



GREVIO

Baseline Evaluation Report Poland

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



Istanbul Convention

COUNCIL OF EUROPE



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GREVIO's (Baseline) Evaluation Report
on legislative and other measures
giving effect to the provisions
of the Council of Europe Convention
on Preventing and Combating
Violence against Women and Domestic Violence
(Istanbul Convention)
POLAND

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

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Foreword

The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) is an independent human rights monitoring body mandated to monitor the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, “the Istanbul Convention”) by the parties to the convention. It is composed of 15 independent and impartial experts appointed on the basis of their recognised expertise in the fields of human rights, gender equality, violence against women and/or assistance to and protection of victims.

GREVIO’s statutory activities include country-by-country monitoring of the Istanbul Convention (evaluation procedure), the initiation of inquiries into specific circumstances within a party to the convention (inquiry procedure) and the adoption of general recommendations on themes and concepts of the convention.

This report is the fruit of the first (baseline) evaluation procedure carried out in respect of Poland. It covers the Istanbul Convention in its entirety¹ and thus assesses the level of compliance of Polish legislation and practice in all areas covered by the convention. In light of the scope of the convention – as set out in its Article 2, paragraph 1 – the baseline evaluation focuses on measures taken in relation to “all forms of violence against women, including domestic violence, which affects women disproportionately”. Hence, the term “victim” used throughout this report is to be understood as referring to a woman or girl victim.

Based on this assessment, the report proposes measures to strengthen the implementation of the convention. In proposing such measures, GREVIO has adopted the use of different verbs which correspond to different levels of urgency, noting that all of them are important. These are, in order of priority, “urges”, “strongly encourages”, “encourages” and “invites”. GREVIO uses the verb “urges” where it considers that immediate action is required to bring the party’s legislation or policy into compliance with the Istanbul Convention, or to ensure its implementation. “Strongly encourages” is used where GREVIO has noted shortcomings which need to be remedied in the near future in order to ensure comprehensive implementation of the convention. A third level of urgency is indicated by the use of the verb “encourages”, which is used for shortcomings that require attention though possibly at a later stage. Lastly, the verb “invites” points to small gaps in implementation which the party is requested to consider closing or to proposals made to provide guidance in the implementation process.

The first (baseline) evaluation procedure is made up of several steps, each of which allows GREVIO to obtain critical information upon which to base its report. It is carried out as a process of confidential dialogue with the aim of offering country-specific proposals and suggestions for improvement developed within the national context of the party under review. These include the following:

- submission, by the party, of a report drawn up on the basis of GREVIO’s baseline questionnaire (the state report);
- an evaluation visit to the party under review to meet with governmental and non-governmental representatives working in this field;
- comments by the party on GREVIO’s draft report;
- publication of GREVIO’s report after its adoption together with any comments received from the party.

In addition, GREVIO also collects additional information from various other sources, including non-governmental organisations (NGOs), other members of civil society, national human rights institutions and Council of Europe bodies (Parliamentary Assembly, Human Rights Commissioner and other pertinent bodies), as well as other international treaty bodies. Within the framework of the evaluation of Poland, GREVIO received written contributions from the Commissioner for Human

1. With the exception of Chapter VIII of the convention, which GREVIO considered as less relevant in assessing the national situation in each contracting party.

Rights of the Republic of Poland (Ombudsman), Amnesty International and the Association for Legal Intervention (SIP).

The state report and the written contributions submitted by civil society have been made public and are available on the official website of the Istanbul Convention.

The analysis, suggestions and proposals contained in this first baseline evaluation report were drawn up under the exclusive responsibility of GREVIO. It covers the situation as observed by the GREVIO delegation during its evaluation visit to Poland. Where available, significant legislative and policy developments up until 22 June 2021 have also been taken into account.

According to the convention, national parliaments shall receive this report from the national authorities (Article 70, paragraph 2). GREVIO requests the national authorities to translate this report into their official national language(s) and to ensure that it is widely disseminated, not only to the relevant state institutions at all levels (national, regional and local), in particular to the government, the ministries and the judiciary, but also to NGOs and other civil society organisations which work in the field of violence against women.

Executive summary

This report provides an assessment of the measures of implementation taken by the Polish authorities with regard to all aspects of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (“the Istanbul Convention”).

This assessment has been carried out by the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent human rights monitoring body mandated to monitor the implementation of the convention. GREVIO’s findings are based on the information obtained during the various steps of the first (baseline) evaluation procedure set out in Article 68 of the convention. These include written reports (a state report submitted by the Polish authorities and additional information submitted by NGOs and other civil society actors) as well as a five-day evaluation visit to Poland. A list of the bodies and entities which GREVIO had exchanges with can be found in Appendix II.

The report highlights several positive legal and policy measures introduced by the Polish authorities in the area of preventing and combating violence against women and domestic violence. Important new measures have been taken in the recent past with the aim of achieving greater protection for victims of domestic violence and the prevention of secondary victimisation of victims of sexual violence. Featuring prominently among these is the recent introduction of emergency barring orders which allow law-enforcement agencies, for the first time in Poland, to temporarily evict a domestic abuser from the family residence. Accompanied by extensive training initiatives throughout the country, the introduction of this new tool demonstrates the authorities’ efforts to implement a system of emergency and protection orders – a fundamental cornerstone of effective protection from domestic violence as set out by the convention.

Moreover, a mechanism has been set up in order to provide a co-ordinated, multisectoral, interinstitutional response to victims of domestic violence committed by a current intimate partner or a family member based on the Law on Combating Family Violence and its corresponding National Programme (2014-2020). As a comprehensive approach that provides protection and assistance for victims and includes work with perpetrators, it offers local co-ordination on the basis of a standardised procedure to respond to individual cases of domestic violence (known as the “Blue Card” procedure). Local interdisciplinary teams are tasked with delivering comprehensive support and protection to victims of domestic violence. Despite limitations related to the effective protection and support of victims, GREVIO welcomes this as an example of multi-agency and multisectoral co-operation in the provision of assistance to victims of domestic violence – another fundamental requirement of the convention. First steps have also been taken to address the need for empowerment of women and girls from Roma communities, through education and other policies, in particular the employment of Roma school assistants whose supportive action is considered promising to prevent early and forced marriage.

In addition, GREVIO welcomes a series of criminal law measures taken before and after ratification of the Istanbul Convention by Poland. These include the introduction of *ex officio* prosecution in cases of rape as required by Article 55 of the convention and the efforts taken to reduce the number of statements victims are asked to give (“single hearing of rape victims”). A specific criminal offence of stalking was introduced in 2011, resulting in a growing body of case law. Important efforts have also been made, through the introduction of a specific criminal offence, to capture the offline and online manifestations of harassment and stalking as well as the impersonation of another person online. Noting the relevance of such behaviour in the context of post-separation abuse and the serious impact of stalking more generally, GREVIO welcomes the introduction of such innovative criminal offences, including the aggravated sentencing regime that applies to cases which have led to a victim’s suicide.

Despite the above, GREVIO observed a number of issues where improvement is warranted in order to reach higher levels of compliance with the requirements of the Istanbul Convention. These relate, for instance, to the need to devise and implement holistic policies and measures for the prevention of, protection from and prosecution of all forms of violence covered by the convention,

notably sexual violence and rape, sexual harassment and stalking. Much attention is given to domestic violence narrowly framed as “family violence”, without recognition that women are disproportionately affected by such violence and that their experience of domestic violence is shaped by their specific needs, dependencies and realities. This approach excludes several forms of intimate partner violence and dating violence. The report highlights the crucial need to engage with the key principles and premises of the convention which link the impact of women’s inequality with men to their exposure to the specific forms of violence covered by the convention. It affirms that the forms of violence covered by the convention, including domestic violence, affect women disproportionately and are a form of discrimination against them, maintained by unequal power relations between women and men. Policy approaches and the implementation of legislation, including criminal law, must therefore be based on the recognition of women’s heightened exposure to such violence and address their specific barriers to support, protection, justice and empowerment. This is best done on the basis of interinstitutional co-operation between the relevant national and local state agencies as part of a comprehensive approach. While such a mechanism is well developed in Poland in relation to domestic violence, similar interinstitutional approaches to other forms of violence require strengthening.

Illustrating this point, GREVIO observed the need to align the definition applied to the criminal offence with the requirements of Article 36 of the convention, which would mean moving away from a force-based definition of rape and sexual violence to a definition that covers all non-consensual sexual acts. Embedding such a change in a comprehensive approach to preventing and combating sexual violence and rape accompanied by an increase in high-quality and victim-oriented specialist support services for victims of rape and sexual violence, pursuant to Article 25 of the convention, would be necessary in order to improve the Polish authorities’ response to such violence beyond the *ex officio* prosecution and single hearing of victims.

Of relevance not only in the context of preventing and combating sexual violence is the need to step up awareness-raising efforts that address the different forms of violence against women and the negative stereotypes of women and girls that may contribute to such violence or help to condone it, as well as other factors of relevance. The report also points to the central need to increase primary prevention measures by addressing structural inequalities between women and men and the need to promote programmes and activities for the empowerment of women more widely. It also calls for wider initial and in-service training of all relevant professionals in order to improve the early detection of and responses given to the different forms of violence against women. Such training should be based on the principles of non-discrimination and equality between women and men and be devised in close co-operation with regional and local authorities, as well as relevant stakeholders, including independent women’s NGOs providing specialist support to women victims of violence.

In more general terms, GREVIO has observed the urgent need to increase the number of specialist support services for the different forms of violence against women tailored to women’s immediate, medium- and long-term needs throughout the country. In this task GREVIO points to the importance of involving, through greater recognition and support, including through sustainable funding opportunities, independent women’s rights NGOs and other civil society actors that are active in preventing and combating violence against women, including violence against women at risk of intersectional discrimination. With many such actors facing increasing uncertainty resulting from the lack of public funding opportunities, the risk of downscaling or closing of vital services is omnipresent and it is exacerbated by the perceived lack of constructive institutional co-operation.

Lastly, the report points to the need to ensure that all relevant professionals take into account the history of violence, including violence by one parent against the other, when offering mediation and deciding on custody and visitation of children. Of equal importance is the need to refrain from using the notion of “parental alienation” and related concepts in such decisions, and employ robust screening for a history of abuse and/or current or ongoing abuse of the child as a way of the abusive parent maintaining control.

While GREVIO welcomes Poland's ratification of the Istanbul Convention and the efforts taken in its implementation, it has identified a number of issues that require urgent action by the authorities to comply fully with the convention's provisions. These relate to the need to:

- address the multiple forms of discrimination in accessing protection and support faced by some groups of women victims of violence: women with disabilities, migrant women, Roma women, older women, LGBTI women and women in prostitution;
- appoint one or more co-ordinated bodies equipped with clear mandates, competences and resources to ensure the co-ordination, implementation, monitoring and evaluation of policies and measures to prevent and combat violence against women as required by the Istanbul Convention;
- expand the scope of sex-disaggregated data collected by public agencies, including law-enforcement, judicial, social and health services to cover all forms of violence against women;
- promote the principles of equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity at all levels of education and adapted to the evolving capacity of learners;
- ensure the availability of age-appropriate psychosocial counselling for child witnesses of domestic violence and post-separation stalking by one parent against the other;
- identify and address factors which contribute to the dismissal of investigations in cases of sexual violence and domestic violence, as well as procedural factors that contribute to the high threshold for proving cases of domestic violence in court;
- review their legislation and to ensure that sexual harassment experienced in all areas of life, in line with Article 40 of the convention, is subject to criminal or other legal sanctions;
- ensure that public officials, upon encountering irregular migrant women, are trained to apply the exemption of deportation on humanitarian grounds by duly considering migrant women's exposure to gender-based violence both in Poland and upon deportation; and
- ensure swift access to a gender-sensitive asylum procedure for all women asylum seekers irrespective of the place of filing their application, while at the same time ensuring the effective screening of experiences of violence among women asylum seekers entering the asylum procedure prior to their placement in any asylum detention centre, as well as to uphold the obligation to respect the principle of *non-refoulement* of victims of violence against women, in particular at the border crossing points with Belarus and Ukraine.

Furthermore, GREVIO has identified a number of additional areas in which improvements are required in order to comply fully with the obligations of the convention. These relate, among others, to the need to expand the dissemination of information about the legal measures and support services available to women victims of violence in a language and format that they understand, the need to complete the existing aggravating circumstances available in Polish criminal law by adding those listed in Article 46 of the convention and the need to ensure a wider use of the legal possibilities for granting compensation to women victims of any of the forms of violence covered by the convention.

Introduction

Poland ratified the Istanbul Convention on 27 April 2015. In accordance with Article 78, paragraph 2, of the convention, Poland reserved the right not to apply the provisions under Article 30, paragraph 2, Article 44, paragraph 1, Article 55, paragraph 1, and Article 58. This reservation was valid for a period of five years from the day of the entry into force of the convention in respect of Poland. By notification dated 28 January 2021, the Polish authorities announced their decision to renew their reservation to Article 55, paragraph 1, and to modify their reservation to Article 30, paragraph 2 and to Article 44, paragraph 1, and provided GREVIO with the reasons for maintaining these reservations, which are addressed in this report. The authorities also confirmed their decision to withdraw their reservation to Article 58.

The Istanbul Convention is the most far-reaching international treaty to tackle violence against women and domestic violence. Its comprehensive set of provisions spans far-ranging preventive and protective measures as well as a number of obligations to ensure an adequate criminal justice response to such serious violations of human rights. It covers new ground by asking that the root causes of violence against women (such as gender stereotyping, traditions harmful to women and general manifestations of gender inequality) be addressed.

The convention sets up a monitoring mechanism to assess the level of implementation by its parties. This monitoring mechanism consists of two pillars: the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent expert body, and the Committee of the Parties, a political body composed of official representatives of the parties to the convention.

In accordance with Article 68 of the convention, GREVIO initiated the baseline evaluation in respect of Poland by letter and transmission of its questionnaire in February 2019. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The Polish authorities subsequently submitted their state report on 26 March 2020 – the deadline set by GREVIO. Following a preliminary examination of the Polish state report, GREVIO carried out an evaluation visit to Poland, which took place from 28 September to 2 October 2020. The delegation was composed of:

- Simona Lanzoni, 2nd Vice-President of GREVIO
- Rachel Eapen Paul, Member of GREVIO
- Enikő Pap, Expert
- Johanna Nelles, Executive Secretary of the monitoring mechanism of the Istanbul Convention
- Valentine Josenhans, Member of the Secretariat of the monitoring mechanism of the Istanbul Convention

During the evaluation visit, the delegation was welcomed by high-level public figures, including Iwona Michałek, Secretary of State and National Co-ordinator of the National Programme on Combating Family Violence, Anna Schmidt-Rodziewicz, Secretary of State and Government Plenipotentiary for Equal Treatment, Babara Socha, Secretary of State and Government Plenipotentiary for Demographic Policy, and Marzena Machałek, Secretary of State at the Ministry of National Education. In addition, the delegation met with a wide range of governmental and non-governmental representatives working in the area of preventing and combating violence against women. A list of the national authorities, non-governmental organisations and others met is set out in Appendix II of this report. GREVIO is grateful for the valuable information provided by all of them.

The evaluation visit was prepared in close co-operation with Joanna Maciejewska, representative of the International Co-operation Department of the Ministry of Family, Labour and Social Policy (renamed the Ministry of Family and Social Policy in October 2020), who was appointed as contact person for the evaluation by GREVIO. GREVIO wishes to extend its gratitude for the co-operation and support provided throughout the entire evaluation procedure, and for the constructive approach adopted by the Polish authorities.

As part of this first baseline evaluation, GREVIO examined the implementation measures taken by the Polish authorities concerning all aspects of the convention. For the sake of brevity, this report gives priority to some provisions over others. While it covers all chapters of the convention (with the exception of Chapter VIII), it does not present detailed assessments and conclusions for each provision.

I. Purposes, definitions, equality and non-discrimination, general obligations

A. General principles of the convention

1. Chapter I of the Istanbul Convention sets out general principles which apply to all the substantive articles contained in Chapters II to VII. These include, among others, that it is a fundamental human right for everyone, particularly women, to live a life free from violence in both the public and the private sphere, that the convention must be implemented without discrimination on any ground and that the potential for, and effects of, multiple forms of discrimination should be borne in mind. They also spell out that a gender perspective must be integrated into the implementation of the convention and the evaluation of its impact.

B. Scope of application of the convention and definitions (Articles 2 and 3)

2. In light of the scope of the Istanbul Convention set out in its Article 2, paragraph 1, the first baseline evaluation focuses on measures taken in relation to all forms of violence against women, including domestic violence, which affects women disproportionately. Article 3 of the Istanbul Convention sets out key definitions of concepts that are fundamental to its implementation. According to paragraph *a*, the term “violence against women” refers to “all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”, whereas the expression “domestic violence”, as set out in paragraph *b*, is to be understood as referring to “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim”. The definition of “gender-based violence against women” offered in paragraph *d* of Article 3 seeks to ensure more clarity about the nature of the violence covered by explaining that this is “violence that is directed against a woman because she is a woman or that affects women disproportionately”.

3. Hence, the violence addressed by the Istanbul Convention differs from other types of violence in that the victim’s gender is the primary motive. It is violence that is perpetrated against a woman that is both the cause and the result of unequal power relations based on perceived differences between women and men that lead to women’s subordinate status in the public and private spheres. In accordance with the definition given in Article 3, paragraph *b*, Chapter V of the convention specifies the forms of violence against women that are to be criminalised (or, where applicable, otherwise sanctioned). These are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation and sexual harassment. Owing to the seriousness of domestic violence, Article 46 of the convention requires ensuring that the circumstances in which the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority, may entail a harsher sentence either as an aggravating circumstance or a constituent element of the offence.

4. In Poland, several policies and pieces of legislation have been adopted in relation to the different forms of violence covered by the Istanbul Convention, in particular domestic violence, with sexual violence, sexual harassment and stalking addressed to a lesser extent. They focus squarely on domestic violence, addressed through the specific and narrow lens of “family violence” or “crimes against the family”. The main legal instrument in this area is the Law on Combating Family Violence, which is complemented by various regulations and policy documents, especially the National Programme on Combating Family Violence (2014-2020). Under Article 2 of the above law, “family violence” is defined as any one-off or repeated intentional act of a physical, psychological or sexual nature that violates the rights, dignity, and freedom or negatively affects the health of a family member. A “family member” encompasses a “close relative”,² including a spouse, a parent, a

2. The legal term of “close relative” is defined under Article 115, paragraph 11, of the Criminal Code.

descendant, a sibling or an adopted child, as well as individuals living together. As such, it covers most elements required by Article 3b of the Istanbul Convention, with the exception of former spouses or partners and those the perpetrator has not shared a residence with. Similarly, Article 207 of the Criminal Code, which institutes domestic violence as a crime, covers violence against family members, that is, close relatives, including children, or against a vulnerable person or someone in a relationship of dependency with the perpetrator. While neither of the two definitions refer to economic violence, GREVIO notes that, in practice, convictions under Article 207 do, in some cases, refer to the economic element of domestic violence.

5. While GREVIO notes that criminal offences exist to prosecute intimate partner violence against a non-cohabiting ex-spouse or unmarried partner, including in the context of dating violence, such victims will not have access to the specific support provided by the Law on Combating Family Violence. Importantly, such acts of violence may not be statistically recorded as domestic violence, masking its full extent. GREVIO points to the frequent continuation of intimate partner violence after a relationship ends, and that it may occur in any intimate relationship, including where no residence is shared. Mindful thereof, the drafters of the Istanbul Convention extended the scope of the convention's application to relationships irrespective of a shared residence and to those that have ceased to exist, which is very relevant in relation to gender-related killings of women.³ GREVIO notes that according to the Polish authorities, plans are under way to amend the Law on Combating Family Violence in order to, among other things, expand its scope to violence committed against non-cohabiting former spouses and partners.

6. Moreover, most, if not all, current policy documents in the area of violence against women are strictly gender neutral and address both men and women as perpetrators and victims.⁴ GREVIO recognises the fact that domestic violence against men and boys exists, although research seems to indicate that their experiences of violence are different. Article 2, paragraph 2, of the Istanbul Convention in fact encourages parties to the convention to apply it to all victims of domestic violence, including men and boys. It also, however, emphasises that in doing so, "parties shall pay particular attention to women victims of gender-based violence in implementing the provisions of this Convention". In order to effectively tackle the root causes of violence against women, the implementation of laws and the shaping of policies must acknowledge and recognise that women's overexposure to gender-based violence in comparison to men emerged from and is sustained by structural inequalities between women and men, as well as structural patterns of discrimination against women which are justified and reinforced by socially entrenched negative stereotypes and prejudicial attitudes against women. Recognising this power imbalance between women and men would include, for example, heightened awareness of the socio-economic situation of women in Poland which impacts significantly on their ability to leave abusive relationships and rebuild their lives. Structural gender inequalities, less access to employment for women⁵ and the low rate of compliance with alimony payments⁶ and difficulties in finding permanent housing solutions are factors that present significant barriers to women victims of domestic violence. In addition, economic violence, which can be related to psychological violence and frequently forms part of the pattern of abuse and control, further exacerbates these barriers as women in abusive relationships may be entirely financially dependent on their abuser. This, as well as the non-payment of child alimony as a way of perpetuating women's economic victimisation, has been discussed in previous evaluation reports issued by GREVIO.⁷ It is thus important to apply a gender perspective to the causes and consequences of all forms of violence covered by the Istanbul Convention, in particular domestic violence, in order to reveal rather than mask women's specific experiences of abuse and improve the Polish policy response to this.

7. In addition to the above, GREVIO notes the absence of comprehensive policies and protocols with regard to sexual violence/rape, stalking and sexual harassment, and that virtually no policies,

3. See the Explanatory Report to the Istanbul Convention, paragraph 42.

4. See Feminoteka (2016), "Local Programme on Combating Family Violence: A gender perspective", Warsaw.

5. According to Eurostat, in 2020, in Poland, the employment rate of people aged between 20 and 64 was 65.7% for women and 81.4% for men.

6. Ostaszewski P. (2020), "Transition in offences of not paying maintenance in Poland", in *Archiwum Kryminologii* (XLIII/1), p. 203.

7. See GREVIO's baseline evaluation report on France (paragraphs 11-16) and Monaco (paragraphs 16-17).

protocols or dedicated service provision exist for other forms of violence against women such as female genital mutilation (FGM), forced marriage and honour-related violence, which can affect women in Poland who belong to national minorities and certain migrant communities, including those seeking asylum.⁸ While these forms of violence are addressed in criminal law in Poland, the Istanbul Convention requires a comprehensive approach that would complement a criminal justice response with policies, services and dedicated measures addressing each form of violence against women identified and defined by the Istanbul Convention.

8. GREVIO urges the Polish authorities to enhance the implementation of the Istanbul Convention in relation to all forms of violence against women, beyond domestic violence, which are currently less addressed by policies, programmes and services, notably rape and sexual violence, stalking, female genital mutilation, forced marriage and sexual harassment. GREVIO furthermore recalls that Article 2, paragraph 1, of the Istanbul Convention affirms that all forms of violence against women, including domestic violence, affect women disproportionately and are a form of discrimination against women. It therefore urges the Polish authorities to ensure that this fundamental principle of the Istanbul Convention is reflected in the design and implementation of all relevant laws and policies, including those in relation to domestic violence.

9. Furthermore, GREVIO strongly encourages the Polish authorities to ensure that all definitions of domestic violence in use extend to former partners and spouses and irrespective of whether the victim shares a residence with the perpetrator, and that the economic dimension of domestic violence, including its linkage with psychological violence, is taken into consideration in a consistent manner in the legal and policy framework.

C. Fundamental rights, equality and non-discrimination (Article 4)

1. Gender equality and non-discrimination

10. Discrimination on the basis of sex is prohibited under Article 32 of the Polish Constitution, which states that all individuals shall be equal before the law and shall be treated equally by the public authorities. In addition, Article 33 guarantees that men and women shall have equal rights in family, political, social and economic life. The Labour Code and the 2010 Law on Equal Treatment also include provisions protecting against discrimination on the ground of sex, ethnic origin, nationality, disability or sexual orientation, in particular in relation to labour rights, but do not extend beyond the world of employment and the purchase of goods and services. Moreover, the practical implementation of the latter was described as low, considering the small number of cases brought before the courts.⁹

11. The National Action Plan on Equal Treatment (2013-2016) which covered some aspects of gender equality and forms of violence against women – while not always comprehensively linking the two¹⁰ – expired in 2016 and has not yet been replaced. GREVIO notes with concern that this gap has contributed to the absence of mainstreaming of measures on gender equality in policies and state agencies over the last five years. During the evaluation procedure, GREVIO was informed that work was underway to adopt a new National Action Plan on Equal Treatment (2021-2030). GREVIO notes that this draft policy orientation document sets out, as a general objective, actions to improve women's position in society, including by raising awareness of violence against women. However, GREVIO notes with concern that no specific budget seems to have been allocated for its implementation.¹¹ At the local level, gender equality strategies have been adopted by some local

8. For more information, see Chapter III, the section on Article 14 (Education); Chapter V, the section on Article 38 (Female genital mutilation); Chapter VII, the section on Article 60 (Gender-based asylum claims).

9. The Commissioner for Human Rights of the Republic of Poland underlined that it was aware of one case of discrimination on the basis of sex in which compensation was granted to the victim. See the submission of the Commissioner for Human Rights of the Republic of Poland to GREVIO in June 2020, paragraph 4.

10. See Krizsan A. and Pap E. (2016), "Implementing a co-ordinated approach: an assessment of Poland's response to prevent and combat gender-based violence", Council of Europe.

11. See the Polish Commissioner for Human Rights' opinion on the draft National Action Program for Equal Treatment for 2021-2030, submitted on 1 December 2020 (in Polish only), available at <https://brpo.gov.pl>.

authorities, which GREVIO notes with interest. For instance, the Gdansk Model of Equal Treatment covers, among other things, gender equality in a comprehensive fashion and was described as a promising practice.¹²

12. Despite such local initiatives, GREVIO points to the urgent need to develop a national policy agenda to ensure the practical realisation of the principle of equality between women and men as required by Article 4, paragraph 2, of the Istanbul Convention. The drafters of the convention recognised that the enjoyment of the right to be free from violence is interconnected with the parties' obligation to secure equality between women and men to exercise and enjoy all civil, political, economic, social and cultural rights as set out in the human rights instruments of the Council of Europe and other international instruments.¹³ This is all the more important in view of the persisting gender inequalities in Poland¹⁴ and the low level of awareness of gender-based discrimination among the general population.¹⁵

13. In this context, GREVIO commends the active involvement of the Office of the Commissioner for Human Rights of the Republic of Poland in the promotion of equality between women and men and combating violence against women. It is not only an independent national human rights institution but also serves as the independent equality body. As such, it is mandated to supervise the implementation of the principles of equal treatment, including anti-discrimination against women, by conducting research, surveys and awareness-raising activities, promoting measures to prevent and combat violence against women, including the Istanbul Convention, and issuing recommendations to political decision-making bodies.¹⁶ Its oversight of governmental action and participation in international human rights monitoring processes offer a clear added value which also contributed to GREVIO's evaluation of the Istanbul Convention's implementation by Poland. GREVIO points to the need to ensure that this mandate continues to play a key role in promoting human rights and equality.¹⁷

14. In the field of anti-discrimination, there is also the Office of the Government Plenipotentiary for Equal Treatment, currently located in the Ministry of Family and Social Policy, which is mandated to promote equality between women and men in Poland. With the exception of the preparation of the draft National Action Plan on Equal Treatment (2021-2030), GREVIO notes that no specific action has been undertaken by this institution to address violence against women. Since December 2020, it has been responsible for policy setting in the area of combating domestic violence within the Ministry of Family and Social Policy.¹⁸

15. GREVIO strongly encourages the Polish authorities to adopt and implement a comprehensive national policy or strategy on equality between women and men in order to ensure the practical realisation of this principle, in particular by linking it to actions and strategies in the area of preventing and combating all forms of violence against women, including domestic violence.

12. See Human Rights Council, report of the working group on the issue of discrimination against women in law and in practice adopted on 25 June 2019, A/HRC/41/33/Add.2; See Commissioner for Human Rights of the Council of Europe, Report following her visit to Poland from 11 to 15 March 2019, CommDH(2019)17, paragraph 96.

13. Explanatory Report to the Istanbul Convention, paragraph 50.

14. See EIGE, Gender Equality Index 2020: Poland.

15. Despite substantial differences in social and economic status, only 5% of women feel exposed to gender-based discrimination compared to 3% of men. See the submission of the Commissioner for Human Rights of Poland to GREVIO in June 2020, paragraph 5.

16. See the Activity Report on Women's Rights Issues by the Commissioner for Human Rights of the Republic of Poland (in Polish), September 2019.

17. See the statement of the Venice Commission, "The Venice Commission is concerned by the risk of paralysis of the Ombudsman institution of Poland", 12 October 2020. See also the letter from the Council of Europe Commissioner for Human Rights addressed to the Polish Ministry of Foreign Affairs in relation to the Polish Ombudsman institution, 13 October 2020.

18. For more information, see Chapter II, the section on Article 10 (Co-ordinating body).

2. Intersectional discrimination

16. Article 4, paragraph 3, of the Istanbul Convention requires parties to secure the implementation of their undertakings under the convention without any discrimination. This provision provides an open-ended list of grounds of discrimination which draws on that of Article 14 of the European Convention on Human Rights as well as the list contained in its Protocol No. 12¹⁹ and, in addition, includes the grounds of gender, sexual orientation, gender identity, age, state of health, disability, marital status, and migrant or refugee status or other status. This obligation stems from the realisation that discrimination of certain groups of women, for example at the hands of law-enforcement agencies, the judiciary or service providers, is still widespread.²⁰

17. According to indications provided by civil society and women's rights groups in Poland, however, several categories of women are likely to face increased and/or specific obstacles in relation to accessing support for the forms of violence covered by the convention – due to discrimination on multiple grounds. These are notably women with disabilities, older women, Roma women, LGBTI women, women in prostitution and migrant women as well as asylum-seeking and refugee women. The National Action Plan on Combating Family Violence (2014-2020) does not address the specific difficulties experienced by these women facing the forms of violence covered by the convention. Similarly, the draft National Action Plan on Equal Treatment (2021-2030) does not address comprehensively the specific barriers faced by women victims of violence stemming from intersectional discrimination, although it does encompass the need to address the exposure of Roma women and women with disabilities to violence or discrimination.²¹

18. For example, the lack of accessible facilities and the negative stereotypes about women with disabilities and their capacity to make autonomous choices present significant barriers to their assistance for experiences of violence. Indeed, support services, including sexual healthcare services, are often not accessible to women with physical disabilities, and law enforcement and support service providers are rarely trained to communicate with women with hearing and intellectual disabilities. The lack of accessible information seems to prevent women with disabilities from knowing their rights and speaking out against acts of violence, many of whom depend on relatives or acquaintances to access support services.

19. Moreover, rather than incorporating the principle of intersectional and multiple discrimination, most policies and data collection under the National Programme on Combating Family Violence explicitly distinguish between five distinct categories of victims: 1) women; 2) men; 3) people with disabilities; 4) elderly people; and 5) children. This sectional policy approach tends to approach disability and elderhood from a gender-neutral perspective, which does not allow the identification of and response to the specific experiences of discrimination and the barriers encountered by women with disabilities or older women when seeking help.²²

20. As regards women and girls from Roma communities, GREVIO welcomes the fact that the National Programme for the Integration of the Roma Community (2021-2030), unlike its previous version (2014-2020), contains specific provisions on Roma women and girls, notably on their empowerment, but notes with concern that no specific funding is specifically earmarked for it and that the programme as such does not focus specifically on the experiences of gender-based violence faced by Roma women. In light of the indications provided to GREVIO stressing that Roma women experiencing violence still face difficulties in accessing support services, including for reasons of rural isolation, risk of discrimination and fear of rejection from their communities, GREVIO notes the need to introduce measures aimed at overcoming such barriers, including by promoting Roma women's empowerment.²³

19. The discrimination grounds in question include sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

20. See paragraphs 52-54 of the Explanatory Report.

21. See the Polish Commissioner for Human Rights' opinion on the draft National Action Program for Equal Treatment for 2021-2030, submitted on 1 December 2020 (in Polish only); available at <https://brpo.gov.pl>.

22. Information collected during GREVIO's evaluation visit; see Mostowska M. and Dębska K. (2020), "An ambiguous hierarchy of inequalities: political intersectionality of older women's homelessness in Poland", *Journal of Gender Studies*.

23. Information collected during GREVIO's evaluation visit, see Human Right Council, report, June 2019, A/HRC/41/33/Add.2.

21. Discriminatory attitudes also appear to affect LGBTI women's reporting of violence and their help-seeking behaviour. According to the European Union LGBTI survey launched by the Fundamental Rights Agency (FRA) in 2020, 34% of lesbian and bisexual women in Poland did not report physical or sexual violence because they feared the police's negative reaction to their sexual orientation. The same survey underlined that 21% of lesbian and bisexual women felt discriminated by healthcare and social services because of their sexual orientation. It was reported to GREVIO that LGBTI women often conceal their sexual orientation when seeking medical care, in particular sexual healthcare, because of prior experiences of discrimination or fear thereof. Furthermore, GREVIO is concerned by what the Council of Europe Commissioner for Human Rights²⁴ described as "the emergence of a widespread pattern of stigmatisation and statements targeting LGBTI people", including by public officials, thus further exacerbating the barriers to seeking support for experiences of violence.²⁵

22. **GREVIO strongly encourages the Polish authorities to:**

- a. **ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3;**
- b. **address the multiple forms of discrimination in accessing protection and support faced by certain groups of women victims of violence, in particular women with disabilities, migrant women, Roma women, older women, LGBTI women and women in prostitution, by developing policy orientation and measures which take into account and aim to overcome the specific obstacles faced by these groups of women.**

D. State obligations and due diligence (Article 5)

23. Aspects of the implementation of Article 5 of the Istanbul Convention are covered in Chapters V and VI of this report.

E. Gender-sensitive policies (Article 6)

24. Article 6 of the Istanbul Convention calls on the parties to include a gender perspective in the implementation and evaluation of the impact of its provisions and to promote and implement policies aimed at achieving equality between women and men and the empowerment of women. This obligation stems from the realisation that in order to put an end to all forms of violence covered by the scope of the convention, it is necessary to promote *de jure* and *de facto* equality between women and men. It also reflects the principle that violence against women is a consequence as well as a cause of gender inequality.

25. While the National Programme on Combating Family Violence (2014-2020) recognises in its preamble that women are predominantly affected by domestic violence, its measures are exclusively gender neutral. Moreover, its preventive and assistance measures do not recognise the gender dimension of such violence by linking the prevalence of domestic violence against women to the structural inequalities between women and men. Instead, it only provides general measures that can be applied to all victims – irrespective of their sex and age. These are neither designed nor implemented with a view to addressing the specific experiences of women victims of violence at the hands of male partners. Thus, this type of "one size fits all" approach to domestic violence overlooks the actual needs of women facing domestic violence and does not address gaps in their protection and support. An evaluation of the impact of law and policy in Poland – from the point of view of women's experiences in relation to the different forms of violence against women covered by the Istanbul Convention and as required by this provision – should urgently be carried out. It would reveal

24. See Council of Europe Commissioner for Human Rights, Memorandum on the stigmatisation of LGBTI people in Poland, CommDH(2020)27, 3 December 2020, p. 1; See also European Parliament resolution of 18 December 2019 on public discrimination and hate speech against LGBTI people, including LGBTI free zones (2019/2933(RSP)).

25. Ibid. In particular, GREVIO refers to the non-binding resolutions issued in 2019 by dozens of local authorities in Poland, pledging to refrain from the promotion of equal rights of LGBTI people.

to what extent the specific needs and experiences of women victims of these forms of violence, which differ from those of men, are addressed by existing laws and policies.

26. This is even more important in the absence of comprehensive policies in relation to most forms of violence against women and in view of the resistance expressed by some political representatives and members of civil society to vital definitions and concepts of the Istanbul Convention, such as the definition of gender-based violence and the concept of gender-sensitive policies. GREVIO is concerned by the tendency to instrumentalise and misinterpret the principles of the Istanbul Convention. GREVIO considers that, in line with the obligations entered into under this convention, promoting the prevention, protection from and prosecution of all acts of violence against women, as part of a comprehensive set of policies, based on the recognition that such violence affects women disproportionately, should remain a priority for the authorities. All measures taken should resonate with the experiences of women victims and should be based on a gender perspective addressing the difficulties and needs of women facing the various forms of violence covered by the convention.

27. GREVIO urges the Polish authorities to integrate the gender dimension of violence against women into the development of laws, policies and measures to prevent and combat all forms of violence against women, and to incorporate it into the assessment of their impact. Such a gender-sensitive approach should be based on an understanding of the link between the prevalence of violence against women and the structural inequalities between women and men, with the aim of addressing the specific needs of women victims as well as raising awareness of and counteracting the negative stereotypes against women which legitimise and sustain violence against women.

II. Integrated policies and data collection

28. Chapter II of the Istanbul Convention sets out the core requirement for a holistic response to violence against women: the need for state-wide effective, comprehensive and co-ordinated policies sustained by the necessary institutional, financial and organisational structures.

A. Comprehensive and co-ordinated policies (Article 7)

29. Article 7 of the Istanbul Convention requires states parties to ensure that co-ordinated and comprehensive measures to prevent and combat violence against women and domestic violence address all such forms of violence covered by the convention. In Poland, domestic violence committed by a current intimate partner or a family member is the only form of violence which has prompted a co-ordinated, multisectoral and interinstitutional response, through the adoption of the Law and the National Programme on Combating Family Violence (2014-2020). GREVIO is unaware of any policy or programme that would set out the type of comprehensive and co-ordinated responses to all forms of violence against women that the Istanbul Convention calls for, and that would address these as gender-based violence against women. Such comprehensive and co-ordinated policies would be of special relevance in relation to sexual violence, rape, stalking and sexual harassment, in particular, outside of the family context, which are forms of violence that have to date received little comprehensive policy attention in Poland.

30. While other action plans exist, such as the Programme for the Integration of the Roma Community in Poland or the Polish National Action Plan on Women, Peace and Security (2018-2021), GREVIO notes that the former does not explicitly address violence against women and that the latter aims to offer, among other important measures, “support to victims of conflict-related sexual violence who apply for international protection in Poland”, but does not list any specific measures to this end.

31. Responsibilities for the different programmes/action plans and the different forms of violence generally seem to be distributed across the Ministry of Family and Social Policy (domestic violence),²⁶ the Ministry of Justice (rape and sexual violence, stalking and other forms of violence) and the Ministry of the Interior and Administration, the Ministry of Foreign Affairs, the Ministry of National Defence and the Government Plenipotentiary for Equal Opportunities, which jointly prepared and oversee the implementation of the National Action Plan on Women, Peace and Security. Without any apparent links and structures for co-operation, such policy silos and divided responsibilities can stand in the way of taking coherent approaches and may not allow for a comprehensive and co-ordinated approach based on the four pillars of the Istanbul Convention: prevention, protection, prosecution and integrated policies. More initiatives or mechanisms would be required to allow ministries and public agencies to develop common strategies implemented across and interconnecting their respective sectors (such as judicial, law-enforcement, health and social policy fields) in order to address all forms of violence against women jointly.

32. In relation to domestic violence, GREVIO welcomes the comprehensive approach set out by the Law on Combating Family Violence which requires the adoption of a National Programme mapping out actions in relation to the protection and assistance for victims, intervention for perpetrators and awareness raising. Article 10a of the above law also provides for the creation of an advisory body to the Minister of Family and Social Policy: the “Monitoring Team”. This team is composed of a State Secretary designated as the National Co-ordinator of the National Programme, as well as members of national ministries or public agencies, local governments and NGOs, who are appointed every three years. This body meets twice a year and is tasked, among other things, with initiating and monitoring policies related to domestic violence, which, according to the scope of the National Programme, focus on prevention and support to victims, and do not directly address prosecution. In this context, GREVIO notes that from 2017 to 2020 no representative of the justice

26. According to the authorities, the co-ordination, monitoring and evaluation of policies related to forms of violence against women other than domestic violence are not part of the mandate of the Ministry of Family and Social Policy and are undertaken by the different ministries according to their own mandates.

sector had served as a member of the Monitoring Team, which further reduced its ability to address issues in relation to the prosecution of domestic violence cases – a situation which has been remedied with the appointment of a representative of the Ministry of Justice to the Monitoring Team in January 2021.

33. Most of the measures set out in the Law and the National Programmes on Combating Family Violence are implemented at local level,²⁷ and all local authorities must adopt their own programmes, which in 2018, almost three quarters of the municipalities had done. In each region, a co-ordinator is appointed to monitor the implementation of the National Programme at county and municipality level. While GREVIO is not in a position to assess in any detail the quality of the local measures in place, GREVIO was informed that disparities exist especially in rural areas. For instance, in small municipalities, the lack of human resources, including trained officials, seems to limit the adoption of local measures on domestic violence. In addition, GREVIO notes with concern that some local authorities decided against the adoption of local programmes on domestic violence. While the national and regional authorities gather quantitative data on the number of local programmes adopted countrywide, no national guidelines exist on their design and no information on their content is collected nationally.

34. In addition to local policy instruments, the Law on Combating Family Violence has introduced local co-ordination mechanisms for domestic violence interventions. In the municipalities, mayors are tasked with appointing “local interdisciplinary teams” composed of local representatives of the police, the social services, the healthcare sector, the education system, the local committees on solving alcohol problems, NGOs and sometimes representatives of the judiciary. The rules of intervention of the local interdisciplinary team are defined under the “Blue Card” procedure, which provides a framework for multi-agency and multisectoral co-operation in the provision of assistance to victims of domestic violence.²⁸

35. GREVIO welcomes the emphasis placed on multi-agency co-operation around domestic violence, at local and at national level, but notes the need to ensure effective collaboration at all levels as well as continuity and long-term planning for all stakeholders involved, in particular NGOs that provide services to victims. GREVIO notes with some concern that the planned duration of the forthcoming National Programme on Combating Family Violence has been reduced to a one-year time frame rather than six years as initially planned, which may not be sufficiently long to ensure planning security and stability in the response to domestic violence.²⁹

36. GREVIO urges the Polish authorities to ensure a state-wide effective, comprehensive and co-ordinated set of policies to prevent and combat all forms of violence covered by the Istanbul Convention. To this end, GREVIO urges the Polish authorities to:

- a. devise and implement comprehensive and holistic policies to address violence against women in all its forms and manifestations, including in their digital dimension, and in particular sexual violence, stalking, sexual harassment, forced marriage, honour-related violence, forced sterilisation and abortion;**
- b. improve interinstitutional co-operation mechanisms among relevant national and local state agencies in the design, implementation and monitoring of measures on the prevention, protection and prosecution of all forms of violence against women, particularly with a view to improving their capacity to ensure women victims’ access to sufficient protection and support across the country;**
- c. conduct independent comparative analyses of existing national and local measures and programmes on violence against women, including domestic**

27. Poland has a three-tier structure of local government, with 16 regions or “voivodeships” (Województwa), 315 counties or districts (powiaty), and approximately 2 500 municipalities (gminy).

28. For more information on the Blue Card procedure, see Chapter IV, the section on Article 18 (General obligations).

29. See the draft resolution of the Council of Ministers on establishing the National Programme on Combating Family Violence for 2021 (November 2020), available at <https://bip.kprm.gov.pl/kpr/bip-rady-ministrow/prace-legislacyjne-rm-i/prace-legislacyjne-rady/wykaz-prac-legislacyjny/r67167007,Projekt-uchwaly-Rady-Ministrow-w-sprawie-ustanowienia-Krajowego-Programu-Przeciw.html>.

violence, with a view to identifying gaps and promising practices that can be recommended throughout the country.

B. Financial resources (Article 8)

37. In Poland, the only separate government budget dedicated to preventing and combating domestic violence is allocated to the National Programme on Combating Family Violence (2014-2020). According to the Polish authorities, in 2017 and 2018, on average around 23 million zlotys (around €5 million) was annually earmarked for this purpose, and the overall amount has been gradually increasing since 2014 when it was at around 17 million zloty (around €3.5 million). Most social policies related to domestic violence, including preventive measures and the provision of support services, are implemented by the three-tier structure of local government, through a mix of central and local government funding. Thus, most of the above budget, on average more than 80%, was devoted to tasks assigned to local authorities, which include overseeing the functioning of the Specialised Support Services for Victims of Family Violence, programmes for perpetrators and training initiatives. Within the above budget, 3 million zlotys (around €700 000) was awarded to one-off projects run by local public entities or NGOs, through an annual selection procedure organised by the Ministry of Family and Social Policy as part of the programme “Support to local authorities for the creation of a system to combat family violence”. While GREVIO was informed that the national and local governments allocate additional financial resources for the implementation of the National Programme, no specific amount was indicated.

38. Notwithstanding the above, GREVIO notes that the national budget to respond to domestic violence is modest and that, reportedly, local authorities’ budgets are often insufficient and differ across the various provinces, counties and municipalities. General underfunding in terms of human and financial resources as well as infrastructure clearly impacts the scope and the quality of local support services and preventive action. In this regard, GREVIO notes with concern that no specific funding was allocated to the local multi-agency co-operation mechanisms set up to assist victims of domestic violence covered by the Blue Card procedure.³⁰ Indeed, the members of the local interdisciplinary teams carry out their tasks as part of their professional duties or – in the case of NGOs – voluntarily. Thus, local interdisciplinary teams are reliant on the commitment and ability of their members to carry out their tasks in addition to their usual workload, which seems to impact negatively on the ability to co-operate within the teams.³¹ GREVIO recalls that Article 8 requires parties to ensure that funding allocated to combat violence against women is suitable for the target set or measures to be implemented. It would require a cost assessment and budgeting of any planned measure to ensure its effective implementation in the envisaged time frame.

39. Additionally, GREVIO notes that no national funding lines exist in relation to measures addressing other forms of violence covered by the Istanbul Convention. GREVIO has stressed the added value of adopting gender-responsive budgeting in all public bodies to plan, monitor and assess the financial resources channelled to the response to violence against women.³² This would allow for the allocation of adequate resources for activities in the area of preventing and combating all forms of violence against women – by both public authorities and relevant civil society organisations – which is a requirement of the Istanbul Convention.

40. As regards funding for NGOs which provide services for women victims of violence, funding opportunities exist in the form of the “Justice Fund” for services for victims of crime operated by the Ministry of Justice and the funds awarded by the National Institute of Freedom – Centre for the Development of Civil Society. GREVIO notes with concern the difficulties that women’s NGOs with a proven track record in providing psychosocial and legal counselling to women victims of violence have been facing, since 2016, in qualifying for funding available through the Justice Fund’s tender, under the argument that services dedicated exclusively to women victims are not sufficiently

30. For more information on the Blue Card procedure, see Chapter IV, the section on Article 18 (General obligations).

31. See Supreme Audit Office (NIK) “Helping people affected by domestic violence”, 2016, KPS.410.004.00.2015.

32. See, for example, GREVIO baseline evaluation reports on Albania (paragraph 26), Andorra (paragraph 36), Portugal (paragraph 38) and Turkey (paragraph 52).

comprehensive and discriminate against male victims.³³ GREVIO also notes the fact that no specialist women's NGOs were granted funding by the National Institute of Freedom – Centre for the Development of Civil Society, although the reasons for this remain unclear.

41. GREVIO recalls that under Article 4, paragraph 4, of the Istanbul Convention, special measures necessary to protect women from gender-based violence shall not be considered as discriminatory. Indeed, the fact that women suffer from the forms of violence covered by the convention, including domestic violence, to a significantly larger extent than men can be considered as an objective and reasonable justification to allocate resources and take measures for the benefit of women only.³⁴ Hence, GREVIO shares the concerns raised by international and national human rights bodies regarding the diminishment of women's NGOs' capacity to deliver specialised services to women victims of violence in Poland, resulting from their lack of access to public subsidies.³⁵ In this context, GREVIO welcomes the initiatives taken by some local authorities to raise, in recent years, their level of expenditure dedicated to support activities of women's NGOs, but it notes that this funding is often project-based and shorter-term.³⁶ Thus, the fact that women's NGOs must turn increasingly to alternative sources of funding, including private donors, may weaken their ability to offer vital services to victims, to carry out advocacy work and to raise awareness of the different forms of violence against women.

42. **GREVIO strongly encourages the Polish authorities to:**

- a. **increase the level of public funding for measures aimed at preventing and combating all forms of violence against women, from both central government and the three levels of local government, while regularly assessing the financial and human resources needed for this purpose;**
- b. **review spending levels in order to remedy existing gaps in the provision of specialist support services and shelters for victims of domestic violence and other forms of violence against women covered by the scope of the Istanbul Convention;**
- c. **ensure that all relevant central government agencies systematically introduce budget lines dedicated to measures to prevent and combat all forms of violence against women, in order to regularly monitor the level of the allocated budget spent with a view to demonstrating an increase over time in the budget earmarked and spent in this field; and**
- d. **ensure equitable access to stable funding opportunities for independent women's NGOs providing specialist support services and running activities to prevent violence against women, while ensuring the transparency of the applicable selection criteria and decisions taken, with due regard to Article 4, paragraph 4, of the Istanbul Convention which sets out that special measures necessary to prevent and protect women from gender-based violence, such as the provision of specialist support services to women victims of such violence, shall not be considered discrimination.**

C. Non-governmental organisations and civil society (Article 9)

43. Since the 1990s, independent women's NGOs in Poland have played a pivotal role in preventing and combating violence against women, including by co-operating with the national and local authorities in the provision of essential specialist support services for women victims and the launch of dedicated awareness-raising activities. Article 9 of the Istanbul Convention requires parties to recognise and support the contribution of NGOs active in combating violence against women by

33. See Human Rights Council, report of the working group on the issue of discrimination against women in law and in practice adopted on 25 June 2019, A/HRC/41/33/Add.2, paragraph 25; See the submission of the Commissioner for Human Rights of the Republic of Poland to GREVIO in June 2020, paragraph 32; See Commissioner for Human Rights of the Council of Europe, Report following her visit to Poland from 11 to 15 March 2019, CommDH(2019)17, paragraph 177-119.

34. See the Explanatory Report to the Istanbul Convention, paragraph 55.

35. See Chapter II, the section on Article 9 (Non-governmental organisations and civil society).

36. See Commissioner for Human Rights of the Council of Europe, Report following her visit to Poland from 11 to 15 March 2019, CommDH(2019)17, paragraph 117.

tapping into their expertise and involving them as partners in multi-agency co-operation and policy making.³⁷ In this regard, GREVIO notes with satisfaction that key legislative and policy instruments, including the Law and National Programme on Combating Family Violence, explicitly recognise the need to involve NGOs in the design and implementation of the measures addressing domestic violence. At the national level, 10 representatives of civil society organisations, including umbrella NGOs and religious associations, shall be appointed every three years as members of the Monitoring Team for Combating Family Violence, the advisory body to the Minister of Family and Social Policy. While bearing in mind the limited advisory role of this body, GREVIO stresses the added value of such a mechanism to promote stable dialogue between state agencies and civil society actors, beyond political mandates. However, GREVIO notes that it would benefit from a greater involvement of women's NGOs with specific expertise in supporting women victims of violence, including those at risk of multiple discrimination. It appears that the newly appointed composition of the Monitoring Team does not include, as of January 2021, representatives of such service providers. This, and the above-mentioned reduction in duration of the new National Programme for Combating Family Violence to one year instead of six, is a cause for concern, as it may further limit women's NGOs' contribution and their access to regular opportunities for public funding.

44. More generally, GREVIO is alarmed by the shrinking space for independent women's rights' NGOs and civil society actors, observed in recent years by those working on the ground and which has repeatedly been commented on by international organisations.³⁸ Women's rights groups and civil society actors have drawn GREVIO's attention to the increasing atmosphere of mistrust, fear and uncertainty resulting from the lack of public funding opportunities, the omnipresent risk of downscaling or closing services and the perceived lack of constructive institutional dialogue and co-operation. In addition, statements made by some national or local officials targeting NGOs and civil society representatives, and the police raids on four women's rights NGOs in the context of the All Poland Women's Strike in 2016, had a chilling effect on many women's rights activists, which was amplified by smear campaigns against some.³⁹ GREVIO notes with grave concern that the harmful discourses on the basis of misinterpretations of the Istanbul Convention described above have contributed to diverting attention from the acute need to consolidate and expand the provision of women-to-women specialist support services, advocacy around women's rights and comprehensive awareness raising around the different forms of violence against women.

45. New approaches must be found to ensure the active government support and recognition of independent women's specialist support services as required by Article 9 of the Istanbul Convention, and to involve them as partners in the institutional response to all forms of violence against women. Mutual co-operation mechanisms will need to be developed to cater in particular to the needs of women for experiences of violence that are currently unmet.

46. **GREVIO urges the Polish authorities to:**

- a. recognise the role of independent women's NGOs as key partners in preventing and combating violence against women, including in addressing the structural inequalities between women and men, by actively creating an environment that is conducive to their work;**
- b. establish at different levels of government, beyond the Monitoring Team, consultative dialogue with women's organisations in order to incorporate their opinions and experiences into the design of policies and measures to prevent and combat all forms of violence against women covered by the Istanbul Convention and to create a framework for their involvement in the implementation and monitoring of such policies.**

37. See the Explanatory Report to the Istanbul Convention, paragraph 69.

38. See Human Rights Council, report of the working group on the issue of discrimination against women in law and in practice adopted on 25 June 2019, A/HRC/41/33/Add.2, paragraphs 23-26; See Commissioner for Human Rights of the Council of Europe, Report following her visit to Poland from 11 to 15 March 2019, CommDH(2019)17, paragraph 125; See the submission of the Commissioner for Human Rights of the Republic of Poland to GREVIO in June 2020, paragraph 35.

39. See Human Rights Watch, News dated 6 February 2019: Poland: Women's Rights Activists Targeted, available at www.hrw.org/news/2019/02/06/poland-womens-rights-activists-targeted.

D. Co-ordinating body (Article 10)

47. The co-ordinating body appointed by the Polish authorities under Article 10 of the Istanbul Convention is the Ministry of Family and Social Policy. According to the authorities, it carries out its duties by co-ordinating and monitoring the implementation of policies in the realm of domestic violence in particular in the framework of the National Programme for Combating Family Violence (2014-2020). Furthermore, the Minister of Family and Social Policy is advised by the Monitoring Team on Combating Family Violence. At the time of GREVIO's evaluation visit, within the Ministry of Family and Social Policy, three staff members of the Department for Social Assistance and Integration were tasked with providing technical support to activities, including data collection, in relation to the Law and the National Programme on Combating Family Violence. The Department of International Co-operation co-ordinated activities related to Poland's ratification of the Istanbul Convention, within the limits of the scope of competences of the Ministry of Family and Social Policy. Since December 2020, the above tasks related to combating domestic violence are carried out by the Office of the Plenipotentiary for Equal Treatment within the Ministry of Family and Social Policy. Such organisational changes have not modified the number of staff working on these activities. The co-ordination, monitoring and evaluation of policies related to forms of violence against women other than domestic violence fall within the mandate of other line ministries, such as the Ministry of Justice, which is responsible for the government's response to rape and sexual violence.

48. In light of the above, GREVIO notes that the official body formally designated to act as co-ordinating body in Poland is not equipped with the mandate, competences and resources to comply with the requirements set out in Article 10 of the Istanbul Convention. In this context, GREVIO emphasises that the role of this co-ordinating body must be understood in the light of the obligations set out in Article 7 of the Istanbul Convention, which require parties to the convention to devise and implement policies that encompass a multitude of measures taken by the different agencies and sectors, through effective co-operation among those, in order to offer a holistic and co-ordinated response to violence against women. In Poland, this would imply that measures related to all forms of violence covered by the convention be mainstreamed and co-ordinated across the national social, health, judicial, education, cultural and other policies carried out by all the relevant state agencies. Thus, the setting up of a co-ordinating body empowered with the mandate and competences defined in Article 10 would require the prior involvement of and co-operation with all relevant state agencies in devising and implementing measures related to violence against women.

49. GREVIO strongly encourages the Polish authorities to appoint one or more co-ordinating bodies equipped with clear mandates, powers and competences as well as the necessary human and financial resources to ensure the co-ordination, implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence covered by the Istanbul Convention. Thus, GREVIO strongly encourages the Polish authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures to this extent, and on the other hand, their independent monitoring and evaluation on the basis of predefined indicators established to measure success. In so doing, the Polish authorities should ensure that the functions of the co-ordinating body are exercised in close consultation with relevant NGOs and civil society actors, including independent women's NGOs, and that they are supported by adequate and appropriate data.

E. Data collection and research (Article 11)

50. Preventing and combating violence against women and domestic violence requires evidence-based policy making. The collection of systematic and comparable data from all relevant administrative sources is crucial in this regard, as is information on the prevalence of all forms of violence against women.⁴⁰

40. While this section discusses the main considerations related to data collection, Chapters V and VI also offer reflections on data related to specific criminal offences.

1. Administrative data collection

51. In Poland, some steps have been taken to collect common administrative data on the reporting of cases of domestic violence by professionals from the law-enforcement agencies, healthcare, social welfare and the education sector, under the Blue Card procedure, the special assistance procedure for victims of domestic violence.⁴¹ The Law on Combating Family Violence sets out some standards on the collection and the management of these data by social services, which include information on alleged victims, alleged perpetrators and professionals reporting the case. However, the only multisectoral data published in the annual reports on the implementation of the National Programme on Combating Family Violence are the overall number of reports of domestic violence cases broken down by the sectors of the professional who made them. GREVIO notes that the National Action Plan on Combating Family Violence for 2021 foresees the collection of new data related to the Blue Card procedure, including the number of reported cases of domestic violence broken down by type of violence (psychological, physical or sexual). However, these data are not disaggregated by sex, age and the relationship between the victim and the perpetrator. Moreover, the data generated via the Blue Card procedure are not effectively linked to those collected by the public agencies from the various sectors.⁴² Additionally, GREVIO notes that, with the exception of domestic violence, no specific action has been taken to co-ordinate multisectoral data collection.

a. Law-enforcement agencies and the justice sector

52. The Police National Information System (KSIP) compiles data across regional police headquarters on police intervention related to domestic violence under Article 207 of the Criminal Code. In 2015, an additional checkbox for “domestic violence” cases was included in the KSIP as part of the new data-collection procedure.⁴³ Data on police intervention are broken down by the sex of both the victim and the perpetrator, as well as by form of violence (physical, psychological, sexual and economic violence). They are published annually in the police report on the implementation of the Blue Card procedure available on the website of the Police Headquarters. They are also included in the annual report of the Ministry of Family and Social Policy on the implementation of the National Programme on Combating Family Violence. However, the above data are not broken down by relationship of the perpetrator to the victim, nor do they include other relevant information in the specific cases where the victim is a woman. Thus, it is not possible to extract data on specific cases of domestic violence against women, such as intimate partner violence. Moreover, no records are made available regarding the number of reported cases of forms of violence other than domestic violence, such as rape, sexual violence, stalking, etc. To obtain such data, a request to the Office of the Commander-in-Chief of the Police can, however, be made.⁴⁴

53. At the judicial level, County and Provincial Courts collect data on prosecuted and convicted offenders. They are classified by type of criminal offence and type of conviction (fine, prison sentence, electronic monitoring, etc.). Some data on the number of victims and convicted offenders per criminal offence are disaggregated by sex. These are made publicly available notably in the case of domestic violence or available upon request. Since 2011, judicial data have allowed the tracking of some criminal offences committed against an immediate family member, as judges can record this classification in the sentencing phase or at the time of statistical reporting. While not mandatory, it was reported that there is a growing trend among judges to apply such a criminal classification.⁴⁵ However, there are no judicial data disaggregated by type of violence or relationship between the victim and the perpetrator, which masks the extent of intimate partner violence against women or any other victimisation of women. GREVIO also notes the sparsity of data on protection measures, including protection orders requested from and issued by the public prosecutor, and the criminal and civil courts. Indeed, the data available are not broken down by any category and do not provide

41. For more information on the Blue Card procedure, see Chapter IV, section on Article 18 (General obligations).

42. See Krizsan A. and Pap E. (2016), “Implementing a co-ordinated approach: an assessment of Poland’s response to prevent and combat gender-based violence”, Council of Europe, p. 63.

43. EIGE (2018), Recommendations to improve data collection on IPV by the police and justice sectors: Poland.

44. Ibid.

45. Grzyb M. (2019), “We condemn abusing violence against women. The criminalization of domestic violence in Poland”, *Archiwum Kryminologii*.

information on the violation of these protective measures, nor any details on the sanctions imposed as the result of such a violation. Finally, GREVIO notes that the differences in the data-collection systems of the police and the judiciary, as well as their lack of data disaggregation, do not allow the tracking of cases across the various stages of the criminal justice system.

54. GREVIO strongly encourages the Polish authorities to expand the scope of the data collected by law-enforcement agencies and the judiciary to cover all forms of violence against women, and to ensure that such data are disaggregated by sex, age and the relationship between the victim and the perpetrator. Furthermore, GREVIO strongly encourages the Polish authorities to take measures to harmonise the collection of the above data between law-enforcement agencies and the judiciary with the aim, *inter alia*, of assessing attrition rates.

b. Social services

55. The Ministry of Family and Social Policy collects and publishes annual data on the number of victims of domestic violence who received social assistance, as well as the number of perpetrators of domestic violence who participated in perpetrator programmes. In the framework of the monitoring of the National Programme on Combating Family Violence, the regional co-ordinators of the provincial social policy departments are tasked with compiling harmonised data across the local social services providing shelter or legal, socio-psychological and other forms of support to victims, as well as from social services intervening with perpetrators. These data only contain information on the individual covered by the social assistance or intervention provided. Thus, data on victims do not provide information on the perpetrators. The data on victims covered by social assistance are broken down by sex and type of social services accessed. GREVIO notes with interest that when available, sex-disaggregated data on the victim are also sub-disaggregated by their disability status and age category (adult or elderly). However, no information is collected on the type of violence, nor on the relationship between the victim and the perpetrator. Such information would, however, allow a distinction to be made between cases of intimate partner and other types of domestic violence. Another limitation of the current set of data is that it only covers domestic violence as defined under the Law on Combating Family Violence, and thus does not include victims of violence committed by a former intimate partner or victims of other forms of violence covered by the convention, who may receive assistance from social services.

56. GREVIO encourages the Polish authorities to take further steps to expand the scope of the data collected by social services to ensure that such data address all forms of violence covered by the Istanbul Convention and are disaggregated by sex, age and relationship of the perpetrator to the victim as well as other relevant categories such as disability status.

c. Healthcare sector

57. Data on victims' contact with healthcare services are recorded only when medical practitioners report cases of domestic violence through the Blue Card procedure. In practice, however, it seems that healthcare providers rarely report through this procedure⁴⁶ and do not use any standardised system to record anonymised data on cases of domestic violence, sexual violence or other forms of violence against women. As a result, a large number of instances of contact with primary healthcare providers for reasons of violence go unrecorded, as this is where women can turn to first for advice. The State Agency for the Prevention of Alcohol-Related Problems supervised by the Ministry of Health is the only state health agency to collect data on cases of domestic violence in relation to people in contact with the local committees on solving alcohol problems. GREVIO acknowledges that alcohol abuse has been recognised as a possible contributing risk factor to domestic violence,⁴⁷ but is concerned that healthcare data collection and policies remain focused on addiction problems and thus seek to provide a healthcare response to perpetrators of violence

46. See Chapter IV, section on Article 20 (General support services) and Article 28 (Reporting by professionals).

47. As GREVIO noted in its previous baseline evaluation reports, an approach to domestic violence which focuses on the perpetrator's addictive behaviour overshadows the fact that such a form of violence is grounded in structural gender inequalities. Substance abuse and other individual risk factors do not cause but may exacerbate domestic violence which is rooted in the power imbalance between women and men. See GREVIO's baseline evaluation reports on Albania (paragraph 50) and Montenegro (paragraph 265).

instead of addressing its root causes. In this context, GREVIO stresses the need for holistic healthcare statistics on contact with women victims of the forms of violence covered by the Istanbul Convention in order to design evidence-based and gender-sensitive policies on medical treatment and counselling for women victims of gender-based violence, a policy area that remains insufficiently developed in Poland.

58. GREVIO strongly encourages the Polish authorities to take measures to ensure the collection of harmonised data in relation to healthcare providers' contact with women patients for reasons related to experiences of gender-based violence. Such data should be disaggregated, at a minimum, by sex, age and relationship of the perpetrator to the victim.

2. Population-based surveys

59. The National Programme on Combating Family Violence sets out expenditures to commission a national study on the prevalence of domestic violence every two years. Since 2007, regular population-based surveys on domestic violence have been conducted, including some that have focused on certain groups of victims such as the elderly, people with disabilities and children. The most recent population-based surveys were carried out in 2017 and 2019, which revealed trends with regard to the different forms of domestic violence, addiction as a contributing factor, victims' help-seeking behaviour and help-receiving experiences, as well as social awareness and stereotypes about domestic violence. While GREVIO welcomes the above, it notes that the broad scope of these surveys does not capture the characteristics of women's experiences of domestic violence. Indeed, the survey launched in 2019 covered the lifetime experience of any form of violence committed by any family member, relative or intimate partner, and did not consistently disaggregate data by sex, by form of violence and by the relationship of the perpetrator to the victim. Moreover, GREVIO notes that this survey, unlike the previous ones, was not made public, contrary to the obligation contained in Article 11, paragraph 4, of the Istanbul Convention. GREVIO also notes that no official national population-based survey has been conducted on other forms of violence against women, like non-partner sexual violence, sexual harassment or stalking.

60. Under the National Programme on Combating Family Violence, the provinces, counties and municipalities are also tasked with conducting studies (*diagnoza*) to "determine the percentage of the population at risk of domestic violence". In this context, GREVIO was informed that several local authorities, especially counties and provinces, have conducted their own local population-based survey in recent years. GREVIO acknowledges the information provided by the authorities about the number of local studies (*diagnoza*) conducted every year but notes that in many instances the initiative was limited to the compilation of existing administrative data instead of the running of localised population-based surveys in order to determine the part of the local population at risk of domestic violence. Moreover, where local prevalence studies are being conducted, they rarely collect sex-disaggregated data and do not address the specific social, economic and other dimensions of domestic violence against women, mirroring the approach of national population-based surveys.⁴⁸

61. GREVIO encourages the Polish authorities to carry out population-based surveys on the different forms of violence against women covered by the Istanbul Convention. GREVIO further encourages the Polish authorities to ensure that the design of the above surveys allows survey results to show women's exposure to the different forms of violence covered by the Istanbul Convention, including domestic violence.

3. Research

62. Article 11, paragraph 1*b*, of the Istanbul Convention creates the obligation for parties to support research, out of the consideration that it is essential that parties base their policies and measures to prevent and combat all forms of violence covered by the convention on state-of-the-art research and knowledge in this field. As a key element of evidence-based policy making, research

48. See Feminoteka (2016), Local Programme on Combating Family Violence: A gender perspective, report, Warsaw.

can contribute greatly to improving day-to-day, real-world responses to violence against women and domestic violence from the judiciary, support services and law-enforcement agencies.⁴⁹

63. The Ministry of Family and Social Policy regularly commissions research on domestic violence, pursuant to Article 8 of the Law on Combating Family Violence. Research has thus been carried out on the efficacy of the Blue Card procedure,⁵⁰ the support services for victims of domestic violence and the efficacy of programmes for perpetrators of domestic violence. Regular reports monitoring the implementation of the National Action Plan on Combating Family Violence (2014-2020) have also been released. GREVIO welcomes these efforts to evaluate the quality of the measures taken to prevent and combat domestic violence. At the same time, it points to the great need to research the various manifestations of violence against women in Poland, and to examine the level of access of women victims to support, protection and justice. In this regard, GREVIO regrets that no support for academic research seems to have been provided to the many academic institutions with specific expertise in the area of preventing and combating violence against women and domestic violence. Most available research in this area has been conducted by individual academics and women's rights experts.

64. GREVIO encourages the Polish authorities to support research into all forms of violence against women, including their digital dimension, as well as into victims' access to support services, protective measures and justice, including by setting research priorities and offering financial support. GREVIO encourages the Polish authorities to continue to evaluate existing laws and policies to assess their level of implementation, efficacy and victims' satisfaction with support services and protection measures available to them.

49. See Explanatory Report to the Istanbul Convention, paragraph 77.

50. For more information on the Blue Card procedure, see Chapter IV, the section on Article 18 (General obligations).

III. Prevention

65. This chapter contains a number of general and more specific obligations in the area of prevention. These include early preventive measures such as changing social and cultural patterns of behaviour of women and men, eradicating prejudices and gender stereotypes, and measures to involve all of society, including men and boys, in achieving gender equality and the prevention of violence against women. It also includes more specific preventive measures such as awareness raising and campaigning, ensuring the adequate training of all professionals, education in schools and other settings, and, last but not least, measures such as perpetrator programmes to prevent further victimisation.

A. General obligations (Article 12)

66. Article 12 delineates the fundamental foundations of the parties' duty to prevent violence against women. These include the parties' determination to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men. Moreover, flowing from the premise that violence against women is a cause as much as a consequence of gender inequality, Article 12 requires further that parties adopt specific measures to empower women and to achieve greater gender equality in order to reduce women's vulnerability to violence.

67. In Poland, there is very little evidence of measures taken that would seek to address, in a comprehensive manner, the root causes of the different forms of violence against women covered by the Istanbul Convention. As highlighted in the preamble to the convention and throughout its operational provisions, violence against women in its different manifestations – whether perpetrated through physical means, psychologically, via the internet or technology, with or without a sexual component – is structural in nature and based in the historically unequal power relations between women and men which have led to the discrimination against women by men, in public and in private life, and has led to the prevention of the full advancement of women. A key element in the prevention of violence against women, including intimate partner violence, is thus the realisation of women's equality with men, in law and in practice. This includes women's equality with men in the labour market, in political representation and decision making, in care responsibilities and in many other aspects of life. Addressing the root causes of violence against women requires a reflection around women's roles in society and in the family, perceptions of their agency and the existence of negative stereotypes, including possible institutional bias, in order to identify pathways towards greater equality with men. The drafters of the Istanbul Convention were mindful of the need for mentalities and attitudes to change at the level of individual men and women, who through their behaviour, perpetuate violence against women.⁵¹ A positive contribution to achieving such change can be made by men and boys acting as role models, agents of change and advocates for equality between women and men and mutual respect. This can be done by speaking out against violence, engaging other men in ending violence against women or actively taking on caring responsibilities, and should be explored according to the drafters of the convention.⁵²

68. In the absence of a gender equality strategy or programme in Poland and with no overarching policy goal of introducing a culture of gender equality, the root causes of violence against women, including intimate partner violence, will remain unaddressed. According to Eurobarometer 449 on Gender-based Violence from November 2016, 30% of the respondents in Poland considered sexual intercourse without consent justified in some circumstances, and 28% declared that violence against women is often provoked by the victim. In a more recent study, most respondents condemned domestic violence, while 38% declared that victims "accept their situation" and 16% considered domestic violence the result of a "pathology".⁵³ This indicates a striking lack of awareness of the

51. Explanatory Report to the Istanbul Convention, paragraph 85.

52. *Ibid.*, paragraph 88.

53. National diagnosis of the phenomenon of domestic violence, National diagnosis of violence (in Polish), Kantar Polska report for the Ministry of Family, Labour and Social Policy, October 2019.

coercive control mechanisms that prevent women victims from leaving their abusers. In view of the social acceptance of many forms of violence against women, in particular domestic and sexual violence, efforts to address such root causes are urgently needed in Poland.

69. The above-described attitudes towards domestic violence and other forms of violence against women result from, among other things, the limitations which a gender-neutral approach to domestic violence bears. Moreover, as GREVIO has had occasion to state,⁵⁴ the focus placed on the perpetrators' substance abuse, psychology or socio-economic conditions in the response to domestic violence in Poland, including in relation to preventive measures, does not allow the root causes of such violence to be addressed and will hence not lead to lasting reductions in women's exposure. Preventive measures undertaken under the National Programme for Combating Family Violence (2014-2020) and correlated instruments like the National Programme for the Prevention and Resolution of Alcohol-Related Problems (2016-2020) mainly address domestic violence as an issue closely tied to family crisis situations and alcohol abuse. GREVIO thus points to the urgent need to raise awareness, in a comprehensive manner, of the structural nature of all violence against women and place such efforts in the pursuit of the greater aim of achieving gender equality by increasing women's agency and reducing their exposure to violence. Future preventive measures should tap into the potential of contributions by all members of society, especially men and boys, as required by Article 12, paragraph 4.

70. GREVIO urges the Polish authorities to take measures to prevent all forms of violence against women covered by the scope of the Istanbul Convention, in particular by promoting changes in mentalities and attitudes of individuals, and as expressed by public opinion, which contribute to justifying and perpetuating violence against women, by addressing structural inequalities between women and men as the root causes of such violence, and by promoting programmes and activities for the empowerment of women.

B. Awareness raising (Article 13)

71. In relation to domestic violence, various awareness-raising initiatives exist at national and local level which stem from the National Programme for Combating Family Violence (2014-2020) and thus approach the issue from a point of view of family violence without highlighting the specific situation of women victims, thus disregarding the gendered nature of the phenomenon.⁵⁵ In 2019, a total of 1 007 local campaigns were launched by the different provincial, county and municipal authorities to raise awareness of domestic violence and inform the local population of the services available.⁵⁶

72. GREVIO notes with interest that the 2018 national campaign was dedicated to domestic abuse against the elderly and sought to sensitise society at large and to inform older people of their rights and the support available. While this campaign highlighted the impact of age-based discrimination on the exposure of older victims of domestic violence, it did not address the compound difficulties faced by older women victims, including the impact of sexist and ageist stereotypes contributing to the low recognition of their victimisation, especially in the context of sexual violence.

73. General awareness-raising initiatives for victims of crime, including victims of domestic violence, are regularly conducted by the Ministry of Justice. Specific awareness-raising initiatives on violence against children also exist. Among these, GREVIO notes with interest the information campaign "Don't lose your child online" organised by the Ministry of Digitalisation and the Research

54. See GREVIO's baseline evaluation report on Montenegro, paragraph 84; see also United Nations General Assembly in-depth study on all forms of violence against women: report of the Secretary-General, 26 July 2006, A/61/122/Add.1, paragraph 73.

55. See, for example, the 2017 national campaign "I choose to help" run by the Ministry of Family, Labour and Social Policy and other ministries, together with NGOs and the media, focused on reducing the social acceptance of domestic violence by encouraging potential victims to reach for help, witnesses to react and perpetrators to attend re-educational programmes.

56. See report on the implementation of the National Programme for Combating Family Violence (2014-2020) from January to 31 December 2019 (in Polish), September 2020, p. 10.

and Academic Computer Network (NASK) in 2020, which aims to raise parents' awareness of online and technology-facilitated violence affecting children, including girls. Through videos, publications and webinars the campaign focused notably on the non-consensual sharing of intimate images online, with some publications pointing to the importance of paying attention to the difference in perception of sexuality among boys and girls.⁵⁷

74. GREVIO notes with interest the above campaigns but underlines that they do not span the full spectrum of forms of violence covered by the Istanbul Convention. In addition, public statements calling into question the extent of violence against women in Poland may significantly diminish the effects of awareness-raising initiatives taken so far.

75. GREVIO welcomes that between 2013 and 2015 a range of activities were carried out by the Government Plenipotentiary for Equal Treatment to prevent sexual violence against women. These include a national online and radio campaign that sought to dispel negative stereotypes against women. Since then, government initiatives to prevent sexual violence have ceased to exist. In view of the need for more preventive action noted above, GREVIO considers it crucial to resume the promotion of awareness-raising activities by the authorities in order to address explicitly the detrimental effects of the various forms of violence against women covered by the convention, including sexual violence both within and outside of intimate relationships. It would be equally important to step up the level of awareness of sexual harassment and its prevalence in particular among female university students.⁵⁸ Moreover, GREVIO notes that despite prior cases of forced and early marriage in Poland,⁵⁹ there is still a widespread belief among Polish society that these phenomena do not occur in the country. This low level of awareness may be explained by the lack of dedicated policies to reach out and involve those concerned in activities aimed at preventing this form of violence against women.

76. There is thus a great need to integrate into these campaigns the perspectives of women victims. To this extent, resources should be set aside by the authorities to ensure that campaigns are designed and implemented in close co-operation with civil society organisations, in particular women's NGOs with expertise in these forms of violence, including NGOs working with women at risk of intersectional discrimination.

77. Lastly, GREVIO commends the active role of the Office of the Polish Commissioner of Human Rights in raising awareness of the various forms of violence against women and sharing knowledge about the legal provisions of the Istanbul Convention, as part of its mandate to monitor and promote the equal treatment of women in Poland. During his term in office, the current Commissioner has undertaken various initiatives to make violence against women more visible in the public arena, such as the preparation of independent research and reports and the organisation of public consultations and conferences with civil society actors, including women's NGOs.⁶⁰

78. GREVIO strongly encourages the Polish authorities to further develop and diversify their awareness-raising efforts in order to address the different forms of violence covered by the Istanbul Convention, while paying specific attention to the experiences of women victims, especially when they are at risk of intersectional discrimination. Such measures should be carried out through the resourcing of campaigns and by engaging in partnerships with women's NGOs active in raising awareness of these forms of violence and in supporting women victims.

57. Kwasnik A. (2019), "Sexting and nude photos: Your child and risky online behaviour" (in Polish), NASK, p. 33.

58. According to the Polish Commissioner for Human Rights, 44% of female university students have faced sexual harassment while studying (see "Equal Treatment Principle: Experience of harassment among female and male students" (in Polish)). According to the Foundation STER, 87.6% of Polish women have faced sexual harassment at work or in public spaces (see "Breaking the taboo: Report on sexual violence", 2017, p. 13). See also Druciarek (2020), "It has become so invisible that I forget about it – violence against women in politics" (in Polish), Institute of Public Affairs.

59. Klaus W. (2017), Families as a Collective Abuser. A Case of Family Violence Against Chechen Refugee Women in Poland, "Studia Migracyjne Przegląd Polonijny", 165 (3); CAHROM thematic report on child/early and forced marriages within Roma communities in the context of the promotion of gender equality, CAHROM (2015)8, p. 43.

60. See the Polish Commissioner for Human Rights' Activity Report on Women's Rights issues (in Polish), September 2019.

C. Education (Article 14)

79. Attitudes, convictions and behavioural patterns are shaped very early in life. Educational establishments therefore have an important role to play in promoting equality between women and men and human rights. Article 14 therefore requires the design of teaching material that promotes equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, the right to personal integrity, and that informs learners about the different forms of gender-based violence against women.

80. The Law on Education generally prohibits discrimination in education, by referring in its preamble to the Constitution, including Article 33, paragraph 2, which guarantees an equal right to education for women and men. Pursuant to the regulations of the Ministry of National Education,⁶¹ the primary and secondary education curricula include subjects, namely Civic Education and Ethics, that cover some aspects of human rights, non-discrimination and mutual respect, including the roles of international and national human rights institutions. However, no specific teaching materials on issues such as equality between women and men, non-stereotyped gender roles, non-violent conflict resolution in interpersonal relationships, and gender-based violence against women and the right to personal integrity seem to exist and these concepts do not seem to form part of the formal curricula at any level. Teaching material means any type of formally developed and approved material that forms part of the curriculum and which, where appropriate, all teachers at a particular school have access to and are required or request to use in class.⁶²

81. Instead, concerns exist regarding the persistence of negative stereotypes of women in school textbooks and in the subject called “Education for Family Life” taught at primary school level.⁶³ In line with the notions set out in other human rights treaties,⁶⁴ the Istanbul Convention is built on the understanding that the education system is central to shaping values such as equality, including equality between women and men in private and public life and reducing stereotypes with a view to preventing violence against women. While Article 14 offers wide discretion to states parties as to which type of schooling and which age group of learners they consider such teaching material to be appropriate for,⁶⁵ it requires parties to actively promote the above values. GREVIO thus points to the need to review existing textbooks and teaching materials with a view to removing discriminatory portrayals of women and men in society such as images that systematically portray women in private and family life rather than as active participants in public life or other depictions that carry the notion of women’s inferiority to men which is the breeding ground for violence against women.

82. In this context, GREVIO notes that in Poland NGOs with recognised expertise in gender equality have played a key role in engaging with teachers, by organising workshops or campaigns aimed at raising awareness of violence against women among pupils. Under the Law on Education, civil society organisations other than political ones whose statutory purpose is to educate or to expand schools’ teaching activities require the approval of the head of schools in order to run activities in schools. It is with concern that GREVIO notes that such approvals are increasingly difficult to obtain for NGOs working on women’s rights and equality between women and men.⁶⁶

83. Moreover, local education authorities have run ad hoc audits in schools in relation to the organisation of activities promoting women’s rights and non-discrimination of LGBTI people.

61. See Regulation of the Minister of National Education of 14 February 2017 on the core curriculum for pre-school and primary schools, and its Regulation of March 31, 2017 on the core curriculum for vocational education.

62. Explanatory Report to the Istanbul Convention, paragraph 95.

63. See Chmura-Rutkowska et al. (2016), “Gender in Textbooks, Research projects report” (in Polish), volumes II and III, Feminoteka; Laciak et al. (2018), “The issue of gender in the new core curricula and selected textbooks” (in Polish), IPA. See United Nations (UN) Human Rights Council, Report of the Working Group on the issue of discrimination against women in law and in practice in Poland, A/HRC/41/33/Add.2, paragraph 39.

64. See article 10(c) of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women; see article 29(d) of the United Nations Convention on the Rights of the Child.

65. Explanatory Report to the Istanbul Convention, paragraph 95.

66. See UN Human Rights Council, A/HRC/41/33/Add.2, paragraph 38; see the submission of the Commissioner for Human Rights of the Republic of Poland to GREVIO in June 2020, paragraph 62; See also Human Rights Watch, News dated 6 February 2019: Poland: Women’s Rights Activists Targeted, available at www.hrw.org/news/2019/02/06/poland-womens-rights-activists-targeted.

Disciplinary proceedings have been initiated against teachers who expressed support for the “Black Protest of Women” – a protest sparked by government measures taken to cease the provision of comprehensive sexual and reproductive health education.⁶⁷

84. In a societal context that is marked by the reluctance of public leaders to counter opposition to women’s rights and that offers less and less room to operate for NGOs and civil society organisations working towards the advancement of women’s equality with men and the prevention of violence against women, GREVIO is gravely concerned that the above will contribute to a significant knowledge vacuum among the young generation and the shaping of attitudes and mentalities that will only compound, not reduce, women’s and girls’ exposure to violence. Instead of curbing girls’ and boys’ access to information regarding equality between women and men, mutual respect, the different forms of gender-based violence, non-violent conflict resolution in interpersonal relationships and what this means for respectful intimate relations, GREVIO points to the need for a greater understanding of how gender inequalities affect girls’ exposure to health risks, including risks for their sexual health, and forms of violence such as domestic violence, sexual violence, female genital mutilation or forced marriage. In this context, GREVIO points to the draft law under discussion which proposes to criminalise activities in Poland that would “promote or praise a minor’s sexual intercourse or other sexual activities”, which may have a detrimental effect also on the ability of NGOs and others to conduct activities that raise awareness of violence against women, in particular sexual violence.⁶⁸

85. The importance of comprehensive sexuality education for girls and boys, including the teaching of notions such as consent and personal boundaries, has been expressed by different intergovernmental organisations and bodies,⁶⁹ and the Council of Europe Recommendation CM/Rec(2019)1 to member states on preventing and combating sexism calls for age-appropriate, evidence-based and scientifically accurate and comprehensive sex and sexuality education to be incorporated into school curricula.⁷⁰

86. In this context GREVIO welcomes the existence, since 2001, of school assistants employed by some municipalities to facilitate communication between teachers and parents from the Roma communities around the issue of early marriage of Roma girls and the impact of such marriages on their education, as well as to identify barriers to the education of Roma children.⁷¹ These are mostly female educators from Roma communities, and although they are not formally in charge of alleviating the risk of forced marriage, their supportive action was considered a promising practice to prevent early and forced marriage through close co-operation with local Roma communities.⁷² While welcoming the recognition this represents for the key role that educators and other school staff can play in supporting girls in their empowerment and breaking the cycle of violence, GREVIO notes the need to expand the number of Roma school assistants and the overall recognition of their role.⁷³

87. Lastly, GREVIO welcomes the initiatives taken by the authorities to raise awareness among teachers of some forms of technology-facilitated violence covered by the Istanbul Convention. In 2020, the Ministry of Education revised its guidelines for education professionals on responding to some risk situations including cyberstalking and the non-consensual sharing of intimate content. These include recommendations on providing support to victims and information on the legal

67. See the submission of the Polish Commissioner for Human Rights to GREVIO in June 2020, paragraph 38.

68. See European Parliament resolution on the criminalisation of sexual education in Poland, 14/11/2019, P9 TA(2019)0058

69. “Comprehensive sexuality education” is defined notably by UNESCO’s “International technical guidance on sexuality education. An evidence-informed approach” (2018) and the World Health Organization’s Standards for Sexuality Education in Europe (2010). See also Resolution of the United Nations Human Rights Council, Accelerating efforts to eliminate violence against women: engaging men and boys in preventing and responding to violence against all women and girls, adopted on 12 July 2017, A/HRC/ RES/35/10.

70. See Recommendation CM/Rec(2019)1 on preventing and combating sexism, section II.G.6.

71. Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), Fourth Opinion on Poland adopted on 6 November 2019, ACFC/OP/IV(2019)003, p. 34.

72. Ad Hoc Committee of Experts on Roma and Traveller Issues (CAHROM) thematic report on child/early and forced marriages within Roma communities in the context of the promotion of gender equality, CAHROM (2015)8, p. 56.

73. Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), Fourth Opinion on Poland adopted on 6 November 2019, ACFC/OP/IV(2019)003, p. 34.

provisions covering these offences. The Centre for Education Development also runs regular online courses on aggression, peer violence and cyber-bullying, which teachers can attend voluntarily.

88. **GREVIO strongly encourages the Polish authorities to take measures to promote, adapted to the evolving capacity of learners, the principles of equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, and the right to personal integrity and to ensure information on the different forms of gender-based violence against women, in formal curricula and at all levels of education. Bearing in mind Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism, GREVIO strongly encourages the Polish authorities to review teaching curricula and materials with a view to removing negative stereotypes of women and girls and to fostering equality. Measures taken to this effect should promote an understanding of violence against women, based on the principles of the Istanbul Convention, and should ensure co-operation with NGOs with well-recognised expertise in gender equality, non-discrimination, sexual health, and national and ethnic minority issues.**

D. Training of professionals (Article 15)

89. The standard set by the convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence. The training that is required must cover the prevention and detection of such violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation.

90. Under the 2005 Law on Combating Family Violence, a systematic multisectoral framework has been set up to train the various professionals who respond to domestic violence at local level, including members of the local interdisciplinary teams. These training initiatives are organised on a regular basis by the provincial governments and focus on the legal aspects of domestic violence, the provision of assistance to victims and programmes for perpetrators, especially in the context of the Blue Card procedure.⁷⁴ Every two years, the Ministry of Family and Social Policy issues guidelines on the conduct of this training. In 2018, 3 567 professionals were trained, mostly social workers but also law-enforcement officers, education and health professionals, probation officers and judges and prosecutors, albeit to a lower extent. GREVIO welcomes the systematic and interdisciplinary nature of these local training initiatives on domestic violence but notes its limited scale in terms of reach and that it does not seem to cover the root causes of domestic violence, nor does it address its gendered dimension.

91. Instead, the above training focuses on “the situation of families with a violence problem”, without addressing the individual needs of the victims, especially women victims.⁷⁵ Thus, while GREVIO welcomes that some experienced local professionals give due consideration to the long-term barriers affecting victims’ help-receiving behaviours, including for instance their social isolation, their economic dependency on the perpetrator or their feelings of self-blame tied to their prolonged exposure to violence, GREVIO is concerned that many national and local professionals perceive the victims’ lack of “co-operation” as the principal impediment to their adequate support and protection.⁷⁶ Greater understanding of the cycle of domestic violence and the impact of domination and coercive control must therefore be harnessed by all relevant professionals.

74. For more information on the Blue Card procedure, see Chapter IV, section on Article 18 (General obligations).

75. See the Guidelines of the Minister for Social Security of 20 April 2020 on the training falling within the scope of counteracting domestic violence for 2020-2021.

76. Information collected during GREVIO’s evaluation visit; see also the Report on the implementation of the national programme for combating family violence (2014-2020) for the period from 1 January to 31 December 2019, which states that “the effectiveness of assistance services largely depends on the readiness of people affected by domestic violence, both to make a decision to take advantage of institutional support [services] ..., but also to consistently take part in activities to improve their safety. The most important barriers identified as impeding the proper provision of help to the victims are precisely the issues related to [their] attitude and motivation to change their life situation.”

92. Beyond training on domestic violence, efforts to ensure systematic training on the prevention and detection of the different forms of violence against women covered by the Istanbul Convention, including the needs and rights of victims and how to prevent secondary victimisation are scant.

93. The initial education of judges comprises some modules on the Polish legal standards on domestic violence and sexual violence.⁷⁷ Additionally, the National School of Judiciary and Public Prosecution organises individual training initiatives for judges, prosecutors and probation officers that cover some aspects of domestic violence, sexual violence and harassment in the workplace.⁷⁸ However, these are not offered in a systematic manner nor do they cover all forms of violence addressed by the convention and are attended by a limited number of professionals. It is unclear whether they consistently cover subjects identified in Article 15 such as the prevention of secondary victimisation. GREVIO stresses that continuous participation in training on all forms of violence against women would be essential to overcome negative attitudes displayed by some prosecutors and judges towards women victims of violence. In addition, training should be made available, by the responsible entities, to all professionals working with courts, such as expert psychologists, in particular when settling child custody and visitation rights in the context specified in Article 31 of the convention.

94. The vocational training for law-enforcement officers includes general information on intervention procedures and the rights of victims of violence. Officers appointed to co-ordinate domestic violence interventions and the Blue Card procedure regularly receive in-service training in this field. GREVIO welcomes that most police officers thus demonstrate a certain level of knowledge of the established procedures on working with victims of sexual violence and domestic violence. However, they often focus more on formal aspects, such as completing the Blue Card forms or handling the official letter of rights rather than conducting risk assessment and providing victims with information on their rights and available support services.⁷⁹ GREVIO welcomes the announcement of a large-scale training initiative for law-enforcement officers resulting from the introduction of the power to evict a perpetrator of domestic violence from the joint residence.

95. While medical professionals are said to receive initial and in-service training to detect and respond to suspected cases of violence, in particular domestic violence, no information was made available on the content and duration of this training.⁸⁰ Concerns have been raised over the limited level of knowledge among health professionals of the applicable procedure in relation to victims of sexual violence, including the use and accessibility of rape kits.⁸¹ This seems to point to the need to increase training efforts.

96. Border Guards and staff members of the Office of Foreigners, including asylum case workers, only receive very little training on the subjects required by Article 15. This lack of training is reflected at different levels of the procedure, which impacts negatively on the sensitivity and the quality of decisions taken in relation to women asylum seekers.

97. GREVIO urges the Polish authorities to ensure that all professionals dealing with victims or perpetrators of all forms of violence covered by the scope of the Istanbul Convention receive systematic and mandatory initial and in-service training on identifying and responding to all forms of violence against women, while focusing on the victims' human rights, safety, individual needs and empowerment and the prevention of secondary victimisation. Such training should be based on the principles of non-discrimination and equality between women and men and devised in close co-operation with regional and local authorities, as well as relevant stakeholders, including independent women's NGOs providing specialist support to women victims of violence. Clear protocols and guidelines

77. See the state report submitted to GREVIO, Appendix 3, pp. 89, 90, 92, 93.

78. Ibid., pp. 53-54, pp. 92-93.

79. Information collected during GREVIO's evaluation visit; see also Foundation STER (2017) *Breaking the Taboo: Report on Sexual Violence*, p. 52 and FRA (2019) *Women as victims of partner violence: Justice for victims of violent crime Part IV*.

80. See the state report submitted to GREVIO (p. 94) that indicates that no data are available on the training of medical staff.

81. See Lewandowska-Abucewicz T. et al. (2015), "Knowledge of medical personnel on the 'procedure for dealing with a victim of rape' in medical units" (in Polish), *Polish Sexology*, 13 (1), pp. 14-18.

should be established to set the standards that staff are expected to follow in their respective fields.

98. GREVIO strongly encourages the Polish authorities to incorporate into any training efforts for law-enforcement officers and members of the judiciary the notion of increasing the safety of women victims, in particular by enabling their ability to conduct standardised risk assessment in cases related to all forms of violence covered by the Istanbul Convention, and to issue protective measures for victims and children at risk. Such training efforts should also heighten awareness of the frequent continuation of domestic violence and control after a relationship has ended and their relevance for decisions on custody and visitation rights.

E. Preventive intervention and treatment programmes (Article 16)

1. Programmes for perpetrators of domestic violence

99. Programmes for perpetrators of domestic violence are run nationwide under the Law and the National Programme on Combating Family Violence. Minimum standards exist regarding the qualification of professionals running these programmes and their core aims, which include preventing recidivism, developing perpetrators' skills of self-control and encouraging them to take responsibility for their actions.⁸² Local county authorities (*poviat*) are tasked by their provincial authorities with implementing these group programmes, which are frequently contracted out to NGOs but paid for by the state budget. Lasting from three to 12 months, their length and format vary across regions according to the guidelines set by each provincial government. The number of programmes also vary, causing significant delays to the admission of perpetrators in some regions. Although funding is available for such programmes, not all counties apply for it for lack of capacity. GREVIO thus welcomes the plans announced to increase the number of programmes for perpetrators of domestic violence under the forthcoming National Programme on Combating Family Violence. In this regard, it notes that this would require an increase in the human and financial resources of local government and NGOs to run such initiatives. Additionally, GREVIO underlines that care should be taken to ensure that treatment programmes for perpetrators complement but do not replace prosecution of and, ultimately, convictions for domestic violence.

100. The Central Authority of the Prison Service runs programmes for perpetrators serving a prison sentence in a detention facility, who may participate voluntarily in such programmes. In 2019, a total of 4 442 inmates completed such programmes, compared to 2 229 domestic violence perpetrators in a non-custodial setting.⁸³ In addition, psychotherapeutic programmes exist for perpetrators who have completed the programmes but require further intervention.

101. Attendance of programmes for perpetrators of domestic violence available in non-custodial settings may be voluntary or upon referral by the local interdisciplinary teams as part of the Blue Card procedure,⁸⁴ although this does not entail an obligation to attend in the same way as referrals to addiction treatment are not compulsory. Attendance may also be court-ordered as a precondition for the suspension of a prison sentence, which however seems to be ordered only in some cases. In 2019, courts ordered the attendance of a perpetrator programme in 616 of the 4 498 convictions in relation to domestic violence on the basis of Article 207 of the Criminal Code in which prison sentences were conditionally suspended.⁸⁵

82. These standards are set out in the Regulation of the Minister of Labour and Social Policy of 22 February 2011.

83. Report on the implementation of the National Programme for Combating Family Violence (2014-2020) from January to 31 December 2019, September 2020.

84. For more information on the Blue Card procedure, see Chapter IV, the section on Article 18 (General obligations)

85. Ibid.

102. In view of the high number of Blue Card procedures initiated for domestic violence,⁸⁶ including intimate partner violence, GREVIO notes that only a small number of perpetrators attend and/or complete the available perpetrator programmes. It is unclear whether this is because referrals under the Blue Card procedure are voluntary or whether participation in such programmes is not sufficiently recommended.

103. This is all the more important in view of the low number of perpetrators who reoffended after the completion of a perpetrator programme.⁸⁷ As uniform standards on the prioritisation of the safety of women victims and their human rights do not exist, it is unclear to what extent all programmes conduct regular risk assessment and address the negative sexist stereotypes which legitimise and perpetuate gender-based violence against women. Thus, GREVIO points to the need to ensure systematic co-operation and information sharing between perpetrator programmes and women's specialist support services, as well as to complement the official data on reoffending with reports from victims themselves and perpetrator self-reporting on their use of violence in order to adequately measure the victims' safety, feelings of safety and quality of life.⁸⁸

104. **GREVIO encourages the Polish authorities to:**

- a. develop common minimum standards for programmes for perpetrators that place the safety and the human rights of women victims at their centre in line with the principles of the Istanbul Convention and recognised best practices, including by ensuring co-operation with women's support services, and to base any scientific evaluation of their efficacy on such standards;**
- b. promote the attendance of both mandatory and voluntary programmes for perpetrators by ensuring a more consistent application of existing referral mechanisms and by fostering the interplay between perpetrator programmes, criminal proceedings and other procedures such as the "Blue Card" procedure while prioritising the safety of victims and their access to justice; and**
- c. improve the availability of these programmes across the country, while ensuring that local governments are granted sufficient resources to organise programmes that comply with the principles of the Istanbul Convention.**

2. Programmes for sex offenders

105. In Poland, treatment programmes for convicted sex offenders diagnosed with "disorders of sexual preference" (paraphilia) are organised in seven therapeutic wards located in custodial settings. In 2018, among the convicted sex offenders diagnosed with paraphilic disorders, 377 received treatment related to their psychiatric diagnosis and 43 completed a therapeutic and rehabilitation programme.⁸⁹ Moreover, pursuant to Article 95a of the Criminal Code, in order to prevent recidivism, convicted sex offenders diagnosed with paraphilic disorders and who have completed their sentences may be ordered by a court to receive a compulsory pharmacological or psychotherapeutic treatment in a closed psychiatric institution or an outpatient clinic. In relation to the treatments provided in one of the above-mentioned closed institutions, the Committee for the Prevention of Torture (CPT) has raised concerns about the lack of a clear approach aimed at increasing forensic patients' adherence to the treatment programme and overcoming their cognitive distortions.⁹⁰

106. While GREVIO acknowledges that the drafters of the Istanbul Convention left it up to the parties to decide how to devise programmes for sex offenders, their ultimate aim must be to minimise recidivism and to successfully reintegrate perpetrators into the community. GREVIO reiterates its

86. Ibid. In 2019, 74 910 people, of whom more than 90% were men, were suspected of perpetrating domestic violence under the Blue Card procedure.

87. See the state report submitted by the Polish authorities to GREVIO, p. 51.

88. See Domestic and sexual violence perpetrator programmes: Article 16 of the Istanbul Convention, A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence.

89. See the state report submitted to GREVIO by the Polish authorities, p. 51.

90. See the report on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 22 May 2017, paragraph 121.

concerns and those expressed by other human rights bodies regarding the need to obtain the free and informed consent of the person concerned prior to the start of anti-androgen treatment, it being understood that consent can be withdrawn at any time.⁹¹ When devising programmes for sex offenders, parties should adopt a human rights-based approach and take due account of best practices developed internationally that call for a multilayered approach and a combination of various therapies, like the merger of voluntary pharmaceutical treatment and cognitive behavioural therapy.⁹²

107. More generally, GREVIO notes that treatment programmes dedicated to sex offenders in Poland are attended by few inmates as their scope focuses on sex offenders who have been diagnosed with paraphilic disorders, most often perpetrators of child sexual abuse. GREVIO also reiterates its concern in relation to programmes for sex offenders which understand sexual violence only from the perspective of mental health disorders or addiction issues,⁹³ and recalls that sexual violence, like any form of violence against women, must be regarded through a gender lens and understood as a means for men to exercise power and domination over women and girls. In Poland, there is no custodial or non-custodial programme aimed at encouraging perpetrators of sexual violence to take responsibility for their conduct as sex offenders and to change their behaviour in a sustainable manner. While programmes for perpetrators of domestic violence can cover sexual violence in this context, their scope of intervention is limited, and these programmes are not specifically designed for sex offenders.

108. GREVIO strongly encourages the Polish authorities to devise treatment programmes addressed to all perpetrators of sexual violence, which take due account of best practices developed internationally and guarantee a human rights-based approach.

F. Participation of the private sector and the media (Article 17)

109. The National Broadcasting Council (KRRiT) is the public regulatory organ responsible for monitoring the media's compliance with the Broadcasting Law prohibiting advertisements and broadcasts that discriminate on the ground of sex.⁹⁴ It may investigate complaints, carry out administrative procedures and impose financial sanctions on broadcasters. Only a few such decisions are annually delivered by the KRRiT.⁹⁵ Its Regulatory Strategy (2014-2016) explicitly included, as a priority area, actions aimed at promoting gender equality and preventing negative stereotypes against women in the media. In this framework, KRRiT has commissioned research on women's stereotypical representation in the media.⁹⁶ However, it has not adopted any specific guidance to encourage the media sector to shape its messages on violence against women in a non-sensationalist and non-stereotypical manner. GREVIO also notes that KRRiT's current Regulatory Strategy (2017-2022), unlike the former one, does not include a set of targeted actions to promote equality between women and men in the media.

110. Under the National Programme for Combating Family Violence (2014-2020), KRRiT is tasked with broadcasting programmes for children that are devoid of violent content. It was also involved in the preparatory consultations of two self-regulatory instruments adopted by advertising agencies and media service providers, to prevent violent and discriminatory media messages addressed to children.⁹⁷ Additionally, the National Programme requires national ministries to co-operate with the media and KRRiT in awareness-raising activities to dispel stereotypes related to domestic violence. Information on such measures, however, has not been provided.

91. See GREVIO Baseline Evaluation Report on Turkey, paragraph 130; see also CPT periodic visit to Poland in 2009, 21st General Report 2010-11, paragraph 45; see also CPT's report on the periodic visit to Germany in 2015, paragraph 99.

92. See Domestic and sexual violence perpetrator programmes: Article 16 of the Istanbul Convention, A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence.

93. See GREVIO Baseline Evaluation Report on Turkey, paragraph 130.

94. See Article 16c, paragraph 3(2) and Article 18 paragraph 1 of the Broadcasting Act of 29 February 1992.

95. According to state report submitted to GREVIO, in 2018, only two decisions have been delivered by KRRiT to impose a fine on broadcasters whose programmes include content that discriminate against women.

96. KRRiT (2020), "Stereotypical or Non-typical? Women in Polish TV Series: Image, Presence, Context of Appearance".

97. See the "Charter for the protection of children in advertising" adopted by the Advertising Ethics Committee in 2019, the "Code of good practice on the protection of minors in VoD services" adopted by the Internet Employer Association in 2014.

111. Some media outlets and associations of journalists have adopted their own codes of ethics, which require media professionals to not discriminate, among others, on the ground of sex or to respect broad principles such as human dignity.⁹⁸ However, these self-regulations do not address issues around the stereotypical portrayal of women, and it is unclear how they are applied and monitored in practice.

112. GREVIO notes that the National Programme for Combating Family Violence does not assign any role to the private sector. The National Action Plan for the Implementation of the United Nations Guiding Principles on Business and Human Rights (2017-2020), however, maps out objectives to promote awareness of gender equality in the workplace, in co-operation with businesses and social partners. This notwithstanding, no information was provided on national measures encouraging the involvement of the private sector, including the information technology sector, in the prevention of violence against women, including the creation of self-guidelines to prevent sexual harassment in the workplace. GREVIO welcomes, however, the establishment of internal bodies to co-ordinate the prevention of discrimination and sexual harassment at university. In view of the large scale of sexual harassment against female university students, it is important to expand such initiatives and ensure their effectiveness in identifying and responding to this form of violence.⁹⁹

113. GREVIO encourages the Polish authorities to actively support and promote the involvement of the private sector, including the information technology sector, in the prevention of violence against women in all its forms, including by developing internal protocols to respond to sexual harassment against women in the workplace. With a view to the important role of the media in dispelling negative social representations of women and reducing the level of acceptance of violence affecting them, GREVIO encourages the Polish authorities to set incentives or otherwise promote the development of self-regulatory standards in relation to the non-stereotypical and non-sexist portrayal of women in the media, including in the context of reporting on violence they have suffered.

98. See Article 19 (2018), "Poland: Responding to 'hate speech'", country report, pp. 40-41.

99. See Commissioner for Human Rights of the Republic of Poland (2018), "Equal Treatment Principle – law and practice No. 25: Experience of harassment among female and male students. Analysis and recommendations" (in Polish).

IV. Protection and support

114. Chapter IV of the Istanbul Convention aims at a multifaceted, professional and victim-oriented support structure for any woman who has experienced any of the forms of violence covered by the convention.

A. General obligations (Article 18)

115. Article 18 of the Istanbul Convention sets out a number of general principles to be respected in the provision of both general and specialist protective and supportive services. One of these principles is the need for services to act in a concerted and co-ordinated manner with the involvement of all the agencies concerned, taking into account the relationship between victims, offenders, children and their wider social environment. Addressing the complexity of violence against women requires establishing an intervention system which involves all relevant policy sectors, administrative levels and actors. Multisectoral and multi-agency interventions across the national, regional and local levels are key to ensuring an effective and cohesive response to all forms of violence. Effective co-ordination at local levels is particularly important in terms of ensuring that responses fit the community needs and of providing “one-stop-shop” services to victims.

116. In Poland, the Blue Card procedure provides a framework for multi-agency and multisectoral co-operation in the provision of different forms of assistance for victims of domestic violence. At the municipality level, this procedure is implemented by “local interdisciplinary teams” composed of representatives of statutory agencies and civil society organisations, as a tool to co-ordinate the interventions related to domestic violence across their various sectors. It involves local members of the police, the social services, the healthcare sector, the education system, the local committees on solving alcohol problems and NGOs. Upon the suspicion of domestic violence, this procedure must be initiated by any professionals from the above sectors by completing a standardised form that is sent to the local interdisciplinary team. This team is then tasked with organising a meeting with the victim in order to provide her/him with an “assistance plan”, which sets out supportive and protective measures. It can include, among other things, social assistance, referral to a shelter and/or the provision of information about the forms of psychological, financial, legal, medical or other support that the victim is entitled to. At the same time, the assistance plan can set out measures to be taken by the police, such as conducting regular checks on the victim’s safety, informing the victim about the perpetrator’s criminal liability, initiating preparatory proceedings and/or requesting the prosecutor to apply preventive measures.

117. GREVIO welcomes the efforts made by the Polish authorities to establish, through the Blue Card procedure, a mechanism to promote multisectoral co-operation around domestic violence at the local level. However, GREVIO has identified several shortcomings in the scope and the implementation of this procedure which limit its potential.

118. Firstly, GREVIO notes that protective measures and thorough risk assessment by law-enforcement agencies or social services are not sufficiently linked to the Blue Card procedure. There is no systematic co-operation between the local interdisciplinary teams and the judiciary, the public prosecutor and probation officers,¹⁰⁰ who are not obliged to take part in the work of the local interdisciplinary teams under the Law on Combating Family Violence. Without an assessment of the risk a woman victim of domestic violence and her children may be exposed to, providers of support services, including domestic violence shelters, cannot offer adequate support and protection. Reports have surfaced about shelters which did not apply protective measures,¹⁰¹ as have reports of women being further abused, including killed, while under the Blue Card procedure.¹⁰² GREVIO recalls that Article 18 requires parties to ensure effective co-operation between all relevant state agencies and civil society entities in protecting and supporting victims and witnesses of all forms of

100. See Supreme Audit Office (NIK), “Helping people affected by domestic violence”, 2016, KPS.410.004.00.2015.

101. See Chapter IV, the section on Article 23 (Shelters).

102. Information collected during GREVIO’s evaluation visit; see also EU Fundamental Rights Agency (FRA) (2019), “Women as victims of partner crime, Justice for victims of violence crime, Part IV”. pp. 47-48.

violence covered by the convention, and that measures taken to this effect should adopt an integrated approach to ensure victims' safety and address their needs in the light of all relevant circumstances.

119. Second, the Blue Card procedure and most support services connected to it operate a gender-neutral approach to domestic violence, which does not enable professionals to address the specificities of women's victimisation, including their need for long-term empowerment and solutions which include vocational training, housing and financial assistance. In addition to possibly providing women with a false sense of safety, the measures offered to women victims of domestic violence under the Blue Card procedure do not always correspond to women's real needs. While GREVIO welcomes the initiatives taken at local level by committed officials and service providers to reduce women victims' dependency on their abuser, for example by finding employment and long-term housing, it notes the need to incorporate such approaches more formally into the Blue Card procedure.

120. Moreover, GREVIO draws attention to the fact that the above efforts are limited to domestic violence as one form of violence covered by the Istanbul Convention. Similar measures do not exist for any other form of violence against women. This is particularly striking in the context of the urgent need to offer a comprehensive approach to respond to sexual violence and rape. Similarly, the issue of early and forced marriage which many Roma girls and women are exposed to requires a comprehensive and multi-agency approach in order for change to take root.

121. GREVIO urges the Polish authorities to ensure co-operation between all relevant institutions, including law-enforcement agencies, the judiciary, prosecution services, probation officers and support services for women victims, in order to offer institutionalised co-operation in relation to all forms of violence against women covered by the Istanbul Convention on the basis of protocols and guidelines for the relevant professionals, which designate the specific needs of women victims in relation to the specific form of violence experienced.

122. In relation to multi-agency co-operation in cases of domestic violence under the Blue Card procedure, GREVIO strongly encourages the Polish authorities to incorporate risk-assessment and protective measures into the procedure and to ensure that the measures proposed under the procedure are based on a gendered understanding of domestic violence and aim at the empowerment and economic independence of women victims of violence.

B. Information (Article 19)

123. Information on available support services for victims of domestic violence is made available in many different ways, including at the local level. Under the Blue Card procedure, victims must be informed about the support that they are entitled to. Under the National Programme on Combating Family Violence (2014-2020), the municipalities, counties and provinces are required to disseminate information about the forms of social, legal and other support addressed to victims.

124. GREVIO takes notes of the data provided by the Polish authorities illustrating the numerous initiatives led by local authorities, including the development of information materials and campaigns. However, as previously indicated,¹⁰³ small municipalities, especially in rural areas, are not always equipped with the resources and expertise to implement such activities. Women victims living in rural areas are therefore less likely to be informed of their rights and the assistance available to them. Thus, GREVIO stresses the need to ensure that information on support services reaches all women facing domestic violence regardless of their place of residence in Poland. It appears that most information materials, including the Blue Card forms, are not in a format accessible to women with disabilities, who often depend on the help of a third party, including a relative, for access to support.

103. See Chapter II, the section on Article 7 (Comprehensive and co-ordinated policies) and Article 8 (Financial resources).

125. The websites of the Ministry of Family and Social Policy and the 16 provincial authorities include databases of the various services assisting victims of domestic violence, including specialist support services, shelters and NGO-run services. This notwithstanding, GREVIO shares the concerns of the Commissioner for Human Rights of the Republic of Poland about the fact that these databases have not been updated during the Covid-19 pandemic to provide timely information about changes in the functioning of the support services, including admission requirements of shelters.¹⁰⁴ Moreover, it is unclear to what extent victims will be made aware of the power to evict an abusive partner recently granted to law-enforcement agencies. Lack of information on protection orders and when and how to request them seems to have caused many women to refrain from trying¹⁰⁵ – a situation that GREVIO trusts will improve with the newly introduced emergency barring orders.

126. GREVIO notes with much greater concern that very little information is available to women victims of other forms of violence covered by the Istanbul Convention. General information for victims of crime in need of legal assistance is offered by the website of the Ministry of Justice. No specific information seems to be offered to victims of sexual violence and rape, nor are specific efforts made to inform women and girls exposed to other forms of violence, in particular early and forced marriage, stalking and sexual harassment.

127. GREVIO strongly encourages the Polish authorities to take measures to expand the dissemination of information about the legal measures and the support services available to victims of all forms of violence against women in a language and format that they understand, including by intensifying efforts to ensure that all relevant professionals take a more proactive approach towards informing victims.

C. General support services (Article 20)

1. Social services

128. Under the Law on Combating Family Violence, victims of domestic violence are entitled to free-of-charge psychological, social and professional support. Moreover, pursuant to the Law on Social Assistance, they may be eligible for temporary financial support. The individual assistance plans drawn up under the Blue Card procedure refer victims to psychological, social and professional counselling as well as financial aid. GREVIO welcomes that victims of domestic violence are legally entitled to a range of social support services, but notes that, in practice, the scope of this assistance may be quite narrow. The level of social support granted under the Blue Card depends on the discretion of social workers but also on the level of resources available. In Poland, the provision of social services is entrusted to local self-government at the county (*powiat*) and municipal (*gmina*) levels. The latter run and fund the local social welfare centres. The provision of local social services to victims of domestic violence varies based on the infrastructure, human and financial resources dedicated to this purpose in each municipality. Although most social welfare centres offer some psychosocial support to victims of domestic violence, the extent of this support differs across municipalities, and some types of support such as financial aid and professional counselling are often not available.¹⁰⁶ Countrywide, common problems in social assistance include the serious level of understaffing and under-resourcing as well as the wide range of tasks that social workers are expected to fulfil, including as members of the interdisciplinary teams.

129. This particularly affects women living in rural areas who often only have access to a limited range of social services tailored to their needs. GREVIO notes with interest that the National Programme on Combating Family Violence encourages local authorities to establish consultation points to assist victims of domestic violence. In 2019, there were 503 such consultations points, often

104. See the submission of the Polish Commissioner for Human Rights to GREVIO, June 2020, p. 29.

105. The Advocates for Human Rights, Poland – Compliance with the Convention on Action against Torture and other Cruel and Inhuman Treatment, Submission to CAT, 2019, paragraph 18.

106. See Ministry of Family, Labour and Social Policy, National diagnosis of support infrastructure for people facing violence, 2017; Supreme Audit Office (NIK), "Helping people affected by domestic violence", 2016, KPS.410.004.00.2015.

located in the social welfare centres.¹⁰⁷ In rural municipalities, these services are often the only public services providing psychosocial support to victims of domestic violence. However, their opening hours and their scope of intervention vary significantly. In some municipalities, these consultation points are merged with those assisting people dealing with addiction and alcohol abuse, bearing the risk of blending domestic violence with substance abuse issues – an approach that is prevalent in Poland but that masks the root causes of domestic violence and does not address the specific needs of women victims of such violence.

130. In addition, 219 Crisis Intervention Centres (CIK), run by the counties (*powiat*), offer emergency psychological and social support and shelter to people in various crisis situations (such as violence, suicide attempts, depression, etc.). In practice, however, the shortage of specialist services (see below) means that most of their users are women victims of domestic violence. In view of the difficulties encountered by many municipalities in securing sufficient funding for such crisis intervention centres, they are often unable to provide immediate support and it is unclear to what extent they adequately respond to women who are at risk of forced marriage or female genital mutilation (FGM) or who may have experienced sexual violence and rape, sexual harassment and stalking. In the absence of specialist support services for most of the forms of violence against women covered by the Istanbul Convention, it is vital to ensure that general support services provided at local level, through social welfare centres, crisis intervention centres or other means, are equipped to facilitate women's recovery from such violence by offering or referring them for legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment, as required by Article 20 of the Istanbul Convention. This is particularly important in relation to early and forced marriage which Roma women and girls may be exposed to and who often have complex needs which must be addressed in a comprehensive manner. GREVIO points to the possibility of the relevant social services introducing more Roma mediators,¹⁰⁸ as recommended by Council of Europe Recommendation CM/Rec(2012)9 of the Committee of Ministers to member States on mediation as an effective tool for promoting respect for human rights and social inclusion of Roma. The positive effects of systems which engage in quality mediation with Roma communities are well documented and should be ensured in a sustainable manner in relation to Roma women seeking support from the Polish authorities.

131. While most social services provide short-term accommodation for victims of violence, the National Programme on Combating Family Violence envisages the creation of local regulations to grant longer-term social housing to victims of domestic violence. As of 2019, 54 such local policies had been adopted, which has significantly reduced waiting times for social housing in those municipalities.¹⁰⁹ GREVIO welcomes the creation of local social housing schemes as an essential step to ensure the long-term empowerment of women victims of domestic violence. It notes, however, that priority access was granted to only 65 women victims in 2019, making this an underused tool.

132. Lastly, GREVIO notes with concern that social assistance for experiences of violence is frequently provided without recognition for intersecting factors such as disability, homelessness, age and gender. This presents barriers to the ability of many women, in particular women exposed to multiple discrimination such as older women, women with disabilities and women in prostitution, to rebuild their lives on the basis of the interventions proposed.¹¹⁰ In this context, GREVIO notes that for migrant women access to social services depends on their residence status.

133. GREVIO strongly encourages the Polish authorities to take further measures to ensure that women victims of all forms of violence covered by the Istanbul Convention have access to services facilitating their recovery and autonomy throughout the country, in particular housing services, assistance in education and training and in finding employment. GREVIO

107. See report on the implementation of the National Programme for Combating Family Violence (2014-2020) from January to 31 December 2019, September 2020.

108. In 2017, only two Roma community mediators were employed in social services or municipality services in Poland. See CAHROM (2017), Thematic report on CAHROM, Thematic visit on Roma Mediation (2017)16, p. 16.

109. *Ibid.*

110. Mostowska M. and Dębska K. (2020), "An ambiguous hierarchy of inequalities. The political intersectionality of older women's homelessness in Poland", *Journal of Gender Studies*, 29(4), pp. 443-456.

strongly encourages the Polish authorities to ensure that social services at the local level are provided with adequate resources allowing them to discharge their responsibilities in an effective manner, as well as to foster co-operation among all social services units working with women exposed to violence, in particular homeless women, older women and women with disabilities.

2. Healthcare services

134. Public healthcare services play an important role in the prevention of violence and in the provision of medical services to victims of the different forms of violence addressed by the Istanbul Convention. In Poland, some minimum standards for the health sector exist under the Law on Combating Family Violence, which provides that doctors must document the cause and type of injuries, using a model medical certificate as regulated by the Ministry of Health.¹¹¹ However, it is not mandatory to issue such certificates and is not systematically done in practice. Medical staff are trained to detect domestic violence through annual training run by the State Agency for the Prevention of Alcohol-Related Problems mainly in the context of the Blue Card procedure. However, these initiatives reach nurses more than doctors, and the Blue Card procedures are rarely initiated by health practitioners.¹¹² While this points to the need to increase knowledge among all healthcare professionals on how to detect and support women victims of domestic violence, GREVIO points to issues around victims' autonomy in seeking healthcare if healthcare professionals are required to systematically start the Blue Card procedure.¹¹³

135. Generally, very few specific guidelines or protocols exist to guide healthcare professionals in Poland to detect and adequately respond to victims of the different forms of violence covered by the Istanbul Convention. The only exception is the protocol on the treatment of victims of sexual violence, which, however, seems little known and implemented by medical staff.¹¹⁴ The lack of incentives to engage the health sector in supporting women victims is particularly problematic considering that women facing violence, especially women in rural areas, women with disabilities, Roma women and LGBTI women, encounter barriers in accessing medical services. In the absence of specialist support services for most forms of violence against women, in particular sexual violence, access to and an adequate response by medical professionals is vital for a victim's physical and psychological well-being and her prospects of obtaining criminal justice.

136. To improve the reach of medical services, around a dozen "environmental nurses" are employed in some municipalities to provide primary medical guidance to Roma communities.¹¹⁵ However, their duties do not explicitly include the detection and the prevention of violence against women and the referral of victims to specialist services. Besides, GREVIO is particularly concerned by the situation of Romanian Roma women living in Poland, sometimes for decades, who do not benefit from any social and health services implemented through the National Programme for the Integration of the Roma Community, because they do not fall under the status of "ethnic minority" under the Law of 6 January 2005. It was reported that Romanian Roma often live in extreme poverty (for example, in informal settlements) and face specific barriers to accessing medical and social care that are tied to their lack of identification documents, residence registration, health insurance and social stigma.¹¹⁶ Thus, Romanian Roma women must bear the cost of healthcare services and hence seek medical advice in critical situations only.¹¹⁷ Some may receive ad hoc and time-limited medical and social support through the interventions of NGOs and local governments. However, more systematic and sustainable medical and psychosocial support is needed to reach and empower

111. Regulation of the Minister of Health of 22 October 2010 on the model of medical certificate on the causes and types of injuries related to family violence.

112. In 2019, of 94 726 Blue Card forms A, 0.69% had been filled in by medical staff (see report on the implementation of the National Programme for Combating Family Violence (2014-2020) from January to 31 December 2019, September 2020).

113. See Chapter IV, the section on Article 28 (Reporting by professionals).

114. See Chapter IV, section on Article 25 (Support for victims of sexual violence).

115. CAHROM (2016), Thematic report of the Group of Experts on Roma Health Mediators, CAHROM (2016)7.

116. Kostka J. (2018), "No country for poor people: case study of the Romanian Roma Migrants in Poland", *Intersections*, vol. 4.

117. Nomada (2014), "Systemic exclusion and pathway to integration: the situation of Romanian Roma in Wrocław", pp. 6-9.

Romanian Roma women who face different forms of violence within and outside the domestic sphere, including forced marriage.

137. GREVIO strongly encourages the Polish authorities to ensure women victims of violence covered by the Istanbul Convention access to adequately resourced health services trained to assist victims, in particular by:

- a. detecting all forms of violence against women covered by the Istanbul Convention, responding to their medical needs in a sensitive manner and ensuring their referrals to relevant and preferably specialist support services;**
- b. developing and effectively implementing protocols and guidelines which ensure that all healthcare professionals adequately respond to women victims of all forms of violence, including by acknowledging that women exposed to intersectional discrimination, in particular women with disabilities, migrant women and Roma women, may face significant barriers to help-seeking; and**
- c. providing free-of-charge documentation of forensic evidence adequate for use by the criminal justice sector.**

D. Specialist support services (Article 22)

138. The aim of specialist support is to ensure the complex task of empowering victims through optimal support and assistance catered to their specific needs. Much of this is best ensured by women's organisations and by support services provided, for example, by local authorities with specialist and experienced staff with in-depth knowledge of gender-based violence against women. It is important to ensure that these services are sufficiently spread throughout the country and are accessible to all victims. Moreover, these services and their staff need to be able to address the different types of violence covered by the scope of the Istanbul Convention and to provide support to all groups of victims, including hard-to-reach groups.

139. In Poland, there are 37 "Specialised support centres for victims of family violence" funded by central government and supervised by the county self-government, whose functioning is regulated by the Ministry of Family and Social Policy.¹¹⁸ These centres – the management of which is often contracted out to NGOs or church organisations – are tasked with providing residential and non-residential medical, psychological, legal and social counselling to victims of domestic violence, including by conducting a systematic risk assessment of the situation of the victims' and their children's safety. They must hire psychologists, educators, social workers, lawyers and medical staff. They are also required to co-operate with other relevant institutions and to monitor the situation of victims after they have left the centres. GREVIO welcomes the setting up of these services which aim at ensuring victims' safety and providing them with comprehensive support. However, the number of these facilities is low, and most regions only have one or two centres located in the main cities. Moreover, while women and children are the main users of these facilities, only one of these centres run by a women's NGO is devoted solely to supporting women victims and their children. In addition, GREVIO is concerned by the approach adopted by civil society organisations running some of these centres who prioritise reuniting women with their abusive partners over women's trauma recovery and empowerment. Added to this is the general lack of professionals specially trained to provide post-traumatic care and support to women victims of intimate partner violence.¹¹⁹

140. GREVIO notes that the specialist support centres are available, with or without referral, to victims of domestic violence who have undergone a Blue Card procedure or will undergo it thereafter. Hence, a woman's decision to seek counselling from these facilities is likely to set the Blue Card procedure in motion, including the possibility of subsequent contact being made by the local interdisciplinary team with the perpetrator to inform him of his criminal liability and the existence of

118. See the regulation of the Minister of Labour and Social Policy of 22 February 2011 on the standard of basic services provided by specialist support centres for victims of family violence.

119. Information collected during GREVIO's evaluation visit.

perpetrator programmes.¹²⁰ Women victims who fear such a step or who are not ready to initiate a formal procedure may thus refrain from turning to these public services for help. GREVIO thus points to the crucial importance of services provided by independent women's NGOs, who operate in absolute confidentiality and may allow women to disclose their experiences more easily.

141. In Poland, the Women Rights Centre (CPK) is the main women's NGO offering a wide range of support services dedicated to women victims of gender-based violence. It operates women's counselling centres in eight major cities, which offer psychological, housing, professional and legal support, including assistance in court hearings and for making statements to the police. Additional women's and human rights' NGOs based in urban areas provide different forms of psychosocial and legal counselling to women victims of violence, in particular domestic violence and sexual violence. However, the increasingly volatile funding situation of these NGO-led services is causing the downscaling of activities and significantly jeopardises their existence.¹²¹

142. Lastly, GREVIO notes with concern the dire lack of services offering specialist counselling and support for experiences of violence beyond domestic violence. No such services exist in relation to stalking, sexual harassment, forced marriage, female genital mutilation or forced sterilisation/abortion. Moreover, the few specialist services that exist, including those offering support for sexual violence and rape, remain concentrated in urban areas, raising issues of their adequate geographical distribution.

143. Recalling the importance of women-to-women specialist support and counselling for any experiences of violence covered by the Istanbul Convention, GREVIO urges the Polish authorities to provide or arrange for adequate specialist women's support services with a gendered approach throughout the country and for all forms of violence covered by the Istanbul Convention, as well as for their children. The aim should be to ensure the provision of immediate, medium- and long-term support by involving and tapping into the long-standing expertise built up by independent women's specialist support services in civil society.

E. Shelters (Article 23)

144. In Poland, women facing domestic violence can access a shelter place through different types of services: the "Specialised support centre for victims of family violence", the "Homes for mothers with children and pregnant women", and, in some cases, local social assistance centres (crisis intervention centres or social support centres). The quality standards and the scope of intervention vary across and within these types of services, as does their accessibility: most such services are located in urban areas and are not accessible to women with disabilities.

145. The "Specialised support centres for victims of family violence" provide shelter accommodation to victims of domestic violence and their children without referral and irrespective of their income, for three months with a possibility of extension. In 2018, a total of 606 shelter places were available to victims of domestic violence and their children. GREVIO welcomes that these facilities provide victims with accommodation, protection and various support services and thus serve as the only shelter type in Poland dedicated to domestic violence. GREVIO notes, however, that only one such centre (run by a women's NGO) offers its services exclusively to women victims and their children and on the basis of a women-centred approach, while all others accommodate both women and men victims of domestic violence and operate on a gender-neutral approach.¹²²

146. The "Homes for mothers with children and pregnant women" are supervised by local authorities and often run by church organisations or NGOs. They offer shelter places for 12 months to mothers with underage children, pregnant women and other people caring for underage children. In 2018, there were 389 shelter places available in 19 facilities. These shelters do not only cater to

120. See the regulation of the Council of Ministers of 13 September 2011 on the Blue Card procedure.

121. See Chapter II, section on Article 8 (Financial resources).

122. See Women Against Violence Europe (WAVE) Country report 2019, p. 117.

women victims of violence but, pursuant to the regulation of the Minister of Social Policy,¹²³ they must meet some standards such as ensuring victims' safety from the perpetrators and organising activities aimed at the residents' empowerment. However, GREVIO has been alerted to the fact that these services do not always offer sufficient protection and support and may expose women victims of domestic violence to secondary victimisation.¹²⁴ Indeed, individual risk assessments are not systematically carried out and technical safety measures are not always in place. Moreover, many such shelters do not offer a supportive environment which would allow women victims to cope with their trauma and regain their autonomy. The quality of services offered seems to be rarely monitored by the authorities. GREVIO underlines the urgent need to redefine and assess the standards of these facilities regarding victims' safety and support as well as to establish clear criteria for the qualification and skills of their staff to ensure that they are trained to adequately support women victims of domestic violence.

147. Some social support centres and crisis intervention centres also offer shelter places for three months, accessible but not dedicated to women victims of violence. In 2018, they offered a total of 1 722 shelter places to people in a variety of crisis situations. While women facing all forms of violence can be admitted to these facilities, GREVIO notes that their broad scope of intervention and lack of uniform standards do not ensure that women victims are always provided with support tailored to their specific needs.

148. On the basis of the above, GREVIO is concerned by the low number of shelters which can be considered specialist women's shelters that provide women and their children with support, enable them to cope with their traumatic experiences, leave violent relationships, regain their self-esteem and lay the foundations for an independent life of their own choosing.¹²⁵ Women victims of domestic violence face multiple, interlocking problems related to their health, safety, financial situation and the well-being of their children, which must be addressed from the point of view of women's empowerment and a gendered understanding of the phenomenon.

149. GREVIO thus points to the urgent need to increase the number of dedicated and specialist shelters for women victims of violence and their children in order to move closer to the minimum standard of one family place per 10 000 head of population.¹²⁶ The creation of new places in general crisis accommodation for men and women is not a suitable measure to achieve this objective.

150. With the aim of guaranteeing the adequate access of women victims of violence and their children to dedicated, safe and supportive shelter facilities, as required under Article 23 of the Istanbul Convention, GREVIO urges the Polish authorities to take measures to:

- a. develop clear and uniform standards for the provision of shelter places for women victims of violence, especially in relation to their safety, the promotion of their empowerment and the training of staff operating in these facilities, while recognising the principle that only specialist structures dedicated to women and their children can meet their specific needs and comply with the requirements of the Istanbul Convention;**
- b. expand the number and/or capacity of specialist shelter facilities dedicated to women and their children, throughout the country, while monitoring the quality and financial sustainability of service provision;**
- c. ensure the equitable access to such specialist shelter services for all women victims of all the forms of violence covered by the Istanbul Convention, especially women with disabilities, women living in rural areas, older women, migrant women and women in prostitution.**

123. See Regulation of the Minister of Social Policy of 8 March 2005 on the Homes for single mothers and pregnant women.

124. Information collected during GREVIO's evaluation visit; see also NIK (2020), "Support for mothers with minor children and pregnant women in need of a shelter" (in Polish), LBY.430.001; Mostowska M. and Dębska K. (2020), "The Conspicuous Hidden Curriculum and Young Women's Daily Lives in Polish Crisis Accommodation", *The British Journal of Social Work*.

125. Explanatory Report to the Istanbul Convention, paragraph 133.

126. Explanatory Report to the Istanbul Convention, paragraph 135.

F. Telephone helplines (Article 24)

151. Several telephone helplines provide initial information and assistance to victims of domestic violence. The “Blue Line” - Polish National Helpline for Victims of Domestic Violence - runs 24/7 and delivers free-of-charge psychological support and guidance by telephone or by e-mail. It is available in Polish but offers support in Russian and English for four hours per week. It also provides legal advice three times a week. This service is publicly funded and operated by an NGO on behalf of the State Agency for the Prevention of Alcohol-Related Problems. In addition to the police emergency number, the police headquarters runs at selected hours a free-of-charge “Police Family Violence Hotline” that provides information, including on police procedures. Since 2019, the Victim Helpline has provided assistance to victims of crime and is funded by the Justice Fund. In April 2020, the Police Headquarters of Warsaw also launched the free mobile app “Your Umbrella”, which allows victims of domestic violence to obtain quick emergency help, but also advice and information, through hidden tools.¹²⁷

152. At the local level, several domestic violence helplines are operated by city halls, local support services or NGOs, some of them, but not all, focusing on domestic violence and offering 24/7 free-of-charge support. While welcoming the various national and local free phone numbers available for victims of domestic violence in Poland, GREVIO notes that these services do not address other forms of violence covered by the Istanbul Convention. Moreover, none of the above offer services that are specifically addressed to women as victims of gender-based violence. They are also rarely accessible to people with disabilities and non-Polish speakers.

153. The only national round-the-clock helpline dedicated exclusively to women victims of all forms of violence – the Emergency Helpline for Women Victims of Violence – is run by an NGO, the Women’s Rights Centre (CPK). It provides immediate specialist support to women victims of gender-based violence, especially psychological, physical and sexual violence, and offers advice to witnesses of these forms of violence. It lacks, however, the means to ensure free-of-charge and multilingual services.¹²⁸ GREVIO notes that during the Covid-19 pandemic, the CPK reported a significant rise in the number of calls to its helpline.¹²⁹ A national helpline offering psychological and legal support to LGBTI people, including LBTI women facing violence, is operated by an NGO in Warsaw. However, GREVIO notes with concern that the operation of these helplines relies on funding that is often inconsistent, especially donations.

154. GREVIO strongly encourages the Polish authorities to ensure the functioning of a state-wide free-of-charge, anonymous and round-the-clock telephone helpline dedicated to women victims of the various forms of violence against women covered by the Istanbul Convention, which is capable of providing counselling to victims, with due respect for the confidentiality of all callers, and which is operated by qualified staff trained in all these forms of violence.

G. Support for victims of sexual violence (Article 25)

155. In Poland, there are no rape crisis or sexual violence referral centres. In a bid to provide some level of systematic and specialist assistance to victims of rape in police stations and general medical facilities, a non-binding procedure for the treatment of victims of sexual violence by the police and medical units was issued in 2010 through an interministerial agreement and co-operation with women’s NGOs. The procedure defined different initial steps to follow when victims turn to law-enforcement agencies or a medical facility for help. In both cases, under this procedure, a medical interview and examination, as well as a forensic examination, should be offered in a hospital setting. Indeed, medical professionals are expected to inform the victims about their rights and support services available, to document the signs of violence in a medical report, to detect sexually

127. See Council of Europe’s website “Women’s rights and the Covid-19 Pandemic”.

128. See Women Against Violence Europe (WAVE) Country report 2019, p. 117.

129. In March 2020, CPK reported a rise of 50% in the volume of calls from women facing domestic violence. See Note from Poland, “I Locked down with a violent partner: domestic violence soars in Poland during coronavirus pandemic”, April 2020.

transmitted diseases (STDs), to prevent unwanted pregnancies by indicating appropriate contraceptive methods and to collect and secure forensic evidence. However, this is rarely implemented in practice. Indeed, medical professionals are not specifically and regularly trained to provide such support to victims of sexual violence, including collecting and securing forensic evidence. Consequently, they are often unaware of the details of the above procedure, and GREVIO was alerted to the fact that victims of rape who present themselves to emergency services are likely to be treated as any other patient.¹³⁰

156. Where police officers are the first in contact with victims of rape, they must provide victims with information about support services and take the victims to a medical facility to secure forensic evidence using a rape kit. While police officers seem to have some knowledge of the operational procedure in place, including the need to secure forensic evidence, they are not always aware of the existence of rape kits and the need to refer victims to support services. Moreover, the lack of expertise among medical professionals in conducting the medical and forensic examinations identified above prevent the adequate provision of support to victims of rape, including the systematic detection of STDs and the prescription of emergency contraception. GREVIO notes that the lack of specialisation of medical staff in delivering medical and forensic care is particularly problematic, as research has shown that while women victims rarely report rape, they are likely to turn to healthcare services.¹³¹ This notwithstanding, GREVIO welcomes initiatives such as the “Intimate Prevention Point” operating in Poznan which provides round-the-clock free gynaecological consultation and examination, including support for victims of sexual violence, access to emergency contraception and screening for STDs. GREVIO notes that this service is accessible to people living in the city without health insurance, including irregular migrant women who are not eligible for free healthcare.

157. Article 25 also requires parties to ensure that women victims of sexual violence have access to immediate, short- and long-term trauma support, including psychological counselling. In Poland, general support services such as crisis intervention centres may provide some form of psychological counselling, but they are often not equipped to provide specialist trauma-informed support to victims of sexual violence.¹³² GREVIO thus points to the need to set up the services required under Article 25, recalling that one such service should be available per every 200 000 inhabitants and that their geographic spread should make them accessible to victims in rural areas as much as in cities.¹³³

158. Moreover, scientific research has shown that women victims of sexual violence, including in the context of domestic violence, face many risks relating to their sexual and reproductive health such as sexually transmitted infections, unwanted pregnancies, stillbirths, obstetric complications and recourse to non-medical abortion practices.¹³⁴ These harmful effects are amplified by attacks on the right to self-determination of these women when perpetrators control their ability to make autonomous reproductive choices. Such control can have the effect of hampering their access to contraception and/or forcing them to carry to term an unwanted pregnancy or, conversely, requiring them to terminate a pregnancy. In these complex situations, women experience grave psychological suffering linked to sexual violence but also to coercion on their reproductive rights. Psychological distress can be exacerbated by the social isolation and, where applicable, economic dependence that characterise sexual violence in the domestic violence context. Because sexual violence has a direct impact on the sexual and reproductive health of victims, its consequences need to be addressed by support services so that their trauma can adequately be tended to and negative lifelong effects can be prevented.¹³⁵ Several European studies reveal that a significant proportion of women who decide to use emergency contraception or resort to an abortion, and all the more so in cases of successive abortions, have suffered sexual violence, often committed by a former or a current

130. See Lewandowska-Abucewicz T. et al. (2015), “Knowledge of medical personnel on the ‘Procedure for dealing with a victim of rape’ in medical units” (in Polish), *Polish Sexology*, 13 (1), pp. 14-18.

131. See Foundation STER (2017), *Breaking the Taboo: Report on Sexual Violence*, p. 20.

132. Information collected during GREVIO’s evaluation visit.

133. Explanatory Report to the Istanbul Convention, paragraph 142.

134. See Pallitto C. et al. (2005), “Is Intimate Partner Violence Associated with Unintended Pregnancy? A Review of the Literature”, *Trauma, Violence, & Abuse*, 6(3), pp. 217-235; Fanslow J. et al. (2019), “Intimate partner violence and women’s reproductive health”, *Obstetrics, Gynaecology & Reproductive Medicine*, 29(12), pp. 342-350.

135. See the Council of Europe Commissioner of Human Rights Statement (COVID-19: Ensure women’s access to sexual and reproductive health and rights) of 7 May 2020, available at www.coe.int/en/web/commissioner/.

intimate partner.¹³⁶ Victims of rape with an unwanted pregnancy must have access to support services in the same way as any victim of sexual violence, including when they decide to terminate their pregnancy.

159. In light of the above, GREVIO deems it relevant to underline the difficulties faced by women in Poland who seek to terminate a pregnancy resulting from rape regarding their access to support services and information without being subjected to secondary victimisation. Under Article 4a of the 1993 Law on Family Planning, rape is one of the legal grounds for lawful recourse to abortion. For a lawful abortion to be performed in this case, the public prosecutor shall issue a certificate on the suspicion that the pregnancy occurred as a result of a criminal act. In 2018, only one abortion was performed on this ground,¹³⁷ while according to the authorities, in 2019, this number was three. GREVIO notes the low number which may be explained by difficulties in obtaining the required certificate. In addition, GREVIO points to difficulties in accessing timely, sensitive and reliable information and referral to medical services performing lawful abortions, which is likely to increase women's psychological distress and highlights the recent decision of the Committee of Ministers in the context of the supervision of the execution of the judgment of the European Court of Human Rights in the case *P. and S. v. Poland*, which, in relation to victims of rape, has stressed the need for the Polish authorities "to introduce clear and effective procedures ... ensuring that women seeking lawful abortion are provided with adequate information on the steps they need to take, including in the event of a refusal by the doctor to perform an abortion on grounds of conscience".¹³⁸ Mindful of the scope of the Istanbul Convention, GREVIO stresses that any obstacles to accessing available information or support services may result in the victims' re-traumatisation and increase their sense of helplessness. Thus, GREVIO recalls that one of the general obligations imposed on parties by Article 18, paragraph 3, of the convention is that all protection and support measures should aim to avoid secondary victimisation and empower victims.

160. In view of the above, GREVIO is concerned that women who are unable to obtain the necessary certificate and access to lawful abortion will be required to terminate their unwanted pregnancy abroad. This may place a high financial and psychological burden on these women in addition to that resulting from the rape.

161. GREVIO urges the Polish authorities to set up rape crisis and/or sexual violence centres offering medical care, high-quality forensic examination and immediate, short- and long-term trauma support delivered by trained professionals. These specialist services should be available in sufficient numbers and their geographical spread should make them accessible to victims living in rural areas as much as in cities. GREVIO further urges the Polish authorities to ensure that the reproductive choice of women victims of rape does not constitute a barrier to their access to information and support from the above services.

H. Protection and support for child witnesses (Article 26)

162. The obligation set out in this article is to ensure that whenever children have witnessed domestic violence, rape, sexual harassment or other forms of violence covered by the convention, the services provided to direct victims are also equipped to address the needs and rights of any children who were present. While this is most relevant to domestic violence cases, it is important to bear in mind that other forms of violence may also be witnessed by children.

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

137. See statistics on "offence against sexual freedom and decency" available on Poland's police official website.

138. Committee of Ministers 1369th (DH) meeting, March 2020, *P. and S. v. Poland*, CM/Del/Dec(2020)1369/H46-20.

163. Research has shown that children who witness one of the parents assaulting the other one in the home often develop emotional problems, cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.¹³⁹ It is thus of crucial importance to ensure their access to psychological counselling and therapy as soon as they come to the attention of the authorities.

164. In Poland, the provision of protection and support services for children witnessing such violence is dependent on the ability of the relevant professionals, especially psychologists and social workers, to detect the dynamics and the consequences of their exposure to domestic violence. Among local social services, it was reported that very few hire child psychologists. In 2016, a report of the Supreme Audit Office (NIK) showed that specialist counselling provided by child psychologists or therapists only represented 4% of the support services in the field of domestic violence, delivered by local social welfare centres and crisis intervention centres.¹⁴⁰ In the absence of such professionals, counselling for child witnesses can be provided by family assistants, social workers or educators working in local social services. However, due to understaffing and under-resourcing, most local social services lack trained professionals able to provide specialist therapeutic intervention for children exposed to domestic violence.¹⁴¹ This gap is also tied to the lack of units dedicated to child protection in Polish social services. Some positive developments, however, exist, such as the five state-funded Children Aid Centres created in 2018 and run by the Foundation Empowering Children. They offer free-of-charge psychological, educational and legal support to abused children and their guardians. However, these centres are more dedicated to child victims of sexual abuse.

165. Moreover, child witnesses' access to dedicated support services raises more general concerns about the expertise of court-appointed psychologists and the insufficient consideration of their situation in court decisions on parental authority and on the granting of protection orders.¹⁴²

166. **GREVIO strongly encourages the Polish authorities to step up measures to ensure:**

- a. **that all relevant professionals, particularly those working in social services, are aware of and trained in the harmful effects of witnessing domestic violence on children;**
- b. **the availability of age-appropriate psychosocial counselling for child witnesses of all forms of violence covered by the Istanbul Convention, in particular for children who witness domestic violence and post-separation stalking by one parent against the other;**
- c. **co-ordination of the above with decisions related to the settlement of custody and visitation rights, as well as to the granting of protection measures for child witnesses, including protection orders.**

I. Reporting by professionals (Article 28)

167. Polish legislation envisages extensive reporting obligations for professionals who may, in the course of their work, come into contact with victims of domestic violence or sexual violence. Article 304 of the Criminal Code requires professionals working in public administration or public service to report any offence which they discover in the discharge of their duties, provided the offence is subject to *ex officio* prosecution. In the same vein, Article 578 of the Civil Code obliges any individual who is aware of an act subject to *ex officio* prosecution to notify the Guardianship Court. In addition, Article 12 of the Law on Combating Family Violence provides that any individual and public authority witnessing domestic violence must "report to the police, the prosecutor or any entity acting to combat family violence", notably in relation to the Blue Card procedure. Article 9d of the same law and the

139. "Problems associated with children's witnessing of domestic violence", Jeffrey L. Edleson, VAW Net.

140. See Supreme Audit Office (NIK), "Helping people affected by domestic violence", 2016, KPS.410.004.00.2015.

141. Ibid.; see also Ministry of Family, Labour and Social Policy, 2017, National diagnosis of support infrastructure for people facing violence that lists child psychologists and educators among the staff who are most often missing in social services.

142. See Chapter V, section on Article 31 (Custody, visitation rights and safety).

Regulation of the Council of Ministers of 13 September 2011 specify that the initiation of the Blue Card procedure by relevant professionals¹⁴³ does not require the victim's prior consent. Professionals must complete the Blue Card form in the presence of the victim or without if they cannot establish direct contact with her/him. Within seven days, the completed forms should be sent to the local interdisciplinary team tasked with drawing up an assistance plan for the victim.

168. As part of the monitoring of the National Programme on Combating Family Violence (2014-2020), records are kept on the number of reports made by relevant professionals under the Blue Card procedure. In 2019, almost three quarters of the Blue Cards were initiated by the police, followed by social workers and to a lesser extent, education employees. Medical professionals rarely reported suspected cases of domestic violence through the Blue Card procedure, which may stem from the rather low emphasis placed on their need to actively screen for women victims of domestic violence among their patients, as discussed above.¹⁴⁴ In this context, however, GREVIO notes that extensive reporting obligations for healthcare staff can raise issues around victims' autonomy. Indeed, a fundamental element of the doctor-patient relationship is that of confidentiality, which is based on the notion that individuals should not be prevented from seeking medical treatment for fear of a disclosure of his or her condition to a third party. A confidential relationship is a prerequisite for providing patients with a correct diagnosis and the best possible medical care. This is even more important for victims of domestic violence, sexual violence or other forms of violence covered by the convention.

169. GREVIO points out that the requirement deriving from Article 28 is carefully worded in order to allow professionals, when there are reasonable grounds to believe that a serious act of violence has been committed and that further serious acts of such violence are to be expected, to report their suspicion to the relevant authorities without a risk of sanction for breaching their professional duty of confidentiality. The Explanatory Report explicitly states that this provision does not impose an obligation to report.¹⁴⁵

170. While GREVIO notes that the imposition of reporting obligations on professionals does not run counter to Article 28 of the Istanbul Convention, blanket reporting obligations may raise issues around the provision of victim-centred and gender-sensitive support services. Mandatory reporting may in fact constitute a barrier to help-seeking for women victims who do not feel ready to initiate formal procedures and/or fear the consequences of reporting for them or for their children (such as retaliation from the abuser, financial insecurity, social isolation or the removal of children from their care). Where the authorities have introduced mandatory reporting obligations for professionals, GREVIO has noted¹⁴⁶ that these should allow for the balancing of the victims' protection needs – including those of her children – with respect for the victim's autonomy and empowerment, and should thus be circumscribed to cases in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the convention has been committed and further serious acts are to be expected. In these cases, reporting may be made subject to certain

143. Article 9d of the law on Combating Family Violence provides that the Blue Card procedure covers actions undertaken by representatives of social welfare units, local committees for solving alcohol-related problems, the police, and education and health professionals who identify a suspected case of domestic violence.

144. In 2019, of 94 726 Blue Card forms A, 78.46% had been filled in by the police, 12.76% by social workers, 5.12% by education staff, 2.97% and 0.69% by medical staff (see report on the implementation of the National Programme for Combating Family Violence (2014-2020) from January to 31 December 2019, September 2020).

145. See paragraphs 146 and 147 of the Explanatory Report to the Istanbul Convention.

146. See GREVIO's baseline evaluation reports on Serbia (paragraph 152), Andorra (paragraph 135) and Malta (paragraph 139).

appropriate conditions such as the consent of the victim, with the exception of some specific cases such as where the victim is a child or is unable to protect her/himself due to disabilities.¹⁴⁷

171. Recalling the principle of women’s empowerment mainstreamed throughout the Istanbul Convention, GREVIO strongly encourages the Polish authorities to ensure that the duty to report imposed on professionals is tempered by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy. To this end, GREVIO strongly encourages the Polish authorities to review the obligation for professionals to report cases of violence against women and their children, other than in situations in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the convention has been committed and further serious acts are to be expected. This may well require making the obligation to report contingent upon the prior consent of the victim, unless the victim is a child or is unable to protect her/himself due to disabilities.

147. See paragraph 148 of the Explanatory Report to the Istanbul Convention. With regard to violence committed against children, General comment No. 13 (2011) of the Convention on the Rights of the Child, paragraph 49, provides that “in every country, the reporting of instances, suspicion or risk of violence should, at a minimum, be required by professionals working directly with children”. In relation to forced marriage and female genital mutilation, the Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on harmful practices, of 14 November 2014, under its paragraph 55J provides that “States parties should ensure that it is made mandatory by law for professionals and institutions working for and with children and women to report actual incidents or the risk of such incidents if they have reasonable grounds to believe that a harmful practice has occurred or may occur. Mandatory reporting responsibilities should ensure the protection of the privacy and confidentiality of those who report”.

V. Substantive law

172. Chapter V of the Istanbul Convention covers a range of provisions related to substantive law, in the area of both civil and criminal law. Their aim is to help create, in all parties to the convention, the necessary legislative framework to prevent violence against women, protect them from further victimisation and to ensure robust intervention and prosecution by law-enforcement agencies. In the interest of prioritisation, this section of the report addresses several but not all provisions of Chapter V of the convention.

A. Civil law

1. Civil remedies against the state – ensuring due diligence (Article 29)

173. A core aim of the Istanbul Convention is to end impunity for acts of violence against women. This not only requires that individual perpetrators be held accountable through criminal law and other measures, but also that legal avenues be available to challenge and address any failure of state actors to comply with their due diligence obligation to prevent, investigate and punish acts of violence (Article 5, paragraph 2, of the convention).

174. The Constitution of Poland provides for the possibility to claim compensation for any harm done as a result of action taken by a public authority that is contrary to law (Article 77, paragraph 1). In addition, civil proceedings against state actors who have failed in their duty to take the necessary preventive or protective measures within the scope of their powers may be instituted on the basis of Article 417 of the Civil Code. This provision includes liability for unlawful action and omission by a local government unit or anyone exercising public authority and extends to services contracted by public authorities to another legal person.

175. For a civil claim to succeed, the plaintiff must prove the unlawful action or omission, which GREVIO was informed is generally considered extremely difficult.¹⁴⁸ No statistical data seem to exist as to the number of civil proceedings in relation to unlawful action or omissions by public authorities in cases of acts of violence covered by the Istanbul Convention, making it difficult to assess to what extent these procedures, in practice, address any failure of the public authorities to comply with the due diligence obligation.

176. GREVIO strongly encourages the Polish authorities to examine any barriers to the use of civil law measures available to hold public authorities accountable for failure to comply with the obligation to diligently prevent, investigate and punish acts of violence covered by the Istanbul Convention and to protect victims, and to employ practical measures such as training and awareness raising among the judiciary and other professionals in order to enable women victims of violence to make practical use of the existing legal remedies, including in the context of wrongful decisions in the administration of justice. Progress in this area needs to be measured by collecting data on the number of proceedings initiated by victims and their outcomes.

2. Compensation (Article 30)

177. In Poland, victims of violent offences, in particular in relation to domestic violence, may claim compensation from the perpetrator during the criminal proceedings or in a separate civil lawsuit. Under civil law, compensation may include material and non-material damages suffered.¹⁴⁹ Where the act resulted in the death of the victim, the victim's dependents may claim alimony from the perpetrator. Under criminal law, perpetrators of family violence/domestic violence may be ordered to pay compensation at the request of the prosecutor or at the request of the injured party or any other entitled party.

148. Information provided to GREVIO during the evaluation visit.

149. Article 415, Article 444 and Article 445, paragraph 1 of the Polish Civil Code.

178. GREVIO notes that in 2017 a total of 813 male perpetrators of family/domestic violence were ordered to pay compensation as a compensatory measure (Article 46, paragraph 1, of the Polish Criminal Code), while this number increased to 894 in 2018. Compared to the overall number of convictions for family/domestic violence and the range of measures imposed,¹⁵⁰ only a small number of perpetrators of domestic violence seem to be ordered to pay compensation. Furthermore, the available data concern the first-instance court, meaning that decisions ordering compensation have not yet become final and that decisions ordering only partial compensation are also included, making it difficult to assess how many women have, in practice, received the full amount of compensation awarded and within what time frame.

179. Furthermore, no data seem to be available on compensatory measures for other forms of violence covered by the Istanbul Convention. It is thus unclear to what extent compensation is awarded to victims of sexual violence and rape or victims of any of the other offences established by the convention.

180. As regards compensation paid by the state, GREVIO notes that the Law on State Compensation to Victims of Certain Crimes offers victims the possibility to apply for compensation from the state for certain crimes to the extent that the damage is not covered by other sources such as the perpetrator, insurance or state-funded health and social provisions. Compensation may be demanded by victims or their closest relatives, who, as a result of the offence, have died or suffered damage to health, have suffered disorders of a bodily organ or health disorders lasting more than seven days. It may include lost earnings or other means of subsistence, expenses for medical treatment and rehabilitation and funeral expenses. Compensation may not exceed 25 000 zloty (around €5 500) and, where the victim deceased as a result of the crime, the maximum is set at 60 000 zloty (around €13 000). It is unclear to what extent this scheme is made use of by women victims of any of the forms of violence covered by the convention, as data to this extent do not seem to exist.

181. The reservation originally entered by Poland in respect of Article 30, paragraph 2, was modified in January 2021 to allow the application of this provision in respect of anyone habitually residing in Poland or another member state of the European Union, whereas previously it was limited to nationals of Poland or another EU member state. According to the explanation provided, this modification was due to a change in national legislation which provides the legal basis for the granting of state compensation.

182. GREVIO strongly encourages the Polish authorities to take all available measures in order to ensure that wider use is made of the legal possibilities to grant compensation to women victims of any of the forms of violence covered by the Istanbul Convention, in particular by examining and addressing the reasons for the low number of compensatory measures ordered in domestic violence cases under Article 46, paragraph 1, of the Polish Criminal Code. GREVIO furthermore encourages the Polish authorities to collect data on the number of women victims who have requested and obtained compensation either from the perpetrator or from the state.

3. Custody, visitation rights and safety (Article 31)

183. Custody and visitation decisions in relation to families with a history of abuse require a careful balancing of the different interests at stake. Article 31 of the Istanbul Convention seeks to ensure that incidents of violence covered by the convention, in particular domestic violence, are taken into account in decisions on custody and visitation rights to ensure that the exercise of these rights does not harm the rights and safety of the victim or children.

184. The Polish Law on Family and Guardianship sets out the principle that decisions on child custody and any limitations of parental authority shall be taken on the basis of the best interest of

150. State report submitted by Poland, pp. 117-118. For more information on conviction rates, see Chapter VI, Articles 49 and 50, (General obligations and immediate response, prevention and protection).

the child.¹⁵¹ Although no express legal obligation exists to ensure that incidents of violence covered by the scope of the Istanbul Convention are taken into account in the determination of custody and visitation rights as required by Article 31, paragraph 1, several provisions of the Law on Family and Guardianship offer the possibility of limiting such rights.

185. One such possibility concerns the situation where child contact may seriously endanger or violate the well-being of a child. As a result, courts may limit a parent's contact with his or her child (Article 109 of the Law on Family and Guardianship). This may mean limiting contact to certain means or ordering supervised visitation by requiring the presence of a guardian or probation officer. In Warsaw, supervised visitation is provided with the help of NGOs trained to ensure safety during such visits, but GREVIO was informed that this type of service does not exist throughout the country.¹⁵²

186. Another legal possibility is that of withdrawing parental authority over a child in the event of a permanent obstacle to the exercise of such authority (such as serving a prison sentence), where parental authority has been abused or where parents seriously neglect their obligations towards their child. The latter includes not only behaviour that is directed at the child, but also aggressive behaviour, drunkenness, threats to the other parent or disruption of the peace of the home in the presence of the child. Where parental authority is withdrawn, visitation with the child may also be limited. Lastly, Article 12a of the Law on Family Violence prescribes that if there is a justifiable concern for the child's safety, a social worker may decide on the provisional separation of a child from an abusive guardian and a placement with a relative or foster care.

187. Where a child is a direct victim of domestic violence, GREVIO was informed that visitation rights and even parental authority are frequently limited or withdrawn. Where the violence is predominantly directed against the other parent but witnessed by the child, the situation is assessed on an individual basis and may give rise to the suspension/limitation of parental rights and child contact.

188. In this task, judges are assisted by Consultative Teams of Court Specialists (OZSS) which operate in the district courts and are mandated to prepare, at the order of the public prosecutor or court, opinions on questions related to custody and parental authority. These opinions are issued on the basis of psychological, educational or medical examinations performed. Should these examinations bring to light indications of domestic violence or other conduct against the best interest of a child, such information must be included in the opinion. It is unclear, however, to what extent and how the exposure to violence by one parent against the other features in the opinions prepared and whether the members of the teams are trained to recognise the adverse effect this can have on children. While GREVIO notes the high degree of professional qualification required to serve on the OZSS and the availability of extensive in-service training, it is greatly concerned that this training comprises the notion of parental alienation.¹⁵³ GREVIO stresses the high risk of this and related notions contributing to violence against women and their children remaining undetected and/or contested since they ignore the gender-based nature of domestic violence and essential aspects of child welfare.¹⁵⁴ More must be done to ensure that all professionals dealing with the determination of custody and visitation rights are trained in the root causes of domestic violence, its gendered nature and the power and control dynamics employed by domestic abusers to enable professionals to act in full spirit of Article 31 of the convention.

151. Articles 95 and 107 of the Code on Family and Guardianship.

152. Information provided to GREVIO during the evaluation visit.

153. According to the Polish authorities, the members of these teams must be trained in psychology, pedagogy, paediatrics, family medicine, internal medicine, psychiatry or children's and youth psychiatry. They must attend in-service training related to parental alienation, changeable care, violent conduct (including sexual violence) in the family, detecting and combating violence, addiction to psychoactive drugs, alcohol, computers, the internet and digital devices, and emotional and behavioural disorders offered by the Prof. J. Sehn Institute of Court Expertise in Kraków.

154. See the statement dated December 2017 from the European Association for Psychotherapy (EAP) warning that the concepts of "parent alienation syndrome" (PAS) and "parental alienation" (PA) are unsuitable for use in any psychotherapeutic practice. This statement from the EAP, which consists of 128 organisations of psychotherapists from 41 European countries, serves as a guideline for psychotherapists across Europe.

189. Moreover, GREVIO notes with concern that the notion of parental alienation and related concepts have been used in recent policy and legislative initiatives, resulting in issues related to child custody being addressed in a manner that disregards the specific situation of women victims of domestic violence and their children. Of particular concern is the legislative initiative resulting from the civil society petition “Stop parental alienation”, which was still being debated in the Senate as of April 2021, and which seeks to introduce shared custody as the default solution applying in cases of separation or divorce. It also envisages criminal sanctions of up to two years of imprisonment for a parent who impedes visitation rights of another parent (up to 12 years of imprisonment if the behaviour resulted in a suicide attempt of the other parent). GREVIO notes that this draft law has been negatively assessed by the Ministry of Justice which opposed the introduction of mandatory joint custody and the criminalisation of the impediment of court-ordered visitation by one parent.¹⁵⁵

190. Another issue of concern to GREVIO is the revised draft National Programme on Equal Treatment (2021-2030) published in April 2021 on the government website,¹⁵⁶ which includes the launch of “a public consultation with organisations active in the field of parental alienation” as part of the process of reviewing and analysing to what extent court decisions on child custody discriminate against fathers and mothers, with a view to possibly developing a legislative package based on the findings of this analysis. GREVIO reaffirms its concern¹⁵⁷ over the use of the notion of parental alienation in the context of domestic violence against women which overshadows the abuse and control exerted by abusive men over women and their children, and their perpetuation through child contact.

191. Ample research has shown that inadequate child custody and visitation decisions may expose women to post-separation abuse.¹⁵⁸ Thus, GREVIO underlines that the safety of the non-violent parent and any children involved must be a central factor when deciding on custody and visitation arrangements. It is a requirement of the convention to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children (Article 31, paragraph 2). This obligation stems from the realisation that for many victims and their children, complying with contact orders can present a serious safety risk because it often means meeting the perpetrator face to face.¹⁵⁹ A robust risk assessment and screening for a history of domestic violence, including intimate partner violence against the other parent, is essential to ensure that threats to the safety and well-being of the non-abusive parent and the child can surface and that child contact decisions do not facilitate the continuation of abuse and control. While GREVIO fully supports the right of the child to maintain its ties with both parents as enshrined in Article 9, paragraph 3, of the UN Convention on the Rights of the Child, exposure to domestic violence requires exceptions to be made in the best interest of the child.¹⁶⁰

192. Despite the above-mentioned legal possibilities to limit or remove parental authority and child contact, their application in practice seems to remain limited in relation to cases of the abuse of one parent by the other. Data on the number of cases in which parental rights and visitation was limited because of a history of intimate partner violence are not collected. More general data regarding the removal and restrictions on parental authority on the basis of Article 109, paragraph 2, and

155. See the Letter of the Ministry of Justice sent to the Marshal of the Sejm on April 2020 in response to Interpellation No. 3059 of March 20, 2020, BM-I.0520.172.2020.

156. See the web page dedicated to the NAP for Equal Treatment on the official website of the Office of the Plenipotentiary for Equal Treatment: www.gov.pl/web/rownetraktowanie/krajowy-program-dzialan-na-rzecz-rownego-traktowania.

157. See, for example, GREVIO’s baseline evaluation reports on France (paragraph 181) and Italy (paragraphs 182-187).

158. Research shows that for many women and children, violence intensifies after separation, that child contact (including court-ordered contact) is a site for the perpetuation of violence, even where there are high levels of supervision, and that child contact can be used by male abusers as a way of continuing control over women victims. See: R. Thiara and C. Harrison (2016), “Safe not sorry: Key issues raised by research on child contact and domestic violence”, Women’s Aid; Mackay K. (2018), “Child contact as a weapon of control”, In Lombard (ed.), *The Routledge Handbook of Gender and Violence*. pp. 145-158

159. Explanatory Report to the Istanbul Convention, paragraph 176.

160. The UN Committee on the Rights of the Child emphasises, in paragraph 61 of its General Comment No. 13, that the “interpretation of a child’s best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence”.

Article 113, paragraph 2, of the Family and Guardianship Code show a rather cautious use of these options and may refer to cases where children were the primary victim.¹⁶¹

193. Instead, GREVIO notes with concern the information provided by a range of experts and professionals in this field which suggests that evidence of one parent's abuse of the other is only rarely, if at all, taken into account when deciding over custody and visitation rights. The harmful effect on children of witnessing such violence does not seem to be systematically considered in decisions on child contact. Instead, great weight is attached to the material living conditions that a parent is in a position to offer, often to the detriment of women victims of intimate partner violence who have sought safety in a domestic violence shelter and may not (temporarily) possess adequate financial means.

194. Moreover, GREVIO notes with concern reported incidents of secret shelter addresses disclosed to the abusive parent in the context of divorce and custody proceedings. The extended duration of family law procedures also seems to add to the safety risks and/or exposes women and children to continued pressure from the abusive parent. Where child contact and visitation regimes have been established but children do not wish to comply, the primary carer – often women victims of intimate partner violence – can be fined for obstructing visitation. In the context of women's reduced participation in the labour market and their overall lower socio-economic status compared to men, this frequently represents an economic burden difficult to carry. Where this is pursued at the instigation of the abusive parent, it must be seen as part of the pattern of intimate partner violence, amounting to economic harm, which Article 3 of the Istanbul Convention considers as forming part of domestic violence.

195. GREVIO urges the Polish authorities to take all appropriate measures, including legislative measures where necessary, to ensure that all relevant professionals, including social workers, members of the judiciary and members of the Teams of Court Specialists (OZSS), when deciding on custody and visitation:

- a. are duly aware of and take into account the negative impact on children of witnessing violence by one parent against the other;**
- b. refrain from the use of concepts related to “parental alienation” or equivalent which consider mothers who invoke the violence suffered at the hand of the father of the child as “unco-operative” or blame them for the poor relationship of the child with the father;**
- c. incorporate a process for screening cases for a history of violence by one parent against the other and whether it has been reported;**
- d. take steps to ensure that procedures and decisions do not endanger the safety of women victims of intimate partner violence, in particular by disclosing their place of residence.**

B. Criminal law

196. A number of criminal law provisions exist in the Polish Criminal Code to criminalise the forms of behaviour covered by Articles 33 to 40 of the Istanbul Convention. With the exception of stalking and a specific offence on abuse within the family, these are general criminal provisions rather than specific offences. GREVIO's review of their letter and spirit and their application in practice suggests that they do not adequately cover all forms of violence against women. Some explicit examples of criminalisation are inadequate, and various forms of violence against women are hidden and invisible in general offences.

197. As a general observation, GREVIO points to the obligation imposed by the Istanbul Convention that the gender-specific nature of violence against women can be effectively taken into account in the implementation of the national legal framework by law-enforcement agencies, prosecutors and the courts. GREVIO is concerned that in Poland there are no specific guidance tools

161. See the data provided by the state report, p. 62.

(policies, protocols or instructions) on how to address violence against women as a gender-based crime. GREVIO is concerned that no research has been commissioned to assess the level of gender responsiveness of the general criminal provisions on violence against women and domestic violence and thus the need for criminal legislative reform. While GREVIO notes that the Istanbul Convention does not set out an obligation to introduce specific criminal offences for each of the forms of violence covered therein, GREVIO is concerned that the current approach to criminal legislation may not allow for the specific experiences of women to become visible, thereby reducing women's access to justice.

1. Psychological violence (Article 33)

198. Psychological violence is punishable by the Polish legislation under different criminal offences: punishable threat (Article 190), coercion (Article 191) and mistreatment in the form of psychological ill-treatment (Article 207, paragraph 1). The latter is the criminal offence predominantly applied in the context of domestic and family violence and covers emotional abuse.

199. GREVIO welcomes this provision which offers important potential in the context of psychological abuse and coercive control exerted by domestic abusers over their victims, most often their female partners and spouses. It notes, however, that it does not apply to psychological violence committed against former or current partners and former spouses unless they share a residence or in certain limited circumstances.¹⁶² Moreover, it appears that Article 207 is, in practice, only rarely applied in cases in which the abuse takes on a psychological dimension but not a physical one. Research shows that only 13% of convictions based on Article 207 involved psychological violence, with some such cases involving threats of sexual violence or even completed sex offences.¹⁶³ The same research shows that some of these convictions covered economic violence, which GREVIO welcomes.¹⁶⁴

200. GREVIO notes that criminal offences such as threat (Article 190) and coercion (Article 191) are designed mainly to punish single acts carried out in isolation and do not take into account abusive patterns of behaviour which seriously impair a woman's psychological integrity, through the repetition of acts that, taken separately, would not necessarily reach the threshold applied by judges for these criminal offences. It is thus of utmost importance to respond to reports of psychological violence by applying existing criminal law provisions such as Article 207. More specific training, in particular training that would highlight the gendered dimension of intimate partner violence, its linkages with economic dependence and the frequency with which abuse and intimidation continue after separation, and in particular in the context of custody and visitation with children, is thus necessary to increase the understanding among law-enforcement agencies, prosecution services and the judiciary as to the serious nature of psychological violence and its potential for escalation in the context of intimate partner violence. Understanding that intimate partner violence consists of a cycle of abuse, of which psychological violence is part and parcel, and that perpetrators will often ask victims for forgiveness only to exert violence and coercive control again, is essential in order to respond appropriately.

201. GREVIO strongly encourages the Polish authorities to ensure the effective implementation of criminal provisions related to psychological violence, in particular through training and the adoption of relevant protocols recognising women's specific experiences of violence in order to ensure an effective criminal justice response to psychological violence and coercive control against a current or former female intimate partner.

2. Stalking (Article 34)

202. GREVIO commends Poland for introducing, in Article 190a of the Criminal Code, the specific crime of stalking (persistent harassment of another person or relative), which entails not only an

162. For more considerations on the scope of Article 207, see the section below in this Chapter V on Article 35 (Physical violence).

163. Śledziwski A. D., "The crime of abuse in the context of domestic violence", Białystok 2017, p. 341.

164. Ibid.

offline dimension but also criminalises some important online manifestations of such behaviour. Article 190a, paragraph 2, thus specifically criminalises online impersonation with the aim of causing another person financial or personal harm. Noting the relevance not only of online impersonation but online stalking generally in the context of post-separation abuse, GREVIO welcomes the introduction of this particular offence. Moreover, GREVIO notes with satisfaction the recognition of the serious impact which stalking may have on victims, including suicide, and thus notes the introduction of an aggravating circumstance to that extent. In addition, GREVIO acknowledges that in 2020 the penalties for stalking were increased.

203. GREVIO notes that according to the authorities, a total of 26 450 complaints of stalking were registered in 2019, and a total of 1 000 decisions/convictions were issued compared to 145 convictions the year before. According to police data on Article 190a in 2016, there were more than 7 500 initiated preliminary proceedings, in 2017 more than 8 000 and in 2019 more than 10 000. While GREVIO acknowledges the recent emergence of case law around stalking via digital means such as text message, it notes with some concern that the introduction of this offence in 2011 was not accompanied by wider awareness-raising activities on the criminal nature of stalking nor by specific training for criminal justice actors, in particular law-enforcement officials, that would have stressed the gendered and serious nature of stalking. This is particularly relevant as stalking takes on great significance after a (abusive) relationship has ended. Indeed, research has shown that in Poland, most alleged perpetrators of stalking were men, who committed such acts often against their former female intimate partner.¹⁶⁵ As neither the Blue Card procedure nor the domestic violence offence (Article 207) cover harassment, intimidation, control and abuse that occurs after divorce and separation and where intimate partners do not share a residence, it is all the more important to ensure that law-enforcement officers, prosecution services and the judiciary are well informed of the level of threat and danger which ex-partner stalking may represent to women.

204. Research has shown that victims often actively reach out to law-enforcement agencies for help¹⁶⁶ but that attitudes towards stalking among law-enforcement officers, in particular if perpetrated online, contribute to the minimisation of the level of risk and/or impact on women this may have.¹⁶⁷ GREVIO welcomes the level of engagement of individual members of the judiciary who make full use of the legal tools available to them, including the imposition of a contact ban or restraining order, as part of the criminal proceedings. It notes the recent initiative to step up training for law-enforcement officers on online stalking. However, more systematic training and clear guidance on the use of this provision online and offline must be made available to increase the knowledge base of all relevant professionals of the complex nature of stalking, its relevance post-abuse and the extent to which custody and visitation arrangements after separation may be used for continued stalking. Preventive operational measures such as protection orders must be used to ensure women's safety and put an end to stalking, including post-separation stalking.

205. **GREVIO strongly encourages the Polish authorities to step up efforts to establish better practice in the implementation of criminal law on stalking by enhancing the capacity of law enforcement and the judiciary to address the gendered and serious nature of stalking against women, including its digital dimension, and to ensure the application of preventive operational measures to avoid reoffending, such as risk-assessment procedures and protection orders.**

3. Physical violence (Article 35)

206. The Criminal Code of Poland contains a wide range of offences encompassing different forms of physical violence from murder (Article 148) to bodily harm (Articles 156, 157 and 217), including the offence of using physical violence to force another to act, commit or endure something (Article 191).

165. Woźniakowska-Fajst D. (2019), Stalking and Other Types of Emotional Violence: A Criminological Study (in Polish), Warsaw University Press, pp. 337-349.

166. Ibid.

167. "Cyberviolence against women", Helsinki Foundation, 2017, p. 41, available at: www.hfhr.pl/publication/cyberprzemoc-wobec-kobiet/.

207. Of particular relevance to domestic violence is, however, the specific offence of domestic or family violence contained in Article 207 of the Criminal Code. This offence covers abuse within the family that ranges from physical violence to emotional abuse. As a broad offence, it may also be used to prosecute sexual violence, although most cases of sexual violence and rape in the context of domestic violence will also lead to charges under Article 197 (rape) or other articles of the Criminal Code related to sexual violence.

208. As an offence that forms part of Chapter XXVI of the Criminal Code covering offences against the family and custody, it is conceptualised as an offence against the family, not against an individual. While GREVIO recognises the importance of families as central units of society, it recalls the fundamental human right of all members of the family, including women and girls, to live free from violence. The Istanbul Convention gives meaning to this human right by calling for an effective response to all forms of violence against women, including domestic violence. Where women are victimised in their families or by intimate current or former partners, the Istanbul Convention places their rights and needs at the centre. GREVIO recalls the fundamental importance of ensuring criminal justice for women and girls who experience violence against them in their families as a bearer of individual rights.¹⁶⁸

209. In this context, GREVIO notes that the conceptualisation of Article 207 as an offence against the family limits its application to children, a vulnerable person, a “close relative” or a “person in a permanent or temporary relationship of dependency” with the perpetrator. Article 207 does not apply to former spouses or partners since they are not considered “close relatives” under Article 115, paragraph 11, of the Criminal Code,¹⁶⁹ with exceptions made, in judicial practice, for those in “a relationship of dependency”, such as financial dependency. Moreover, Article 207 does not apply to non-married partners unless they fall under the legal definition of “persons living together”. Under Polish case law, “persons living together” means people who are in a *de facto* relationship based on three simultaneous bonds: emotional, physical and economic (shared residence). However, under specific circumstances, individuals may be considered as “close relatives” under Polish law even if they do not share a residence.¹⁷⁰ In such a situation the fact that they do not share a residence has to be “objectively justified” (for example, when a partner works abroad or is in prison). The scope of application of Article 207 therefore does not cover dating violence or a wide range of cases affecting former and/or non-cohabitating intimate partners. More general criminal offences of bodily harm would need to be applied in such cases.

210. As regards the practical application of Article 207, the state report shows that a total of 9 263 convictions were issued by first-instance courts in 2018, of which 6 998 resulted in the deprivation of liberty.¹⁷¹ Compared to the scale of the problem, these data indicate rather low reporting/recording rates. On the other hand, the high rate of deprivation of liberty gives the impression that the acts of violence being punished under this article are rather serious. This indication is supported by observations and analysis that experts have shared with GREVIO that in practice the threshold for the prosecution of domestic violence under Article 207 is very high, with prosecution initiated predominantly in cases of serious physical harm to the victim or cases with a high frequency of abuse, namely extended, drawn-out forms of intimate partner violence. Consequently, GREVIO notes with concern that one-off acts of violence, irrespective of their seriousness, are not prosecuted under Article 207, nor are instances in which the abuse is non-physical. Instead, the Blue Card system is initiated. For example, in 2019 the Blue Card procedure was initiated for a total of

168. The emphasis legislators and the judiciary place on the protection of family values at the expense of the victims' right to life and to a life free from violence has been pointed to in academic publications and by experts and civil society members with which GREVIO held exchanges during the evaluation visit. See, for example, Magdalena Gryzb, “We condemn violence against women – the criminalization of domestic violence in Poland”, Criminological Archive, 2020, T. XLII, NR 1, available at: http://cejsh.icm.edu.pl/cejsh/element/bwmeta1.element.ojs-doi-10_7420_AK2020I.

169. Article 115, paragraph 11, of the Criminal Code defines “close relatives” as “spouses, parents, descendants, siblings, related in the same line or degree, an adopted person and their spouse, as well as persons living together”.

170. See Supreme Court Resolution, 25 February 2016, ref I KZP 20/15 (in Polish only).

171. See Annex 5 of the state report.

73 654 individuals, while only 14 797 crimes were recorded under Article 207.¹⁷² Convictions (final judgments) were obtained in 10 450 cases, of which only 2 618 convictions resulted in imprisonment without suspension.¹⁷³

211. While GREVIO welcomes the principle aim of the Blue Card procedure in that it seeks to offer comprehensive assistance to victims and perpetrators, it expresses grave concern about the fact that waiving prosecution in such cases may result in *de facto* impunity for the violence committed, sending the message that this is behaviour that does not give rise to criminal liability.

212. GREVIO urges the Polish authorities to ensure that the provisions of the Criminal Code such as Article 207 are applied in relation to all forms of intimate partner violence, and that intimate partner violence among non-cohabiting partners, including former partners and spouses, is adequately responded to. GREVIO further urges the Polish authorities to identify and address procedural factors that contribute to the high threshold for proving cases of domestic violence in court.

4. Sexual violence, including rape (Article 36)

213. Acts of sexual violence, including rape, are criminalised under Chapter XXV of the Criminal Code under “offences against sexual liberty and decency”. Rape is criminalised under Article 197, paragraph 1, and punishes the act of leading another person to sexual intercourse “by means of violence, threats or unlawful deception”. It carries a sentence of two to 12 years of imprisonment. Aggravated cases of rape include committing the act with another person; against a minor under 15 years of age or against a parent, descendant, adopted or adopting person, brother or sister; or committing the act with particular cruelty.

214. Article 198 renders a lesser punishment for sexual intercourse or other sexual acts taking advantage of the helplessness of another person or of the lack of ability to recognise the significance of the act or the “ability to control his/her conduct” resulting from a mental illness. Article 199 punishes sexual intercourse and other sexual acts carried out by abusing the victim’s dependence or by taking advantage of the victim’s critical situation. Article 200 outlines punishments for taking advantage of the victim’s young age.

215. On the basis of the above, GREVIO notes with concern that neither the offence of rape (Article 197) nor the additional sexual offences (Articles 198-200) are based exclusively on the lack of consent, which is the central element of the way the Istanbul Convention frames sexual violence. Instead, they continue to be categorised according to the degree of physical violence or threat employed, or to the degree of the victim’s helplessness, inability to offer resistance or to express their consent/will. As GREVIO has consistently stated, this approach does not fully capture the realities of women experiencing sexual violence and how they respond to threat (flight, fight, freeze, flop or befriend). The consequence is that not all forms of sexual violence are criminalised in Poland, as required by the convention. Other consequences include the requirement of higher thresholds of evidentiary standards of physical resistance and a shifting of the focus onto the victim’s behaviour from the accused’s action (see Chapter VI, Articles 49 and 50).

216. While GREVIO notes that according to the authorities the courts have the possibility to take into account the victim’s level of consent to the sexual act in question, it points to existing jurisprudence and interpretation by legal scholars that require proof of the victim’s resistance, the perpetrator’s use of force, threats or unlawful deceit for a conviction of rape (Article 197).¹⁷⁴ The perpetrator’s mere awareness that the act was engaged in non-consensually cannot give rise to a conviction. While GREVIO welcomes that context-sensitive interpretations are beginning to emerge

172. Magdalena Grzyb, “We condemn violence against women – the criminalisation of domestic violence in Poland”, *Criminological Archive*, 2020, T. XLII, NR 1, Table 4, Attrition in domestic violence cases in Poland, 2018, p. 9, available at: http://cejsh.icm.edu.pl/cejsh/element/bwmeta1.element.ojs-doi-10_7420_AK2020I.

173. *Ibid.*

174. See the judgment of the Supreme Court of 26 July 2001, V KKN 95/99, LEX no. 51671 and the judgment of the Court of Appeals in Kraków of 15 February 1996, II AKA 2/96, Prok. i Pr. 1996; judgment of the Supreme Court of 14 March 2017, IV KK 369/16, LEX No. 2271466.

in jurisprudence and that some courts offer very extensive interpretations of the term “deceit”, the law currently in force still requires that women’s experiences of rape and sexual violence are still assessed through the prism of the use of violence, threat or unlawful deceit, rather than on the basis of their lack of consent. The need for a change in definition of Article 197 in order to ensure criminal justice for the full range of women’s experiences of sexual violence and rape, which is often perpetrated without the use of force and threat, has been brought to the attention of parliament and has been referred to by members of the judiciary and in research.¹⁷⁵ Such a change is warranted in order to bring the Polish Criminal Code in line with the requirements of Article 36 of the Istanbul Convention.

217. Moreover, GREVIO notes with concern that not all instances of rape carry the same criminal sanction. For example, sexual intercourse by abuse of the victim’s helplessness or mental state (Article 198) and sexual intercourse exploiting a situation of dependence (Article 199) offer a sentencing range of six months to eight years or a maximum of three years’ imprisonment respectively. Legal experts drew GREVIO’s attention to the fact that these offences are primarily used to prosecute incidents of rape of women who were brought into a state of helplessness resulting from the use of force or violence, thus leading to lower punishments than for a violent rape.¹⁷⁶ Moreover, GREVIO is concerned that where women with disabilities are raped, such cases would be prosecuted under Articles 198 and 199, thus focusing on their helplessness, dependency or disability rather than their sexual autonomy.

218. The principle established by the Istanbul Convention is that all sexual acts without the consent of the victim shall give rise to dissuasive sanctions. The fact that the act is carried out without the consent of the victim is the point upon which punishment shall hinge, whether this is committed by someone who employs violence or abuses their position of power over the victim. GREVIO warns against the creation of a hierarchy of victims on the basis of their characteristics such as young age, helplessness, dependence, illness or other circumstances, and calls for appropriate legislative measures to send the message that rape is rape. Where the circumstances of the act are particularly violent, abusive and traumatising, aggravating circumstances should be applied to ensure a sanction commensurate with the gravity of the act.

219. Intentional conduct not currently covered by Polish legislation in the area of sexual violence is that of causing another person to engage in non-consensual acts of a sexual nature with a third person (Article 36, paragraph 1c, of the Istanbul Convention). This paragraph covers scenarios in which the perpetrator is not the person who performs the sexual act but who causes the victim to engage in sexual activity with a third person, for example as part of the control and abuse in intimate partner violence. The scope of criminal intent is wider than that under the crime of aiding and abetting. It would not only cover the intent to help the commission of an offence, for example a rape, and the intent of the rape as such, but would also extend to the intent of causing both. In other words, the intentional conduct covered by Article 36, paragraph 1c, aims at capturing more than the instigation or facilitating of a crime by including the malevolent behaviour of abrogating a woman’s sexual self-determination.

220. GREVIO urges the Polish authorities to reform all sexual offences contained in Chapter XXV of the Polish Criminal Code to fully incorporate the notion of freely given consent as required by Article 36 of the Istanbul Convention and to ensure appropriate sanctions for all sexual acts without the consent of the victim, including where the circumstances preclude valid consent.

175. Monika Płatek, Legal opinion on the Draft Act amending the Criminal Code and certain other acts (print no. 2154), 2018, and available at: www.sejm.gov.pl/sejm8.nsf/opinieBAS.xsp?nr=2154. See also the post by the Association of Iustitia dated from 19 September 2020, pointing to the difference between Polish criminal legislation and the requirements of the Istanbul Convention, available at: www.facebook.com/sedziowie/posts/3394380417274992/, and Monika Płatek, University of Warsaw, “Rape. When an Old Term Acquires a New Meaning – A Consequence of False Sameness”, published in 2018 in *Criminological Archive* 2018/TOM XL, pp. 263-325, available at Widok Zgwałcenie. Gdy termin nabiera nowej treści. Pozorny brak zmian i jego skutki (pan.pl).

176. Information provided to GREVIO during the evaluation visit.

221. **GREVIO further strongly encourages the Polish authorities to introduce criminal legislation that would specifically cover the intentional conduct set out in Article 36, paragraph 1c, of the Istanbul Convention, namely the conduct of causing another person to engage in non-consensual acts of a sexual nature with a third person.**

5. Forced marriage (Article 37)

222. In Poland, forced marriage is not specifically criminalised. According to the authorities, any such act may be criminalised under the offence of coercion to act in a particular way (Article 191, paragraph 1). The act of luring someone abroad with the aim of forcing that person into marriage is said to be covered by the act of aiding or abetting unlawful coercion to perform a particular act (Article 18, paragraph 13, in conjunction with Article 191, paragraph 1).

223. While the Istanbul Convention does not require establishing specific offences for each form of violence against women, its aim is to help parties create the necessary legal framework to ensure robust intervention and prosecution by law-enforcement agencies. In the absence of prevalence data on the incidence of forced marriage in Poland and with no data indicating the number of reports to either social services or law enforcement, it is difficult to assess the number of women who are exposed to or at risk of forced marriage and whether the general criminal law provisions may usefully ensure prosecution and lead to convictions. Indications by representatives of civil society shared with GREVIO do indicate that forced and early marriage is practised among some of the Roma communities.¹⁷⁷ Women and girls of migrant background may also be affected.

224. GREVIO thus notes the importance of engaging in research and awareness-raising activities in relation to this form of violence in order to assess its prevalence in Poland and to empower women and girls to seek support, including from social services and healthcare professions. As a second step, guidelines and training for law-enforcement officers and prosecutors on how to apply the general offence of coercion (Article 191) in relation to forced marriage should be developed.

225. As regards compliance with Article 37, paragraph 2, which requires criminalisation of the intentional conduct of luring an adult or a child to the territory of another country with the purpose of forcing this adult or child into marriage, GREVIO notes that the Criminal Code of Poland does not contain an offence that would criminalise this conduct. The scope of intent required under Article 37, paragraph 2, covers the act of luring the person abroad as well as the purpose of forcing this person into a marriage abroad. The criminal law doctrine of aiding and abetting does not adequately capture this, as this doctrine does not require facilitating the execution of the crime. Instead, it applies to acts that support someone else in the commission of a crime such as a forced marriage or that encourage someone to commit a crime (such as forced marriage).

226. **GREVIO strongly encourages the Polish authorities to consider introducing a specific criminal offence of forced marriage to cover the special nature of these offences and to make it operational for law-enforcement authorities and courts. Moreover, GREVIO encourages the Polish authorities to criminalise the intentional conduct of luring an adult or a child to the territory of another state with the purpose of forcing this person into a marriage, as required by Article 37, paragraph 2, of the Istanbul Convention. In light of the requirement to adopt a comprehensive approach, GREVIO strongly encourages the Polish authorities to ensure that any criminal law measures be accompanied by a comprehensive strategy to ensure the prevention and identification of this form of violence, as well as support for women and girls exposed to forced marriage.**

6. Female genital mutilation (Article 38)

227. While the Polish Criminal Code does not contain any specific offence criminalising female genital mutilation (FGM), the conduct described in Article 38a of the Istanbul Convention can be prosecuted under the two health offences set out in Articles 156 and 157. These cover, among other things, the intentional significant deformation and disfigurement of the body (Article 156) or an

177. Information provided during the evaluation visit to Poland.

alteration of bodily functions (Article 157, paragraph 1). GREVIO notes that no cases of FGM have been recorded under the health offences to date.

228. The conduct of coercing, procuring or inciting to undergo female genital mutilation described in Article 38*b* and *c*, remains however outside the scope of any of the health offences. The offence of unlawful coercion (Article 191) would capture the conduct of coercing a girl or a woman into the mutilation of her genitals, while the acts of procuring a woman or inciting a girl to undergo the procedure do not appear to be criminalised. GREVIO points to the fact that the acts of aiding or abetting a woman or girl to perform the act of FGM upon herself cannot be considered compliant with Articles 38*b* and *c* of the Istanbul Convention. GREVIO notes that Article 38*c* requires the criminalisation of behaviour that involves the intentional exertion of influence on a girl who herself does not harbour the intention of undergoing FGM. The requirement to criminalise aiding or abetting the commission of FGM stems from Article 41 of the Istanbul Convention and differs from Article 38*c* both in terms of the constituent element of the crime and the scope of intent. The aim of Article 38*c* is to ensure that criminal liability occurs, for example, where relatives or community members incite, coerce or procure a girl to undergo FGM but do not take an active part in ensuring the procedure is carried out.

229. There is no information on the presence and/or the residence in Poland of women from communities which practise female genital mutilation, and no criminal complaint in relation to this form of violence against women has been recorded by the law-enforcement or judicial bodies. According to civil society, the authorities should attempt to gather more knowledge on this subject as part of a more comprehensive effort to understand the situation of women belonging to the various foreign communities present in the country, their specific problems and their exposure to the risk of specific forms of violence such as female genital mutilation.

230. **GREVIO encourages the Polish authorities to supplement their criminal law so as to ensure that the conduct described in Article 38*b* and *c* of procuring a woman or inciting and procuring a girl to undergo an act of female genital mutilation is criminalised.**

7. Forced abortion and forced sterilisation (Article 39)

231. Forced abortion is criminalised by Article 153 of the Criminal Code, while forced sterilisation would come under the purview of the health offences set out in Articles 156 and 157. Article 156 specifically criminalises the act of causing serious harm to health, including depriving a person of the ability to conceive.

232. From the data available it is unclear whether any of the convictions in relation to Articles 156 and 157 concern cases of forced sterilisation of women.

8. Sexual harassment (Article 40)

233. In the Polish legislative framework, acts of sexual harassment are regulated primarily by the Labour Code and the Act on Equal Treatment. Both use very similar definitions for sexual harassment, including elements covered by Article 40 of the Istanbul Convention, which GREVIO welcomes, but limit the scope of application to sexual harassment in the context of labour relations and/or the purchasing of goods and services.

234. A specific criminal offence of sexual harassment does not exist, but according to the authorities, several provisions of the Criminal Code are applicable in principle. However, GREVIO notes that these are of a general nature, and do not capture the essence and characteristics of the phenomenon. Article 216 of the Criminal Code, for example, criminalises manifestations of contempt for another person,¹⁷⁸ in particular behaviour that is aimed at humiliating or destroying the dignity of another person or behaviour that offends another person. No information on the number of criminal complaints, prosecutions or convictions for sexual harassment were made available, making it difficult to assess the use that is made of this provision in practice. According to research, the lack

178. See the submission of the Commissioner for Human Rights of Poland to GREVIO, p. 41.

of criminalisation of sexual harassment represents a major impediment for victims of such violence to seek legal remedies before it escalates into another form of violence covered by the Polish Criminal Code, such as stalking.¹⁷⁹

235. GREVIO notes with concern that available remedies are not adequate for sexual harassment cases, particularly in cases of verbal and non-verbal behaviour such as sexist speech, gestures or images. Remedies and compensation for victims of sexual harassment, in addition to being through the Labour Code and Act on equal treatment, are available through the general civil measures, that is, by claiming related infringement of personal rights based on the respective provisions of the Civil Code. However, as the Polish Commissioner for Human Rights pointed out, the principle of reversed burden of proof does not apply in such cases.¹⁸⁰

236. GREVIO strongly encourages the Polish authorities to review their legislation and to ensure that sexual harassment experienced in all areas of life, in line with Article 40 of the Istanbul Convention, is subject to criminal or other legal sanctions. GREVIO further encourages the Polish authorities to increase their efforts to ensure higher levels of awareness of sexual harassment among relevant professionals and the general public.

9. Sanctions and measures (Article 45)

237. GREVIO welcomes the fact that for the most part Polish criminal law foresees adequate sanctions for acts of violence against women. However, from the indications provided to GREVIO by lawyers and NGOs working in this area it appears that there is a wide discrepancy between the available sanctions and those that are imposed in practice. Sentences are frequently mitigated or suspended, in particular where convictions under Article 207, the domestic violence offence, are concerned.¹⁸¹ Moreover, GREVIO notes with concern that in cases concerning rape and sexual offences, appeal courts seem to reduce sentences based on characteristics of the victim and her behaviour, thereby diminishing the criminal liability of the perpetrator.¹⁸²

238. GREVIO strongly encourages the Polish authorities to ensure that, through legislative measures and the effective training of members of the judiciary and prosecution services, sentences and measures imposed for domestic violence and other forms of violence against women are effective, proportionate and dissuasive.

10. Aggravating circumstances (Article 46)

239. In the Polish Criminal Code, some of the aggravating circumstances required by Article 46 of the Istanbul Convention form part of the elements of the crime, thus qualifying them as more serious offences punishable by harsher sentences. In addition, guidelines on the type and the level of criminal sanctions are set out in Article 53 of the Criminal Code, which contains some of the aggravating circumstances listed in Article 46 of the Istanbul Convention. A court pronounces the sentence at its discretion, within the limits provided for by the law, and the application of aggravating circumstances on the basis of the conduct of the offender lies within the discretion of the presiding judge. In the absence of supporting measures, such as guidelines or other orientation for judges to support their interpretation of aggravating circumstances in light of the requirements of the Istanbul Convention, it is unclear to what extent the full range of aggravating circumstances listed in Article 46 of the convention are effectively applied, in particular for offences committed against a former or current spouse or partner, family member and persons cohabiting with the victim, or in the presence of a child.

240. Moreover, it has been brought to GREVIO's attention that judges do not always assess the factors surrounding a case of domestic violence on the basis of a gendered understanding or on the

179. See Woźniakowska-Fajst D. (2019), *Stalking and Other Types of Emotional Violence: A Criminological Study*, Warsaw University Press, pp. 337-349.

180. See the submission of the Commissioner for Human Rights of Poland to GREVIO, p. 42.

181. Annex 5 to the Polish state report indicates the number of suspended sentences for convictions under Article 207.

182. Judgment of the Court of Appeals in Katowice of 26 August 2010, II AKa 213/10, available at [http://orzeczenia.ms.gov.pl/content/\\$N/15150000001006_II_AKa_000213_2010_Uz_2010-08-26_001](http://orzeczenia.ms.gov.pl/content/$N/15150000001006_II_AKa_000213_2010_Uz_2010-08-26_001).

other principles of the Istanbul Convention. Instead, judges appear to be guided by stereotypical gender roles and respect for the family as the fundamental unit of society.¹⁸³ GREVIO recalls the urgent need to ensure the necessary training on and full application of the principles of the Istanbul Convention, without which the application of aggravating circumstances will remain flawed.

241. GREVIO strongly encourages the Polish authorities to take appropriate measures to ensure that all aggravating circumstances listed in Article 46 of the Istanbul Convention are incorporated into Polish criminal law and effectively applied by the judiciary.

11. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)

242. In Poland, legislation provides for two types of mediation: mediation between a victim and a perpetrator in criminal law and mediation in civil cases such as divorce proceedings, including disagreements over custody and visitation arrangements. Following the consent of the parties, the Code of Civil Procedure offers the possibility for voluntary mediation before or during civil proceedings. In matters where a settlement is admissible, the court seeks to achieve an amicable resolution of the matter by, in particular, encouraging participation in mediation. Mediation may also be resorted to for contentious questions in divorce proceedings, such as alimony, parental authority, access to children and financial matters, which are subject to resolution by judgment.

243. Mediation in criminal law is a voluntary process intended to supplement the criminal justice process by offering the victim the opportunity to reach closure in a way that the formal criminal justice process cannot. Both victim and perpetrator must consent to the process, which may be initiated by the prosecuting authority or the court, but also upon request of the victim or the perpetrator. In practice, mediation is mostly initiated by the courts. If completed successfully, it may speed up the criminal proceedings by allowing for a conviction without trial or without hearing evidence (Article 335, paragraphs 1 and 2, and Article 387 of the Code of Criminal Procedure respectively) and can lead to a reduction of the sentence.

244. Mediation is carried out by trained mediators, although they do not have formal training in domestic violence or any other form of violence against women. Research has emphasised the acute need for mediators in Poland to better understand the dynamics of domestic violence and coercive control, and the resulting impact on victims, in order to address the commonly held belief that both parties are always to blame for a conflict within the family.¹⁸⁴ Additional research suggests that a large number of domestic violence cases are treated as a “family conflict” and automatically directed by the courts to mediation proceedings, regardless of the situation of victims and the scale of harm.¹⁸⁵ Without robust training for all parties involved, in particular those in the criminal justice sector and mediators, recognition of the violence experienced by women at the hands of their intimate partners as a deeply gendered phenomenon resulting in an imbalance of power will not take root.

245. In this context GREVIO welcomes that guidelines for prosecution require particular care to be taken when referring domestic violence to mediation and advise against the referral of rape cases to mediation. Yet, the majority of cases submitted for mediation are proceedings related to abuse in the family, the Polish domestic violence offence set out in Article 207 of the Criminal Code.¹⁸⁶ GREVIO notes that in 2017, a total of 4 090 proceedings in relation to Article 207, paragraph 1, resulted in a conviction without a trial or without hearing evidence.¹⁸⁷ This seems to indicate that, in

183. Centre for Women’s Rights, Stereotypes and prejudice in the court room: discussion of research, 2016, available at: <http://monitoring.cpk.org.pl/wp-content/uploads/2016/02/Temida-pod-lup%C4%85-raport-z-monitoringu-s%C4%85dow.pdf?fbclid=IwAR0xkxPb7wav5kzYNpaOuJeJxWHz80Xg4lQ64ljqjMwF8d0ZpJEPGHAS4Xg>.

184. Sitarz O., Bek D. and Jaworska-Wieloch A., “Mediation and Domestic Violence: Theoretical Reflection on the Polish Background”, 2018, *International Journal of Criminal Justice Sciences*, p. 361.

185. See Małgorzata Czarkowska, Counteracting domestic violence against women in the practice of law enforcement, justice system and other institutions, Warszawa 2014, pp. 290-296.

186. Zielińska E. and Klimczak J., “The scope of using mediation in penal cases in the practice of the justice system”, Warszawa 2020, pp. 29-38.

187. Polish state report, pp. 105-106.

practice, many domestic violence victims go through victim-offender mediation. While noting that this is a voluntary measure which victims need to consent to and which may result in positive outcomes for victims such as an apology, GREVIO wishes to draw attention to the multitude of pressures women victims of intimate partner violence may be exposed to in taking such a decision. Pressure may be exerted by the perpetrator in view of the beneficial effects of the process on the trial and sentencing. After years of experiencing dominance and control, many women victims of intimate partner violence will feel the pressure even if the relationship has ended. Victim-offender mediation may also be proposed with a view to reducing the backlog of cases tried in court, with women victims feeling compelled to comply with the course of action proposed by the prosecuting authorities. Moreover, GREVIO points to the reported tendency among some members of the judiciary and others in the criminal justice system to preserve the principle of the family and view intimate partner violence as a family conflict that can be solved, which may contribute to the sense of pressure felt by women victims of domestic violence.

246. In view of the fact that, in principle, victim-offender mediation may be proposed in any case of domestic violence, irrespective of the nature of the case and the seriousness of the harm done, and that very little guidance is available to prosecutors, courts and others as to how to assess the type of cases fit for mediation, GREVIO is concerned that too many cases of domestic violence are mediated on. While women victims of domestic violence may consent to it, many will enter the process with a weaker negotiating position as a result of the violence, dominance and control they may have experienced for years, which runs counter to the need for a balance of power among the parties, which is a fundamental premise of mediation. GREVIO also notes that it is unclear to what extent women victims of domestic violence are informed of the nature and possible outcome of the procedure, and that the implementation of any settlement concluded by both parties, including the perpetrator, will not in fact be monitored by the criminal justice system.¹⁸⁸ Without any guarantee of a successful and enforceable settlement of the case, women victims of domestic violence are thus exposed to a high risk of revictimisation during the process and may, in the end, see a reduced sentence handed down.¹⁸⁹

247. Lastly, the availability and use of mediation in divorce proceedings without any screening for a history of dominance and abuse in the relationship raises concern. This is all the more worrying in light of continuous endeavours to introduce more obligatory forms of family mediation prior to the institution of divorce and separation proceedings for spouses with common children.¹⁹⁰

248. GREVIO urges the Polish authorities to recognise the power imbalances in relationships marred by violence and to ensure that all offers of mediation are accepted entirely voluntarily, through all available means, such as the adoption of more specific guidelines and training offered to mediators and all other relevant parties in the criminal justice sector that focus on the gendered dynamics of domestic violence and its impact on the ability of victims to enter the mediation process on a par with the perpetrator.

188. See Sitarz O. et al. (2018), "Mediation and Domestic Violence: Theoretical Reflection on the Polish Background", *International Journal of Criminal Justice Sciences*, Vol. 13, p. 361.

189. See Zielińska E., "Mediation in penal cases of domestic violence – the scale and efficiency in practice of the Polish justice sector", Warszawa 2017, pp. 112-118.

190. Polish state report p. 67.

VI. Investigation, prosecution, procedural law and protective measures

249. Full accountability for all acts of violence against women requires an adequate response from law-enforcement agencies and the criminal justice sector. Chapter VI of the Istanbul Convention establishes a set of measures to ensure criminal investigations, prosecutions and convictions of the various forms of violence covered therein.

A. General obligations and immediate response, prevention and protection (Articles 49 and 50)

250. A key principle of an adequate response to violence against women is that of swift and effective investigations and judicial proceedings that are based on a gendered understanding of these types of offences and that take into consideration the rights of the victim during all stages.

1. Reporting to, immediate response and investigations by law-enforcement agencies

251. The Polish law-enforcement agencies are instructed and trained to respond promptly to incidents of crime. They are frequently notified of incidents of domestic or sexual violence by professionals in public administration who are required to report any offence which they discover in the discharge of their duties, provided the offence is subject to *ex officio* prosecution.¹⁹¹

252. Since 2014, a range of measures have been taken to improve the criminal justice response to rape cases. Rape is now subject to *ex officio* prosecution, as required by Article 55 of the Istanbul Convention, and victims may only be interviewed and heard once (single hearing or single examination procedure) in order to avoid re-traumatisation and secondary victimisation by giving statements repeatedly. Courts must set a date to hear the victim within 14 days of the prosecutor's request. Guidelines for law-enforcement officers seek to ensure, among other things, that the victim shall be interviewed in a separate room by a trained officer of the same sex, unless the victim wishes otherwise, and that the interviewing officer refrain from any statements that would judge or question the victim's behaviour, appearance or actions. At this stage and resulting from the introduction of the single-hearing procedure, the interview is limited to the basic facts, while an in-depth interview is carried out by a judge, at the request of the prosecutor. Rape victims shall be informed of their rights and role in the process as well as the legal and psychological assistance available to them and shall be transported, by the law-enforcement officer, to a medical facility for medical support and a forensic examination.

253. GREVIO welcomes the above measures but notes that research on their impact on police work in rape cases points to a reduced scope of action for law-enforcement officers in terms of investigation and the collection of evidence.¹⁹² All rape investigations are now overseen by the prosecution services and the courts, requiring collaboration between these criminal justice parties and the law-enforcement agencies, the lack of which was identified by some as an obstacle to efficient and robust case building.¹⁹³ In addition, the requirement to hear the victim only once and only by the courts means that victims can neither alter nor add to their statement and hence cannot react to any turn in the investigation. The new measures were also perceived as unhelpful for those women who experience sexual violence and rape at the hands of their partners, spouses or other family members and who do not want to take an active role in criminal proceedings against them.¹⁹⁴ Making use of their right not to testify usually leads to the dismissal of the case, as no further evidence may be available or may have been collected.

191. See Chapter IV, the section on Article 28 (Reporting by professionals).

192. "Breaking the taboo – report on sexual violence", STER, Foundation for Equality and Emancipation, edited by Magdalena Grabowska and Agnieszka Grzybek, pp. 141-142.

193. Ibid.

194. Ibid, pp. 96-99.

254. In view of the absence of specialist sexual assault support services and of the limited implementation of the policy document “Police Conduct and Medical Unit Procedure for Dealing with Victims of Sexual Violence,”¹⁹⁵ GREVIO considers that rape victims in Poland are not provided with the support they need, which subsequently impacts negatively on case building.

255. As regards domestic violence, GREVIO notes with satisfaction the high level of awareness among law-enforcement officers of the operational procedures in place, notably under the Blue Card procedure, and the numerous police interventions that are conducted annually. In 2019, interventions in favour of 88 000 individuals took place, 74% of which concerned women and an additional 14% children.¹⁹⁶ GREVIO also welcomes the specific efforts made to improve the effectiveness of police responses in cases of domestic violence perpetrated by a member of the law-enforcement services. In 2012, the Commander -n-Chief of the Police launched a programme called “POWER – Yes! VIOLENCE – No!” and elements thereof are still in force. Moreover, the new guidelines for police regarding domestic violence and restraining orders issued in December 2020 contain guidance on what action to take if the suspect is a serving police officer.

256. While no specialist units exist to respond to domestic violence, each police station is staffed with a specially trained officer responsible for the co-ordination and supervision of investigations into and the prevention of further crimes involving violence in the family. Police officers may initiate the Blue Card procedure, which is an administrative procedure that may or may not be accompanied by a criminal investigation.¹⁹⁷ Upon responding to a call-out, law-enforcement officers are required to ensure medical support, separate the victim from the perpetrator, secure evidence and take other action to prevent further acts of violence. Documentation compiled under the Blue Card procedure may be used as evidence in criminal proceedings.

257. GREVIO welcomes that, in the spring of 2020, amid the Covid-19 pandemic, law-enforcement agencies proactively contacted families with a history of violence in order to assess their safety and to lower the threshold for reaching out for help. Access to public institutions in order to report domestic violence was perceived as being limited during the restrictions on movement temporarily in place to curb the spread of the virus.

258. Despite the above, the responses to domestic violence by law-enforcement agencies do not always meet the needs of victims nor do they sufficiently consider the victim’s situation. Attempts at minimising the violence or disregarding the history of abuse have been reported by women victims of domestic violence.¹⁹⁸ Where women with disabilities are concerned, their access to police is significantly hampered, either in terms of physical access to buildings or in terms of communication.¹⁹⁹ Women asylum seekers who experience domestic violence while living in a reception centre also do not easily benefit from police interventions or the Blue Card procedure. Calls for help seem to go unregistered and their experiences of violence, in particular if it is in relation to forced marriage or honour-related violence, seems to be considered an issue related to their “culture” and family life by social and migration services who are not trained to recognise and intervene in order to prevent and protect victims of such violence or any other form of violence.

259. Other groups of women at risk of or experiencing multiple forms of discrimination, such as women in prostitution, also seem to face barriers in reporting their experiences of violence to the law-enforcement agencies, which demonstrates the need to strengthen the ability of law-enforcement officers to avoid secondary victimisation of all women who turn to them – irrespective of who they are or their status in the country.

260. In this context, GREVIO welcomes partnerships such as the one between the Warsaw law-enforcement agencies and the Women’s Rights Centre (CPK), which, once a week, enables women to report experiences of violence to officers present on the CPK’s premises. This type of easy access

195. See Chapter IV, Support for Victims of Sexual Violence.

196. Annual Report on the National Programme for Combating Family Violence.

197. See Chapter IV, section on Article 18 (General obligations).

198. Report by the Fundamental Rights Agency of the European Union: Women as victims of partner violence – Justice for victims of violence crime report part IV, 2019, p. 40.

199. Information provided during the GREVIO evaluation visit.

to reporting significantly reduces any barriers there may be and should be replicated elsewhere as it corresponds to the requirement of Article 18, paragraph 3, of the Istanbul Convention.

261. GREVIO strongly encourages the Polish authorities to step up efforts to ensure prompt and appropriate responses from law-enforcement agencies in relation to all forms of violence against women covered by the Istanbul Convention, in particular by:

- a. taking measures to encourage reporting of all forms of violence against women, including intimate partner violence, sexual violence and rape, stalking, forced marriage, honour-related violence and online and technology-facilitated violence against women;**
- b; ensuring that the forensic examination and collection of evidence in cases of sexual violence and rape is conducted in a timely and gender-sensitive manner by trained staff that take into account the unique needs and perspectives of the victims, respect their dignity and integrity and minimise intrusion while abiding by standards on the collection of forensic evidence.**

2. Effective investigation and prosecution

262. At the level of the prosecution services, standards for the investigation and prosecution of cases of sexual violence and domestic violence are set out in specific “Prosecutor General’s Guidelines” from 2015 and 2016 respectively. For other forms of violence covered by the Istanbul Convention, notably stalking, forced marriage, female genital mutilation or any violence against women facilitated online or through technology, such guidance does not exist. For the offence of stalking, however, internal documents developed by the Commander-in-Chief of the Police offer some guidance, and special forensic units exist to safeguard electronic evidence.

263. The Prosecutor’s General’s Guidelines of 2016 concerning the rules of conduct for common organisational units of public prosecutor’s offices in the field of preventing domestic violence set out binding measures for the prosecution services and the police. In addition to offering guidance on the conduct of preliminary investigations (see above), they require prosecutors to request that the police apply protection and assistance measures for victims and witnesses and that the victim be compensated by the perpetrator. They must also establish whether the Blue Card procedure has been initiated in a given case.

264. Contrary to the obligation set out in Article 8a of the Law on Combating Family Violence, GREVIO notes with concern that these guidelines have not been revised since 2016. GREVIO points to the opportunity such a revision process presents in terms of assessing and adapting procedures where necessary. In particular, it would offer the opportunity to examine the practice of prosecution and law-enforcement agencies investigating and subsequently indicting the suspect in domestic violence cases. GREVIO was alerted to the fact that women’s accounts of domestic violence and the evidence they supply are not always taken into account or are undervalued, that the violence is qualified as coming under private instead of public prosecution, that no preventive measures are being taken and that preliminary investigations generally take too long.²⁰⁰

265. Similar issues seem to persist in relation to cases of sexual violence and rape. Negative attitudes towards rape victims persist and women’s experiences are not always believed. The complaints addressed to the Polish Commissioner for Human Rights reveal harmful beliefs concerning victims of sexual violence.²⁰¹ GREVIO was alerted to attitudes of victim blaming that emerge around the victim’s behaviour or attire, and that culminate in doubts being expressed in relation to the victim’s narrative when she is accompanied by a lawyer. This is worrying in view of the high number of reported rape cases in which no investigation is carried out or which do not lead to an indictment. According to research carried out in the period 2014-2015, investigations were

200. See the submission of the Commissioner for Human Rights of Poland to GREVIO, p. 38; and Report by the Fundamental Rights Agency of the European Union: Women as victims of partner violence – Justice for victims of violence crime report part IV, 2019, p. 63.

201. See the submission of the Commissioner for Human Rights of Poland to GREVIO, pp. 42-43.

initiated in 76% of all reported rape cases (4 172 cases in total) but eventually dropped in 61% (a total of 2 561).²⁰² In some prosecution services in Poland, the percentage of dropped cases during the investigation stage is as high as 90 or even 100%.²⁰³ Decisions to drop an investigation are rarely appealed against by women victims and thus result in no further action being taken.

266. Several reasons are cited for the low number of indictments, the collection of evidence being among them. GREVIO reiterates the urgent need to set up, across the country, accessible rape crisis and/or sexual assault support centres which offer high-quality and immediate forensic evidence collection, among other things, to ensure that evidence is not lost with time. The Istanbul Convention requires states parties to ensure access for victims to safe and supportive specialist services following a rape where specialists can look after their emotional, psychological and physical needs while at the same time collecting and storing forensic evidence that would allow victims the time to make a decision on whether to report to the police, without detriment to their case.²⁰⁴

267. Another set of rape cases that are frequently dropped from public prosecution are those that take place within a relationship and that centre on the issue of consent. GREVIO recalls the requirement of the Istanbul Convention to ensure the criminalisation of all non-consensual sexual acts, including intercourse. In the absence of a consent-based definition of rape in criminal law, prosecutors will invariably decide against seeking an indictment in cases where the sexual act is undisputed but consent is not. GREVIO points to the experiences of other countries which have seen an increase in the rates of prosecution following the introduction of rape legislation in line with the requirement of Article 36 of the Istanbul Convention.²⁰⁵

268. GREVIO strongly encourages the Polish authorities to identify and address any/all factors which contribute to the dismissal of investigations in cases of sexual violence and rape and in cases of domestic violence.

3. Conviction rates

269. According to the Ministry of Justice, there are around 650 convictions for rape annually. On average, one third of the prison sentences are suspended, whereas the majority of prison sentences range from two to five years.²⁰⁶ Prosecutors are obliged to carefully assess whether there are grounds to challenge judicial decisions resulting in a suspended sentence for rape but it is unclear how often and on what basis decisions to appeal are taken in practice.

270. While GREVIO notes some positive changes in the jurisprudence of the Supreme Court and courts of appeal regarding the requirement of resistance in rape cases, some courts still apply rigorous standards of evidence which lead to women being charged for false testimony after reporting a rape which did not result in a conviction of the perpetrator. Moreover, GREVIO notes that proceedings before the courts can be very lengthy and that some courts are slow to schedule the hearing of rape victims, which is central to the case in the single-hearing procedure described above.²⁰⁷ Legal remedies are in place for complaints against the length of criminal procedures but appear to result in compensation rather than a speedy continuation of the case.

271. As regards convictions for domestic violence, court proceedings for a total of 16 959 perpetrators were brought to a conclusion in 2019, resulting in a total of 14 041 convictions,

202. "Breaking the taboo – report on sexual violence", STER, Foundation for Equality and Emancipation, edited by Magdalena Grabowska and Agnieszka Grzybek, pp. 150 and 154.

203. *Ibid*, p. 156.

204. See Chapter IV, section on Article 25 (Support for victims of sexual violence).

205. See the report of the Swedish National Council for Crime Prevention (Brå), "The new consent law in practice: An updated review of the changes in 2018 to the legal rules concerning rape" published in 2020 (executive summary available in English).

206. Data provided by the Ministry of Justice for the period of 2013-2017, available at <https://isws.ms.gov.pl/pl/baza-statystyczna/publikacje/>.

207. See "Breaking the taboo – report on sexual violence", STER, Foundation for Equality and Emancipation, edited by Magdalena Grabowska and Agnieszka Grzybek, 2017, pp. 48, 52 and 57-58.

of which 8 963 led to a prison sentence.²⁰⁸ Over half of these, however, were suspended upon condition (a total of 5 173). With no disaggregation of the data by sex or by relationship between the perpetrator and the victim, the number of convictions concerns all forms of domestic violence, including intergenerational domestic violence, and hence do not allow conclusions to be drawn about the level of convictions for intimate partner violence. Compared to the number of police interventions in favour of 88 000 individuals in 2019, most of which were women, it would be important to establish in more detail the level of convictions in relation to intimate partner violence against women in order to examine and address possible shortcomings in this regard. For example, GREVIO notes that representatives of the criminal justice sector do not systematically form part of the interdisciplinary teams/working groups in the framework of the Blue Card procedure.²⁰⁹ As a result, these teams are not informed about relevant judgments, probation or other measures undertaken. At the same time, judges might not be informed about important facts and the circumstances of a given case. Enhancing co-operation in both ways may strengthen the effectiveness of the judicial response to domestic violence.

272. GREVIO also notes that the number of convictions for stalking have gradually increased, from 43 in 2011 to 1 409 in 2018.²¹⁰ Moreover, 95 convictions have been handed down in relation to the offence of impersonation and other online harassment/stalking under Article 190a, paragraph 2, in 2018. However, the available data do not allow an identification of the level of conviction for cases of stalking against women. Moreover, in most cases of stalking, the courts imposed a suspended sentence, with only 15% of convicted perpetrators sentenced to a prison term without suspension in 2018.²¹¹

273. GREVIO strongly encourages the Polish authorities to swiftly identify and address any factors which contribute to attrition in cases related to all the forms of violence against women covered by the Istanbul Convention, including the reasons for lengthy criminal proceedings, in order to increase the number of convictions. Such measures should be supported by sex-disaggregated administrative and judicial data that are reliable and comparable throughout the judicial chain.

B. Risk assessment and risk management (Article 51)

274. Concern for the victim's safety must lie at the heart of any intervention in cases of all forms of violence covered by the Istanbul Convention. Article 51 thus establishes the obligation to ensure that all relevant authorities, not just law-enforcement authorities, effectively assess and devise a plan to manage the safety risks a victim faces on a case-by-case basis, according to standardised procedures and in co-operation with each other.

275. In 2013, risk-assessment questionnaires for use by law-enforcement agencies and the "Practical Manual for Police Officers – Risk Assessment of Individual Cases of Family Violence" were introduced. The aim was to allow individual officers to assess the level of risk to life and limb for victims of domestic violence in order to ensure adequate protection and support. GREVIO welcomes the fact that these tools were developed in co-operation with NGOs dealing with domestic violence and were inspired by promising practices in other countries.²¹² It notes, however, that their use was not mandatory and that the assessment was mainly based on information available to the police. A mandatory four-hour training session on the use of the risk-assessment procedure was carried out, and risk factors include, among other things, the perpetrator's access to firearms or whether the

208. Report on the Implementation of the National Programme on Combating Family Violence, 2019, p. 21, table 3.2.3, available at: www.gov.pl/web/rodzina/sprawozdania-z-realizacji-krajowego-programu-przeciwdzialania-przemocy-w-rodzynie.

209. See the report by the Supreme Audit Office (NIK), "Helping people affected by domestic violence", 2016, KPS.410.004.00.2015.

210. <https://stalking.com.pl/2019/11/25/uporczywe-nekanie-statystyka-skazan-w-latach-2011-2018/>.

211. See the statistical data "Final and valid convictions from public prosecution – adults – by types of crimes and sentence in 2008-2018" available as part of the online "Statistical guide of the Judiciary", <https://isws.ms.gov.pl/pl/baza-statystyczna>.

212. See Kalinowska A. (2019), The "Blue Card procedure and its effectiveness in preventing domestic violence using the example of research among officers of the City Police Headquarters in Białymstok", available at https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/8601/1/A_Kalinowska_Procedura_Niebieskie_Karty.pdf, p. 130.

victim recently separated from the perpetrator. Research into the use of the risk-assessment tool by law-enforcement agencies in practice, however, indicates that only 30% have used it.²¹³

276. A new risk-assessment questionnaire was subsequently introduced by a regulation of the Minister of the Interior of 26 November 2020, which law-enforcement agencies are now obliged to use before issuing emergency barring orders in cases of domestic violence.²¹⁴ While GREVIO acknowledges the move towards a more systematic risk assessment, it notes that significant risk factors such as the recent separation of the victim from the perpetrator are not included. Moreover, the new questionnaire does not highlight the gender difference in the level of risk which domestic violence may pose to women compared to men, including risk factors related to unequal power and control dynamics, such as prior acts of psychological or economic violence against women which are predictors of lethality.²¹⁵ GREVIO notes also that it is unclear whether and how law-enforcement agencies assess information from other entities, in particular women's support services, as part of the new risk-assessment questionnaire.

277. Moreover, the use of risk assessment is not mainstreamed into the institutional response to domestic violence via the Blue Card procedure. Such a procedure is intended as an early warning mechanism as much as an institutional response to offences of domestic violence already committed. It requires law-enforcement officers to take protective measures for victims to reduce the risk of further harm. For such measures to be effective, systematic risk assessment should be carried out at the beginning of a Blue Card procedure – or when law-enforcement agencies gain knowledge of an individual's situation. This, however, does not seem to be done systematically.

278. In addition, GREVIO notes that most Blue Card procedures are closed without any systematic assessment of the level of risk which the perpetrator poses to the individual concerned. The Blue Card procedure may be closed when “the violence in the family has stopped, there is sufficient reason to believe that it will not re-occur and that an individual assistance plan has been implemented”. Up to 70% of decisions to close the procedure are taken on this basis,²¹⁶ although it is unclear how the assessment of the risk of revictimisation is being done. Multi-agency risk assessment does not seem to be required as a basis for the decision to close the procedure. GREVIO notes that some individual members of interdisciplinary teams follow up on the safety situation of victims of domestic violence, including representatives of law-enforcement agencies, but this seems to be done on an informal basis and is not based on clear criteria.²¹⁷

279. The regulation on the standards for specialised support centres for victims of family violence includes among the operating standards the assessment of the risk to the safety of the victim or his/her dependent children.²¹⁸ No further information is available on whether a related risk-assessment mechanism and tools have been developed and put into practice or on what kind of additional, supporting measures are available for professionals (such as training or awareness raising).

280. GREVIO also recalls that the obligation to ensure risk assessment extends to all forms of violence against women, including cases of forced marriage. When representatives of statutory agencies such as law enforcement and social services are aware or suspect that a girl or a woman is at risk of being forced into a marriage, the risk they may face when opposing the union must be carefully assessed and managed in a gender-sensitive manner

213. *Ibid.*, pp. 206, 339.

214. See the section below on Emergency barring orders (Article 52).

215. For more information on evidence-based risk factors in the context of gender-based violence against women, see EIGE (2019), *Gender-based Violence: A guide to risk assessment and risk management of intimate partner violence against women for police*, p. 57.

216. Supreme Audit Office (NIK) “Helping people affected by domestic violence”, 2016, KPS.410.004.00.2015, p. 88.

217. *Ibid.*, p. 90.

218. State report, p. 42.

281. **GREVIO urges the Polish authorities to ensure that in cases of all forms of violence covered by the Istanbul Convention, including domestic violence and forced marriage, systematic and gender-sensitive risk assessment and safety management become standard procedure for all agencies involved, especially in the context of the Blue Card procedures. GREVIO further urges the Polish authorities to ensure that an effective multi-agency approach is taken to such risk assessment in order to ensure the human rights and safety of the individual victim while giving due consideration to the rights and needs of child witnesses of intimate partner violence.**

C. Emergency barring orders (Article 52)

282. Since November 2020, the law-enforcement agencies in Poland have been mandated to temporarily evict a (suspected) perpetrator of domestic violence from his or her residence. The amendment to the Act on Police enables police to issue an order to immediately bar him/her from the residential unit jointly occupied with the victim and its immediate surroundings and/or from approaching it. Such orders can be issued against a person who poses a threat to the life or health of the person affected by violence and are valid for up to 14 days, with the possibility of extension by the courts. In issuing the order, police shall determine the distance that needs to be respected and/or the location or surroundings in which the measure shall apply. The new powers also apply to situations where a victim does not occupy an apartment, if a perpetrator has temporarily vacated the apartment or when a perpetrator stays in the apartment temporarily or irregularly. Risk assessment is to be carried out by law-enforcement officers prior to the eviction order, and they are required to check compliance with the order at least three times. Violating the order constitutes a minor offence, punishable by a prison sentence, community service or a fine (Article 66b of the Code of Minor Offences).

283. GREVIO welcomes the introduction of emergency barring orders in Poland and notes with satisfaction the extensive plans to train the relevant professionals, such as law-enforcement officers, those working for social services, judges and prosecutors, on their use. In view of the limitations placed on in-person training by the Covid-19 pandemic, training has been assured virtually for 29 000 police officers and more than 700 military gendarmes. In addition, regulations, guidelines and other materials have been prepared to accompany the introduction of emergency barring orders.

284. While it is too soon to assess the implementation in practice of the right to evict a perpetrator of domestic violence, GREVIO notes that this new measure offers protection only for those who are considered family members under the Law on Combating Family Violence and does not extend to common-law partners, other intimate partners or victims who are divorced/separated and subjected to post-separation abuse. Moreover, the measure does not constitute a full contact ban but offers protection linked to places that victims frequent rather than the victim as such. A ban on all contact may currently be issued only in the context of criminal proceedings, not as an emergency response to immediate danger as required by Article 52 of the Istanbul Convention. GREVIO recalls that linking protection to places rather than people bears the risk of gaps inherent to any enumerative approach. Such gaps have led to tragic cases elsewhere, demonstrating the need to order a ban on contact with named individuals, including child witnesses of intimate partner violence where necessary, rather than a ban on frequenting specific locations. Lastly, GREVIO is concerned that the requirement of a threat to the life or health of another person may lead to eviction orders being issued only in cases of serious risks. It is unclear to what extent they will be applied to situations of psychological violence in the form of controlling and degrading treatment. GREVIO recalls that this form of violence in a relationship is often indicative of a serious risk to women and children but is frequently overlooked.

285. **GREVIO strongly encourages the Polish authorities to ensure the availability of emergency contact bans to all women victims of domestic violence irrespective of cohabitation and to evaluate the implementation of the newly introduced emergency barring orders in order to identify and address any gaps in the emergency protection offered to all victims of domestic violence, including children witnessing intimate partner violence.**

D. Restraining or protection orders (Article 53)

286. In Poland, protection orders in cases of domestic violence may be issued as part of criminal proceedings or on the basis of the Law on Combating Family Violence. In criminal proceedings, the prosecutor, upon the motion of the police or *ex officio*, may order the perpetrator to leave the jointly occupied residence as a preventive/precautionary measure for up to three months. Where the defendant in a domestic violence case has not been detained, such requests can be made any time. Upon conviction, courts may order the extension of an eviction order by the prosecutor, shorten its duration or issue it for the first time. Courts may also pronounce restraining and barring orders (prohibitions on contacting or approaching a specific person) as a penal measure or a probational measure.

287. Removing or evicting a perpetrator of domestic violence from the family home is also possible under Article 11a on the Law on Combating Family Violence and Article 560 of the Code of Civil Procedure. Victims of domestic violence may request such an order from the courts if the violence makes living together “particularly burdensome”. Hearings on such applications must be held within 30 days. Orders granted may be changed and revoked should the situation evolve. GREVIO is concerned that these orders do not include a general prohibition on contact. Of equal concern is the fact that victims of domestic violence remaining in the family home will be legally obliged to pay rent and other charges, which may discourage many from seeking the perpetrator’s removal.²¹⁹

288. As regards the interplay between emergency barring and protection orders, the drafters of the Istanbul Convention advocated that protection orders be considered complementary to a short-term emergency barring order.²²⁰ The aim of these two provisions is thus to ensure continuous protection to victims. GREVIO notes that the newly introduced emergency barring orders have been carefully drafted to complement the existing protection orders, which may be extended by the courts on the basis of Article 755, paragraph 1, of the Code of Civil Procedure, to prevent gaps in protection from arising. This may notably be the case where procedures for protection orders may be lengthy.²²¹

289. However, with the introduction of emergency barring orders being a recent initiative, it was not possible for GREVIO to assess the interplay of the two types of orders in practice. GREVIO notes with interest that the existing legal procedure to extend emergency barring orders, if implemented adequately and timely, has the potential to increase the safety of victims of domestic violence.

290. However, GREVIO notes that protection orders in Poland – available under the Law on Combating Family Violence or as part of the criminal proceedings – cover only those who are legally considered family members, or who share a residence. Moreover, they only seem to extend to direct victims of domestic violence and do not cover children who have witnessed violence by one parent against the other. GREVIO points to the heightened risk for victims of intimate partner violence and their children which separation from and the institution of legal proceedings against the abuser represent. Violence and intimidation do not always end when the relationship does, and this may, in many cases, warrant abusers not only being removed from the family home and its surroundings, but also for abusers being barred temporarily from any contact with the victim and her children.

291. Where contact is prohibited and abusers are barred from physically approaching the victim, courts generally order the perpetrator to respect a specified distance. GREVIO was alerted to the

219. Article 11a, paragraph 3, of the Law on Combating Family Violence.

220. Explanatory Report to the Istanbul Convention, paragraph 268.

221. The Commissioner for Human Rights of the Republic of Poland has frequently indicated that these proceedings last much longer than 30 days. According to his research the average duration is 153 days (source: www.rpo.gov.pl/pl/content/sprawca-przemocy-natychmiast-opusci-mieszkanie-rpo-pozytywnie-o-projekcie-rzadu).

fact that practices vary and distances set may range from 3 metres to 30 metres.²²² Distances at the lower end of this spectrum raise questions around their effectiveness, and GREVIO notes with concern that some women who have been fatally injured and killed by their abusers had in fact been granted a restraining order.²²³ Data on the number of breaches of restraining and barring orders and any sanctions imposed are not available. GREVIO recalls that perpetrators who do not respect protection measures frequently pose a high risk to the lives of women victims and their children. While GREVIO recognises the difficulties in monitoring compliance with emergency barring and protection orders 24/7, it draws attention to the possibility of employing electronic tools such as attack alarms, carrying out regular checks on the victim by phone and holding follow-up meetings with perpetrators to explain the order in place and the consequences that any breach may have. Such measures may help to increase respect for the orders in place and increase the victim's safety.

292. The requirement to cohabit with seems to exclude many women victims from obtaining barring and restraining orders at all, for example women who have moved into a shelter or where cohabitation may not be 24/7, for example for reasons such as working away from the home.

293. Lastly, GREVIO notes that contrary to the requirement of Article 53, restraining and protection orders are not available in relation to all forms of violence covered by the scope of the Istanbul Convention but exist for domestic violence only.

294. **GREVIO urges the Polish authorities to initiate a process of reviewing the restraining and protection orders currently in place as well as their implementation in practice with a view to ensuring their compliance with the following principles:**

- a. **protection orders must be available for immediate protection without undue delay and must extend to abusers who do not permanently or who no longer share, or who have never shared, a residence with the victim;**
- b. **protection orders must be available for all forms of violence covered by the scope of the Istanbul Convention without limitation to intimate partner violence;**
- c. **protection orders must be vigilantly enforced and breaches sanctioned in line with the requirement of effective, proportionate and dissuasive criminal or other sanction.**

295. **GREVIO further strongly encourages the Polish authorities to remove any obstacles in legislation and/or in the practical implementation of existing protection mechanisms, particularly in view of the fact that requiring victims to pay rent if they are granted possession of the home may severely limit women's access to this measure.**

E. *Ex parte* and *ex officio* proceedings (Article 55)

1. *Ex parte* and *ex officio* proceedings

296. Article 55, paragraph 1, of the Istanbul Convention places on parties the obligation to ensure that investigations into a number of categories of offences shall not be wholly dependent upon the report or complaint filed by a victim and that any proceedings underway may continue even after the victim has withdrawn her statement of complaint.

222. Information provided to GREVIO during the evaluation visit.

223. See, for example, the following newspaper articles (in Polish) documenting cases of women killed by their abusers, despite the granting of a restraining order: Dziennik.pl, "Family killing in Białystok. The perpetrator of the crime had an order to leave the house", 1 September 2020, available at: <https://wiadomosci.dziennik.pl/wydarzenia/artykuly/7810956,bialystok-wybuch-gazu-ofiary-prokuratura.html>; Onet, "Bielsko-Biała: 25 years in prison for murdering his wife", 29 March 2019, available at <https://wiadomosci.onet.pl/slask/bielsko-biala-wyrok-dla-marcina-r-za-zabicie-zony/2ky7fk2>; Gazeta Prawna, "The body of the man wanted in connection with the murder of his ex-wife was found", 28 May 2017, available at <https://www.gazetaprawna.pl/wiadomosci/artykuly/1046171,zwloki-mezczyzny-w-rzece-niedaleko-warszawy-to-prawdopodobnie-poszukiwany-ws-zabojstwa-dariusz-b.html>.

297. Poland has reserved the right not to apply Article 55, paragraph 1, in respect of Article 35 regarding minor offences, exempting it from the obligation to subject minor acts of physical violence against women to *ex officio* investigation and prosecution. The initial reservation for a period of five years was renewed for a period of the same duration by a declaration of the Polish authorities in January 2021. The explanations provided indicate that the Polish legal framework continues to require a complaint by the victim for attempts on the bodily integrity for prosecution to begin (Article 217, paragraph 3, of the Criminal Code), requiring the upholding of the reservation.

298. As regards the remainder of the offences listed in Article 55, paragraph 1, GREVIO notes with satisfaction that *ex officio* prosecution has been introduced for rape and sexual violence, domestic violence and forced abortion, and that cases of forced marriage, FGM and forced sterilisation may also be prosecuted *ex officio* under general offences.

2. Victim support in legal proceedings

299. With a view to empowering victims and to encouraging them to go through with criminal proceedings, paragraph 2 of Article 55 requires parties to ensure that victims' organisations, specifically trained domestic violence counsellors or other types of support/advocacy services may assist and support victims during investigations and judicial proceedings.

300. In Poland, representatives of non-governmental organisations providing services to victims of violence may attend criminal proceedings if it is necessary to protect a social or individual interest that is covered by its statute. In principle, it is thus possible for a victim of sexual violence or another form of violence to be accompanied to court hearings by a third party should she so wish, the only requirement being that the presence of the third party in no way interferes with the hearing and that at least one of the parties consents. It is unclear, however, to what extent such requests are made in practice, and the frequency with which they are granted. GREVIO is thus concerned that victims of rape and domestic violence may not be sufficiently assisted and supported during investigations and judicial proceedings as required by Article 55, paragraph 2, of the Istanbul Convention.

301. GREVIO strongly encourages the Polish authorities to take legislative or other measures to ensure, in accordance with the conditions provided for by internal law, the possibility for governmental and non-governmental organisations and domestic violence counsellors to assist and/or support victims, upon their request, during investigations and judicial proceedings concerning any of the offences established in accordance with the Istanbul Convention.

F. Measures of protection (Article 56)

302. The Act on the Protection of and Assistance to Victims and Witnesses provides the general framework for the assistance to victims and witnesses in relation to criminal proceedings in Poland. It contains a comprehensive set of protective measures for before, during and after criminal proceedings. However, its scope is limited to crimes that are examined in the first instance by the regional courts (second-level courts), as well as rape and domestic violence (Articles 197, paragraphs 1 and 2, and Article 207 of the Criminal Code respectively).

303. Some important legislative changes in the past several years have contributed to the implementation of Article 56 of the Istanbul Convention. One such change is the limit placed on the number of statements given by rape victims (single-hearing procedure) in order to avoid re-traumatisation and secondary victimisation. Hearings must take place in a special room and be conducted by a judge in the presence of a psychologist and must be recorded for use at trial.²²⁴

304. Victims of domestic violence may be heard as witnesses without the presence of the accused, for example after the accused has left the courtroom or via video link. Domestic violence cases may also be heard in camera. The Regulation of the Minister of Justice of 18 June 2019

224. See the details on the single-hearing procedure in Chapter VI (General obligations and immediate response, prevention and protection (Articles 49 and 50)).

requires that there should be, if possible, a special room for witnesses, as well as a separate room for victims, next to the courtroom. GREVIO notes, however, that this is rarely the case in practice as most court buildings are not set up for such physical separation.

305. For child victims and witnesses of the different forms of violence against women and domestic violence, special protection measures exist and are implemented more widely. These include special interviewing procedures and facilities, such as the Blue Room. Where one of the parents is accused of violence towards the child, a guardian is appointed to represent the child before the courts. Specific measures exist to protect the privacy of the victim, adult or child, and contact details are not reproduced in any court files (see Article 148c of the Criminal Procedural Code). However, GREVIO notes with concern that the same does not apply to information on educational facilities that children attend, making them easy targets for perpetrators aiming to continue the abuse or to retaliate.

306. GREVIO strongly encourages the Polish authorities to take stock of and complement the existing victim protection measures in cases of acts of violence covered by the Istanbul Convention with a view to aligning them more closely with the requirements of Article 56 of the Istanbul Convention.

G. Legal aid (Article 57)

307. The Law on Free Legal Aid, Free Civic Guidance and Legal Education regulates free legal aid in Poland, which is in principle available to any person without sufficient financial means. The scope of the legal aid provided under this regime is limited to general legal advice and assistance before the stage of court proceedings. It covers, for example, assistance in obtaining a waiver of court fees and *ex officio* legal representation by a lawyer but does not extend to legal representation before the courts as such. It is provided by the more than 1 500 free legal aid and civic guidance points across the country, which come under the responsibility of the counties and municipalities, who contract these services out to NGOs or to legal counsellors. In addition, victim support services can be relied on, which also provide general legal assistance. GREVIO notes, however, that neither of the two services are necessarily operated by professionals with specific knowledge and experience of the forms of violence covered by the Istanbul Convention. Moreover, the legal assistance available is generally very little known and widely regarded as inefficient.²²⁵

308. Public legal representation in court proceedings (civil and criminal) may be obtained, upon request, by victims with low financial means. In addition, court fees in civil proceedings may be waived. Under the Law on Combating Family Violence, legal counselling is provided free of charge by crisis intervention centres and the specialist support centres, which many victims of domestic violence are referred to under the Blue Card procedure. However, they are few in number with most regions hosting only one or two located in the main cities. Moreover, their lack of human and financial resources means not all of them are staffed with lawyers.²²⁶ For victims of rape, GREVIO notes the even more pronounced difficulties in obtaining specialist legal representation as very few support services for victims of sexual violence exist generally. GREVIO is further concerned that women victims of multiple discrimination – such as asylum seekers – encounter additional difficulties in access to legal information, as well as legal aid and assistance.

309. GREVIO strongly encourages the Polish authorities to step up efforts to raise awareness of the existing legal assistance available to women victims of the different forms of violence against women covered by the Istanbul Convention and to ensure access to quality legal assistance and legal representation at all stages of the case, including during the preliminary investigative stage.

225. See the submission of the Commissioner for Human Rights of Poland to GREVIO, p. 30, with references to the results of audit P/17/090 “Operation of the system of free legal advice” carried out by the Supreme Audit Office in 2018.

226. *Ibid*, p. 33.

VII. Migration and asylum

310. In the area of migration and asylum, the main requirement of the Istanbul Convention is to ensure that residence status laws and asylum procedures do not turn a blind eye to the realities of women living in abusive relationships or subjected to sexual violence and exploitation and other forms of gender-based violence. Residence status laws shall provide for the possibility of obtaining autonomous residence permits for women in specific circumstances (Article 59). Asylum procedures, on the other hand, must be gender-sensitive and allow women to disclose their stories in full, and grounds for persecution shall be interpreted in a gender-sensitive manner. This can only be achieved if, in turn, reception procedures and support services for asylum seekers are sensitive to the needs of women victims or those at risk of violence (Article 60).

A. Residence status (Article 59)

311. The Law on Foreigners governs issues of residence in Poland. On the basis of Article 158, paragraph 2, foreigners who depend on their Polish or third-national spouse for their residence permit may obtain an independent three-year residence permit in the event of divorce. Under this provision, women victims of domestic violence can, in principle, separate and/or divorce their abusive spouse while obtaining the right to remain in Poland for three subsequent years irrespective of the duration of the marriage. They must, however, demonstrate their important interest in remaining in the country. Experiences of domestic violence may be considered in this context, and informal evidence such as statements, explanations by the parties involved or testimony offered by witnesses is accepted.

312. GREVIO welcomes the above but notes that, in the absence of data on the number of applications and their outcomes, it is not possible to assess to what extent migrant women are, in practice, benefiting from this provision. According to indications shared with GREVIO, it does not seem to be serving migrant women as a way out of abusive relationships.²²⁷ Instead, migrant women seem to prefer to remain married to their abusers for three years until they become eligible to apply for a permanent residence permit on the basis of Article 195, paragraph 1, of the Law on Foreigners. The fear of deportation when reporting an abusive sponsoring spouse is still a decisive factor in women's decision making. The reasons therefore should be investigated and addressed, for example by ensuring migrant women are informed of their rights in the event of domestic violence when obtaining their sponsored residence permit.

313. Moreover, GREVIO notes with concern that Article 158 of the Law on Foreigners is limited to women who are legally married to their abuser, whose marriage is recognised by Polish law and who hold, at the time of application, a residence permit for the purpose of family reunification. These cumulative requirements exclude women in customary marriages or common-law marriages as well as foreign women who reside in Poland legally on the basis of visa regimes or any other applicable resident schemes.

314. An additional legal basis, Article 181, paragraph 1, of the Law on Foreigners, offers some scope for a temporary residence permit for those foreign women victims of domestic violence who are not eligible for a three-year residence permit under Article 158. This provision offers the right to remain in Poland for up to six months where the applicant's stay is required due to specific circumstances, such as the applicant's personal situation, the interests of the Republic of Poland or the obligation to appear before a Polish public authority. As such, it corresponds to the requirements of Article 59, paragraph 3, of the Istanbul Convention but cannot be considered to fulfil the aim pursued by Article 59, paragraph 1, of the convention, that of ensuring that the risk of losing their residence status should not constitute an impediment to women victims leaving an abusive and violent marriage or relationship.

227. Information provided to GREVIO during the evaluation visit. See also PICUM (2020), "Insecure Justice? Residence permits for victims of crimes in Europe", report, p. 51, available at <https://picum.org/putting-safety-first/>.

315. Moreover, GREVIO notes that women who have obtained leave to remain in Poland for up to six months on the basis of Article 181 are barred from applying for any other temporary residence permit, making this an option that delays deportation rather than prevents it.²²⁸ It is thus suitable to women victims of domestic violence in very specific circumstances only and cannot be considered an incentive to leave an abusive relationship on which they depend for their residence permit.

316. Women residing in Poland with an irregular migration status may be exempt from deportation on the basis of humanitarian grounds in cases where their deportation would violate the principle of *non-refoulement* or her right to family or private life within the meaning of the European Convention on Human Rights. No information was provided regarding the scope of application of this provision in practice regarding women victims of domestic violence or any other form of violence covered by the Istanbul Convention.

317. Lastly, GREVIO notes that no specific provision seems to exist to give effect to the requirement under paragraph 4 of Article 59 of ensuring that victims of forced marriage may regain their residence status in Poland if they have been brought into another country for the purpose of the marriage and, as a result, have lost their residence status in Poland.

318. GREVIO strongly encourages the Polish authorities to take measures to ensure the effective implementation of the legal possibilities offered by the Law on Foreigners to migrant women who are victims of domestic violence and who depend on their abuser for their right to remain in Poland to enable them, in practice, to obtain an independent (temporary) residence permit. This should include raising the level of information migrant women have on their rights and the available support and protection measures in place in Poland, as well as introducing a data-collection system to regularly record the number of such independent residence permits granted to migrant women who are victims of domestic violence.

319. GREVIO further strongly encourages the Polish authorities to ensure that all public officials, upon encountering irregular migrant women, are trained to apply the exemption of deportation on humanitarian grounds by duly considering migrant women's exposure to gender-based violence both in Poland and upon deportation. GREVIO further strongly encourages the Polish authorities to collect data on the number of women victims of domestic violence granted an independent residence permit on the basis of the Law on Foreigners.

B. Gender-based asylum claims (Article 60)

320. Over the past five years, the overall number of applicants for asylum in Poland has reduced nearly fourfold, falling from 12 305 in 2015, 49% of which were from women, to 4 070 in 2019, the percentage of women that being only slightly lower, 44%.²²⁹ GREVIO was informed that this decrease was particularly down to a decline in the number of asylum claims lodged at the border with Belarus (Terespole-Brest), in particular by applicants from the Republic of Russia (Chechnya) and Ukraine, who remain the largest groups of asylum seekers in Poland.²³⁰

228. According to Article 99, paragraph 1, of the Law on Foreigners, applications for temporary residence permits will be refused if the applicant, at the time of applying, derived his or her permit on the basis of Article 158, paragraph 2.

229. See Eurostat, Asylum and first-time asylum applicants by citizenship, age and sex – annual aggregated data (rounded), statistics on Poland for the years 2015-2019, available at https://ec.europa.eu/eurostat/databrowser/view/MIGR_ASYAPPCTZA__custom_472449/default/table?lang=en.

230. See the Report of the Helsinki Foundation for Human Rights, "Access to asylum procedure at Poland's external borders: current situation and challenge for the future", April 2019, p. 8; see also the Asylum in Europe, Report on Poland, "Applications and granting of protection at first instance: 2019", available at <https://asylumineurope.org/reports/country/poland/statistics/>.

1. Gender-sensitive asylum determination procedure

321. The Law on Granting Protection to Foreigners within the Territory of the Republic of Poland (Law on Protection hereinafter) provides the legal framework for asylum and international protection in Poland. All requests for asylum, whether upon arrival at the border, from within the territory of Poland or from detention (migration detention or prison) must be made to the Border Guards, who are responsible for transferring all applications to the Office for Foreigners. The Border Guards are thus ascribed a central role in facilitating asylum seekers' access to the procedure. According to the authorities, they are trained to receive requests for asylum and to question foreign nationals arriving at its borders as to their reasons for entering the country. In addition, "Rules of Conduct of the Border Guard with Foreigners Requiring Special Treatment" were introduced in 2015 to enable the swift identification of vulnerable asylum applicants.

322. Notwithstanding the above, GREVIO notes with grave concern the persistent allegations of and national and international concern expressed at the significant difficulties asylum seekers face in accessing the asylum procedure in Poland via the Terespol border crossing with Belarus and the Medyka border crossing with Ukraine.²³¹ Asylum seekers with specific protection needs seem to be unable to request international protection in Poland because their intention to seek asylum has not been accepted or registered as such by Border Guards. Indications shared with GREVIO by lawyers and NGOs working in this area suggest that these obstacles are experienced by women fleeing from sexual violence, abusive spouses and family members, frequently with their children, as well as by other women and men with international protection needs.²³² Among the reasons for their rejection at the border seems to be the lack of robust screening for vulnerabilities among women asylum seekers that would include experiences of gender-based violence, such as domestic violence, sexual violence, forced marriage and honour-related violence, which may be the result of low levels of awareness of these forms of violence. Instead, Border Guards question several individuals/families at once, without guaranteeing sufficient privacy to state sensitive/traumatic reasons for leaving their country of origin.²³³ Moreover, statements made to Border Guards regarding the reasons for entering Poland are frequently insufficiently summarised and do not always adequately refer to the international protection needs. It is thus vitally necessary to raise the capacity of Border Guards to recognise and actively screen for women and girls with international protection needs among those presenting themselves at the Polish border.

323. GREVIO points to the need to uphold the right to asylum for all, including women and girls who are often fleeing serious gender-based violence and conflict and are thus in dire need of support and protection. The reasons for women's limited access to the asylum procedure in Poland must therefore be investigated and addressed with great urgency. Any plans to introduce accelerated asylum procedures at the border must take into account the findings from such a review process.

324. First-instance decisions on asylum applications are taken by the Office for Foreigners. It also decides on the level of social assistance provided in the asylum procedure. Decisions shall be taken within six months, unless the case is considered a complicated case, in which case a decision will be required within 15 months. While there is no mandatory fast-track procedure as such, asylum applications from vulnerable applicants are, in practice, prioritised.²³⁴ Asylum applicants identified as vulnerable (pregnant women, single mothers, victims of sexual violence, etc.) may be granted special treatment in social assistance, which means accommodation in a reception facility adapted to their needs (see below).²³⁵

231. See the submission of the Commissioner for Human Rights of Poland to GREVIO, p. 48; Report of the Helsinki Foundation for Human Rights, Access to asylum procedure at Poland's external borders: current situation and challenge for the future, April 2019, p. 8, Asylum in Europe, Report on Poland available at <https://asylumineurope.org/reports/country/hungary/asylum-procedure/access-procedure-and-registration/access-territory-and-push-backs/>. Concern at the situation has been expressed notably by the UN Committee against Torture in its Concluding Observations on Poland's 7th periodic report, 2019, paragraph 25a.

232. Information provided to GREVIO during the evaluation procedure.

233. See the Submission to GREVIO by the Association for Legal Intervention, p. 5.

234. Asylum in Europe, Report on Poland, Asylum Procedure, available at: <https://asylumineurope.org/reports/country/poland/asylum-procedure/procedures/regular-procedure/>.

235. The measures to be taken are specified in the "Procedure for the Treatment of Foreigners Requiring Special Treatment in Social Assistance", 2018.

325. Asylum interviews can be conducted by a same-sex interviewer and interpreter if the applicant so requests (Article 44, paragraph 4, of the Law on Protection). It is unclear, however, to what extent this is ensured in practice and whether interviewers and interpreters are specifically trained to conduct gender-sensitive interviews in a manner that would allow women and girls seeking asylum to disclose sensitive and traumatic experiences. GREVIO notes with concern that no specific guidance exists to this extent, and that no specific efforts seem to be made to enable asylum case managers to identify and assess gender-related risk factors of persecution that may apply to women – and to help women disclose relevant information. Where asylum interviews concern applicants in detention, GREVIO notes that these are carried out via videoconferencing tools which do not easily allow for a setting that enables women to relive traumatic experiences by disclosing their reasons for seeking asylum in Poland. Also, GREVIO notes that concerns have been raised over the failure to ensure the physical presence of psychologists with asylum seekers in detention centres during such interviews.²³⁶

326. According to the authorities, asylum claims made in relation to experiences of gender-based persecution may, however, result in a positive decision. In the absence of a specific legal basis to recognise gender-based persecution of women as a ground for asylum, women victims of sexual violence or other forms of violence against women may be considered to come within the meaning of a “particular social group” – one of the persecution grounds listed in Article 13, paragraph 1, of the Law on Protection. Where this is not the case, subsidiary protection (Article 15 of the Law on Protection) may be granted on the basis of an applicant’s “real risk of serious harm” in his or her country of origin, which would include torture or inhuman and degrading treatment or punishment and thus some forms of violence against women.

327. Data on the number of successful applications based on gender-related persecution are not available, making it difficult to assess the success rate for women asylum seekers applying for asylum on these grounds. GREVIO notes with concern the extremely low overall recognition rate for all asylum seekers. In 2019, only 6.58% of all applications resulted in a positive asylum decision, while an additional 6.53% resulted in subsidiary protection.²³⁷ More than 86% of all applications for asylum are thus denied.

328. With women asylum seekers making up around a quarter of all applicants and in view of the limited measures taken to ensure gender-sensitive interviews, GREVIO is concerned that asylum case managers in the Office of Foreigners and in the Border Guards may not be sufficiently trained or instructed to apply a gender perspective to asylum claims and to ensure a gender-sensitive interpretation of each of the refugee grounds as required by Article 60, paragraph 2, of the Istanbul Convention. GREVIO has been alerted to interview practices that do not comply with the procedures and regulations in place and that have a direct impact on their credibility or on the ability of women to disclose in any detail their experiences of gender-based violence.²³⁸ These include the practice of not recording an interview but supplying a written summary in Polish with limited possibility, in practice, for asylum applicants to rectify information that has been inaccurately summarised, which negatively affects the applicant’s credibility at the appeals stage.²³⁹ Moreover, where women are informed of the possibility of submitting an application for asylum separate from their husband’s, women may be asked to do so to a male case manager or that of her husband, or with the help of interpretation into the native language of her husband, not her own.²⁴⁰ In addition, it was reported that asylum case workers often rely only on general information on the country of origin as a basis for decision making, which does not necessarily take into account the specific situation of women in

236. Contribution submitted to GREVIO by the Association for Legal Intervention, p. 6.

237. Asylum in Europe, Report on Poland, “Applications and granting of protection at first instance: 2019”, available at <https://asylumineurope.org/reports/country/poland/statistics/>.

238. Information provided to GREVIO during the evaluation visit. See also information shared in the written submission to GREVIO by the Association for Legal Intervention, p. 4, and the submission of the Commissioner for Human Rights of Poland to GREVIO, p. 48.

239. Asylum in Europe, Report on Poland, Asylum Procedure, available at: <https://asylumineurope.org/reports/country/poland/asylum-procedure/procedures/regular-procedure/>.

240. Information provided to GREVIO during the evaluation visit. See also information shared in the written submission to GREVIO by the Association for Legal Intervention, p. 5.

the country.²⁴¹ Many women fleeing domestic and sexual violence thus have their applications rejected and are denied protection for failure to report their experiences to the national authorities or because they could have sought an internal flight alternative.

329. GREVIO urges the Polish authorities to take measures, including through legal amendments, to ensure women asylum seekers' swift access to the asylum procedure irrespective of whether they apply at border crossings, from within the territory of Poland or from detention, while at the same time ensuring the gender sensitivity of all asylum procedures (general and accelerated), in particular by:

- a. stepping up the human and financial resources of all those involved in the asylum procedure to ensure adequate premises, trained staff and quality same-sex interviewers and interpreters for all relevant languages; and**
- b. introducing systematic vulnerability screening for women and girls in order to identify international protection needs and make referrals to specialist services with a view to enabling women to disclose experiences of gender-based persecution, as well as to pay due attention to country-specific reasons that might have prevented women from reporting to authorities in their countries of origin the experiences with violence.**

330. Furthermore, GREVIO encourages the Polish authorities to collect data on the annual numbers of asylum applications based on gender-related persecution, and the numbers of such applications granted and rejected.

2. Accommodation

331. Upon registering as an asylum seeker, accommodation is available in one of the 10 reception facilities that are under the responsibility of the Office for Foreigners. Among these are two initial reception facilities. One reception facility serves as a dedicated facility for women and children (Targowek), to which most women travelling alone are referred.

332. In reception facilities, the Standard Operating Procedures on Prevention and Response to Sexual and Gender-Based Violence (SOPs) seek to adequately respond to cases of gender-based violence on the basis of co-operation with Local Co-operation Teams composed of members of the Office for Foreigners, law-enforcement agencies and NGOs. While GREVIO welcomes these measures, it notes the low number of reported cases of gender-based violence within reception facilities. Moreover, it regrets that specialist intervention in cases of domestic violence under the Blue Card procedure is not available to asylum-seeking women under the Law on Combating Family Violence. In practice, it was reported to GREVIO that some reception centres have established co-operation with municipalities to run Blue Card procedures, but this seems to depend on individual initiatives and no data were made available on the number of women seeking asylum covered by such a procedure. In addition, no specific guidance or protocols exist to prevent and respond to cases of forced marriage and honour-related violence. This is of particular relevance for the many women and girls from Chechnya and other neighbouring countries who seek asylum and who may be at heightened risk of forced marriage.²⁴² Guidance has, however, been issued to staff in reception facilities as to how to handle cases in which a child enters the facility as part of a married couple or is about to enter into marriage.²⁴³

333. On the basis of the above, GREVIO is concerned by the limited access of women asylum seekers to specialist support services. GREVIO notes that referral to women's specialist services would be helpful in providing women with a sensitive and trauma-informed setting to disclose their

241. Ibid.

242. Information collected during GREVIO's visit. See also Klaus W. (2017), Families as a collective abuser. A case of family violence against Chechen refugee women in Poland, *Studia Migracyjne Przegląd Polonijny*, available at <http://yadda.icm.edu.pl/yadda/element/bwmeta1.element.desklight-a43bdd04-5707-4683-a4a0-317c4aa8b439?printView=true>.

243. See the Office of Foreigners' Operating Procedure in the event of becoming aware of a marriage or possible marriage of a minor, 2017.

experiences with violence. Good practice from other countries indicates that asylum procedures may be suspended while a case is reviewed by such services.

334. In this context GREVIO notes that the applicable procedures require the screening for vulnerabilities at various stages of the process but that difficulties in ensuring this in relation to women and their experiences of gender-based violence seem to persist. Since 2019, all asylum seekers in reception centres should be screened for vulnerabilities, which the contract for health services offered in reception facilities seeks to ensure. Inadequate intercultural and foreign language competences of health practitioners in reception centres present obstacles thereto and many asylum seekers with post-traumatic stress disorder (PTSD) go undiagnosed because specialists are not appointed.²⁴⁴ Moreover, medical and psychological examinations focus on identifying special treatment needs for social assistance and do not aim to identify trauma related to past incidents of violence and/or persecution.²⁴⁵

335. Lastly, GREVIO notes with concern that the use of detention of asylum seekers on the basis of Articles 87 and 88a of the Law on Protection can lead, in practice, to situations where women with experiences of gender-based violence are being placed in detention,²⁴⁶ frequently with accompanying children. Upon request of the Border Guards, courts may order asylum seekers, including children, to be placed in detention or guarded facilities, among other places, for security reasons, to establish their identity, following returns within the Dublin II procedure or if there is a risk they may abscond from the asylum procedure. Detention may be ordered for men, women and children asylum seekers, unless their psycho-physical condition gives reason to believe they are victims of violence or have a disability, or if detention were to cause a serious threat to their life or health (Article 88a, paragraph 3, of the Law on Protection).

336. The “Rules of Conduct of the Border Guards with Foreigners Requiring Special Treatment”, in place since 2015, require medical and psychological examinations to be ensured at different stages of the procedure, notably upon arrival in asylum detention and guarded facilities. While the above rules were amended in 2019, the changes do not seem to address prior challenges such as the fact that examinations conducted by healthcare workers in such facilities do not seem to always reveal the mental or physical health issues that would allow courts to consider asylum seekers as victims of gender-based violence and hence unfit for detention.²⁴⁷ Where mental health issues are documented, including PTSD, courts do not seem to take them into account and do not order the release on such grounds.²⁴⁸

337. GREVIO notes with grave concern that the above presents serious risks to women and girls who have experienced gender-based violence and may expose them to re-traumatisation. GREVIO further recalls that, as a rule, vulnerable people – such as victims of gender-based violence against women – should not be placed in detention.²⁴⁹

338. GREVIO urges the Polish authorities to take measures to ensure the effective screening of women asylum seekers entering the asylum procedure and prior to their placement in any asylum detention facilities/guarded centres for foreigners for vulnerabilities, such as their experiences or risk of gender-based violence that would require

244. See 2019 Asylum in Europe Report on Poland, Use of medical reports – Poland, Asylum Information Database, available at <https://asylumineurope.org/reports/country/austria/asylum-procedure/guarantees-vulnerable-groups/use-medical-reports/>.

245. Ibid.

246. See for example the Judgment of the Polish Supreme Court from 4 February 2015 no III KK 33/14 quashing the judgments of the Court of Appeal and the Regional Court (on a case concerning the compensation for unlawful detention of a women victim of violence).

247. UN Committee against Torture, Concluding Observations on Poland’s 7th periodic report, 2019, paragraph 25d.

248. Asylum in Europe, Detention of vulnerable applicants, available at <https://asylumineurope.org/reports/country/poland/detention-asylum-seekers/legal-framework-detention-vulnerable-applicants/>. See also the various interventions of the Polish Commissioner for Human Rights, in particular the Report from Biala Podlaska, 7 January 2019.

249. See Resolution 1707 (2010), Detention of asylum seekers and irregular migrants in Europe of the Parliamentary Assembly of the Council of Europe; UN Committee against Torture, Concluding Observations on Poland’s seventh periodic report, paragraph 26a-c. See also GREVIO’s First Baseline Evaluation Report on Malta, paragraph 250.

safe accommodation and/or special support services and counselling. Where women asylum seekers in asylum detention are identified as victims of gender-based violence, GREVIO urges their swift transfer together with any dependent children to open reception facilities that offer access to specialist support services.

C. *Non-refoulement* (Article 61)

339. Article 61 of the Istanbul Convention entails the obligation under international law for states to respect the principle of *non-refoulement* in relation to victims of gender-based violence who may fear persecution if returned. According to this principle, states shall not expel or return an asylum seeker or refugee to any country where their life or freedom would be threatened. Article 3 of the European Convention on Human Rights also prevents a person being returned to a place where they would be at real risk of being subjected to torture or inhuman or degrading treatment or punishment. The *non-refoulement* principle also includes not prohibiting access to the territory of a country to asylum seekers who have arrived at its borders or who are prevented from accessing its borders.²⁵⁰ The obligation to respect the *non-refoulement* principle applies equally to victims of violence against women who are in need of protection, irrespective of the status or residence of the women concerned.²⁵¹

340. GREVIO notes the case law of the European Court of Human Rights which has considered that the refusal to examine applications for international protection at the Terespol border crossing amounted to a collective expulsion in violation of Article 4 of Protocol No. 4 of the European Convention on Human Rights, and that no effective remedies against these violations were provided.²⁵² It recalls the Concluding Observations of the Committee against Torture on the seventh periodic report of Poland which called on the Polish authorities to “refrain from engaging in pushbacks and *refoulement*, and set up accessible and protection-sensitive entry systems at border crossing points”.²⁵³

341. GREVIO notes that the failure to ensure women and girls have an adequate opportunity to state their reasons for seeking international protection, in full privacy and with due regard to the sensitive and traumatising nature of their experiences, and the failure to carry out effective vulnerability assessments at border crossings and in asylum detention facilities, guarded facilities and asylum reception facilities, with a view to properly detecting victims of gender-based violence discussed earlier in this report, can lead to deportations or returns in violation of the obligation of *non-refoulement*.

342. **GREVIO urges the Polish authorities to:**

- a. uphold their obligation to respect the principle of *non-refoulement* of victims of violence against women, in particular at the border crossing points with Belarus (Brest-Terespol) and Ukraine (Medyka-Shehyni);**
- b. ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.**

250. Explanatory Report to the Istanbul Convention, paragraph 320.

251. *Ibid.*, paragraph 322.

252. *M.K. and others v. Poland*, Application Nos. 40503/17, 42902/17, 43643/17, judgment published on 23 July 2020. Additional cases regarding a similar set of circumstances (at Terespol and Medyka border crossing points) are pending before the Court. See *A.B. v. Poland* (Application No. 15845/15); *T.K. and S.B. v. Poland* (Application No. 56300/15), *D.A. v. Poland* (Application No. 51246/17); and *Sherov v. Poland* (Application No. 54029/17).

253. UN Committee against Torture, CAT/C/PO/CO/7, paragraph 26 (e).

Concluding remarks

343. GREVIO welcomes the many steps taken by the Polish authorities – prior to and following the entry into force of the Istanbul Convention – to offer comprehensive policies and a multisectoral response to domestic violence with a strong social policy dimension. These steps have been complemented in recent years by measures that align Polish legislation more closely with the requirements of the Istanbul Convention, such as the introduction of emergency barring orders in cases of domestic violence and the introduction of *ex officio* prosecution in cases of rape.

344. Most action has centred on providing support and protection for domestic violence addressed through the lens of “family violence” or “crimes against the family”, in particular through the Law and National Action Plan on Combating Family Violence and the Blue Card' procedure. While this has undoubtedly helped to offer local responses to domestic violence on the basis of multi-agency co-operation, the approaches address both men and women as perpetrators and victims with no particular recognition for women's specific experiences of domestic violence and their overexposure to this form of violence. A more targeted response is needed that places women's experiences and their empowerment at its centre and that would duly recognise and address the root causes of such violence as being anchored in the persistent inequality between women and men and negative stereotypes ascribed to women and girls.

345. GREVIO's comprehensive review of existing policy approaches to and discourses around the different forms of violence against women in Poland has revealed a great need to enhance the application of such a gender perspective to responses, not only to domestic violence but to other forms of violence against women as covered by the Istanbul Convention as well. Sexual violence/rape, stalking and sexual harassment are forms of violence currently not addressed through comprehensive policies, and specialist support services for these forms of violence are largely lacking. Criminal justice responses must be complemented with policies, services and dedicated measures addressing each form of violence against women by designing and implementing measures for the prevention, protection and support to women victims on the basis of a comprehensive approach. This is even more important in the absence of a national policy on achieving equality between women and men which is contributing to a low degree of emphasis on and mainstreaming of issues around women's equality with men and the specific experiences of women in policies and state agencies.

346. The evaluation has also shown a pressing need to ensure efficient knowledge sharing on the Istanbul Convention, and to invest in countering misconceptions around its overarching aims and specific provisions. A similar need has emerged to raise awareness of the various forms of violence against women, beyond domestic violence, namely sexual violence, stalking, sexual harassment, forced marriage and female genital mutilation, as these forms of violence seem to be receiving little attention – in public discourse and policy making alike. Such measures could usefully involve independent women's specialist support services as a first step towards finding new approaches to involving them as partners in the institutional response to all forms of violence against women. Mutual co-operation mechanisms will need to be developed to cater in particular to the needs of women for experiences of violence that are currently unmet.

347. With this report, GREVIO thus wishes to support the Polish authorities and invites them to keep it regularly informed of developments as regards the implementation of the Istanbul Convention. GREVIO looks forward to continuing its fruitful co-operation with the Polish authorities.

348. With a view to facilitating the implementation of its suggestions and proposals, GREVIO requests that the national authorities translate this report into their official national language(s) and ensure that it is widely disseminated, not only to the relevant state institutions at all levels (national, regional and local), in particular to the government, the ministries and the judiciary, but also to NGOs and other civil society organisations that work in the field of violence against women.

Appendix I

List of proposals and suggestions by GREVIO

I. Purposes, definitions, equality and non-discrimination, general obligations

B. Scope of application of the convention and definitions (Articles 2 and 3)

1. GREVIO urges the Polish authorities to enhance the implementation of the Istanbul Convention in relation to all forms of violence against women, beyond domestic violence, which are currently less addressed by policies, programmes and services, notably rape and sexual violence, stalking, female genital mutilation, forced marriage and sexual harassment. GREVIO furthermore recalls that Article 2, paragraph 1, of the Istanbul Convention affirms that all forms of violence against women, including domestic violence, affect women disproportionately and are a form of discrimination against women. It therefore urges the Polish authorities to ensure that this fundamental principle of the Istanbul Convention is reflected in the design and implementation of all relevant laws and policies, including those in relation to domestic violence. (Paragraph 8)

2. Furthermore, GREVIO strongly encourages the Polish authorities to ensure that all definitions of domestic violence in use extend to former partners and spouses and irrespective of whether the victim shares a residence with the perpetrator, and that the economic dimension of domestic violence, including its linkage with psychological violence, is taken into consideration in a consistent manner in the legal and policy framework. (Paragraph 9)

C. Fundamental rights, equality and non-discrimination (Article 4)

1. Gender equality and non-discrimination

3. GREVIO strongly encourages the Polish authorities to adopt and implement a comprehensive national policy or strategy on equality between women and men in order to ensure the practical realisation of this principle, in particular by linking it to actions and strategies in the area of preventing and combating all forms of violence against women, including domestic violence. (Paragraph 15)

2. Intersectional discrimination

4. GREVIO strongly encourages the Polish authorities to (Paragraph 22)

- a. ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3;
- b. address the multiple forms of discrimination in accessing protection and support faced by certain groups of women victims of violence, in particular women with disabilities, migrant women, Roma women, older women, LGBTI women and women in prostitution, by developing policy orientation and measures which take into account and aim to overcome the specific obstacles faced by these groups of women.

E. Gender-sensitive policies (Article 6)

5. GREVIO urges the Polish authorities to integrate the gender dimension of violence against women into the development of laws, policies and measures to prevent and combat all forms of violence against women, and to incorporate it into the assessment of their impact. Such a gender-

sensitive approach should be based on an understanding of the link between the prevalence of violence against women and the structural inequalities between women and men, with the aim of addressing the specific needs of women victims as well as raising awareness of and counteracting the negative stereotypes against women which legitimise and sustain violence against women. (Paragraph 27)

II. Integrated policies and data collection

A. Comprehensive and co-ordinated policies (Article 7)

6. GREVIO urges the Polish authorities to ensure a state-wide effective, comprehensive and co-ordinated set of policies to prevent and combat all forms of violence covered by the Istanbul Convention. To this end, GREVIO urges the Polish authorities to (Paragraph 36):
 - a. devise and implement comprehensive and holistic policies to address violence against women in all its forms and manifestations, including in their digital dimension, and in particular sexual violence, stalking, sexual harassment, forced marriage, honour-related violence, forced sterilisation and abortion;
 - b. improve interinstitutional co-operation mechanisms among relevant national and local state agencies, in the design, implementation and monitoring of measures on the prevention, protection and prosecution of all forms of violence against women, particularly with a view to improving their capacity to ensure women victims' access to sufficient protection and support across the country;
 - c. conduct independent comparative analyses of existing national and local measures and programmes on violence against women, including domestic violence, with a view to identifying gaps and promising practices that can be recommended throughout the country.

B. Financial resources (Article 8)

7. GREVIO strongly encourages the Polish authorities to (Paragraph 42):
 - a. increase the level of public funding for measures aimed at preventing and combating all forms of violence against women, from both central government and the three levels of local government, while regularly assessing the financial and human resources needed for this purpose;
 - b. review spending levels in order to remedy existing gaps in the provision of specialist support services and shelters for victims of domestic violence and other forms of violence against women covered by the scope of the Istanbul Convention;
 - c. ensure that all relevant central government agencies systematically introduce budget lines dedicated to measures to prevent and combat all forms of violence against women, in order to regularly monitor the level of the allocated budget spent with a view to demonstrating an increase over time in the budget earmarked and spent in this field;
 - d. ensure equitable access to stable funding opportunities for independent women's NGOs providing specialist support services and running activities to prevent violence against women, while ensuring the transparency of the applicable selection criteria and decisions taken, with due regard to Article 4, paragraph 4, of the Istanbul Convention which sets out that special measures necessary to prevent and protect women from gender-based violence, such as the provision of specialist support services to women victims of such violence, shall not be considered discrimination.

C. Non-governmental organisations and civil society (Article 9)

8. GREVIO urges the Polish authorities to (Paragraph 46):

- a. recognise the role of independent women's NGOs as key partners in preventing and combating violence against women, including in addressing the structural inequalities between women and men, by actively creating an environment that is conducive to their work;
- b. establish at different levels of government, beyond the Monitoring Team, consultative dialogue with women's organisations in order to incorporate their opinions and experiences into the design of policies and measures to prevent and combat all forms of violence against women covered by the Istanbul Convention and to create a framework for their involvement in the implementation and monitoring of such policies.

D. Co-ordinating body (Article 10)

9. GREVIO strongly encourages the Polish authorities to appoint one or more co-ordinating bodies equipped with clear mandates, powers and competences as well as the necessary human and financial resources to ensure the co-ordination, implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence covered by the Istanbul Convention. Thus, GREVIO strongly encourages the Polish authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures to this extent, and on the other hand, their independent monitoring and evaluation on the basis of predefined indicators established to measure success. In so doing, the Polish authorities should ensure that the functions of the co-ordinating body are exercised in close consultation with relevant NGOs and civil society actors, including independent women's NGOs, and that they are supported by adequate and appropriate data. (Paragraph 49)

E. Data collection and research (Article 11)

1. Administrative data collection

a. Law-enforcement agencies and the justice sector

10. GREVIO strongly encourages the Polish authorities to expand the scope of the data collected by law-enforcement agencies and the judiciary to cover all forms of violence against women, and to ensure that such data are disaggregated by sex, age and the relationship between the victim and the perpetrator. Furthermore, GREVIO strongly encourages the Polish authorities to take measures to harmonise the collection of the above data between law-enforcement agencies and the judiciary with the aim, *inter alia*, of assessing attrition rates. (Paragraph 54)

b. Social services

11. GREVIO encourages the Polish authorities to take further steps to expand the scope of the data collected by social services to ensure that such data address all forms of violence covered by the Istanbul Convention, and are disaggregated by sex, age and relationship of the perpetrator to the victim as well as other relevant categories such as disability status. (Paragraph 56)

c. Healthcare sector

12. GREVIO strongly encourages the Polish authorities to take measures to ensure the collection of harmonised data in relation to healthcare providers' contact with women patients for reasons related to experiences of gender-based violence. Such data should be disaggregated, at a minimum, by sex, age and relationship of the perpetrator to the victim. (Paragraph 58)

2. Population-based surveys

13. GREVIO encourages the Polish authorities to carry out population-based surveys on the different forms of violence against women covered by the Istanbul Convention. GREVIO further encourages the Polish authorities to ensure that the design of the above surveys allows survey results to show women's exposure to the different forms of violence covered by the Istanbul Convention, including domestic violence. (Paragraph 61)

3. Research

14. GREVIO encourages the Polish authorities to support research into all forms of violence against women, including their digital dimension, as well as into victims' access to support services, protective measures and justice, including by setting research priorities and offering financial support. GREVIO encourages the Polish authorities to continue to evaluate existing laws and policies to assess their level of implementation, efficacy and victims' satisfaction with support services and protection measures available to them. (Paragraph 64)

III. Prevention

A. General obligations (Article 12)

15. GREVIO urges the Polish authorities to take measures to prevent all forms of violence against women covered by the scope of the Istanbul Convention, in particular by promoting changes in mentalities and attitudes of individuals, and as expressed by public opinion, which contribute to justifying and perpetuating violence against women, by addressing structural inequalities between women and men as the root causes of such violence, and by promoting programmes and activities for the empowerment of women. (Paragraph 70)

B. Awareness raising (Article 13)

16. GREVIO strongly encourages the Polish authorities to further develop and diversify their awareness-raising efforts in order to address the different forms of violence covered by the Istanbul Convention, while paying specific attention to the experiences of women victims, especially when they are at risk of intersectional discrimination. Such measures should be carried out through the resourcing of campaigns and by engaging in partnerships with women's NGOs active in raising awareness of these forms of violence and in supporting women victims. (Paragraph 78)

C. Education (Article 14)

17. GREVIO strongly encourages the Polish authorities to take measures to promote, adapted to the evolving capacity of learners, the principles of equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, and the right to personal integrity and to ensure information on the different forms of gender-based violence against women, in formal curricula and at all levels of education. Bearing in mind Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism, GREVIO strongly encourages the Polish authorities to review teaching curricula and materials with a view to removing negative stereotypes of women and girls and to fostering equality. Measures taken to this effect should promote an understanding of violence against women, based on the principles of the Istanbul Convention, and should ensure co-operation with NGOs with well-recognised expertise in gender equality, non-discrimination, sexual health, and national and ethnic minority issues. (Paragraph 88)

D. Training of professionals (Article 15)

18. GREVIO urges the Polish authorities to ensure that all professionals dealing with victims or perpetrators of all forms of violence covered by the scope of the Istanbul Convention receive systematic and mandatory initial and in-service training on identifying and responding to all forms of violence against women, while focusing on the victims' human rights, safety, individual needs and empowerment and the prevention of secondary victimisation. Such training should be based on the principles of non-discrimination and equality between women and men and devised in close co-operation with regional and local authorities, as well as relevant stakeholders, including independent women's NGOs providing specialist support to women victims of violence. Clear protocols and guidelines should be established to set the standards that staff are expected to follow in their respective fields. (Paragraph 97)

19. GREVIO strongly encourages the Polish authorities to incorporate into any training efforts for law-enforcement officers and members of the judiciary the notion of increasing the safety of women victims, in particular by enabling their ability to conduct standardised risk assessment in cases related to all forms of violence covered by the Istanbul Convention, and to issue protective measures for victims and children at risk. Such training efforts should also heighten awareness of the frequent continuation of domestic violence and control after a relationship has ended and their relevance for decisions on custody and visitation rights. (Paragraph 98)

E. Preventive intervention and treatment programmes (Article 16)

1. Programmes for perpetrators of domestic violence

20. GREVIO encourages the Polish authorities to (Paragraph 104):

- a. develop common minimum standards for programmes for perpetrators that place the safety and the human rights of women victims at their centre in line with the principles of the Istanbul Convention and recognised best practices, including by ensuring co-operation with women's support services, and to base any scientific evaluation of their efficacy on such standards;
- b. promote the attendance of both mandatory and voluntary programmes for perpetrators by ensuring a more consistent application of existing referral mechanisms and by fostering the interplay between perpetrator programmes, criminal proceedings and other procedures such as the "Blue Card" procedure while prioritising the safety of victims and their access to justice;
- c. improve the availability of these programmes across the country, while ensuring that local governments are granted sufficient resources to organise programmes that comply with the principles of the Istanbul Convention.

2. Programmes for sex offenders

21. GREVIO strongly encourages the Polish authorities to devise treatment programmes addressed to all perpetrators of sexual violence, which take due account of best practices developed internationally and guarantee a human rights-based approach. (Paragraph 108)

F. Participation of the private sector and the media (Article 17)

22. GREVIO encourages the Polish authorities to actively support and promote the involvement of the private sector, including the information technology sector, in the prevention of violence against women in all its forms, including by developing internal protocols to respond to sexual harassment against women in the workplace. With a view to the important role of the media in dispelling negative social representations of women and reducing the level of acceptance of violence affecting them, GREVIO encourages the Polish authorities to set incentives or otherwise promote the development of self-regulatory standards in relation to the non-stereotypical and non-sexist portrayal of women in the media, including in the context of reporting on violence they have suffered. (Paragraph 113)

IV. Protection and support

A. General obligations (Article 18)

23. GREVIO urges the Polish authorities to ensure co-operation between all relevant institutions, including law-enforcement agencies, the judiciary, prosecution services, probation officers and support services for women victims, in order to offer institutionalised co-operation in relation to all forms of violence against women covered by the Istanbul Convention on the basis of protocols and guidelines for the relevant professionals, which designate the specific needs of women victims in relation to the specific form of violence experienced. (Paragraph 121)

24. In relation to multi-agency co-operation in cases of domestic violence under the Blue Card procedure, GREVIO strongly encourages the Polish authorities to incorporate risk-assessment and protective measures into the procedure and to ensure that the measures proposed under the procedure are based on a gendered understanding of domestic violence and aim at the empowerment and economic independence of women victims of violence. (Paragraph 122)

B. Information (Article 19)

25. GREVIO strongly encourages the Polish authorities to take measures to expand the dissemination of information about the legal measures and the support services available to victims of all forms of violence against women in a language and format that they understand, including by intensifying efforts to ensure that all relevant professionals take a more proactive approach towards informing victims. (Paragraph 127)

C. General support services (Article 20)

1. Social services

26. GREVIO strongly encourages the Polish authorities to take further measures to ensure that women victims of all forms of violence covered by the Istanbul Convention have access to services facilitating their recovery and autonomy throughout the country, in particular housing services, assistance in education and training and in finding employment. GREVIO strongly encourages the Polish authorities to ensure that social services at the local level are provided with adequate resources allowing them to discharge their responsibilities in an effective manner, as well as to foster co-operation among all social services units working with women exposed to violence, in particular homeless women, older women and women with disabilities. (Paragraph 133)

2. Healthcare services

27. GREVIO strongly encourages the Polish authorities to ensure women victims of violence covered by the Istanbul Convention access to adequately resourced health services trained to assist victims, in particular by (Paragraph 137):

- a. detecting all forms of violence against women covered by the Istanbul Convention, responding to their medical needs in a sensitive manner and ensuring their referrals to relevant and preferably specialist support services;
- b. developing and effectively implementing protocols and guidelines which ensure that all healthcare professionals adequately respond to women victims of all forms of violence, including by acknowledging that women exposed to intersectional discrimination, in particular women with disabilities, migrant women and Roma women, may face significant barriers to help-seeking;
- c. providing free-of-charge documentation of forensic evidence adequate for use by the criminal justice sector.

D. Specialist support services (Article 22)

28. Recalling the importance of women-to-women specialist support and counselling for any experiences of violence covered by the Istanbul Convention, GREVIO urges the Polish authorities to provide or arrange for adequate specialist women's support services with a gendered approach throughout the country and for all forms of violence covered by the Istanbul Convention, as well as for their children. The aim should be to ensure the provision of immediate, medium- and long-term support by involving and tapping into the long-standing expertise built up by independent women's specialist support services in civil society. (Paragraph 143)

E. Shelters (Article 23)

29. With the aim of guaranteeing the adequate access of women victims of violence and their children to dedicated, safe and supportive shelter facilities, as required under Article 23 of the Istanbul Convention, GREVIO urges the Polish authorities to take measures to (Paragraph 150):

- a. develop clear and uniform standards for the provision of shelter places for women victims of violence, especially in relation to their safety, the promotion of their empowerment and the training of staff operating in these facilities, while recognising the principle that only specialist structures dedicated to women and their children can meet their specific needs and comply with the requirements of the Istanbul Convention;
- b. expand the number and/or capacity of specialist shelter facilities dedicated to women and their children, throughout the country, while monitoring the quality and financial sustainability of service provision;
- c. ensure the equitable access to such specialist shelters services for all women victims of all the forms of violence covered by the Istanbul Convention, especially women with disabilities, women living in rural areas, older women, migrant women and women in prostitution.

F. Telephone helplines (Article 24)

30. GREVIO strongly encourages the Polish authorities to ensure the functioning of a state-wide free-of-charge, anonymous and round-the-clock telephone helpline dedicated to women victims of the various forms of violence against women covered by the Istanbul Convention, which is capable of providing counselling to victims, with due respect for the confidentiality of all callers, and which is operated by qualified staff trained in all these forms of violence. (Paragraph 154)

G. Support for victims of sexual violence (Article 25)

31. GREVIO urges the Polish authorities to set up rape crisis and/or sexual violence centres offering medical care, high-quality forensic examination and immediate, short- and long-term trauma support delivered by trained professionals. These specialist services should be available in sufficient numbers and their geographical spread should make them accessible to victims living in rural areas as much as in cities. GREVIO further urges the Polish authorities to ensure that the reproductive choice of women victims of rape does not constitute a barrier to their access to information and support from the above services. (Paragraph 161)

H. Protection and support for child witnesses (Article 26)

32. GREVIO strongly encourages the Polish authorities to step up measures to ensure (Paragraph 166):

- a. that all relevant professionals, particularly those working in social services, are aware of and trained in the harmful effects of witnessing domestic violence on children;

- b. the availability of age-appropriate psychosocial counselling for child witnesses of all forms of violence covered by the Istanbul Convention, in particular for children who witness domestic violence and post-separation stalking by one parent against the other;
- c. co-ordination of the above with decisions related to the settlement of custody and visitation rights, as well as to the granting of protection measures for child witnesses, including protection orders.

I. Reporting by professionals (Article 28)

33. Recalling the principle of women's empowerment mainstreamed throughout the Istanbul Convention, GREVIO strongly encourages the Polish authorities to ensure that the duty to report imposed on professionals is tempered by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy. To this end, GREVIO strongly encourages the Polish authorities to review the obligation for professionals to report cases of violence against women and their children, other than in situations in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the convention has been committed and further serious acts are to be expected. This may well require making the obligation to report contingent upon the prior consent of the victim, unless the victim is a child or is unable to protect her/himself due to disabilities. (Paragraph 171)

V. Substantive law

A. Civil law

1. Civil remedies against the state – ensuring due diligence (Article 29)

34. GREVIO strongly encourages the Polish authorities to examine any barriers to the use of civil law measures available to hold public authorities accountable for failure to comply with the obligation to diligently prevent, investigate and punish acts of violence covered by the Istanbul Convention and to protect victims, and to employ practical measures such as training and awareness raising among the judiciary and other professionals in order to enable women victims of violence to make practical use of the existing legal remedies, including in the context of wrongful decisions in the administration of justice. Progress in this area needs to be measured by collecting data on the number of proceedings initiated by victims and their outcomes. (Paragraph 176)

2. Compensation (Article 30)

35. GREVIO strongly encourages the Polish authorities to take all available measures in order to ensure that wider use is made of the legal possibilities to grant compensation to women victims of any of the forms of violence covered by the Istanbul Convention, in particular by examining and addressing the reasons for the low number of compensatory measures ordered in domestic violence cases under Article 46, paragraph 1, of the Polish Criminal Code. GREVIO furthermore encourages the Polish authorities to collect data on the number of women victims who have requested and obtained compensation either from the perpetrator or from the state. (Paragraph 182)

3. Custody, visitation rights and safety (Article 31)

36. GREVIO urges the Polish authorities to take all appropriate measures, including legislative measures where necessary, to ensure that all relevant professionals, including social workers, members of the judiciary and members of the Teams of Court Specialists (OZSS), when deciding on custody and visitation (Paragraph 195):

- a. are duly aware of and take into account the negative impact on children of witnessing violence by one parent against the other;

- b. refrain from the use of concepts related to “parental alienation” or equivalent which consider mothers who invoke the violence suffered at the hand of the father of the child as “unco-operative” or blame them for the poor relationship of the child with the father;
- c. incorporate a process for screening cases for a history of violence by one parent against the other and whether it has been reported;
- d. take steps to ensure that procedures and decisions do not endanger the safety of women victims of intimate partner violence, in particular by disclosing their place of residence.

B. Criminal law

1. Psychological violence (Article 33)

37. GREVIO strongly encourages the Polish authorities to ensure the effective implementation of criminal provisions related to psychological violence, in particular through training and the adoption of relevant protocols recognising women’s specific experiences of violence in order to ensure an effective criminal justice response to psychological violence and coercive control against a current or former female intimate partner. (Paragraph 201)

2. Stalking (Article 34)

38. GREVIO strongly encourages the Polish authorities to step up efforts to establish better practice in the implementation of criminal law on stalking by enhancing the capacity of law enforcement and the judiciary to address the gendered and serious nature of stalking against women, including its digital dimension, and to ensure the application of preventive operational measures to avoid reoffending, such as risk-assessment procedures and protection orders. (Paragraph 205)

3. Physical violence (Article 35)

39. GREVIO urges the Polish authorities to ensure that the provisions of the Criminal Code such as Article 207 are applied in relation to all forms of intimate partner violence, and that intimate partner violence among non-cohabiting partners, including former partners and spouses, is adequately responded to. GREVIO further urges the Polish authorities to identify and address procedural factors that contribute to the very high threshold for proving cases of domestic violence in court. (Paragraph 212)

4. Sexual violence and rape (Article 36)

40. GREVIO urges the Polish authorities to reform all sexual offences contained in Chapter XXV of the Polish Criminal Code to fully incorporate the notion of freely given consent as required by Article 36 of the Istanbul Convention and to ensure appropriate sanctions for all sexual acts without the consent of the victim, including where the circumstances preclude valid consent. (Paragraph 220)

41. GREVIO further strongly encourages the Polish authorities to introduce criminal legislation that would specifically cover the intentional conduct set out in Article 36, paragraph 1 c, of the Istanbul Convention, namely the conduct of causing another person to engage in non-consensual acts of a sexual nature with a third person. (Paragraph 221)

5. Forced marriage (Article 37)

42. GREVIO strongly encourages the Polish authorities to consider introducing a specific criminal offence of forced marriage to cover the special nature of these offences and to make it operational for law-enforcement authorities and courts. Moreover, GREVIO encourages the Polish authorities to criminalise the intentional conduct of luring an adult or a child to the territory of another state with the purpose of forcing this person into a marriage, as required by Article 37, paragraph 2, of the Istanbul Convention. In light of the requirement to adopt a comprehensive approach, GREVIO

strongly encourages the Polish authorities to ensure that any criminal law measures be accompanied by a comprehensive strategy to ensure the prevention and identification of this form of violence, as well as support for women and girls exposed to forced marriage. (Paragraph 226)

6. Female genital mutilation (Article 38)

43. GREVIO encourages the Polish authorities to supplement their criminal law so as to ensure that the conduct described in Article 38*b* and *c* of procuring a woman or inciting and procuring a girl to undergo an act of female genital mutilation is criminalised. (Paragraph 230)

8. Sexual harassment (Article 40)

44. GREVIO strongly encourages the Polish authorities to review their legislation and to ensure that sexual harassment experienced in all areas of life, in line with Article 40 of the Istanbul Convention, is subject to criminal or other legal sanctions. GREVIO further encourages the Polish authorities to increase their efforts to ensure higher levels of awareness of sexual harassment among relevant professionals and the general public. (Paragraph 236)

9. Sanctions and measures (Article 45)

45. GREVIO strongly encourages the Polish authorities to ensure that, through legislative measures and the effective training of members of the judiciary and prosecution services, sentences and measures imposed for domestic violence and other forms of violence against women are effective, proportionate and dissuasive. (Paragraph 238)

10. Aggravating circumstances (Article 46)

46. GREVIO strongly encourages the Polish authorities to take appropriate measures to ensure that all aggravating circumstances listed in Article 46 of the Istanbul Convention are incorporated into Polish criminal law and effectively applied by the judiciary. (Paragraph 241)

11. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)

47. GREVIO urges the Polish authorities to recognise the power imbalances in relationships marred by violence and to ensure that all offers of mediation are accepted entirely voluntarily, through all available means, such as the adoption of more specific guidelines and training offered to mediators and all other relevant parties in the criminal justice sector that focus on the gendered dynamics of domestic violence and its impact on the ability of victims to enter the mediation process on a par with the perpetrator. (Paragraph 248)

VI. Investigation, prosecution, procedural law and protective measures

A. General obligations and immediate response, prevention and protection (Articles 49 and 50)

1. Reporting to, immediate response and investigations by law-enforcement agencies

48. GREVIO strongly encourages the Polish authorities to step up efforts to ensure prompt and appropriate responses from law-enforcement agencies in relation to all forms of violence against women covered by the Istanbul Convention, in particular by (Paragraph 261):

- a. taking measures to encourage reporting of all forms of violence against women, including intimate partner violence, sexual violence and rape, stalking, forced marriage, honour-related violence and online and technology-facilitated violence against women;

- b. ensuring that the forensic examination and collection of evidence in cases of sexual violence and rape is conducted in a timely and gender-sensitive manner by trained staff that take into account the unique needs and perspectives of the victims, respect their dignity and integrity and minimise intrusion while abiding by standards on the collection of forensic evidence.

2. Effective investigation and prosecution

49. GREVIO strongly encourages the Polish authorities to identify and address any/all factors which contribute to the dismissal of investigations in cases of sexual violence and rape and in cases of domestic violence. (Paragraph 268)

3. Conviction rates

50. GREVIO strongly encourages the Polish authorities to swiftly identify and address any factors which contribute to attrition in cases related to all the forms of violence against women covered by the Istanbul Convention, including the reasons for lengthy criminal proceedings, in order to increase the number of convictions. Such measures should be supported by sex-disaggregated administrative and judicial data that are reliable and comparable throughout the judicial chain. (Paragraph 273)

B. Risk assessment and risk management (Article 51)

51. GREVIO urges the Polish authorities to ensure that in cases of all forms of violence covered by the Istanbul Convention, including domestic violence and forced marriage, systematic and gender-sensitive risk assessment and safety management become standard procedure for all agencies involved, especially in the context of the Blue Card procedures. GREVIO further urges the Polish authorities to ensure that an effective multi-agency approach is taken to such risk assessment in order to ensure the human rights and safety of the individual victim while giving due consideration to the rights and needs of child witnesses of intimate partner violence. (Paragraph 281)

C. Emergency barring orders (Article 52)

52. GREVIO strongly encourages the Polish authorities to ensure the availability of emergency contact bans to all women victims of domestic violence irrespective of cohabitation and to evaluate the implementation of the newly introduced emergency barring orders in order to identify and address any gaps in the emergency protection offered to all victims of domestic violence, including children witnessing intimate partner violence. (Paragraph 285)

D. Protection orders (Article 53)

53. GREVIO urges the Polish authorities to initiate a process of reviewing the restraining and protection orders currently in place as well as their implementation in practice with a view to ensuring their compliance with the following principles (Paragraph 294):

- a. protection orders must be available for immediate protection without undue delay and must extend to abusers who do not permanently or who no longer share, or who have never shared, a residence with the victim;
- b. protection orders must be available in relation to all forms of violence covered by the scope of the Istanbul Convention without limitation to intimate partner violence;
- c. protection orders must be vigilantly enforced and breaches sanctioned in line with the requirement of effective, proportionate and dissuasive criminal or other sanction.

54. GREVIO further strongly encourages the Polish authorities to remove any obstacles in legislation and/or in the practical implementation of existing protection mechanisms, particularly in

view of the fact that requiring victims to pay rent if they are granted possession of the home may severely limit women's access to this measure. (Paragraph 295)

E. *Ex parte* and *ex officio* proceedings (Article 55)

2. Victim support in legal proceedings

55. GREVIO strongly encourages the Polish authorities to take legislative or other measures to ensure, in accordance with the conditions provided for by internal law, the possibility for governmental and non-governmental organisations and domestic violence counsellors to assist and/or support victims, upon their request, during investigations and judicial proceedings concerning any of the offences established in accordance with the Istanbul Convention. (Paragraph 301)

F. Measures of protection (Article 56)

56. GREVIO strongly encourages the Polish authorities to take stock of and complement the existing victim protection measures in cases of acts of violence covered by the Istanbul Convention with a view to aligning them more closely with the requirements of Article 56 of the Istanbul Convention. (Paragraph 306)

G. Legal aid (Article 57)

GREVIO strongly encourages the Polish authorities to step up efforts to raise awareness of the existing legal assistance available to women victims of the different forms of violence against women covered by the Istanbul Convention and to ensure access to quality legal assistance and legal representation at all stages of the case, including during the preliminary investigative stage (Paragraph 308)

VII. Migration and asylum

A. Residence status (Article 59)

57. GREVIO strongly encourages the Polish authorities to take measures to ensure the effective implementation of the legal possibilities offered by the Law on Foreigners to migrant women who are victims of domestic violence and who depend on their abuser for their right to remain in Poland to enable them, in practice, to obtain an independent (temporary) residence permit. This should include raising the level of information migrant women have on their rights and the available support and protection measures in place in Poland, as well as introducing a data-collection system to regularly record the number of such independent residence permits granted to migrant women who are victims of domestic violence. (Paragraph 318)

58. GREVIO further strongly encourages the Polish authorities to ensure that all public officials, upon encountering irregular migrant women, are trained to apply the exemption of deportation on humanitarian grounds by duly considering migrant women's exposure to gender-based violence both in Poland and upon deportation. GREVIO further strongly encourages the Polish authorities to collect data on the number of women victims of domestic violence granted an independent residence permit on the basis of the Law on Foreigners. (Paragraph 319)

B. Gender-based asylum claims (Article 60)**1. Gender-sensitive asylum determination procedure**

59. GREVIO urges the Polish authorities to take measures, including through legal amendments, to ensure women asylum seekers' swift access to the asylum procedure irrespective of whether they apply at border crossings, from within the territory of Poland or from detention, while at the same time ensuring the gender sensitivity of all asylum procedures (general and accelerated), in particular by (Paragraph 329):

- a. stepping up the human and financial resources of all those involved in the asylum procedure to ensure adequate premises, trained staff and quality same-sex interviewers and interpreters for all relevant languages;
- b. introducing systematic vulnerability screening for women and girls in order to identify international protection needs and make referrals to specialist services with a view to enabling women to disclose experiences of gender-based persecution, as well as to pay due attention to country-specific reasons that might have prevented women from reporting to authorities in their countries of origin the experiences with violence.

60. Furthermore, GREVIO encourages the Polish authorities to collect data on the annual numbers of asylum applications based on gender-related persecution, and the numbers of such applications granted and rejected. (Paragraph 330)

2. Accommodation

61. GREVIO urges the Polish authorities to take measures to ensure the effective screening of women asylum seekers entering the asylum procedure and prior to their placement in any asylum detention facilities/guarded centres for foreigners for vulnerabilities, such as their experiences or risk of gender-based violence that would require safe accommodation and/or special support services and counselling. Where women asylum seekers in asylum detention are identified as victims of gender-based violence, GREVIO urges their swift transfer together with any dependent children to open reception facilities that offer access to specialist support services. (Paragraph 338)

C. Non-refoulement (Article 61)

62. GREVIO urges the Polish authorities to (Paragraph 342):

- a. uphold their obligation to respect the principle of *non-refoulement* of victims of violence against women, in particular at the border crossing points with Belarus (Brest-Terespol) and Ukraine (Medyka-Shehyni);
- b. ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.

Appendix II

List of the national authorities, other public bodies, non-governmental organisations and civil society organisations with which GREVIO held consultations

National authorities

- Ministry of Family and Social Policy
- Ministry of Justice
- Ministry of Interior and Administration
- Ministry of Health
- Ministry of National Education
- Ministry of Culture and National Heritage
- National Co-ordinator of the National Programme on Combating Family Violence

Regional authorities

- Lublin Provincial (Voivodeship) Office
 - o Lublin Provincial Co-ordinator of the National Programme on Combating Family Violence
 - o Social Policy Division
- Mazowieckie Provincial (Voivodeship) Office
 - o Mazowieckie Provincial Co-ordinator of the National Programme on Combating Family Violence
 - o Social Policy Division

National public bodies

- Border Guards Headquarters
- Commissioner for Human Rights
- Central Administration of the Prison Service
- Central Police Forensic Laboratory
- Education Development Centre
- State Agency for the Prevention of Alcohol-Related Problems (PARPA)
- National Broadcasting Council
- Office of the Police Headquarters
- Police Training Centre in Legionowo
- Office for Foreigners

Regional public bodies

- The Interdisciplinary Team for Preventing Family Violence in Lublin City
 - o Lublin City Office
 - o Centre for Family Assistance in Lublin
 - o Crisis Intervention Centre in Lublin
 - o Commission for Solving Alcoholic Problems in Lublin
 - o Regional Probation Officer in Lublin
 - o Mieczysław Kaczyński Neuropsychiatric Hospital
 - o Police Headquarter in Lublin
 - o Regional Court in Lublin
 - o Regional Prosecutor in Lublin
 - o Specialist Support Centre for Victims of Violence within the Family in Lublin

Parliamentary Assembly

- Parliamentary Women's Rights Group

Non-governmental organisations

- Amnesty International
- Amnesty International Lublin
- Association Against Domestic Violence (Blue Line)
- Association for Legal Intervention
- Association of Women's Initiatives
- Catholic Association for Assistance to Persons in Need (AGAPE)
- Committee for the Defence of Democracy (KOD), Lublin Regional Board
- Feminoteka Foundation
- Federation for Women and Family Planning
- Foundation for Equality and Emancipation (STER)
- Foundation Toward Dialogue
- Helsinki Foundation
- Inna Foundation
- Lublin Coalition for Women
- Lublin Equality March Association
- Manifa Lublin
- National Women's Strike
- Ocalenie Foundation
- Polish Forum of People with Disabilities
- Polish Migration Forum
- Rule of Law Institute Foundation
- Sex Work Polska

Academics and legal professionals

- Katarzyna Dębska, PhD scholar
- Magdalena Grabowska, assistant professor
- Beata Gruszczyńska, professor
- Magdalena Grzyb, assistant professor
- Monika Płatek, professor
- Dagmara Woźniakowska-Fajst, assistant professor
- Grzegorz Wrona, lawyer specialising in domestic violence

International organisations

- UNHCR Representation in Poland

GREVIO, the *Group of Experts on Action against Violence against Women and Domestic Violence*, is an independent human rights monitoring body mandated to monitor the implementation of the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul Convention) by the Parties.

The Istanbul Convention is the most far-reaching international treaty to tackle violence against women and domestic violence. Its comprehensive set of provisions spans far-ranging preventive and protective measures as well as a number of obligations to ensure an adequate criminal justice response to such serious violations of human rights.

This report contains an overall analysis of the implementation of the provisions of the Istanbul Convention. It highlights positive initiatives in preventing and combating all forms of violence against women at national level and provides suggestions and proposals to improve the situation of women facing such violence.

www.coe.int/conventionviolence

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union.

All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law.

The European Court of Human Rights oversees the implementation of the Convention in the member states.

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