

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 6 April 2021

GEC(2021)4 Rev

**GENDER EQUALITY COMMISSION
(GEC)**

DRAFT

**Comments of the Gender Equality Commission
on GREVIO's draft General Recommendation on the digital dimension
of violence against women**

1. The Gender Equality Commission (GEC) is grateful to the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) for having sent for consultation the draft General Recommendation on the digital dimension of violence against women (included as an Appendix to this document). In particular, GREVIO has requested GEC's opinion on "the scope and structure" of its draft text.
2. The GEC agrees that both the increasing prevalence of online violence against women and the seriousness of its impacts justify the preparation of a General Recommendation on this topic.
3. The GEC welcomes the references included in the draft text to the Council of Europe Gender Equality Strategy 2018-2023 and to the Committee of Ministers Recommendation CM/Rec(2019)1 on preventing and combating sexism, as well as to other instruments and materials of the Council of Europe in this field.
4. The GEC invites GREVIO to take the following considerations and suggestions into account in the preparation of this General Recommendation:

4.1 An important element of the draft General Recommendation which would benefit from clarification is whether GREVIO considers the "digital dimension" of violence against women as a "manifestation" of the forms of violence already covered by the Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), or as providing new "forms" of violence against women. In certain parts of the text, GREVIO provides an "interpretation" of the Istanbul Convention on the basis of which it makes recommendations to State Parties (paragraphs 19, 27, 45), while in other parts, it strongly affirms that State Parties have clear "obligations" to address online violence against women under the Istanbul Convention (paragraphs 28, 30): *(emphasis added)*

- **paragraph 19:** *"GREVIO's understanding of the concept of violence against women in its digital dimension encompasses..."*,
- **paragraph 27:** *"In considering this a distinct but not separate dimension of violence against women, GREVIO offers an interpretation of the Istanbul Convention ..."*
- **paragraph 28:** *"The digital dimension of violence against women encompasses a wide range of behaviour that falls under the definition of violence against women set out in Article 3a of the Istanbul Convention".*
- **paragraph 30:** *"... States Parties to the Istanbul Convention have an obligation to address the digital dimension of violence against women as an integral part of their comprehensive approach to preventing such violence, protecting and supporting victims and to prosecuting perpetrators".*

- **paragraph 45:** *"States should recognise the digital dimension of violence against women as a form of gender-based violence against women..."*.

4.2 The **Introductory section** could be expanded as regards the rationale behind the preparation of this General Recommendation, in particular in relation to GREVIO's mandate under Article 69 of the Istanbul Convention and including the elements of the Explanatory Report of the Istanbul Convention on that provision. The scope of the General Recommendation could also be included in the introductory part, as it is linked to the rationale.

[Denmark - new 4.3] The first part of GREVIO's draft recommendation could be made clearer and more precise by bringing the definition of digital violence earlier in the text, which would provide a more thorough understanding of the scope of the issue at stake. Whether digital violence is a manifestation of the types of violence already covered in the convention, or an example of a new form for violence, it is important to understand why it is important to look at this and what kind of ramifications it has on victims.

4.4 In our view, the current content of **sections II and III** of the draft General Recommendation overlap to some extent and mix general facts around online violence against women with GREVIO's considerations. We therefore suggest that these two parts could benefit from being re-organised and streamlined, maybe under different headings, in order to reduce the length of the text while improving its focus and clarity.

- For instance, some of the information currently included in these two sections, as regards the prevalence and importance of online violence against women (i.e. paragraphs 4, 7, 8, 9, 13, 21, 22), could be moved to the introductory part.
- In addition, it would improve the accessibility and applicability of the text to present in a clearer way that some of GREVIO's reflections stem from its evaluation work (paras. 10-13); while other GREVIO's considerations (paras. 14, 19-20, 24, 27) are the direct basis for the recommendations listed in the final section.
- Finally, a summary of the information included in **section IV** (obligations under the Istanbul Convention as including the digital dimension of violence against women) could be brought up earlier in the text, as this is a core element of the General Recommendation, which strongly makes the case as to the applicability of the Convention to online and digital forms of violence against women.

4.5 The GEC welcomes the explicit references to **sexist hate speech**, in paragraphs 34 and 40, indicating that certain online or digital acts or behaviours that constitute sexual harassment are also forms of sexist hate speech. In this sense, the GEC suggests that GREVIO's recommendations in **section V** should include a reference to the need for a comprehensive and co-ordinated approach by States Parties between measures to address online and digital forms of sexual harassment that constitute sexist hate speech, and any legislative and policy measures to combat sexist hate speech, including legislation on hate speech and/or hate crime, and information on content removal and redress mechanisms for victims.

4.6 As regards GREVIO's recommendation, under co-ordinated policies, in **paragraph 52, sub-paragraph (i)**, the GEC would like to express its views on the difficulty to apply in practical terms the recommendation to "limit the possibility for commercial entities to profit from the sexual abuse of women and girls", and therefore suggests the possibility of punishing such commercial profit.

4.7 It is not clear to us what are the purpose and nature of the "**Glossary of Terms**" included as Annex 1 of the draft General Recommendation. Therefore, we propose to clarify on what basis/sources the glossary has been developed and whether its main aim is to provide a common understanding of those terms for the purposes of the application of this General Recommendation, or to address terminology issues in this field. Here are the relevant paragraphs on this issue, which we advise to clarify:

- **Paragraph 14** of the draft text states that this General Recommendation "seeks to set out definitions of key terms and concepts regarding violence against women perpetrated in the digital sphere", but it does not refer to the Glossary in Annex 1.

- **Paragraph 23** addresses terminological issues again, underlining that "*there is no universal typology/definition of behaviours or action that is considered to group together all forms of violence against women perpetrated online or through technology*", and that "*terms are used interchangeably or inaccurately, creating a fragmentation...*". But it does not say that the Glossary is intended to address or contribute to clarifying this situation.

- Finally, **paragraph 26** indicates that the Glossary "will be continuously updated to include the newly emerging forms of violent acts perpetrated against women and girls in the digital sphere". In this sense, paragraph 24 refers to the term "violence against women in its digital dimension" as also comprising acts of violence perpetrated through technology "yet to be developed" and including types of behaviour and action "yet to emerge". GREVIO may wish to introduce some conditionality or 'review clause' to assess future forms of digital violence against women, and new forms of technology enabling such violence, in order to ensure legal certainty.

5. The GEC remains at the disposal of GREVIO should it wish to consult it further or request any additional information or clarification.

APPENDIX

GREVIO's draft General Recommendation on the digital dimension of violence against women

I. Introduction

1. GREVIO recognises violence against women committed in the digital sphere as an increasingly prevalent global issue with grave consequences. Mandated under Article 69 of the Istanbul Convention, GREVIO decided during its 21st Plenary meeting to prepare its very first General Recommendation on the application of the Istanbul Convention in relation to the digital dimension of violence against women. The Working Group on a General Recommendation of the Digital Dimension of Violence against Women (GREVIO-GT-DD) was established to oversee the development of the General Recommendation.

2. In carrying out its functions GREVIO-GT-DD held a series of meetings to determine the prevailing challenges faced by the States Parties in addressing the digital dimension of violence against women and to formulate related recommendations. The working group meetings also served as a platform to engage with other international organisations as well as independent experts.

3. [short description of the consultations with other Council of Europe bodies and civil society on GREVIO's first draft of the General Recommendation to be added upon completion]

II. Scope of the General Recommendation

4. Violence against women, including domestic violence, is one of the most serious forms of gender-based violations of human rights and a worldwide phenomenon. Recognised as a form of discrimination since the early 1990s,¹ regional legal instruments such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (hereinafter the Istanbul Convention) have set binding standards for the prevention of violence against women, the protection of victims and the prosecution of perpetrators. With the help of comprehensive definitions of violence against women as a form of gender-based violence, these legal instruments place far-reaching obligations on their respective States Parties to address and respond to all forms of violence against women, whether they occur in public or in private life. Failure to act entails the responsibility of the executive, legislative and judicial branches of a State Party. Hence the Istanbul Convention imposes upon its States Parties the obligation to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of the Convention that are perpetrated by non-State actors.

1. Since the adoption of General Recommendation No. 19 on Violence against Women by the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) in 1992, which was updated in 2019 by General Recommendation No. 35.

5. The Istanbul Convention offers a particularly detailed set of legally binding standards and is both the most recent and the most far-reaching treaty in this field. It defines violence against women as a violation of human rights and a form of discrimination against women and it explains that this term “shall mean all acts of gender-based violence against women 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”. It covers domestic violence understood as “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim” and requires the recognition that this is predominantly a gendered phenomenon.

6. GREVIO endorses the view of other independent women’s rights treaty bodies that gender-based violence against women affects women throughout their life cycle,² and that the experience of gender-based violence against women is both a cause and a consequence of women’s and girls’ inequality with men and boys. It is violence perpetrated as a result of or in order to perpetuate stereotypes of women and men in society, social norms, concepts of masculinity and notions of women’s inferiority. Women and girls may experience gender-based violence against women in all aspects of their lives, including in their families and intimate relationships, by friends and acquaintances, within their communities, places of work, in education, sport, arts, leisure, in politics, in seeking health care, during and after migration and in many other settings.

7. For many years now, the experiences of gender-based violence against women by women and girls in these and other settings have been amplified or facilitated by technology, in particular the technology used in online and digital environments. Information and communication technology (ICT) has enabled the perpetration of violence against women on a scale previously unknown. The onset of the Covid-19 pandemic in 2020 has further amplified this. GREVIO regards the perpetration of violence against women online or with the help of technology as a continuity of the different forms of such violence that affects and exacerbates women and girls’ experiences of gender-based violence against women to an alarming extent.

8. Digital forms of gender-based violence against women can be particularly pronounced for women and girls at risk of or exposed to intersecting forms of discrimination, and may be exacerbated by factors such as disability, sexual orientation, political affiliation, religion, social origin, migration status or celebrity status, among others.³ Gender-based violence against women

2. CEDAW Committee General recommendation No. 35, paragraph 14, which refers to joint General recommendation No. 31/General Comment No. 18 of the UN CRC.

3. CEDAW Committee General recommendation No. 28 on the core obligation of States Parties under Article 2 of the Convention, General recommendation No. 33 on women’s access to justice and General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 confirms that discrimination against women is inextricably linked to other factors that affect their lives. According to the CEDAW Committee, these factors may include ethnicity/race, indigenous or minority status, colour, socio-economic status and/or caste, language, religion or belief, political opinion, national origin, marital and/or maternal status, age, urban/rural location, health status, disability, property ownership, being lesbian, bisexual, transgender or intersex, illiteracy, trafficking of women, armed conflict, seeking asylum, being a refugee, internal displacement, statelessness, migration, heading households, widowhood, living with HIV/AIDS, deprivation of liberty, being in prostitution, geographical remoteness and stigmatisation of women fighting for their rights, including human rights defenders. Accordingly, since women experience varying and intersecting forms of discrimination that have an aggravating negative impact, gender-based violence may affect some women to different degrees, or in different ways, so appropriate legal and policy responses are needed. GREVIO’s baseline evaluation reports have identified several gaps in the non-discriminatory

perpetrated in the digital sphere has a serious impact on women's and girls' lives, including psychological and physical health, their livelihoods, their physical safety and their reputation.

9. In addition, it has severe implications for women's participatory rights online. The hateful abuse to which women are subjected in online environments causes many women to withdraw from participating online, including from expressing their views on online platforms. This is particularly problematic for women and girls' human rights' defenders, journalists or those in politics, but also for social media influencers or others active on social media and/or in public. Violence against women and girls in the digital sphere thus silences their voices and reduces their perspectives in public debate. As such, GREVIO considers it to not only amount to gender-based violence against women but to undermine a number of other human rights of women as protected by international law.

10. Since 2016, GREVIO has been monitoring the Istanbul Convention's implementation by States Parties. Through its baseline evaluation procedure, it assesses the implementation of the Convention in its entirety and offers suggestions and proposals for remedial action to take in relation to any identified shortcomings. Over the course of its work, it has gradually increased its attention to the digital dimension of women and girls' experiences of gender-based violence against women.

11. In a number of States Parties evaluated thus far, GREVIO has identified steps taken to address some aspects of the rise in the different manifestations of violence against women in the online and digital sphere. Efforts have been made, for example, to raise awareness and prevent image-based abuse or sexualised bullying among the young generation. Elsewhere, emphasis has been placed on the introduction on new criminal offences to capture specific harm perpetrated online. Research and national experience have shown that specialist expertise and technological tools to ensure the collection of evidence are not always available to law-enforcement officers and others in the criminal justice system, or not to the extent necessary.⁴

12. Where legislation exists, GREVIO notes that the focus in recognising and sanctioning the abuse and harm done by violence perpetrated online or through technology is often placed on ensuring a person's safety, reputation or property. Many domestic laws fail to reflect other important impacts of acts of such violence, including social, economic, psychological and participatory harms. Very few consider and specifically address the compound experiences of women and girls and do not place it in the context of a continuum of violence against women that women and girls are exposed to in all spheres of life, including in the digital sphere.

13. Discourses around information and communication technology, participation, access rights and safety in technology and online are often not informed by a narrative of

implementation of the provisions of the Istanbul Convention (as foreseen under Article 4 (3)) and has noticed the absence of effective measures addressing the needs of women from vulnerable groups. The evaluation reports highlight that victims of violence against women who belong to vulnerable groups (women with disabilities, women from national minorities including the Roma community, LBT (Lesbian, Bisexual, Transgender) women, women from rural areas, migrant, asylum-seeking and refugee women, women without a residence permit, women with addiction, and women in prostitution) frequently face specific barriers with regard to the application of the Convention and experience intersectional discrimination in their access to protection and assistance.

4. Council of Europe Cybercrime Convention Committee (T-CY), "Mapping study on cyberviolence", 9 July 2018; Available at <https://rm.coe.int/t-cy-mapping-study-on-cyberviolence-final/1680a1307c>.

gender-based violence against women – despite its high prevalence. Similarly, national responses to gender-based violence against women rarely include the digital dimension of such violence. This dualism is reflected at the international and European level, with legal frameworks regulating access rights, ICT and safety online without recognition for women's exposure to gender-based violence against women. At the same time, international and European legal norms on women's rights do not specifically address the digital dimension of violence against women and domestic violence, giving rise to the notion of a (non-existent) lacuna.

14. With this General Recommendation, GREVIO thus seeks to contribute to an alignment of the two discourses by clearly positioning manifestations of violence against women and girls in the digital sphere as expressions of gender-based violence against women covered by the Istanbul Convention. It wishes to offer current and future States Parties an interpretation of the Istanbul Convention in order to demonstrate the relevance of this tool in relation to the digital dimension of violence against women and domestic violence. This Recommendation seeks to set out definitions of key terms and concepts regarding violence against women perpetrated in the digital sphere and to provide recommendations to prevent and combat this phenomenon by proposing specific action to take in relation to the four pillars (4Ps) of the Istanbul Convention: prevention, protection, prosecution and co-ordinated policies.

15. While the Istanbul Convention offers an important legal framework to prevent and combat the digital dimension of violence against women, it is usefully complemented by other relevant treaties such as the Convention on Cybercrime of the Council of Europe (Budapest Convention). The Budapest Convention offers a comprehensive set of legally binding standards to criminalise aspects of cyberviolence, secure evidence and engage in cross-border and international co-operation to investigate and also prosecute online violence against women. Moreover, soft law such as the non-binding [Recommendation CM/Rec\(2019\)1 of the Committee of Ministers to member States on preventing and combating sexism](#), which includes a dedicated section on online sexist hate speech, is of equal relevance.⁵

16. Moreover, GREVIO draws attention to the advances made in the interpretation of the European Convention of Human Rights in recognising digital forms of violence against women as a violation of the right to privacy. The case of *Buturugă v. Romania*⁶ saw the first explicit recognition of cyberviolence by the European Court of Human Rights. It concerned allegations of domestic violence and of violations of the confidentiality of electronic correspondence by the former husband of the applicant who complained of shortcomings in the system for protecting victims of this type of violence.

17. Drawing attention to online hate and sexual violence and harassment of women in public spaces, the Parliamentary Assembly of the Council of Europe (PACE) issued two resolutions on [cyberdiscrimination and online hate](#)⁷ and on [ending sexual violence and harassment of women in public space](#).⁸ Similarly, the Council of Europe Gender Equality

5. Committee of Ministers of the Council of Europe, Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism, 27 March 2019.

6. *Buturugă v. Romania*, No. 56867/15, 11 February 2020.

7. Parliamentary Assembly of the Council of Europe (PACE) Resolution 2144 (2017) on ending cyberdiscrimination and online hate, 25 January 2017.

8. PACE Resolution 2177 (2017) on putting an end to sexual violence and harassment of women in public space, 29 June 2017.

Strategy stresses the need to tackle violence against women (both online and offline) through combating gender stereotypes and sexism – including sexist hate speech and violent and sexualised threats online, especially on social media platforms.⁹

III. The digital dimension of violence against women: concept and terminology

18. The digital dimension of violence against women encompasses a wide range of acts online or through technology that are part of the continuum of violence that women and girls experience for reasons related to their gender, in that it is a legitimate and equally harmful manifestation of the gender-based violence experienced by women and girls offline.

19. GREVIO's understanding of the concept of violence against women in its digital dimension encompasses both online aspects (activities performed and data available on the internet, including social media websites and other platforms on the surface web as well as the dark web) and technology-facilitated (activities carried out with the use of technology and communication equipment, including hardware and software) harmful behaviour perpetrated against women and girls. The term "digital dimension of violence against women" is employed to emphasise the fact that this harmful behaviour disproportionately targets women and girls and forms a central element of their experiences of gender-based violence against women. It is violence perpetrated against women that is rooted in the same context of women's inequality and men's sense of entitlement as the psychological, sexual and physical violence experienced by women and girls in the offline world.

20. GREVIO also notes that the different forms of violence against women and domestic violence occurring in the digital sphere and those occurring in the physical world are not mutually exclusive and frequently overlap with one another, exacerbating the traumatising impact of the abuse, at times even threatening the physical safety of the victim. It is thus essential not to overlook the digital dimension of violence where physical and sexual abuse is present, especially in cases of intimate-partner violence. Digital experiences of violence may be an extension of or a precursor to physical and sexual violence, stalking and harassment. They may also, however, be an expression of gendered and sexualised abuse to punish, silence, devalue or otherwise traumatise a woman or girl, including in the context of intimate-partner violence. Therefore, ignoring the larger gender pattern associated with cyberviolence risks missing the social reality of violence against women stemming from the idea of the inferiority of women or from stereotyped roles for women and men.

21. As the use of internet-enabled devices, social media and technology proliferates, violence against women in the online and digital sphere is becoming increasingly prevalent. A number of surveys and studies reveal the extent of the problem: for example, according to the EU Agency for Fundamental Rights' survey on violence against women (2014), 14% of women in the EU have experienced stalking in the form of offensive or threatening communications since the age of 15.¹⁰ A report commissioned by Women's Aid shows that

9. Council of Europe Gender Equality Strategy 2018-2023, Strategic objective 1: Prevent and combat gender stereotypes and sexism, March 2018. Available at <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>.

10. Fundamental Rights Agency (2014), "Violence against women: an EU-wide survey. Main results report", available at <https://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>.

45% of domestic violence victims reported experiencing some form of abuse online during their relationship and 48% reported experiencing harassment or abuse online from their ex-partner once they had left the relationship. Some 38% reported online stalking once they had left the relationship.¹¹ According to the report “Toxic Twitter” issued by Amnesty International, 25% of respondents polled across eight countries had received threats, including of sexual violence, physical pain, incitement to suicide and death towards them and their family on Twitter.¹² Lastly, a recent survey conducted by Plan International, an NGO focusing on violence against girls, found that more than half of the interviewed 14 000 15- to 25-year-old women from 22 different countries said they had been cyberstalked, sent explicit messages and images, or abused online.¹³ Even though these numbers provide snapshots of specific aspects of the problem, it is to be noted that the lack of comprehensive and accurate data collection efforts in this area results in information being fragmented, highlighting the need for robust data collection of women’s experiences of gender-based violence against women, including online and through technology. This issue was thrown into stark relief by the onset of the Covid-19 pandemic, indicating that efforts must be stepped up.

22. Violence against women taking place in the digital sphere is a prevalent form of violence against women and as such it is gaining attention by international monitoring bodies and intergovernmental organisations. General Recommendation 35 (2017) on gender-based violence against women, updating General Recommendation No. 19 of the UN CEDAW Committee, the report of the UN Special Rapporteur on violence against women, its causes and consequences analysing online violence against women and girls, and Council of Europe soft law instruments – including the Committee of Ministers Recommendation CM/Rec(2019)1 on preventing and combating sexism, Recommendation CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries in carrying out their mandate and the Cybercrime Convention Committee’s (T-CY) Mapping Study on Cyberviolence – all address, in one way or another, aspects related to the digital dimension of violence against women. Last but not least, research studies such as the European Institute for Gender Equality’s (EIGE) study on cyberviolence against women and girls and the study commissioned by the European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs on cyberviolence and hate speech online against women offer valuable information on the issue.

23. To date, there is no universal typology/definition of behaviours or action that is considered to group together all forms of violence against women perpetrated online or through technology. Instead, discourses and approaches to abusive behaviour online and harms perpetrated via technology are marked by terms that are used interchangeably or inaccurately, creating a fragmentation that is reinforced by the diversity of aims and perspectives of the different stakeholders that are currently shaping the narrative. Many terms currently in use do not cover the full range of behaviour, nor do they highlight the gender pattern in the abuse. While describing some very relevant forms of violence against

11. Laxton C. and Women’s Aid (2014), “Virtual World, Real Fear – Women’s Aid report into online abuse, harassment and stalking”, available at https://1q7dqy2unor827bjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2015/11/Women_s_Aid_Virtual_World_Real_Fear_Feb_2014-3.pdf.

12. Amnesty International (2018), “Toxic Twitter, a toxic place for women”, available at www.amnesty.org/en/latest/research/2018/03/online-violence-against-women-chapter-1.

13. Plan International (2020), “Free to be online? A report on girls’ and young women’s experiences of online harassment”, available at <https://plan-international.org/publications/freetobeonline>.

women perpetrated in digital spaces, they do not nearly cover all of the activities carried out online or through technology that harm women and girls.

24. GREVIO considers that the term “violence against women in its digital dimension” or “the digital dimension of violence against women” is comprehensive enough to comprise both online acts of violence and those perpetrated through technology, including technology yet to be developed. It also allows for the recognition that not all acts of violence against women in the digital sphere are of the same severity, nor do they all meet the threshold for criminal prosecution within individual States. In view of the evolving nature of technology and opportunities for harmful behaviour, the term “violence against women in its digital dimension” will allow types of behaviour and action yet to emerge to come within its remit. Adopting such inclusive terminology will enable the present General Recommendation to address all forms of violence against women perpetrated via digital means.

25. An inclusive approach to the manifestations of violence against women in the digital sphere is not only important because of their evolving nature but also because of the scale of perpetration and the amplitude of consequences that easily multiply with an evolution in technology and an increase in digitalisation. Experiences of violence online are greatly amplified because of the multitude of perpetrators in some cases or the wide reach and near-permanent nature of harmful images and hateful content spread.

26. In order to keep up with the ever-evolving nature of the digital space and violent acts committed therein, the Annex of the present General Recommendation provides a glossary containing the definitions of some of the most commonly used terms in the digital domain as well as the most prevalent forms of digitally perpetrated violence against women. This glossary will be continuously updated to include the newly emerging forms of violent acts perpetrated against women and girls in the digital sphere.

27. In considering this a distinct but not separate dimension of violence against women, GREVIO offers an interpretation of the Istanbul Convention that is in line with the victim-centred approach of its drafters who did not intend to distinguish between online and offline experiences of gender-based violence against women. Illustrating this point, the Explanatory Report to the Istanbul Convention refers to stalking committed in the digital sphere as just another form of stalking.¹⁴

IV. Obligations arising under the Istanbul Convention in relation to violence against women in its digital dimension

28. The digital dimension of violence against women encompasses a wide range of behaviour that falls under the definition of violence against women set out in Article 3a of the Istanbul Convention. This definition comprises “all acts of gender-based violence against women 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”. Non-consensual image

14. Council of Europe (2011), “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Council of Europe Treaty Series No. 210, paragraph 182. Available at <https://rm.coe.int/16800d383a>.

or video sharing, coercion and threats, including rape threats, sexualised bullying and other forms of intimidation, online sexual harassment, impersonation, online stalking or stalking via the Internet of Things as well as psychological abuse and economic harm perpetrated via digital means against women and girls all come under the above definition.

29. Article 5, paragraph 2, of the Istanbul Convention requires States Parties to take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors. This well-established concept of due diligence adopted by international and regional human rights instruments, policy documents and jurisprudence¹⁵ is framed as an obligation of means, not of results, and requires States Parties to set up the necessary legal and policy framework to allow for the prevention of all forms of violence against women and their effective investigation in order to hold perpetrators accountable for their action and to compensate victims. It is a provision of the Istanbul Convention that is central to ending impunity for gender-based violence against women and to ensuring access to justice for women and girl victims of such violence. GREVIO considers this obligation to cover all expressions of violence against women, including digital expressions and violence perpetrated with the help of or through technology. Current experiences of women and girls of such violence show that too little is done to hold perpetrators to account. As noted by the Council of Europe Commissioner for Human Rights, the lack of awareness about this issue causes cyberattacks and violence against women to not be taken as seriously as offline violence by national authorities.¹⁶ Moreover, law-enforcement agencies and judicial authorities often lack the necessary technical training to be able to investigate and prosecute such incidents of violence effectively.

30. GREVIO recalls that one of the premises of the Istanbul Convention is to ensure a holistic response to all forms of violence against women and domestic violence by offering a State-wide effective, comprehensive and co-ordinated set of policies that encompasses a multitude of measures and involves a variety of actors, agencies and stakeholders (Article 7). Such a holistic response would require measures of prevention, protection and prosecution. In responding to the digital dimension of violence against women, the need for comprehensive policies that include and specifically address these forms of violence in the area of prevention, support and protection of victims and prosecution is of particular importance, because of the complex and multidimensional nature of the problem. Like offline violence, it is deeply rooted in power dynamics, economic imbalances and patriarchal attitudes that foster the idea of women's inferiority to men. These damaging beliefs and attitudes are deeply embedded in the fabric of societies and thus require a large-scale societal change. From the above, it clearly emerges that States Parties to the Istanbul Convention have an obligation to address the digital dimension of violence against women as an integral part of their comprehensive approach to preventing such violence, protecting and supporting victims and to prosecuting perpetrators.

31. In addition, many of the forms of violence against women perpetrated through digital means come within the remit of intentional behaviour, which States Parties to the Istanbul

15. Paragraph 58 of the "Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence", Council of Europe Treaty Series No. 210, paragraph 182. Available at <https://rm.coe.int/16800d383a>.

16. Council of Europe Commissioner for Human Rights (2020), "Stop cyberviolence against women and girls", available at www.coe.int/en/web/commissioner/-/stop-cyberviolence-against-women-and-girls.

Convention are required to criminalise. These are online psychological violence (Article 33), online or stalking committed in the digital sphere (Article 34) and sexual harassment online or through digital means (Article 40).

A. Online sexual harassment

32. According to Article 40 of the Istanbul Convention, sexual harassment constitutes “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, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment”.

33. This General Recommendation considers the following behaviour online or through digital means to come under this definition: 1) non-consensual image or video sharing; 2) non-consensual taking, producing or procuring of intimate images or videos; 3) exploitation, coercion and threats; and 4) sexualised bullying.

(a) Non-consensual sharing of nude or sexual images (photos or videos) of a person or threats thereof include acts of image-based sexual abuse (also known as “revenge pornography”).

(b) Non-consensual taking, producing or procuring of intimate images or videos include acts of “upskirting” and taking “creepshots” as well as producing digitally altered imagery in which a person’s face or body is superimposed or “stitched into” a pornographic photo or video, known as “fake pornography” (such as “deepfakes”, when synthetic images are created using artificial intelligence).

(c) Exploitation, coercion and threats coming within the remit of Article 40 of the Convention include forms of violence such as forced sexting, sexual extortion, rape threats, sexualised/gendered doxing, impersonation and outing.

(d) Sexualised bullying constitutes behaviours such as circulating gossip or rumours about a victim’s alleged sexual behaviour, posting sexualised comments under the victim’s posts or photos, impersonating a victim and sharing sexual content or sexually harassing others, thus impacting their reputation and/or livelihood, or “outing” someone without their consent with the purpose of scaring, threatening and body shaming.

34. Some of the above behaviours are commonly known as sexist hate speech. As recognised by the Council of Europe Recommendation on preventing and combating sexism, these acts are often humiliating and contribute to a social climate where women are demeaned, their self-regard lowered and their activities and choices restricted, including at work, in the private, public or online sphere. Sexist behaviour such as sexist hate speech may escalate to or incite overtly offensive and threatening acts, including sexual abuse or violence or rape, thus falling within the remit of Article 40 of the Istanbul Convention.¹⁷

B. Online and technology-facilitated stalking

17. Committee of Ministers of the Council of Europe, Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism, 27 March 2019.

35. Article 34 of the Istanbul Convention defines stalking as “intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety”. The Explanatory Report further clarifies this definition and acknowledges that stalking committed via the use of ICT is covered by Article 34:

The threatening behaviour may consist of repeatedly following another person, engaging in unwanted communication with another person or letting another person know that he or she is being observed. This includes physically going after the victim, appearing at her or his place of work, sports or education facilities, as well as following the victim in the virtual world (chat rooms, social networking sites, etc.). Engaging in unwanted communication entails the pursuit of any active contact with the victim through any available means of communication, including modern communication tools and ICT devices.

36. Stalking practices committed in the digital sphere include threats (of a sexual, economic, physical or psychological nature), damage to reputation, monitoring and gathering of private information on the victim, identity theft, solicitation for sex impersonating the victim and harassing with accomplices to isolate the victim. It usually involves the tactic of surveilling or spying on the victim, on their various social media or messaging platforms, their e-mails and phone, stealing passwords or cracking or hacking their devices to access their private spaces, via the installation of spyware or geo-localisation apps, or via stealing their devices. Perpetrators can also take on the identity of the other person or monitor the victim via technology devices connected through the Internet of Things (IoT), such as smart home appliances.

C. Digital dimension of psychological violence

37. In Article 33, the Istanbul Convention describes psychological violence as “the intentional conduct of seriously impairing a person’s psychological integrity through coercion or threats”. The Explanatory Report of the Convention further elucidates:

The extent of the offence is limited to intentional conduct which seriously impairs and damages a person’s psychological integrity which can be done by various means and methods. The Convention does not define what is meant by serious impairment. Use must be made of coercion or threats for behaviour to come under this provision. ... This provision refers to a course of conduct rather than a single event. It is intended to capture the criminal nature of an abusive pattern of behaviour occurring over time – within or outside the family.

38. All forms of violence against women perpetrated in the digital sphere have a psychological impact and could be categorised as psychological violence exerted online and with the use of technology. The specific features of such violence against women increase the impact of the violence on victims. In addition, forms of psychological violence exerted in the context of domestic violence take radical forms when coupled with new technologies. For example, with the aid of the digital domain this can take a new dimension where current or former partners are in possession of victim’s intimate images. Abusers can similarly misuse technology to track the whereabouts of their victims. Such forms of violence have a devastating mental and physical toll on women and girls.

39. Moreover, individual acts of violence that are not criminalised may reach the threshold of psychological violence when combined with the mob mentality and repetition facilitated by the internet: a teasing comment may ascend to cyberbullying when made repetitively or by a large number of people. Certain groups of women, including politicians, journalists and human rights defenders and activists are particularly exposed to such violent acts.

40. Similarities exist between experiences of cyberbullying and sexist hate speech, which, in addition to the consequences listed under paragraph 32, may also cause loss of resources, self-harm or suicide and amount to psychological violence. Such acts can target every woman, in particular women who have reported incidents of gender-based violence, women who succeed in male-dominated domains (such as athletes and video game designers), women challenging traditional gender stereotypes or women with intersectional identities.

41. Online psychological violence can also take the form of intimidation, threatening the victims or their family, insults, shaming and defamation. Incitement to suicide or self-harm is also a specific behaviour occurring online, often amplified by the mechanisms of mob mentality and anonymity.

42. Another form of psychological violence is economic abuse, which is defined as controlling a woman's ability to acquire, use and maintain economic resources. Economic abuse usually occurs within the context of intimate-partner violence and, among its negative impacts on the physical health of victims such as risk of poverty and reduced access to health care, it also threatens the victim's financial well-being and independence and consequently affects their psychological integrity in a serious manner.

43. In digital forums, economic abuse can manifest itself as controlling the bank accounts and financial activities of the victim through internet banking, damaging the victim's credit rating by using credit cards without permission or filing all financial contracts (leases, loans, utilities, etc.) in the name of the victim and failing to make payments on time or at all (in particular alimony payments).

V. Recommendations

44. On the basis of the above, GREVIO draws attention to the need to acknowledge violence against women in its digital dimension as a continuum of violence against women offline, which forms part of gender-based violence against women. It calls on States Parties to recognise the gendered nature of violence and abuse perpetrated online and through technology and that it requires a holistic response. With a view to ensuring the implementation of such a holistic response, GREVIO recommends that States Parties take the measures outlined below in the areas of prevention, protection, prosecution and co-ordinated policies.

A. Prevention

45. The Istanbul Convention requires States Parties to take sustained measures that aim to prevent violence against women by addressing its root causes and working to change attitudes, gender roles and stereotypes that make violence against women

acceptable. States should recognise the digital dimension of violence against women as a form of gender-based violence against women by taking the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere in accordance with Article 4 of the Istanbul Convention.

46. GREVIO recommends that States Parties implement the following preventive measures.

(a) Undertake initiatives aiming to eradicate gender stereotypes, sexist attitudes and discrimination against women that play out online as much as offline, taking into account the Council of Europe Committee of Ministers' Recommendation CM/Rec(2019)1 on preventing and combating sexism.

(b) Foster gender equality in society and support the empowerment and representation of women online by enhancing digital literacy and participation of women and girls.

(c) Encourage men and boys to abandon harmful stereotypes of women and men and to adopt respectful and healthy behaviours in the digital sphere.

(d) Implement awareness-raising campaigns targeting women and men, girls and boys at different levels of society on different forms of violence against women perpetrated in the digital sphere and support the efforts of women's organisations towards this end and recognise the expertise acquired by women's specialist support services in this area.

(e) Provide mandatory and continuous capacity building, education and training for all relevant professionals, including but not limited to law-enforcement professionals, criminal justice actors, members of the judiciary, health-care professionals, asylum officials, social service professionals and education professionals, to equip them with knowledge on digital expressions of violence against women, responding to women and girls as victims without causing secondary victimisation and re-traumatisation, and, where relevant, information on existing legal frameworks and international co-operation mechanisms relating to the digital dimension of violence against women as well as on the gathering and securing of electronic evidence.

(f) Promote the inclusion of digital literacy and online safety in formal curricula and at all levels of education. Teaching materials made available in line with Article 14 of the Istanbul Convention should enable learners to learn about equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships and violence against women, including in its digital dimension.

(g) Incorporate digital manifestations of violence against women in any existing intervention programmes for perpetrators of violence, in particular in the context of intimate-partner violence.

(h) Encourage the ICT sector and social media platforms to create internal monitoring mechanisms to ensure the inclusion of victim-centric perspectives in the design of smart products, mobile phone applications and video games; and to advocate stronger awareness of the perspective and experiences of female users, in particular those exposed to or at risk of intersecting forms of discrimination. Internet and social media platforms as well as technology companies should be incentivised to co-operate with NGOs working on violence against women in their awareness-raising and other efforts.

(i) Encourage media organisations and journalists' unions to take concrete steps to eradicate gender-based discrimination and victim-blaming attitudes in all their journalistic activities. Further efforts should be undertaken to uproot male-dominated power dynamics in media landscapes.

B. Protection

47. The Istanbul Convention requires States Parties to protect women and girls who are known to be at risk and to set up specialist support services for victims and their children, including shelters, round-the-clock telephone helplines and rape crisis or sexual violence referral centres. The permanence and outreach of online content necessitate the implementation of continuous protective measures to effectively address the digital dimension of violence against women.

48. GREVIO recommends that States Parties implement the following protective measures.

(a) Ensure that the legal framework relating to violence against women refers and applies to all forms of violence committed in the digital sphere and facilitates formal and informal dialogue between the agencies responsible for responding to the victims. The response should be gender-sensitive and integrate the specificities of the digital dimension of violence against women.

(b) Develop and disseminate accessible information on the legal avenues and support services available to victims of violence against women perpetrated in the digital sphere and create complaints mechanisms within law enforcement and prosecution services that are easily and immediately accessible to victims, including by digital means.

(c) Make support services, including legal and psychological counselling, accessible to all victims of violence against women perpetrated in the digital sphere, including such violence perpetrated in the context of domestic violence, by equipping existing women's specialist support services and other services with experience in this sector with the financial and human resources to offer holistic services, including legal and technical advice on the removal of harmful online content.

(d) Enable, through training, capacity building and sufficient resources, general and specialist support services for women victims of violence, including shelters and non-residential counselling services, as well as social and health-care services, to be aware of and respond to women and girls' experiences of digital violence.

(e) Equip the national telephone helplines established in accordance with Article 24 of the Istanbul Convention with the necessary resources and expertise to respond to the digital dimension of violence against women.

(f) Incentivise social media and other platforms to ensure robust content moderation in multiple languages on the basis of transparent principles that protect the human rights of all, including women's right to live free from violence, and to provide easily accessible user guidance to flag abusive content and request its removal.

C. Prosecution

49. The Istanbul Convention requires States Parties to prosecute the perpetrators of violence against women, including enabling *ex officio* investigations and proceedings even if the victim withdraws the complaint.

50. GREVIO recommends that States Parties implement the following measures with regard to prosecution and punishment for gender-based violence against women.

(a) Equip law enforcement and other criminal justice actors with the necessary human and financial resources to effectively investigate and prosecute the digital dimension of violence against women, including by creating specialist units/expertise.

(b) Increase capacity-building efforts for criminal justice and law-enforcement professionals to equip them with the necessary expertise and resources on how to use existing legal frameworks to address the digital dimension of violence against women, as well as to develop their forensic capabilities on the gathering and securing of electronic evidence without causing secondary victimisation and re-traumatisation of the victim. International co-operation and mutual legal assistance capacities of criminal justice actors in matters related to the digital dimension of violence against women should also be enhanced.

(c) Ensure the publication of incident reports by the criminal justice sector on violence against women perpetrated in the digital sphere.

(d) Ensure that victims of violence against women perpetrated in the digital sphere have effective access to criminal justice systems and that the authorities adequately respond to such cases, including by applying criminal law and, as appropriate, *ex officio* prosecution.

(e) Ensure that emergency barring orders and protection orders are responsive to forms of domestic violence perpetrated online or via ICT and to other digital manifestations of violence against women.

(f) Take measures to put an end to impunity for digital acts of violence against women by encouraging the responsibility of all relevant actors, including ICT companies and social media platforms, in particular through robust content moderation and removal; and by encouraging media companies to work

collaboratively with law-enforcement agencies to ensure simplified access to evidence.

D. Co-ordinated policies

51. The Istanbul Convention requires States Parties to design and implement comprehensive and co-ordinated policies at all levels of government and by all relevant agencies and institutions, involving government agencies, NGOs, and national, regional and local parliaments and authorities.

52. GREVIO recommends that States Parties implement the following measures with regard to co-ordinated policies.

(a) Implement the guidelines set out in Committee of Ministers' Recommendation CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries when devising and implementing legislative frameworks relating to internet intermediaries, in line with their obligations under the Istanbul Convention.

(b) Ensure recognition of the digital dimension of violence against women in national strategies, programmes and action plans on violence against women as part of a holistic response to all forms of violence as required by Article 7 of the Istanbul Convention, which should also encompass consideration for the digital dimension of violence against women in any strategies, policies and measures on digitalisation.

(c) Allocate appropriate human and financial resources to national and local governance bodies, as well as to legal aid, health-care and social protection institutions, including women's organisations, to effectively prevent, protect from and prosecute violence against women perpetrated online and through technology. The resources should be sufficient to enable these bodies and institutions to call in IT experts, obtain technical equipment and build digital infrastructure as necessary.

(d) Establish a system to systematically collect and analyse disaggregated data on violence against women with a digital component, including complaint, incidence and conviction rates, as well as data on the civil justice measures imposed, such as restraining orders. All data should be gathered and analysed through an intersectional lens and disaggregated by the type of violence, age and relationship between perpetrator and victim(s), potential aggravating circumstances (the number of perpetrators, length of abuse, permanence of data, existence of overlapping forms of violence, involvement of or impact on the victim's children, etc.) and other relevant factors.

(e) Ensure that data on suicides or suicide attempts and on gender-based killings of women and their children include information on the history of harassment, including at the workplace, stalking or psychological violence perpetrated in the digital sphere.

(f) Undertake or support surveys, research programmes and studies on the digital dimension of violence against women in order to, among other things, measure the financial, personal and social impacts of such violence, including self-censorship and digital exclusion.

(g) Encourage private and ICT sector to participate in devising and implementing policies and setting guidelines and self-regulatory standards to prevent and combat violence against women taking place in the digital sphere.

(h) Involve the ICT sector and social media and internet platforms in efforts to hold perpetrators of violence against women in the digital sphere accountable on the basis of their internal rules and by upholding criminal and other legislation, in particular by:

- i. offering effective complaint mechanisms for users to report harmful content, taking into account factors that expose women and girls disproportionately to online abuse, notably social origin, race, nationality, disability, sexual orientation and gender identity;
- ii. incentivising commercial online activities that incorporate a human rights perspective at all stages of their activity, including in product design, with a view to reducing risks for women and girls such as that posed by digital tracking devices;
- iii. encouraging service providers to make legal information and information about requesting the removal of non-consensual content, including images or videos, available on their platforms.

(i) Limit the possibility for commercial entities to profit from sexual abuse of women and girls constituting sexual violence and/or a breach of privacy, such as filmed rape.

(j) Provide resources and an enabling environment for the creation of public-private partnerships involving the private and ICT sector, NGOs and civil society actors as well as the relevant authorities in order to improve responses to violence against women in its digital dimension by pooling the expertise and capacity of all stakeholders.

ANNEX 1: Glossary of terms

Airdrop

Airdrop is a service developed by Apple that allows users to exchange content with another user of an Apple product located nearby.

Algorithm

An algorithm is a suite or sequence of instructions used to perform an automated task in a computer system or to find a solution to a problem.

Body shaming

Body shaming consists of commenting on and mocking someone's bodily shape, size or appearance.

Cloud (the)

The cloud refers to an alternative way of storing computer data, where the digital data is not stored on the user's physical storage drive but stored on external servers, sometimes in multiple locations, owned and managed by a hosting company.

Creepshots

Creepshots are sexually suggestive pictures of women taken without their consent.

Cyberbullying

Cyberbullying is bullying that takes place using digital tools and settings, typically understood as affecting minors.

Cyberflashing

Cyberflashing consists of sending unsolicited sexual images using dating apps, message apps or texts, or using Airdrop or Bluetooth.

DDoS attack (Distributed denial of service)

A DDoS attack is an attempt to overwhelm and disrupt or disable a service or server by flooding it with more internet traffic than it can accommodate.

Deadnaming

Deadnaming is the intentional act of using a trans person's birth name (not corresponding to their gender) in order to shame, threaten, scare or abuse.

Deepfakes

Deepfakes are videos in which one face has been (seamlessly) replaced by another face, using algorithms and deep learning, and sound is manipulated, so as to create the illusion that another person actions are being staged.

Doxing

Doxing is the act of sharing online a target's personal information (phone number, e-mail address, home address, professional contacts) without consent, to encourage abuse.

Electronic evidence

Electronic evidence is evidence derived from data contained in or produced by any digital or technological device.

Flaming

Flaming is the act of posting offensive or hostile messages, including insults, on social networks or forums.

Geolocation

Geolocation is a feature on a device that is able to deduce its geographical position through GPS signals or other forms of connectivity.

Hacking

Hacking is the process of illegally or non-consensually gaining access to a computer system or a network.

Happy slapping

Happy slapping is the act of attacking (physical attack or sexual assault) a victim with the objective of recording the assault and sharing it online.

Image-based sexual abuse

Image-based sexual abuse consists of a perpetrator obtaining sexually explicit images or videos in the course of a relationship, or hacking or stealing them from the victim's computer, social media accounts or phone, to share them online.

Internet of Things (IoT)

The IoT is the network of physical objects that are connected together and with the internet, therefore recording and transmitting data about their use.

IP address (Internet Protocol address)

An IP address is a unique number assigned to a device connected to the internet that allows the identification and location of that device.

Orbiting

Orbiting consists of not responding to someone's messages or directly communicating with them but continuing to watch their content online (liking, watching stories, etc.).

Outing

Outing is the practice of revealing someone's sexual orientation or gender identity without their consent, often publicly.

Sexting

Sexting consists of exchanging, sending or receiving sexually explicit messages, often containing pictures or videos, via text or chat.

Sexual extortion

Sexual extortion, also called "sextortion", is the act of using the threat of publishing sexual content (images, videos, deepfakes, sexual rumours) to menace, coerce or blackmail someone, either for more sexual content or for money, sometimes both.

Spyware/Stalkerware

Spyware is software, usually in the form of an app, downloaded onto someone's phone or device and used to track the activities of that device. Spyware is considered stalkerware in the context of domestic violence.

Swatting

Swatting is the use of telephones and often computer systems to deceive an emergency service in order to send law enforcement to a specific location based on a false report.

Trolling

Trolling is deliberately posting abusive comments online, sometimes with the express intention of causing alarm, distress or humiliation. The attacks can also be carried out by a group of people in a co-ordinated and targeted manne