GREVIO has not required action to be taken in relation to the obligation to recognise gender-based violence as a form of persecution warranting refugee status or as a form of serious harm warranting subsidiary protection. This reflects the wide-spread compliance amongst parties with the requirement of Article 60, paragraph 1, of the Istanbul Convention.

536. GREVIO has praised a number of parties for explicitly recognising gender-based violence as a form of persecution within its domestic law. These include Finland, Malta, the Netherlands, Spain, and Sweden, as well as Serbia where the legislation was amended following the signature of the convention.⁸⁹⁰ Although some countries such as Italy, Montenegro, Portugal, and Turkey do not expressly refer to gender-based persecution, they nevertheless require protection claims to consider membership of a particular social group with regard to gender identity or sex, or they otherwise recognise physical, psychological, or sexual violence as amounting to persecution.⁸⁹¹ Despite Andorra not being a party to the Refugee Convention, GREVIO commended the receptiveness of Andorran authorities to consider victims of gender-based violence and domestic violence as priority candidates for protection.⁸⁹²

888. See GREVIO's baseline evaluation report on the Netherlands, paragraph 308.

889. See GREVIO's baseline evaluation reports on: Andorra, paragraph 205; Belgium, paragraph 214; France, paragraph 258; Italy, paragraphs 258 and 259(c); Montenegro, paragraphs 253-254; Spain, paragraph 283 (Spain was specifically criticised for defining forced marriage through the lens of human trafficking that in turns requires formal identification as a victim of trafficking through a specified procedure, neither of which is compatible with the intention of Article 59(4) IC).

890. See GREVIO's baseline evaluation reports on: Finland, paragraph 248; Malta, paragraph 243; the Netherlands, paragraph 310; Serbia, paragraph 259; Spain, paragraph 286; and Sweden, paragraph 255.

891. See GREVIO's baseline evaluation reports on: Italy, paragraph 260; Montenegro, paragraph 256; Portugal, paragraph 234; and Turkey, paragraph 339.

892. See GREVIO's baseline evaluation report on Andorra, paragraph 208.

Challenges

537. Albania is the only party in respect of which GREVIO has found that gender-based violence is not mentioned as a form of persecution. In its baseline evaluation report, GREVIO also noted that there did not appear to be any practices whereby gender-specific violence is recognised by the authorities as amounting to persecution.⁸⁹³

Article 60, paragraph 2 - gender-sensitive interpretation applied to the convention grounds

Introduction

538. Article 60, paragraph 2, requires parties to ensure that a gender-sensitive interpretation is applied to all grounds of persecution specified in Article 1 A.2 of the Refugee Convention, including race, religion, nationality and political opinion, and to not restrict gender-based violence to the category of membership of a particular social group. Ensuring a gender-sensitive interpretation implies recognising and understanding how gender can have an impact on the reasons behind the type of persecution or harm suffered.⁸⁹⁴ GREVIO's evaluations undertaken thus far reveal a varying level of implementation of this requirement.

Promising practices

539. Following the ratification of the Istanbul Convention, Sweden has demonstrated commitment to improving the quality of asylum decisions with regards to applications made by women by introducing gender-sensitive policies and practices. Notably, in 2017, the Swedish Migration Agency published a legal position on the examination and assessment of persecution on the basis of gender with regard to women that seeks to enhance the quality of asylum decisions by stressing the need to resort to updated country-of-origin information and an assessment of the future risk of gender-based persecution or other forms of persecution if the claim is rejected.⁸⁹⁵

540. Following the signature of the Istanbul Convention, Finland has implemented measures to enable its asylum case managers to identify and assess gender-related risk factors of persecution that may apply to women and has produced internal guidelines and delivered relevant training.⁸⁹⁶ Similarly, Spain has recently produced guidelines for assessing and processing gender-based asylum claims and delivered training to staff on gender-related persecution.⁸⁹⁷

541. Within its asylum agency, France has created thematic groups including a group dedicated to violence against women.⁸⁹⁸ When an asylum claim reveals issues of gender-based violence, a specialist case worker is appointed. Similarly, the Netherlands has introduced gender contact staff within its immigration service and Belgium has established a specialist gender unit within its asylum agency and ensured that its staff is trained in issues such as post-traumatic stress disorder caused by sexual violence and the psycho-social aspects of FGM.⁸⁹⁹

Challenges

Absence of gender guidelines and tendency to grant humanitarian protection instead of refugee status

542. GREVIO has noted in its baseline evaluation reports on Albania, France, Italy, Malta, and the Netherlands the absence of procedures/gender guidelines, protocols or training to guide professionals and ensure that

893. See GREVIO's baseline evaluation report on Albania, paragraph 210.

894. Explanatory Report, paragraphs 312-313.

895. See GREVIO's baseline evaluation report on Sweden, paragraphs 259-260.

896. See GREVIO's baseline evaluation report on Finland, paragraph 249.

897. See GREVIO's baseline evaluation report on Spain, paragraph 287.

898. See GREVIO's baseline evaluation report on France, paragraph 263.

899. See GREVIO's baseline evaluation reports on: Belgium, paragraph 223; and the Netherlands, paragraph 310.

gender-sensitivity is applied to all grounds of persecution.⁹⁰⁰ Accordingly, GREVIO has invited/strongly encouraged these countries to develop and implement gender guidelines, as well as ensure training of all of those involved in the procedure, in order to ensure that gender-sensitivity is applied to all grounds of persecution in the context of asylum determination procedures.

543. GREVIO has also noted the tendency to grant humanitarian protection rather than refugee status in its baseline evaluation reports on Italy and Malta. GREVIO noted, in particular, that at the time of the evaluation visit, Malta had made no grant of refugee status to women or girls, who were instead granted humanitarian protection - a status that deprives them of family reunification rights with respect to children left behind in their country of origin.⁹⁰¹ GREVIO expressed the concern that gender-based violence was not being identified or sufficiently recognised during the determination process and that specific forms of gender-based violence were poorly understood by adjudicators. A similar concern was expressed regarding the high rejection rate for women's asylum claims in Italy and the tendency to grant humanitarian or subsidiary protection instead. There was also evidence of considerable regional disparities in the integration of gender-sensitive procedures by the competent territorial commissions.⁹⁰²

Failure to collect relevant data

544. The convention requires parties to collect relevant and disaggregated data in order to monitor the efficacy of its laws and policies in tackling gender-based violence. As referred to in this review under *Article 11, Challenges, Data on the granting of refugee status on the basis of gender-related persecution*, the absence of data collection and analysis in the field of asylum claims is a notable omission by a number of parties including Austria, Denmark, Finland, France, Italy, the Netherlands, Portugal, Spain, and Sweden.⁹⁰³ Accordingly, GREVIO has encouraged the authorities of these parties to collect data on the annual numbers of asylum applications based on gender-related persecution and the related grounds on which they are based, the numbers of such applications granted and rejected.

Article 60, paragraph 3 – gender-sensitive reception procedures, support services for asylum seekers, gender guidelines and gender-sensitive asylum procedures

Introduction

545. Article 60, paragraph 3, of the Istanbul Convention contains three distinct obligations. The first obligation placed on parties is to develop gender-sensitive reception procedures that take into account women's and men's different experiences and their specific protection needs, and that ensure their right to safety. The Explanatory Report to the convention provides examples of good practices in this area, such as early identification of victims of violence against women, provision of information to women and girls, separate accommodation for men and women or security measures for shared facilities, appropriate training of reception centre staff and codes of conduct for private service providers.⁹⁰⁴
546. Article 60, paragraph 3, also places the obligation to develop support services for asylum seekers that provide assistance in a gender-sensitive manner and that cater to their particular needs. This can include taking measures such as providing additional psychosocial and crisis counselling, as well as medical care for survivors of trauma since for example, many female asylum seekers have been exposed to sexual or other forms of abuse and are therefore particularly vulnerable. Support services should also aim at empowering women and enable them to actively rebuild their lives.
547. In order to properly examine asylum claims by women and girls who are victims of gender-based violence, Article 60, paragraph 3, also entails the obligation to develop gender-sensitive asylum procedures. The

900. See GREVIO's baseline evaluation reports on: Albania, paragraph 211; France, paragraph 267(a); Malta, paragraphs 247 and 248(d); and the Netherlands, paragraphs 310 and 319(ii).

901. See GREVIO's baseline evaluation report on Malta, paragraphs 246-248(e).

902. See GREVIO's baseline evaluation report on Italy, paragraphs 261-262.

903. See GREVIO's baseline evaluation reports on: Austria, paragraph 58; Denmark, paragraphs 51-52; Finland, paragraph 248; France, paragraphs 265-276; Italy, paragraph 273(b); the Netherlands, paragraph 320; Portugal, paragraph 235; Spain, paragraphs 295-296; and Sweden, paragraphs 59-60.

904. Explanatory Report, paragraphs 314-315.

Explanatory Report to the convention contains non-exhaustive suggestions on how parties can ensure gender-sensitivity in their asylum procedures such as the provision of information on the asylum procedure, separate asylum interviews for women, individual consideration of women's applications and the ability of women to express a preference for the sex of the interviewer and interpreter.⁹⁰⁵ It is also imperative that victims' vulnerabilities and protection needs are identified at the earliest possible opportunity.

Promising practices

Gender-sensitive reception procedures and support services

548. In its baseline evaluation report on Belgium, GREVIO commended the authorities for including specific measures in their law to determine vulnerability such as individual assessments in the first thirty days, repeat assessment of individual needs throughout the stay at the reception centre and access to a range of specialist support services.⁹⁰⁶ GREVIO welcomed the introduction, in Sweden, of a standard operating procedure to identify particularly vulnerable asylum seekers in reception facilities in order to ensure that women victims of gender-based violence are offered appropriate accommodation adapted to their individual needs and safety concerns. This may be in sheltered housing, a safe house or a women's shelter. GREVIO noted that this is an excellent example of creating an environment in which asylum seeking women who have experienced gender-based violence can gain trust and confidence to tell their story and consequently recover.⁹⁰⁷ Moreover, GREVIO has found that Austria, Denmark, Finland, France, Montenegro, and the Netherlands all offer women-only reception accommodation and a generally high standard of material reception conditions.⁹⁰⁸

549. In recognition of its position as a transit country for migrants and in an effort to provide for those in need, Serbia was praised for not making access to accommodation, food and medical support contingent upon an asylum application being registered.⁹⁰⁹

Gender-sensitive asylum procedures

550. Despite limitations noted in the ability of parties to give effect to the provisions, GREVIO has welcomed that a number of countries have enshrined into law the right of a woman asylum seeker to request a female interviewer and interpreter. This includes Austria, Belgium, Denmark, Montenegro, the Netherlands, Sweden, as well as Serbia, where the law was amended following the ratification of the Istanbul Convention.⁹¹⁰ In France, an asylum reform undertaken following the ratification of the Istanbul Convention provided for the possibility for the applicant, in addition to being able to request a female interpreter and interviewer, to also be accompanied in the asylum interview by a third party, such as a lawyer or a support worker from a specialist NGO.⁹¹¹

551. GREVIO also commended countries such as Belgium, France, the Netherlands, Serbia, and Sweden which guarantee as a standard practice the right of women to be interviewed separately from their spouse/family in order for their asylum claim to be considered on an individual basis.⁹¹²

552. Although considerable regional disparities were identified in Italy, Bari was singled out as implementing particularly good practices.⁹¹³ In Bari, the immigration officers have received substantive training on gender issues in asylum claims and how to ensure a gender-sensitive procedure. Interpreters have received training on gender-sensitivity during interviews and women are interviewed by female staff with the help of female interpreters, with women's express consent

905. Explanatory Report, paragraph 317.

906. See GREVIO's baseline evaluation report on Belgium, paragraph 217.

907. See GREVIO's baseline evaluation report on Sweden paragraph 249.

908. See GREVIO's baseline evaluation reports on: Austria, paragraphs 203-204; Denmark, paragraphs 231-233; Finland, paragraph 244; France, paragraph 266; Montenegro, paragraph 258; and the Netherlands, paragraph 311.

909. See GREVIO's baseline evaluation report on Serbia, paragraph 265.

910. See GREVIO's baseline evaluation reports on: Austria, paragraph 209; Belgium, paragraph 222; Denmark, paragraph 234; Montenegro, paragraph 259; the Netherlands, paragraph 315; Serbia, paragraph 258; and Sweden, paragraph 256.

911. See GREVIO's baseline evaluation report on France, paragraphs 261-262.

912. See GREVIO's baseline evaluation reports on: Belgium, paragraph 222; France, paragraph 261; the Netherlands, paragraph 315; Serbia, paragraph 258; and Sweden, paragraph 256.

913. See GREVIO's baseline evaluation report on Italy, paragraph 262.

being required where interpretation is ensured by a man. For persons identified as vulnerable, specially-trained interpreters are utilised.

553. GREVIO also commended Belgium for having developed gender-sensitive procedures in order to facilitate and support victims of gender-based violence during the asylum procedure.⁹¹⁴ Moreover, a brochure specifically for girls and women claiming asylum in Belgium has been produced. When vulnerability has been identified, procedural safeguards are implemented such as: a shorter asylum interview; the right to be assisted by a trusted person during the interview; the allocation of a specially trained immigration officer for cases involving sexual or gender-based violence; a separate interview from their families; and the use of female interpreters bound by a code of conduct.

Challenges

Lack of or insufficient gender-sensitive reception procedures

Failure to undertake vulnerability screening resulting in inappropriate accommodation

554. In its baseline evaluation report on Italy, Malta and Spain, GREVIO noted with concern the absence of systematic vulnerability screening upon arrival, which can result in women being placed in inappropriate accommodation that is not suited to their vulnerability, as is described below.⁹¹⁵ GREVIO, therefore, has, *inter alia*, strongly encouraged/urged the authorities to introduce systematic vulnerability screening for women and girls upon arrival in order to identify international protection needs.

Lack of adequate and safe accommodation for all women and girls

555. GREVIO has issued a large number of findings to address the lack of adequate and safe accommodation for women and girls, including in its baseline evaluation report on Belgium, Finland, Italy, Malta, Spain, and Sweden. In Sweden, for example, GREVIO noted with concern that there is no formal policy to prevent mixed-sex accommodation. In Belgium, GREVIO noted a serious shortage of accommodation in reception centres which hampers the placement or transfer of victims of violence against women to adequate accommodation facilities.⁹¹⁶ In its baseline evaluation report on Italy, GREVIO noted with concern that migrants, including women, are often detained in so-called “hot spots”, where they are exposed to overcrowding, mixed facilities, lack of privacy, including lack of confidentiality during interviews and are therefore at an increased risk of gender-based violence.⁹¹⁷ Likewise, in Spain, women and girls are often forced to spend months in highly unsuitable humanitarian-type accommodation that exacerbate their trauma, impedes their psychological recovery and impacts negatively on their ability to disclose experiences of gender-based persecution.⁹¹⁸ Malta, on the other hand, was criticised for placing women who have been rescued at sea, including potential victims of gender-based violence, into detention-like facilities on public health grounds for an indeterminate length of time – with their release being hampered by lack of reception facilities. GREVIO expressed its concern that overcrowding had resulted in mixedsex accommodation and women being placed in open accommodation centres with men they are not related to, which exposes them to the risk of gender-based violence.⁹¹⁹
556. GREVIO has also expressed concern in its baseline evaluation reports on Finland, Italy, Malta, and Sweden over the lack of separate bathroom and toilet facilities and/or the absence of locks on bedroom doors, which also pose a serious risk for women’s safety.⁹²⁰

Inadequate knowledge and training of staff

557. The effectiveness of reception and support measures for women and girls is contingent upon the knowledge and training of relevant personnel on issues of gender-based violence and gender-sensitivity. In its baseline evaluation reports on Austria, Denmark, France, Italy, the Netherlands, and Turkey, GREVIO stressed the

914. See GREVIO’s baseline evaluation report on Belgium, paragraph 222.

915. See GREVIO’s baseline evaluation reports on: Italy, paragraphs 265 and 273(d); and Spain, paragraphs 296 and 298.

916. See GREVIO’s baseline evaluation reports on: Belgium, paragraphs 220 and 225; and Sweden, paragraphs 248 and 253.

917. See GREVIO’s baseline evaluation report on Italy, paragraphs 265 and 273(c).

918. See GREVIO’s baseline evaluation report on Spain, paragraphs 296 and 299.

919. See GREVIO’s baseline evaluation report on Malta, paragraphs 249, 251 and 253(b).

920. See GREVIO’s baseline evaluation reports on: Finland, paragraph 246; Italy, paragraph 266; Malta, paragraphs 249, 251 and 253(b); and Sweden, paragraph 248.

need for compulsory training for immigration and asylum officials, staff operating at initial landing settings, hotspots and reception facilities, case workers, decisionmakers and interpreters who come into contact with women asylum seekers, migrants and refugees. As specified in these reports, such training should encompass early detection, protection and referral of women victims of gender-based violence.⁹²¹ Specific shortcomings in the training of personnel on issues of gender-based violence and gender-sensitivity were identified, more specifically, in its baseline evaluation reports on Albania, Belgium Italy and Monaco. In particular, GREVIO found that Italy's poor reception procedures were exacerbated by the very limited training of accommodation centres' personnel and lack of specialisation of many of the organisations who run the centres. Furthermore, GREVIO noted with concern that specialist violence against women NGOs had limited access to reception and detention facilities.⁹²² Belgium was also strongly encouraged to ensure training courses for reception centre staff in order to reinforce the effectiveness of measures aimed at identifying and supporting asylum seeking women.⁹²³ As regards Albania and Monaco, both countries that very seldom receive asylum applications, GREVIO likewise expressed concern regarding the level of training and awareness of professionals and invited the authorities, in the case of Monaco, to ensure that people working with women asylum seekers have the necessary knowledge of gender-sensitive reception procedures and support for women asylum seekers described in Article 60 of the convention.⁹²⁴

Requirement to develop gender-sensitive reception procedures and guidelines

558. France and Turkey were both encouraged by GREVIO to work in co-operation with specialist NGOs to develop gender-sensitive procedures, guidelines and support services in order to enhance awareness and responsiveness of staff as well as the recognition of trauma.⁹²⁵ In the baseline evaluation report on Belgium, GREVIO found that while good practice existed in some reception centres, centralised gender protocols or guidelines would facilitate a uniform approach to violence against women that is currently lacking. GREVIO, therefore, strongly encouraged the Belgian authorities, *inter alia*, to produce and implement centralised gender-sensitive guidelines, protocols and training courses for all reception centres.⁹²⁶ In a number of baseline evaluation reports, including those on Finland and Italy, GREVIO has also addressed the lack of harmonisation in the approaches taken to ensure adequate, safe and gender-sensitive accommodation due to the diversity of the organisations operating reception centres (municipality, state and private actors). GREVIO noted that this gives rise to disparate provision and practices and pointed to the need to find modalities which would allow for the harmonisation of standards and procedures.⁹²⁷

Failure to guarantee access to specialist support services and to provide information on such services

559. Specialist support services are vital in helping victims of gender-based violence to disclose their experiences and in providing victims with the psychological, medical, or other type of assistance they may require, including, trauma care.

560. In some parties, administrative hurdles and/or the modalities in which shelters and specialised support services are funded *de facto* exclude asylum seeking women and migrant women from accommodation in shelters, as well as access to specialised support services. In its baseline evaluation reports on Austria and the Netherlands, in particular, GREVIO criticised the exclusion from or limitation of migrant women and asylum seeking women's access to shelters, owing to their exclusion from the source of funding. In the case of Austria, GREVIO urged the authorities to remove funding requirements and other bureaucratic obstacles that prevent access to services and shelters for asylum seeking women and women with irregular migration status and to ensure the same for recognised refugees and those with subsidiary protection. As regards Malta, GREVIO noted that women experiencing domestic violence while in the asylum process lack adequate social services support because of existing loopholes and lack of clarity on the administrative entity that is responsible to provide social services.⁹²⁸

921. See GREVIO's baseline evaluation reports on: Austria, paragraph 81; Denmark, paragraph 85; France, paragraph 116; Italy, paragraph 107; the Netherlands, paragraph 100; and Turkey, paragraph 122.

922. See GREVIO's baseline evaluation report on Italy paragraphs 266 and 273(d).

923. See GREVIO's baseline evaluation report on Belgium, paragraph 225.

924. See GREVIO's baseline evaluation reports on: Albania, paragraph 210; and Monaco, paragraphs 167-168.

925. See GREVIO's baseline evaluation reports on France, paragraph 267(b); and Turkey, paragraph 345.

926. See GREVIO's baseline evaluation report on Belgium, paragraph 225.

927. See GREVIO's baseline evaluation reports on: Finland, paragraph 245; and Italy, paragraph 266.

928. See GREVIO's baseline evaluation reports on Austria, paragraphs 106-107; Malta, paragraph 20; and the Netherlands, paragraph 163.

561. Even where no funding constraints or other administrative hurdles are present, GREVIO has identified shortcomings in ensuring asylum seeking women's access to specialist support and counselling services outside of reception facilities in its baseline evaluation reports on Italy, the Netherlands, and Serbia. In the case of Serbia, GREVIO encouraged the authorities to ensure the *de facto* access of all asylum seekers to counselling offered by NGOs.⁹²⁹ As regards the Netherlands, noting some difficulties encountered by migrant/asylum seeking women in accessing support services, particularly in cases of forced marriage, GREVIO strongly encouraged the Dutch authorities to ensure that all women victims of violence and their children, including refugee and asylum seeking women and women with an irregular migration status, are provided with specialist women's support services offering empowering, comprehensive and holistic support in all regions. GREVIO, furthermore, specified that such support should also be available to assist women in obtaining evidence in support of their asylum claim and their vulnerability.⁹³⁰ Italy, on the other hand, was encouraged to adopt a multi-agency approach in reception centres involving health and social services as well as access to women's NGOs and anti-violence centres.⁹³¹
562. Finally, GREVIO has observed that access to support services is often hampered by a lack of information on their availability and lack of staff trained to provide such information and/or refer vulnerable asylum seekers to specialist services. Accordingly, GREVIO has called a number of countries, including Italy, Malta, the Netherlands, Serbia, Spain, and Sweden to take pro-active steps to properly inform asylum seeking women of the forms of gender-based violence, their rights and the specialist support services available to them in a format and language they understand.⁹³²

Gender-sensitive asylum procedures

Failure to provide relevant information to women asylum seekers

563. Information is power. Provision in the law for the possibility to apply for asylum, including on grounds of gender-based persecution, serves no purpose if women are not made aware of the procedure and their rights. GREVIO noted in its baseline evaluation reports on Denmark, Malta, the Netherlands, Serbia, and Sweden a failure to properly inform women asylum seekers of their procedural rights, their right to apply for asylum in their own right, and, therefore, the relevance of their experiences of gender-based violence for the purpose of the asylum determination procedure.⁹³³

No guarantee of individual asylum interviews for women

564. In a number of baseline evaluation reports, including those on Austria and Finland, GREVIO noted hurdles in ensuring individual asylum interviews to women so that they could fully disclose any relevant violence they had been subjected to. In its baseline evaluation report on Austria, GREVIO noted that women are interviewed together with their family as a unit, or with their spouse, not separately, depriving them of the space and time to disclose experiences of gender-based violence.⁹³⁴ As a result, GREVIO noted that the grounds for seeking asylum were usually taken to be that of the man as the head of the family, without individual consideration of the women's experience of persecution. In Finland, despite separate interviews for women being possible, GREVIO noted that a high burden is placed upon the applicant to request for a separate interview.⁹³⁵ Accordingly, GREVIO has, *inter alia*, invited the authorities to ensure that all women arriving as asylum seekers are ensured the possibility of being interviewed on their own and that all those involved in the asylum determination procedure receive adequate training on the questions of gender-based persecution and gender-based violence.

Inadequate training or awareness of case managers, adjudicators and judges that work in the asylum determination process on gender-based violence and lack of gender guidelines on the adjudication of asylum claims

565. As already mentioned in the analysis under *Article 60 paragraph 2, Challenges, Absence of gender guidelines* of this review, GREVIO has noted in its baseline evaluation reports on Albania, France, Malta, and the Netherlands the absence of procedures/gender guidelines, protocols or training to guide professionals and

929. See GREVIO's baseline evaluation report on Serbia, paragraphs 264(b) and 270.

930. See GREVIO's baseline evaluation report on the Netherlands, paragraphs, 157 and 319(i).

931. See GREVIO's baseline evaluation report on Italy, paragraph 273(f).

932. See GREVIO's baseline evaluation reports on: Italy, paragraph 273 (e); Malta, paragraph 248(b); the Netherlands, paragraph 319 (a); Serbia, paragraph 270(b); Spain, paragraph 139; and Sweden, paragraph 253.

933. See GREVIO's baseline evaluation reports on: Denmark, paragraphs 235-236, 238 and 240; Malta, paragraphs 244 and 248(b); the Netherlands, paragraphs 316 and 319(i); Serbia, paragraphs 261 and 264(a); and Sweden, paragraphs 256 and 262.

934. See GREVIO's baseline evaluation report on Austria, paragraphs 210 and 214.

935. See GREVIO's baseline evaluation report on Finland, paragraphs 250 and 253.

ensure that gender-sensitivity is applied to all grounds of persecution.⁹³⁶ Accordingly, GREVIO has invited/strongly encouraged these countries to develop and implement gender guidelines, as well as ensure training of all of those involved in the procedure, in order to ensure that gender-sensitivity is applied to asylum determinations and ultimately guarantee the consistency and quality of such decisions. As regards specifically personnel's lack of training, an aspect which is unique to Spain and that has been noted by GREVIO, is that initial asylum interviews are conducted in police stations. GREVIO expressed concern in this respect as some police officers and interpreters lack training on gender-sensitivity.⁹³⁷

566. As regards more specifically the development and dissemination of gender guidelines for refugee status determination, GREVIO has also issued findings in this connection, in respect of Belgium, Montenegro, Serbia, and Turkey, asking that these authorities develop and disseminate such guidelines, in order to identify women asylum seekers who have experienced or are at risk of gender-based violence. In Montenegro, for instance, GREVIO noted that there were no specific gender-sensitive guidelines intended to enhance awareness among asylum case managers of special protection needs which women asylum seekers who have been victims or are at risk of gender-based violence may have.⁹³⁸ As regards Belgium, GREVIO expressed its concern in relation to the lack of gender-sensitive guidelines or policy measures aimed at identifying victims of gender-based violence in the context of accelerated procedures that have a maximum duration of 15 days. It noted that these procedures may seriously circumscribe women's ability to disclose violence suffered and gather the necessary evidence. GREVIO, therefore, encouraged the Belgian authorities to draw up and publish gender guidelines offering better guarantees that violence will be taken into account in the case of vulnerable women to whom the "border placement" and "accelerated" procedures apply.

Inadequate training and or availability of other professionals concerned in the asylum determination process on gender-based violence (including interpreters and specialist lawyers)

567. The inadequate training of professionals involved in the asylum procedure on issues of gender-sensitivity and gender-based violence such as interpreters and lawyers was also a recurring concern for GREVIO.
568. As referred to above under the analysis of *Article 60, paragraph 3, Promising practices*, a number of countries, including Austria, Belgium, Denmark, Montenegro, the Netherlands, Sweden, as well as Serbia, have enshrined into law the right of a woman asylum seeker to request a female interviewer and interpreter.⁹³⁹ In some of these parties, including Austria, Denmark, Finland, Malta, however, there were reports of insufficient availability of female interpreters to give effect to these provisions. For example, it was brought to GREVIO's attention that the overall number of interpreters in Austria was insufficient, the majority of whom were male and had not received training in issues of gender-based violence or gender-sensitive procedures.⁹⁴⁰ Moreover, GREVIO noted in its baseline evaluation report on Malta that few interpreters were female.⁹⁴¹ In Finland, concern was expressed regarding the availability of female interpreters as well as the quality of interpreters being used due to a lack of formal accreditation. Furthermore, GREVIO noted that male relatives were used as interpreters or interlocutors for women without any awareness of the barrier this creates for women to disclose gender-based violence.⁹⁴² In its baseline evaluation report on Denmark, GREVIO noted that although the majority of interviewers during the asylum determination procedure are women, there is a shortage of female interpreters and a lack of awareness amongst women asylum seekers of their right to request a female interpreter and interviewer.⁹⁴³ Concerns were also expressed regarding the quality and professional ethics of interpreters in Serbia and Sweden.⁹⁴⁴
569. The unavailability of trained lawyers was also identified by GREVIO as a challenge in several baseline evaluation reports, including those on Finland, Malta, the Netherlands, Serbia, and Sweden. In its report on Serbia, GREVIO noted that although some NGOs had been granted permission to offer information and legal counselling in

936. See GREVIO's baseline evaluation reports on: Albania, paragraph 211; France, paragraph 267(a); Malta, paragraphs 247 and 248(d); and the Netherlands, paragraphs 310 and 319(ii).

937. See GREVIO's baseline evaluation report on Spain paragraphs 292 and 295(a).

938. See GREVIO's baseline evaluation reports on: Belgium, paragraph 227; Malta, paragraph 248(d); Montenegro, paragraph 260; Serbia, paragraph 264(d); and Turkey, paragraph 345.

939. See GREVIO's baseline evaluation reports on: Austria, paragraph 209; Belgium, paragraph 222; Denmark, paragraph 234; Montenegro, paragraph 259; the Netherlands, paragraph 315; Serbia, paragraph 258; and Sweden, paragraph 256.

940. See GREVIO's baseline evaluation report on Austria, paragraphs, 207-208 and 213-214.

941. See GREVIO's baseline evaluation report on Malta, paragraph 245.

942. See GREVIO's baseline evaluation report on Finland, paragraphs 250-251 and 253.

943. See GREVIO's baseline evaluation report on Denmark, paragraph 235.

944. See GREVIO's baseline evaluation reports on: Serbia, paragraphs 263 and 264(e); and Sweden, paragraph 256.

some asylum and reception centres, their presence was not ensured in all centres. GREVIO, therefore, encouraged the authorities to ensure *de facto* access of asylum seekers to legal and other counselling offered by specialist lawyers and non-governmental organisations.⁹⁴⁵ Moreover, although free legal advice is available in Sweden for asylum seekers, GREVIO noted that the quality and specialisation of this representation seemed to vary significantly among the pool of legal counsel.⁹⁴⁶ The absence of legal aid for procedures in the first instance was noted with concern in Malta, as women asylum seekers go through the procedure without any advice and decisions are rarely overturned at the appeals stage.⁹⁴⁷ A similar issue regarding the absence of legal aid at the first instance level was raised in GREVIO's baseline evaluation report on Finland.⁹⁴⁸ The adverse impact of inadequately funded legal representation was highlighted in the Netherlands, where a 8-hour cap has been imposed on legal representation, regardless of the complexity of the claim or vulnerability of the asylum seeker.⁹⁴⁹ Again, in its baseline evaluation report on Finland, GREVIO noted that limits placed on the choice of lawyer meant that asylum seeking women were assigned legal aid staff lawyers who may not have any experience in asylum law or understanding of gender-based violence.⁹⁵⁰ GREVIO has therefore encouraged/strongly encouraged the authorities, *inter alia*, to ensure the adequate quality of legal representation for women asylum seekers throughout the asylum application process, starting from the first interview.

Failure to incorporate gender-sensitive questions in the asylum interview

570. Gender-sensitive questions in the asylum interview are imperative to ensure that the interview is not structured around male experiences of persecution and oppression to the exclusion of women's experiences of gender-based violence. In its baseline evaluation report on Denmark, GREVIO noted that women asylum seekers are not necessarily encouraged to tell their own story of persecution and abuse, and that women's narratives tend to be disregarded.⁹⁵¹ GREVIO also noted the presence of significant barriers for women asylum seekers to disclose traumatic experiences during interviews in Finland.⁹⁵² Accordingly, GREVIO encouraged the authorities of both countries to address this failing by introducing gender-sensitive questions into the standard procedure for interviews.

Article 61 - Non-refoulement

Introduction

571. Pursuant to Article 61, paragraph 1, of the Istanbul Convention, parties must respect the principle of *non-refoulement* by not expelling or returning an asylum seeker or refugee to any country where their life or freedom would be threatened. The principle of *non-refoulement* has acquired the status of customary international law meaning it applies to all states irrespective of whether or not they are bound by the 1951 Refugee Convention.⁹⁵³ Article 61, paragraph 2, stipulates that the *non-refoulement* principle applies equally to victims of violence against women in need of protection, irrespective of the status or residence of the women concerned. This protection against return includes women whose claim for asylum is yet to be determined or whose claim has been refused.⁹⁵⁴ Parties must refrain from any practices amounting to direct or indirect *refoulement*, including preventing asylum seekers from accessing a state territory at its borders.

Challenges

572. Of the 17 baseline evaluations reports published to date, only five reports analyse compliance with Article 61, of the convention.⁹⁵⁵ Challenges identified by GREVIO involve restrictions preventing access to a states' borders, considered to be tantamount to indirect *refoulement*, and practices that prevent the proper identification of victims of violence against women requiring protection against *refoulement*.

945. See GREVIO's baseline evaluation report on Serbia, paragraphs 264(b) and (e).

946. See GREVIO's baseline evaluation report on Sweden, paragraphs 257 and 262.

947. See GREVIO's baseline evaluation report on Malta, paragraphs 245 and 247.

948. See GREVIO's baseline evaluation report on Finland, paragraph 232.

949. See GREVIO's baseline evaluation report on the Netherlands, paragraphs 318-319(iii).

950. See GREVIO's baseline evaluation report on Finland, paragraph 251.

951. See GREVIO's baseline evaluation report on Denmark, paragraphs 236 and 239.

952. See GREVIO's baseline evaluation report on Finland, paragraph 253.

953. Explanatory Report, paragraphs 319-320.

954. Explanatory Report, paragraph 322.

955. The country reports containing reference to Article 61 are: Italy, Malta, the Netherlands, Spain and Turkey.

Restricting access to the state's territory

573. In its baseline evaluation reports on Italy and Malta, GREVIO has acknowledged the disproportionate pressure placed on countries of first arrival.⁹⁵⁶ However, it has also stressed that adherence to the *non-refoulement* principle remains integral to the protection of women and girls from gender-based violence.
574. In its baseline evaluation report on Turkey, GREVIO noted that despite the principle of *non-refoulement* being enshrined into its domestic law, the Temporary Protection Scheme⁹⁵⁷ construes the principle narrowly in restricting access to its territory for persons under the scheme's scope, with reports of push-backs at the border.⁹⁵⁸
575. GREVIO noted with concern that both Italy and Malta operate policies of abandoning sea rescue and strengthening deterrence at sea, together with the closure of their domestic ports to boats carrying rescued migrants.⁹⁵⁹ GREVIO has stressed that this practice poses a serious risk of *refoulement* of victims of violence against women. In both baseline evaluation reports, GREVIO also underlined that the practice of relinquishing responsibility for search-and-rescue operations to authorities that appear unwilling or unable to protect rescued migrants from torture or inhuman or degrading treatment or are themselves in a state of civil war can be seen as abusing the right to non-refoulement and places women asylum seekers and migrants at serious risk of re-victimisation. It noted in its baseline evaluation report on Italy, more specifically, that migrants and victims were being returned to Libya where there is evidence of large-scale sexual violence against women.

Impediments to the identification of victims and protection from refoulement

576. A failure to implement gender-sensitive procedures and protocols aimed at properly identifying vulnerability or issues of gender-based violence deprives victims of fundamental protections to prevent future harm and can lead to deportations or returns in violation of the obligation of *non-refoulement*. This lack of systematic and co-ordinated identification process was the subject of concern in Italy.⁹⁶⁰
577. Accelerated asylum procedures are especially known to inhibit disclosure and increase the risk of returns in violation of the principle of *non-refoulement*. By way of example, Belgium and Spain were both criticised for a failure to carry out vulnerability assessments in the framework of accelerated asylum procedures.⁹⁶¹ Similarly, in its baseline evaluation report on the Netherlands, GREVIO noted with concern that women originating from a deemed safe country are subject to the accelerated asylum procedure, thereby significantly reducing the prospects of identifying their vulnerability and risk. In this context, GREVIO noted the opinion delivered by the Dutch Council of State regarding the interpretation of the safe countries concept which concluded that a country cannot be regarded as safe if identifiable groups, such as LGBTI people, face a systematic risk of persecution or inhumane treatment in that country. The opinion also states that, if the country is to be deemed safe, an express exception must be made for identifiable at-risks groups such as LGBTI people. As such, GREVIO invited the Netherlands to review the "safe country" list for all women, particularly those fleeing domestic and gender-based violence and LGBTI women.⁹⁶²

956. See GREVIO's baseline evaluation reports on: Italy, paragraph 276; and Malta, paragraph 255.

957. In its baseline evaluation report on Turkey, GREVIO noted that Turkey implements a "temporary protection" regime, acquired on a *prima facie*, group basis, to Syrian nationals and stateless Palestinians originating from Syria. This status grants beneficiaries the right to legal stay, protection from refoulement and access to a set of basic rights and services, including free health care, until they are settled into a third country.

958. See GREVIO's baseline evaluation report on Turkey, paragraphs 346-347.

959. See GREVIO's baseline evaluation reports on: Italy, paragraph 275; and Malta, paragraph 255.

960. See GREVIO's baseline evaluation report on Italy, paragraphs 263 and 275.

961. See GREVIO's baseline evaluation reports on: Belgium, paragraph 224; and Spain, paragraph 302.

962. See GREVIO's baseline evaluation report on the Netherlands, paragraph 321.

CONCLUSION

This Mid-term Horizontal Review of the implementation of the Istanbul Convention by half of its parties offers, for the first time, a comprehensive insight into the measures taken by governments to attain the convention's standards. It provides a comparative assessment of the challenges faced by parties in implementing the entire spectrum of obligations under the convention and a snapshot of where European states are with preventing and combating violence against women and domestic violence. Moreover, it shows how much progress has been made by parties to the convention, putting forward examples of promising practices under each Article of the convention, that can serve as inspiration to others. From this review emerges that, after the initial momentum created by the signature and ratification of the convention, the GREVIO evaluations have spurred new impetus for the implementation of the convention. In this connection, the review puts forward some significant examples that illustrate how the Istanbul Convention has impacted on parties' policies, jurisprudence, and laws. This review also offers food for thought and a basis for further contextualised research on the reasons why certain parties experience specific challenges, so that the underlying reasons can be addressed.

From the foregoing emerges clearly that, while concrete steps have been taken by all parties towards the implementation of the convention, the road ahead is still riddled with challenges. These can be surmounted, provided that there is sustained political commitment to breathe life into the convention and give it meaning at the national level. This review, therefore, aims to serve as a stock-taking exercise as much as a call to action, for governments who have been evaluated, and for those that await evaluation by GREVIO.

It is possible to significantly stem violence against women – the Istanbul Convention offers a blue-print on how to achieve this aim. This review, together with the impulse given by the celebrations around the 10th anniversary of the Istanbul Convention, should be benefited from by parties and maximised to consolidate and accelerate the implementation of the standards of the Istanbul Convention.

GREVIO, the *Group of Experts on Action against Violence against Women and Domestic Violence*, is an independent human rights monitoring body mandated to monitor the implementation of the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul Convention) by the Parties.

The Istanbul Convention is the most far-reaching international treaty to tackle violence against women and domestic violence. Its comprehensive set of provisions spans far-ranging preventive and protective measures as well as a number of obligations to ensure an adequate criminal justice response to such serious violations of human rights.

This Mid-term Horizontal Review has been conceived to serve as an information tool on violence against women in Europe. For each article of the Istanbul Convention, it provides a panoramic view of the promising practices and the challenges that GREVIO has identified in implementing this treaty across the 17 states parties that have been evaluated as at December 2020.

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The European Court of Human Rights oversees the implementation of the Convention in the member states.

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