

Committee of the Parties



Council of Europe Convention
on preventing and combating violence
against women and domestic violence
(Istanbul Convention)

Recommendation on the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by Malta

IC-CP/Inf(2020)9

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The Committee of the Parties to the Convention on Preventing and Combating Violence against Women and Domestic Violence (hereinafter referred to as “the Convention”), acting under the terms of Article 68(12) of the Convention;

Having regard to the purposes of the Convention to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence; to contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women; to design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence; to promote international co-operation with a view to eliminating violence against women and domestic violence; and to provide support and assistance to organisations and law enforcement agencies to effectively co-operate in order to adopt an integrated approach to eliminating violence against women and domestic violence;

Bearing in mind the provisions of Article 66 (1) of the Convention concerning the monitoring role of the Group of Experts on Action against Violence against Women and Domestic Violence (hereinafter referred to as “GREVIO”);

Having regard to the Rules of Procedure of the Committee of the Parties;

Having regard to the instrument of ratification deposited by Malta on 29 July 2014;

Having examined the Baseline Evaluation Report concerning the implementation of the Convention by Malta adopted by GREVIO at its 22nd meeting (13-15 October 2020), as well as the comments of the Government received on 16 November 2020;

Considering the overarching priorities set out in Chapter I of the Convention (purposes and scope of the Convention, definitions, equality and non-discrimination, due diligence and gender-sensitive policies);

Bearing in mind the primordial importance of the provisions set out in Chapter II of the Convention, in particular the obligations to (1) ensure a holistic response to violence against women by devising a set of comprehensive and co-ordinated policies implemented by way of effective multi-agency co-operation; (2) institutionalise and fully mandate one or more co-ordinating bodies as required by Article 10 of the Convention; (3) adequately resource policies, measures and mandates introduced to prevent and combat all forms of violence against women, including government and non-governmental specialist support services; and (4) to collect relevant statistical data disaggregated, at a minimum, by sex, age, type of violence, relationship of the perpetrator to the victim and geographic location;

Welcoming the measures taken by the Maltese authorities in implementing the Convention and noting in particular:

- the stated intention of the public authorities to broaden the current domestic policies to address all other forms of violence against women covered by the Istanbul Convention, in addition to the efforts taken in relation to domestic violence;
- comprehensive legislative changes, in particular in the area of criminal law, to broadly incorporate the concepts, the definitions and the criminal offences provided under the Convention into its legal framework;
- the strengths of the co-ordinating body in the area of violence against women, embodied by a fully institutionalised entity with legal personality, dedicated financial and human resources and with a diverse membership, including a person with a disability, a victim, a representative of NGOs and a representative of the LGBT community;
- the authorities' efforts to run an increasing number of awareness raising campaigns since the entry into force of the Istanbul Convention;
- the important steps taken to ensure that teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships and to a certain extent, domestic violence, are included in the

mandatory national curriculum starting primary school, with its content adapted to the maturity and capacity of the student; and

- the inclusion, in the area of asylum, of a definition of persecution that encompasses acts of physical or mental violence, including acts of sexual violence and acts of a gender-specific nature; and the need to give due consideration to “gender” for the purposes of determining membership of a particular social group in the assessment of reasons for persecution.

A. Recommends, in light of the considerations indicated in the preamble above, that the Government of Malta take the following measures identified in GREVIO’s Baseline Evaluation Report¹ for immediate action to:

1. enhance the implementation of the Istanbul Convention in relation to all forms of violence against women, beyond domestic violence, which are currently less addressed by policies, programmes and services, notably, rape and sexual violence, FGM, forced marriage, forced abortion, forced sterilisation and stalking; and ensure that both national legislation and policies reflect the fundamental principle enshrined in the Convention that all forms of violence against women, including domestic violence, affect women disproportionately and are a form of discrimination against women (paragraph 13);
2. address intersectional discrimination in its Strategy on Violence against Women, in particular, by examining the incidence of violence against women experienced by women belonging to specific vulnerable categories and by offering specific measures to prevent, protect from and prosecute such violence (paragraph 21);
3. ensure that the Inter-Ministerial Committee entrusted with the co-ordination and monitoring of Society’s Concern, Gender-Based Violence and Domestic Violence Strategy and Action Plan regularly consult with and ensure the participation of relevant non-governmental organisations in the design of policies, legislative changes and programmes (paragraph 29);
4. put in place a dedicated, transparent and accountable public procedure under which all NGOs which provide specialist support services to victims of all forms of violence against women and their children can compete for sustainable and long-term funding; and offer women victims of violence the possibility to self-refer (paragraph 38);
5. ensure the comprehensive collection of disaggregated data in relation to all forms of violence covered by the Istanbul Convention at all stages of criminal justice, disaggregated by sex, age, type of violence as well as the relationship of the perpetrator to the victim (paragraph 52) and improve the collection of data on protection orders issued under civil and criminal legislation, their breaches and consequences of such breaches (paragraph 53);
6. provide robust training for all relevant criminal justice actors, in particular by stepping up initial and in-service training for law enforcement agencies and prosecution services, supported by protocols and guidelines, on all forms of violence against women in order to improve levels of prosecution and convictions (paragraphs 78 and 79) and to raise awareness among the members of the judiciary of the fundamental importance of emergency barring and protection orders as well as the role of perpetrator programmes in breaking in the cycle of violence (paragraph 80);
7. ensure the availability of dedicated rape crisis and/or sexual violence referral centres in Malta and Gozo equipped with trained specialised staff, providing a response to sexual violence and rape with a victim-centred approach as well as longer-term psychological support on a one-

¹ The number of the paragraph setting out the GREVIO’s proposals and suggestions in the report is indicated in brackets.

- stop-shop basis while at the same time ensuring that the reproductive choices of women victims of rape do not constitute a barrier to their access to such services (paragraph 130);
8. take a number of priority actions in the area of custody and visitation rights to ensure the safety of victims and their children and to break the cycle of power and abuse exercised by the perpetrator, including by, among others, ensuring that family courts take into account any episodes of domestic violence and offering a legal basis for family courts to restrict visitation and custody rights where this is warranted to guarantee the safety and best interest of the child (paragraph 159);
 9. equip the police with the knowledge and powers to respond promptly and appropriately to all forms of violence against women covered by the Istanbul Convention, in particular, by:
 - a) pursuing plans to set up the specialised unit on domestic violence, extending its remit where possible to other forms of violence against women such as FGM and forced marriage;
 - b) reminding police officers of their due diligence obligation to immediately respond to, prevent and protect women from all forms of violence covered by the Istanbul Convention and apply the related sanctions for failure to do so;
 - c) securing innovative ways to eliminate the substantial barriers to reporting encountered in Gozo;
 - d) taking measures to ensure that the prosecutorial competence of the police does not represent, in practice, a barrier to reporting experiences of violence; and
 - e) removing the obstacles to the effective implementation of criminal provisions on rape and other sexual offences, notably by ensuring that forensic medical evidence may be lifted from victims should they so wish, whenever they seek medical assistance, regardless of whether they have filed a report to the police (paragraphs 200 and 201).
 10. take the legislative and or policy measures needed to bring the Maltese legal framework and practice in line with Article 52 of the Istanbul Convention, by, among others, ensuring that temporary protection orders are time-bound, non-renewable, but with the possibility of securing longer term protection through a protection order as required by Article 53; ensuring that such orders can be issued quickly in situations of immediate danger without lengthy proceedings; and that the alleged perpetrator is removed from the residence, rather than the victim, while ensuring that sanctions for breaches of such orders are effectively applied in practice (paragraph 221);
 11. take the legislative and or policy measures needed to bring the Maltese legal framework and practice in line with Article 53 of the Istanbul Convention, by, among others:
 - a. ensuring that protection orders are available under civil law, irrespective of or in addition to other legal proceedings;
 - b. setting up a centralised system that will record the issue of protection orders as well as any breaches of such orders;
 - c. stepping up efforts to monitor and enforce protection orders, including through protocols/regulation and technical means such as electronic tagging;
 - d. ensuring that victims are promptly informed when perpetrators served with a protection order are released on bail;
 - e. ensuring that sanctions for breaching protection orders are effectively applied (paragraph 227);
 12. ensure that upon arrival or swiftly thereafter women asylum-seekers are screened for vulnerabilities such as experiences or risk of gender-based violence that would require safe accommodation and/or special support services and counselling with a view to ensuring their swift transfer to open reception facilities while at the same time ensuring that women and girls are not placed in mixed-sex reception facilities or immigration detention facilities, including while in asylum detention (paragraph 253);

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13. uphold their obligation to respect the principle of non-refoulement of victims of violence against women, including by ensuring that the human rights of victims rescued at sea are never put at risk because of disagreements about disembarkation (paragraph 256).
- B. Requests the Government of Malta to report to the Committee of the Parties on the measures taken to improve the implementation of the Convention in the above-mentioned areas by 15 December 2023.
- C. Recommends that the Government of Malta take measures to implement the further conclusions of GREVIO's Baseline Evaluation Report.