

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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**Comments submitted by The Republic of Moldova  
on GREVIO's final report on the implementation  
of the Council of Europe Convention  
on preventing and combating violence  
against women and domestic violence  
(Baseline Report)**

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## **To the Executive Secretary of the Monitoring Mechanism of the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence**

The Ministry of Labour and Social Protection examined the approach regarding the provision of comments by national authorities with competences in the field on preventing and combating violence against women and domestic violence on the final project of the GREVIO Assessment report concerning legislative and other measures for implementation of the provisions of the Istanbul Convention (*hereinafter the Report*) and following the repeated consultation procedure, we present the comments per institution on the text and factual data, as follows.

### **Forensic Medicine Center**

In accordance with the recommendation from **point 92** or in addition to **point 89** regarding ensuring the continuity of medical staff training, the Forensic Medicine Center informs that within the Department of Forensic Medicine of the "Nicolae Testemițanu" State University of Medicine and Pharmacy, since the year of studies 2018-2019, a thematic training course for doctors and medical practitioners ([https://drive.google.com/file/d/1cdwAsRrn4MyYAKP7QpMsxxzTH\\_jlN5qd/view](https://drive.google.com/file/d/1cdwAsRrn4MyYAKP7QpMsxxzTH_jlN5qd/view)) is held annually on the response of the health sector to cases of domestic and gender-based violence, which also includes sexual assault.

### **Ministry of Education and Research**

The Ministry of Education and Research considers it necessary to fill in the content of **point 80** with the following information: „The procedure for identifying and reporting cases of violence by employees of educational institutions is the part of a complex strategy to prevent and combat violence against children launched in February 2013 by the Ministry of Education and Research. Teachers and directors of educational institutions have the obligation to notify the guardianship authorities and other state institutions when a child is at risk.

According to the latest report of the Ministry of Education and Research in the second semester, academic year 2022-2023, employees in the educational system identified 4498 suspected cases of physical and psychological abuse, neglect, labour exploitation, sexual harassment, bullying and trafficking. Most cases of child abuse in school are reported by teachers.

The Ministry of Education and Research encourages teachers, students and their parents/guardians to report cases of child violence to the competent authorities. Every child has the right to study in a developmentally friendly and protective environment.

In 2022, the Ministry of Education and Research developed and approved by Order no. 1024/2022 the Methodology on preventing and combating bullying. The preventing and combating bullying is part of the policy to avert violence against children and teenagers in educational institutions, and the particularities of the process of prevention and intervention in cases of bullying are established complementary to the existing normative framework”.

In accordance to recommendation from the **point 81**, we mention that in the Republic of Moldova there are no impediments regarding access to education for any of the sex categories. In March 2023 by Government Decision no. 114/2023, the "Education 2030" development strategy and its implementation program for the years 2023-2025 were approved. This public policy document must include the aspects of gender equality, including measures to remove existing stereotypes in this field.

**In point 88**, we reiterate the previously mentioned and inform that teaching and managerial staff specialize in continuous training internships in all disciplines and with profile, the programs

of which also include topics on preventing violence against women and domestic violence. Additionally, specific programs such as: Psychology (for school psychologists), Social Assistance, Psychopedagogy (for boarding school educators and social pedagogues), Psychopedagogy (for boarding school educators) are carried out. Educational management (for deputy directors in the field of education). The support teaching staff, etc. that approach the topic of preventing and combating domestic violence. The trainings include the thematic modules: Strategies for prevention and intervention of violence in schools; Influence of parents' migration on the student's psychosocial life; Techniques for supporting shy and isolated teenagers; Counseling of children under guardianship; Development of civic skills that directly or indirectly include content units on the pre-booked theme.

In post-secondary vocational education, courses are studied with reference to the prevention and combating of violence against children and violence against women in the specialty of Social Assistance, the qualifications of Social Pedagogue and Social Assistant.

### **Ministry of Justice**

In accordance with recommendation 9-10 of the annex (**points 50 and 51**) regarding the collection of statistical data in the justice sector, the Ministry of Justice informs that the collection and dissemination of data on the prevalence and incidence of various forms of violence against women, as well as the analysis of the causes and consequences of this phenomenon, is the starting point for the development of effective mechanisms, at the policy level, for the eradication of this phenomenon. Among the fields that will generate disaggregated statistical data is also the judicial field, considering that the guarantee of the right of access to justice is part of numerous instruments within the universal system of protection of human rights and other relevant regional rights and instruments. In order to strengthen this field, it is necessary to take into account that since 2020, through the Informational Programme of Data Management, judicial statistics are collected electronically.

Thus, the electronic statistical reports generate data on each component of the crime, as well as separately on the aggravating circumstances. In the same way, the data on the category of punishment applied and data on the aggressors disaggregated by sex are reflected, and separate data targeting minors. At the same time, considering the imminent need to have disaggregated judicial statistical data on victims, the electronic statistical data collection module also included and forms that generate data in relation to the victim of the crime, these being disaggregated by: the total number of victims; age (18-30 years; 31-50 years; 51-60 years; more than 60 years); gender (male, female); studies (higher; secondary vocational education. secondary education; mediums; incomplete secondary education); drunkenness or narcotic state; living environment (rural, urban); the total number of victims against whom crimes were previously committed. In addition to criminal and misdemeanor cases regarding acts of domestic violence, in civil matters on the aspect of issuing protection ordinances, the system generates three categories of statistical reports: (1) report on the progress of resolving cases; (2) report on the application of protective measures by category of adults; (3) report on the application of protection measures by category of minors. The report on the progress of case resolution includes the following disaggregated data: number of registered requests; number of applications received in the procedure; number of resolved cases; backlog of files; number of victims (minors/adults); number of aggressors; appeals. The model report on the application of protective measures by category of adults and minors (victims) includes data on: total number of applications submitted, admitted and rejected; categories of protective measures that can be imposed; disaggregation by sex, age and living environment (rural/urban). Considering the aforementioned, it is considered judicious to

reconsider the findings from **points 47 and 51** of the Report, which lead to the conclusion of a lack of statistical data on the aspects mentioned above.

In accordance with recommendation no. 39-40 in the annex (**points 201 and 202**) which refer to crimes of a sexual nature, we note that through Law no. 316/2022, conceptual changes were made in relation to crimes regarding the sexual inviolability of the person. Thus, considering that the Criminal Code of the Republic of Moldova, in the case of rape and those of a sexual assault, restricted the consent of the victim to the application of physical or mental coercion of the person or to taking advantage of his inability to defend himself or to express his will, the non-consensual sexual intercourse was defined, as well as non-consensual sexual acts to the exclusion of any extensive interpretations unfavorable to the victims and circumstances that may affect the person's free consent when performing a sexual act. Therefore, in order to intervene additionally in the legislative framework, it is necessary to be able to find deficiencies in the implementation process of the new adopted provisions. However, at this stage, a solid judicial practice is not formed to be able to ascertain possible deficiencies.

### **Ministry of Interior Affairs**

In accordance with **point 50**, the experts noted the need to establish an information system regarding domestic violence. Thus, we support and consider relevant the proposal of the experts, considering that, currently, law enforcement bodies do not have a distinct information system devoted to the topic of preventing and combating domestic violence, and the collection and management of data segregated into certain categories is carried out manually, a fact that involuntarily may cause errors, differences and inconsistencies regarding segregated data. In this vein, the need to establish an interconnected information system, segregated by data and managed by a competent institution, is supported, which would allow the collection and analysis of data on all aspects related to domestic violence or gender-based violence.

In accordance with **point 188** and **point 189**, the experts noted that "stalking" manifests itself through a form of psychological violence, which is criminalized in art. 78<sup>2</sup> of the Contravention Code and establishes a penalty with a fine from 30 to 60 conventional units, or with community service from 20 to 40 hours or arrest from 10 to 15 days, thus finding that, the penalties for the act of "stalking" provided by the Contravention Code are not a deterrent for the aggressor, as they are exempt from contravention arrest and the fact that the enforcement of community service is dependent on the perpetrator's consent. In this sense, we judiciously note handling of the changes related to the sanctions provided for in art. 78<sup>2</sup> Contravention Code, or amending the legislation to criminalize prosecution actions in the provisions of the Criminal Code.

In accordance with **points 191 – 193**, GREVIO experts mentioned that "physical violence" is reflected in the Criminal Code art. 201<sup>1</sup> and the Contravention Code art. 78<sup>1</sup>, the qualification being determined by the degree of physical injuries caused. Thus, experts note the lack of clear guidelines for distinguishing between the misdemeanor and the criminal offense of domestic violence, which can lead to serious cases of physical violence being charged as a misdemeanor and, in turn, cases of psychological violence can go unpunished. Moreover, the Contravention Code punishes by either 40 to 60 hours of community service, or criminal detention from 7 to 15 days. According to the Contravention Code, the arrest cannot be applied as a sanction to perpetrators who are the sole breadwinners of a household, hence it is necessary to reflect the seriousness of the facts through harsher sanctions. Likewise, the Criminal Code provides for more severe penalties for murder, serious and moderate injury if the crime was committed against a family member, and violent crimes have milder penalties. In order to improve the process of qualifying the act of violence, it is necessary and appropriate to define domestic violence of a

contraventional nature from domestic violence of a criminal nature, as well as to tighten the penalties for committing acts of domestic violence in both regulations.

GREVIO notes in **point 235** a significant difference between the number of requests to the Police regarding assistance in cases of domestic violence - 12,970, and the number of confirmed cases is 2,453. This led to the non-confirmation of 81% of the reports, and the police activity presumes discussions with the parties without taking significant action. In this regard, the law enforcement bodies note that all cases were properly investigated, but the investigation and prosecution of the perpetrator depends a lot on the cooperation of the victim with the investigating agents. As a result, in the cases reported as unsolved, the victim refused the medico-legal examination to determine the bodily injuries. The non-cooperation of the victim led to the termination of the examination of the reported cases due to the lack of evidence in the misdemeanor or criminal classification of domestic violence. In this sense, it is necessary to amend art. 781 Contravention Code, with the inclusion of the desired: "Violent actions that caused physical pain". The proposed amendment would contribute significantly to the reduction of unsolved cases by law enforcement bodies.

The experts noted in **point 238** the operational problems, such as the lack of access to information. Although police officers keep a record of restraining orders and protection orders, these records are kept manually. To access the records, the police must contact the department responsible for monitoring the offender, which can take several days and means that the police do not know if there is a history of violence or an existing protection order. Thus, it is mentioned that the Police is currently piloting an electronic register.

In accordance with **point 200**, the experts recommend updating the relevant training programs to strengthen professional capacities in accordance with the new changes in the legislation and indicate the need to collect data on reported cases, indictments and convictions in cases of sexual violence. We reiterate that in order to provide an in-depth analysis of cases of sexual violence, the introduction of a data collection system will enable the tracking of all cases along the criminal justice chain. Currently, it is necessary to review the data collected in cases of domestic violence provided for in art. 201<sup>1</sup> Criminal Code. The existing database only allows the collection of the total number of ascertained cases, a fact that prevents the performance of a qualitative criminal analysis on different forms of domestic violence, as well as other important aspects for the determination of possible gaps in the institutional and judicial response in cases of domestic violence. The inclusion of a system that allows for the tracking of cases of violence throughout the criminal process, from reporting, to indictment and conviction, in relation to all crimes provided for by the Istanbul Convention, as well as the record based on the gender and age of both the victim and of the perpetrator, the type of crime, the relationship between the perpetrator and the victim, and the geographic location, would provide law enforcement with an improvement in the data collection process.

In accordance with **point 308**, it is suggested to change the phrase "GREVIO notices that the number of staff has not increased to cope with this exponential increase in requests", as follows: "According to Government Decision no. 16/2023 regarding the organization and operation of the General Inspectorate for Migration, the institution was reorganized and the services were decentralized, including by supplementing the staff in the field of asylum, integration and documentation."

In accordance with **point 310**, there is a confusion between the terms "asylum seeker" and "beneficiary of temporary protection", which refer to different contexts. In accordance with the provisions of Law no. 270/2008 regarding asylum in the Republic of Moldova and with Government Decision no. 21/2023 on granting temporary protection to displaced persons from

Ukraine, it is proposed to replace the phrase "Ukrainian asylum seekers" with "displaced persons from Ukraine".

In the entire text of the Report, the phrase "Bureau for Migration and Asylum" is to be replaced with the phrase "General Inspectorate for Migration", in accordance with the provisions of Government Decision no. 16/2023, regarding the organization and operation of the General Inspectorate for Migration.

### **General Prosecutor's Office**

In accordance with **point 201**, GREVIO "urges the Republic of Moldova authorities to amend the sexual offenses provided by the Criminal Code in order to fully incorporate the notion of lack of freely given consent, as required by Article 36 of the Istanbul Convention, as well as to define the type of non-consent". We consider it judicious to mention that, by Law no. 316/2022 amending some legislative acts (ensuring the rights of victims in the case of crimes regarding sexual life and domestic violence), several legislative acts were amended and filled in, including the provisions of the Criminal Code and The Code of Criminal Procedure, aimed at ensuring the rights of victims in the case of crimes related to sexual life and domestic violence, changes made in order to adjust the national legal framework to the provisions of the Istanbul Convention. Thus, the purpose of the amendments in the criminal law was to redefine the notion of "rape" by " non-consensual sexual intercourse ", the introduction of the crime of "non-consensual sexual acts", the supplementing the Criminal Code with article 132<sup>2</sup> "*Sexual intercourse or acts with non-consensual sexual nature*", which gives the notion definition of "non-consensual" - the sexual intercourse or action of a sexual nature, which is accompanied by physical or mental coercion, applied to the victim or another person, or in which the person takes advantage of the person's disability to defend himself or to express his will.

In accordance with **point 221**, GREVIO notices that the requirement of Article 46 of the Istanbul Convention to introduce serious penalties for crimes committed against a former or current spouse or partner, family members or people who live with the victim, is less observed. For example, while certain crimes provided by the Criminal Code, such as rape (Article 171), acts with non-consensual sexual nature (Article 172) and murder (Article 145) list the commission of the offence against a family member as an aggravating circumstance, GREVIO finds that some crimes applicable to cases of violence against women do not criminalized such a criminal act, at least as an aggravating circumstance. As examples can be crimes provided by art. 151, art. 152, art. 155 of the Criminal Code.

We consider it judicious to mention that this approach (remark) does not correspond to the provisions of the Criminal Code and the national judicial-criminal practice.

Thus, the national legislator provided for a distinct criminal law - Domestic violence - art. 201<sup>1</sup> of the Criminal Code which, according to the provisions of art. 116, paragraph (1) of the Criminal Code, is a special rule in relation to art. 151, 152, 155 etc. crimes from the Criminal Code that criminalized physical or mental violence because the main legal object of the crime provided by art. 201<sup>1</sup> of the Criminal Code forms social relations regarding family solidarity.

We emphasize that, the offences, since they have as special subject, the family member (notion mentioned in art. 133<sup>1</sup> of the Criminal Code), fall solely under exclusive incidence of the domestic of violence - art. 201<sup>1</sup> of the Criminal Code. The domestic violence provides for more serious penalties compared to similar acts, committed between people who are not family members, thus the requirement of the provisions of art. 46 of the Istanbul Convention was implemented in the national legislation. It is necessary to mention that the form of domestic violence, such as sexual assault, is not covered by the current criminal law, which regulates domestic violence - art. 201<sup>1</sup> of the Criminal Code, exceeding the limits of this component and is

to be qualified in accordance with the provisions of Chapter IV of the Special Part of the Criminal Code "Offences regarding sexual life". For these reasons, the components of crimes, provided in Chapter IV of the Special Part of the Criminal Code, such as rape (Article 171), violent acts of a sexual nature (Article 172) are accompanied by the aggravating circumstance "*committed against a family member*". The criminal offence of assault causing bodily harm and its aggravating form committed against a former/current spouse or partner, family members and people living with the victim, is to be qualified through the prism of the crime of domestic violence - art. 201<sup>1</sup> of the Criminal Code. Following these reasoning, the aggravating circumstance "committed on a family member" is not included in the following components of crimes - article 151 of the Criminal Code "Serious intentional injury to corporal integrity or health" and article 152 of the Criminal Code "Mean intentional injury to corporal integrity or health", "Threat of murder or serious injury to corporal integrity or health" - article 155 of the Criminal Code.

In accordance with **point 226**, GREVIO notices that, "*the specific crime of domestic violence provided for in article 2011 of the Criminal Code applies to "violent actions that result in slight injury to corporal integrity or health", while other forms of violence against women or domestic violence, causing more serious injury or death will be classified as murder or causing bodily harm - thus falling within the scope of reconciliation. GREVIO notes with concern that no information has been provided on the introduction of specific measures, such as guidelines or training efforts, to ensure that victims express their free consent to reconciliation and are not coerced or intimidated. Therefore, it is essential that judges are trained to abandon attempts at conciliation in all cases involving violence against women and domestic violence.*" We consider it judicious to mention that, according to national legislation, all forms of domestic violence will be qualified through the prism of art. 201<sup>1</sup> Criminal Code. The crime "Murder committed against a family member" will be qualified through the prism of art. 145 paragraph (2) letter e1 Criminal Code. In the case of sexual violence (art. 171 of the Criminal Code "Rape" and 172 of the Criminal Code "Actions of a sexual nature without consent") the criminal actions will be assessed by applying the aggravating circumstance - to a family member. Subsequently, we consider it necessary to underline that, in criminal cases for domestic violence crimes, the termination of the criminal process in connection with the reconciliation of the parties is prohibited, a fact that derives both from the provisions of art. 109 of the Criminal Code and art. 276 of the Code of Criminal Procedure.

### **Ministry of Labour and Social Protection**

In accordance with **point 13**, we come to experts' attention to the fact that ensuring the rights of all women, including women with multiple vulnerabilities, is provided for in specific objective 1.5. of the National Program on preventing and combating violence against women and domestic violence for the years 2023-2027.

In order to exclude any confusion, a delimitation is to be made between the National Strategy on prevention and combating violence against women and domestic violence for the years 2018-2023 and the new program approved in points 27 and 30. Thus in point 27 it will be refers to the National Strategy on prevention and combating violence against women and domestic violence for the years 2018-2023, and in **point 30** will focus on the new National Program on prevention and combating violence against women and domestic violence. At the same time, a rough correction is to be made on implementation costs of the new program. The total value of the financial resources necessary for carrying out the programme and the implementation of the Action Plan is **MDL 19.8 million (approximately € 1 million)**. It was allocated **MDL 4 million (approximately € 209 115)** from the state budget, the rest of the expenses being covered from the resources of the development partners.

At point **85**, according to the data provided at the first stage of analysis of the Report, the National Institute of Justice of the Republic of Moldova came with the request to make changes regarding the number of people trained, so during 2020, 25 judges and 33 prosecutors participated in the seminar Judicial Practice on the examination of cases related to domestic violence. We note that in the Final Report the number of prosecutors trained (33) has been changed, we request that the number of judges trained (25) be rectified.

We reiterate the fact that following the changes made to the Criminal Code by Law no. 316/2022, the notion of "non-consensual sexual actions" was introduced. In this sense, we recommend the definition of sexual harassment in **point 214** through the lens of the new changes made. In the new wording, the Criminal Code defines sexual harassment as the pretense of a sexual act or another action of a sexual nature through physical, verbal or non-verbal behavior, if this creates an unpleasant, hostile, degrading, humiliating, discriminatory or insulting atmosphere for victim, committed by taking advantage of the victim's state of dependence or by threat, provided that the act does not meet the elements of rape or non-consensual sexual acts. This offense is punishable by a fine in the amount of 500 to 650 conventional units or unpaid community work of 120 to 180 hours, or imprisonment of up to 2 years.