



# GREVIO

## Baseline Evaluation Report Albania

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



**Istanbul Convention**



**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)  
**ALBANIA**

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 (hereafter “the Convention”) by the Parties.

It is composed of 10 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 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 Albania. It covers the Convention in its entirety<sup>1</sup> and thus assesses the level of compliance of the Albanian 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. The term “violence against women” used throughout this report thus refers to all forms of violence against women criminalised (or, where applicable, otherwise sanctioned) under Chapter V of the Convention, which are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation and sexual harassment. It also refers to domestic violence against women, which is defined as physical, sexual, psychological or economic violence which occurs 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. Hence, the term “victim” used throughout this report is to be understood as referring to a woman or girl victim.

Based on this assessment, GREVIO 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, “urge”, “strongly encourage”, “encourage” and “invite” GREVIO uses the verb “urge” 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. The verb “strongly encourages” is used where GREVIO has noted shortcomings which need to be remedied in the near future in order to ensure a 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. These include the following:

- submission, by the party, of a report drawn up on the basis of GREVIO’s baseline questionnaire (this report is, in general, made public);
- a state dialogue with representatives of the Party on issues emanating from the state report;

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<sup>1</sup> With the exception of Chapter VIII of the Convention, which GREVIO considered as less relevant in assessing the national situation in each contracting party.

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- 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 collects additional information from various other sources, including non-governmental organisations (NGOs), other members of civil society, national human rights institutions, Council of Europe bodies (Parliamentary Assembly, Human Rights Commissioner and other pertinent bodies), as well as other international treaty bodies.

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 at June 2017. Developments since that date are neither covered in the analysis nor taken into account in the conclusions and proposals therein.

According to the Convention, national parliaments shall receive this report from the national authorities (Article 72 paragraph 2). GREVIO would also invite 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 Albanian authorities with regard to all aspects of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (hereafter “the 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 Albanian authorities and additional information submitted by several NGOs), a state dialogue between GREVIO and the Albanian authorities on a select number of issues as well as a 5-day evaluation visit to Albania. A list of the bodies and entities with which exchanges have been held can be found in Appendices II and III.

Ever since the Albanian authorities adopted their first comprehensive policy paper aimed at preventing and combating violence against women in 2007<sup>2</sup>, they effectively framed their efforts within the wider context of combating discrimination against women and achieving gender equality. Measures which were developed thereafter to tackle violence against women have clearly mainstreamed the issue of gender equality. Policies generally acknowledge the gendered nature of violence against women, understood as the “fundamental social, political and economic mechanism by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated”<sup>3</sup> and the “manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women”<sup>4</sup>. Nevertheless, public opinion in Albania lacks a gendered understanding of violence against women and tends to view violence restrictively as a by-product of low socio-economic development. Many professionals share this vision as well. Thus, the notion that violence is mostly confined to poverty-stricken parts of the country, underprivileged neighbourhoods and poorly educated women is common currency. Such a notion erroneously implies that violence spares women and girls not falling into any such situation. It disregards widespread evidence that women’s position in society and their susceptibility to violence are affected by a combination of political, cultural, social, religious, ideological and environmental considerations, and are not determined by economic factors alone. Moreover, there is a tendency in Albania to promote forgiveness under the pretext of traditional family values, and women and girls themselves believe to a large degree that they should tolerate violence to keep the family together. This makes women vulnerable to intra-family violence. Hence, more should be done to raise awareness within society, the professionals concerned and amongst women, about the gendered nature of violence against women and its unacceptability under whatsoever pretext.

The 2006 Council of Europe stocktaking study on measures and actions taken to combat violence against women<sup>5</sup> revealed the tendency in most Council of Europe member states to place more emphasis on domestic violence compared to other forms of violence against women. Albania offers no exception to this general trend. The first measures which Albania adopted to combat violence against women were those concerning violence in the domestic unit. In particular, since the enactment of Law No. 9669/2006 “On Measures against Violence in Family Relations”, efforts have targeted mostly women as members of the family, and more particularly as “spouses or cohabitating partners or former spouses or former cohabitating partners.”<sup>6</sup> Following the

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<sup>2</sup> See Albania’s National Strategy on Gender Equality and Domestic Violence for the period 2007-10.

<sup>3</sup> See paragraph 10 of the CEDAW Committee General Recommendation No. 19 on Violence against Women; paragraph 11 of the CEDAW Committee Draft Update of General Recommendation No. 19.

<sup>4</sup> See the preamble to the Istanbul Convention.

<sup>5</sup> See Carol Hagemann-White, Judith Katenbrink and Heike Rabe (2006), *Combating violence against women. Stocktaking study on the measures and actions taken in Council of Europe member states*. Council of Europe, Strasbourg.

<sup>6</sup> See Article 3, paragraph 3a of Law No. 9669/2006.

introduction of this law, policies have been developed to offer a holistic response to domestic violence covering the “three Ps” of prevention, protection and prosecution. The design and implementation of such measures has involved numerous stakeholders, including in particular national and local authorities and civil society organisations, thus meeting the Convention’s requirement as to the additional “P” of integrated policies. By comparison, other forms of violence against women, such as forced marriage, sexual harassment and sexual violence, have received little legislative and political attention. Available data regarding these other forms of violence against women - however limited - corroborate the need to address them comprehensively. Hence, more efforts are needed, notably in the areas of data collection, multi-agency co-operation, awareness-raising, education, training of professionals, general and specialist support services, as well as restraining or protection orders, to cover effectively all forms of violence against women and girls.

Albania has developed a solid legislative framework to address domestic violence, in the fields of both civil and criminal law. This report draws the Albanian legislator’s attention to a number of remaining gaps which on-going legislative reforms should address. These concern namely the lack of specific offences targeting psychological violence and forced sterilisation, the absence of restraining or protection orders for victims of forms of violence other than domestic violence, and the subordination to the victim’s complaint of criminal investigations into allegations of sexual violence. Interpretation of laws which is both consistent and mindful of the legislator’s intent is key to ensuring that victims’ rights are effectively recognised. In Albania, for example, interpretation has served to ensure that incidents of violence are taken into account in the determination of custody and visitation rights of children, thus remedying the absence of any legislative measure taken to this effect in accordance with Article 31, paragraph 1 of the Convention<sup>7</sup>. Overall, however, divergent interpretation of laws in Albania tend to do a disservice to victims and to deny them an effective access to justice, for instance by promoting a narrow interpretation of the offence of domestic violence or by introducing mandatory conciliation in the procedure applying to emergency barring orders<sup>8</sup>. Thus, improved awareness amongst legal practitioners and judicial officials is needed as regards the fundamental principles which should guide any intervention in cases of violence against women, namely: the prime consideration for the victim’s safety and the safety of her children; a human-rights based approach which views violence against women as a form of discrimination based on gender and a violation of women’s right to live a life free of violence; and the need to avoid re-victimisation.

In Albania, local referral mechanisms are the centrepiece of the country’s co-ordinated multi-agency response to violence against women. They operate at the municipal level and bring together a wide array of representatives from the relevant authorities and civil society to put up a strong unified response to domestic violence. NGOs and international donors have played a crucial role in establishing the existing referral mechanisms which cover 29 out of the 61 municipalities in the country. The authorities have developed a pluriannual plan to equip each and every municipality with such a mechanism by the end of 2020<sup>9</sup>. They continue to face the challenge to improve and strengthen inter-institutional co-operation within the referral mechanisms already in place, which operate to varying degrees of effectiveness. Major weaknesses affecting referral mechanisms concern the lack of proper enforcement by bailiffs of emergency barring orders and protection orders, inadequate responses from the courts’ system and an insufficient implication of healthcare professionals, including forensic experts.

In the past decades, Albania has made considerable efforts to provide actors in the field with the required knowledge and skills to deal properly with cases of violence against women. The ensuing changes in attitudes towards violence against women are particularly tangible in certain sectors, for instance as regards law enforcement. However, more progress is needed in order to bring professionals’ response up to the required levels of professionalism. To achieve this aim,

<sup>7</sup> See Chapter V, paragraph 3, of the state report submitted to GREVIO.

<sup>8</sup> See the relevant paragraphs of this report dealing with the definition of domestic violence and the prohibition of mandatory alternative dispute resolution mechanisms.

<sup>9</sup> See objective 3.2 of the National Strategy and Action Plan on Gender Equality for the period 2016-20.

university study programmes and vocational curricula addressing violence against women need to be further developed, professionals should be equipped with relevant protocols and standard operating procedures, and they should benefit from regular and consistent on-site training.

Measures taken to this effect should offer professionals an opportunity to review their values and beliefs, and encourage them to become actors of change. Further measures are needed, such as the development of codes of conduct, to ensure professionals' commitment, accountability and integrity. An important step towards guaranteeing greater professionalism has been made with the recent establishment of the National Order of Psychologists and that of Social Workers. Their full potential should be put to use by the authorities, in particular as regards the involvement of professional psychologists in court proceedings.

Whilst GREVIO welcomes Albania's ratification of the Istanbul Convention, it has identified a number of priority issues requiring further action by the Albanian authorities to comply fully with the Convention's provisions. In light of the above considerations, these issues relate to the need to:

- ensure that measures taken in accordance with the Istanbul Convention address all forms of violence against women, in a holistic and comprehensive fashion;
- follow a clear gendered approach in the response to violence against women;
- ensure stable and sustainable funding levels for women's NGOs working to support victims and prevent violence;
- bring the health care system to the forefront of the fight against all forms of violence against women, by inter alia committing healthcare officials to address violence against women as a matter of priority and professional mandate;
- set up rape-crisis centres and/or sexual violence referral centres, in the frame of a multi-sectorial response aiming at encouraging reporting and responding to the needs of victims;
- step up efforts to support and protect child witnesses, in particular with reference to court decisions on the exercise of custody and visitation rights, as well as within the procedure applying to the issuance of protection orders;
- uphold the principle of civil responsibility of public officials who fail in their duty to take the necessary preventive or protective measures within the scope of their powers;
- amend Albania's criminal legislation to base the offence of sexual violence on the lack of freely given consent and conform to the Convention's standards regarding ex parte and ex officio prosecution;
- comply fully with the principle of prohibition of mandatory alternative dispute resolution processes in cases of violence against women;
- develop standardised procedures for assessing and managing the risk of lethality and repeated violence for victims of all the forms of violence against women covered by the Convention;
- review legal provisions applying to emergency barring orders – referred to under Albanian law as immediate protection orders – to ensure that in situations of immediate danger, such orders can be issued without undue delay in order to ensure the victim's safety;
- establish and fund appropriately an effective system of legal aid for the victims of all the forms of violence against women covered by the Convention.

Furthermore, GREVIO has identified a number of additional areas in which improvements are necessary in order to comply fully with the obligations of the Convention. These relate, among others, to the legal definition of domestic violence; the allocation of adequate human and financial resources to the machinery for the fight against violence against women at both the central and municipal levels; the development of administrative data categories illustrating the type of relationship between perpetrator and victim for all forms of violence against women; surveys measuring the prevalence of the forms of violence against women not previously assessed, in particular sexual harassment, sexual violence and forced marriage; the inclusion of the topic of violence against women in vocational curricula, university study programmes, and professional development schemes; increased funding for social services and shelters; access to compensation for victims; safeguards to prevent forced marriages of children and protective measures for victims, including children, in court proceedings.

## Introduction

Albania signed the Istanbul Convention on 19 December 2011 and was the second Council of Europe member state to ratify the Convention on 4 February 2013. Albania ratified the Convention without entering into any reservation. The Convention entered into force in Albania on 1 August 2014.

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 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 Albania by letter and transmission of its questionnaire on 1 September 2016. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The Albanian authorities subsequently submitted their state report on 16 January 2017. Following a preliminary examination of the Albanian state report and of the additional information submitted by a number of NGOs including *inter alia* a Contribution from the Women's Association "Refleksione"<sup>10</sup> and a Contribution from AWEN (Albanian Women Empowerment Network)<sup>11</sup>, GREVIO held a state dialogue with representatives of Albania on 5 April 2017 in Strasbourg. A list of representatives of the Albanian Government who participated in the state dialogue can be found in Appendix II. As a second step, GREVIO carried out an evaluation visit to Albania which took place from 24 to 28 April 2017. The delegation was composed of:

- Simona Lanzoni, member of GREVIO
- Helena Leitao, member of GREVIO
- Arta Mandro, Professor at the School of Magistrates, independent national expert
- Genc Burazeri, Lecturer in Epidemiology and Research Methods at the Department of Public Health, Faculty of Medicine, University of Medicine of Tirana, independent national expert
- Bridget T. O'Loughlin, Executive Secretary of the monitoring mechanism of the Istanbul Convention
- Christina Olsen, Administrator at the Secretariat of the monitoring mechanism of the Istanbul Convention.

During the evaluation visit, the delegation was welcomed by Olta Xhaçka, Minister of Social Welfare and Youth, and met with a range of governmental and non-governmental representatives working in the area of preventing and combating violence against women, including legal and medical practitioners and journalists. A dedicated meeting was held with a number of United Nations agencies operating in Albania, namely UN Women, UNDP, UNFPA and UNHCR. In the course of the visit, the GREVIO delegation visited the National shelter for victims in Tirana, as well as the shelter for victims run by the NGO Vatra in Vlora. The delegation also met a number of women who experienced violence. A list of the national authorities, non-governmental organisations and other entities and individuals met is set out in Appendix III of this report. GREVIO is grateful for the valuable information provided by all of them.

<sup>10</sup> Available at [www.rm.coe.int/168070a745](http://www.rm.coe.int/168070a745).

<sup>11</sup> Available at [www.rm.coe.int/report-awen-final-draft-jan-17/1680717e19](http://www.rm.coe.int/report-awen-final-draft-jan-17/1680717e19).

The state dialogue and evaluation visit was prepared in close co-operation with Merita Xhafaj, General Director of Social Polices within the Ministry of Social Welfare and Youth, and Etleva Sheshi 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 Albanian authorities.

The draft version of the present report was approved by GREVIO on 27 June 2017 and submitted to the Albanian authorities for comments on 7 July 2017. The authorities' comments were received on 13 September 2017 and have been taken into account by GREVIO in drawing up the final version of the report, which it formally adopted at its 12th meeting (Strasbourg, 9-13 October 2017). A full list of GREVIO's suggestions and proposals to the authorities is given in Appendix I.

In accordance with Article 68, paragraph 11 of the Convention, the report was transmitted to the Albanian authorities inviting them to submit any final comments by 17 November 2017. Comments submitted by a state party in compliance with this request (if any) are published separately

As a first baseline evaluation, GREVIO has looked into the measures of implementation taken by the Albanian authorities with regard to all aspects of the Convention and reviewed data from the years 2014 and 2015. For the sake of brevity, this report prioritises some provisions over others. Whilst it addresses all chapters of the Convention (except Chapter VIII), it does not present detailed assessments and conclusions on every provision in each of these.

## **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 in the implementation of the Convention and the evaluation of its impact.

### **B. Scope of the Convention (Article 2)**

2. The scope of GREVIO's first baseline evaluation is calibrated to reflect the scope of the Istanbul Convention, as defined in its Article 2, paragraph 1. It thereby extends to all forms of violence against women, including domestic violence, which affects women disproportionately. The term "violence against women" used for the purposes of the evaluation thus encompasses all forms of violence against women criminalised (or, where applicable, otherwise sanctioned) under Chapter V of the Convention. These are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation and sexual harassment.

3. The report submitted by the Albanian authorities to GREVIO illustrates efforts taken across the full range of forms of violence against women. In terms of chronological succession, the first legislated area in Albania was that of domestic violence, with the adoption of Law No. 966/2006 "On measures against violence in family relations" (the LDV). This legislation laid the foundations for the country's comprehensive and co-ordinated community response to domestic violence, structured around the establishment of the referral mechanisms at the level of each municipality. The LDV addressed three of the four levels of interventions advocated by the "4 Ps" approach taken in the Istanbul Convention, namely prevention, protection and integrated policies. Law No.23/2012 introducing the offence of domestic violence in the Criminal Code of Albania (the CCA) completed the picture by addressing the fourth pillar of prosecution. Other forms of violence against women with a clear gendered connotation, such as sexual violence, stalking, forced marriage and sexual harassment, were either introduced or entirely remodelled one year later, with the amendments to the CCA made by Law No. 144/2013. Although the referral mechanisms will not turn away victims of forms of violence against women other than domestic violence, preventing and combating domestic violence remains their bedrock and has strongly shaped governmental policies. Piecemeal measures addressing other forms of violence against women have yet to reach the same level of comprehensiveness. This is acknowledged by the authorities who look upon the evaluation exercise as an opportunity to improve their response to cover all forms of violence against women. Thus, a cross-cutting observation throughout this report is the need for measures expanding beyond the scope of domestic violence, whilst viewing the specificities of each form of violence against women through the common lens of gender-based violence.

4. **GREVIO urges the authorities to further their action against violence against women by ensuring that measures taken in accordance with the Istanbul Convention address all forms of violence against women, in a holistic and comprehensive fashion.**

### C. Definitions (Article 3), with reference in particular to domestic violence

5. As mentioned earlier in this report, domestic violence has been criminalised in Albania since 2012. Official statistics on cases of domestic violence portray a mixed picture, where elevated figures are the flipside of efforts aiming at encouraging reporting. From 2010 to 2014, reported cases of domestic violence rose sharply<sup>12</sup> with approximately three times more women victims than men<sup>13</sup>. Domestic violence far exceeds all other crimes as the criminal offence with the largest number of victims and in 2015, domestic violence related deaths alone represented 37% of all crime driven deaths. During the 2013 survey on domestic violence led by the National Institute of Statistics (INSTAT), more than 50% of women between the ages of 18 and 55 reported having experienced domestic violence.

6. The multi-faceted nature of domestic violence is reflected in the definition set out in Article 130/a of the CCA which covers battering and any other act of violence, including threats, causing harm to the “physical, psychosocial and economic integrity” of the victim. The personal scope of this provision embraces violence against “a spouse, former spouse, cohabitant or former cohabitant, close relative or close in-law to the perpetrator”. By comparison, the definition of domestic violence laid down in Article 3b of the Istanbul Convention targets all acts of violence which occur within the family or domestic unit or between former or current spouses or partners, irrespective of whether the perpetrator shares or has shared the same residence with the victim. Sexual violence, which falls within the remit of domestic violence as defined in the Convention, is not included in Article 130/a and is criminalised under the separate provision of Article 102 of the CCA on sexual assault. This provision, however, only refers to “engagement in sexual activity by use of force (...) between spouses or cohabitants” which attracts the same punishment as sexual assault outside any intimate partner relationship. Sexually violent acts within the domestic sphere are subject to private prosecution, as are all acts of sexual violence<sup>14</sup>.

7. A slightly different definition governs the application of the civil law provisions regarding domestic violence, since under Article 3, paragraphs 1 and 2, of the LDV, acts of domestic violence extend to violations of the sexual integrity of the victim. The starkest divergence between the criminal and civil treatment of domestic violence, however, relates more to legal practitioners’ interpretation of the relevant legal provisions. For example, whilst courts will not hesitate to grant protection orders on the basis of psychological violence alone, there is no evidence to indicate that psychological violence will suffice to found a conviction under Article 130/a of the CCA. More worryingly yet, it would appear that a strict textual interpretation based on the law’s use of the preposition “and” is defended before criminal courts to claim that only a combination of psychological, physical and economic violence can constitute the offence of domestic violence. GREVIO is concerned that such an interpretation might prevail despite the principle enshrined in Albania’s constitution that binding international treaty provisions take precedence over any conflicting provision of domestic law.

8. Albania’s response to domestic violence is strongly anchored to a gender perspective at the policy level<sup>15</sup>, less so at the legislative level, where the offence of domestic violence is categorised amongst the criminal acts “against children, marriage and family”<sup>16</sup> and the stated aim of the LDV is to “guarantee protection (...) to members of the family who are subject to domestic violence, paying particular attention to needs of children, the elderly and the disabled”.<sup>17</sup> Such an angle is

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<sup>12</sup> According to INSTAT’s 2016 version of the publication Women and men, the number of women victims of domestic violence for the years 2009-15 are as follows: 1660, 1779, 2036, 2346, 3090, 2725.

<sup>13</sup> 3090 women versus 1031 men were victims of domestic violence during the year 2014 according to figures reported by the General directorate of state police reproduced in INSTAT’s publication Women and men, 2016.

<sup>14</sup> This issue will be dealt further in this report, with respect to Article 55 of the Convention regarding *ex parte* and *ex officio* proceedings.

<sup>15</sup> See considerations developed further in this report with respect to Article 6 of the Convention on gender-sensitive policies.

<sup>16</sup> See the title of Section 9 of the CCA.

<sup>17</sup> See Article 1 of the LDV.

out of phase with data showing that women are by far the largest group of victims of domestic violence and tends to overlook the human-rights based and gendered approach of the Convention.

**9. GREVIO strongly encourages the Albanian authorities to take all necessary measures, including legislative measures, to harmonise its definition of domestic violence in domestic law with the Convention and to ensure the effective application of such a harmonised definition in practice. The authorities should further introduce a clear gendered approach in their legislation to acknowledge fully the gendered nature of domestic violence which predominantly affects women and girls.**

#### **D. Fundamental rights, equality and non-discrimination (Article 4)**

##### **1. Gender equality and non-discrimination**

10. The principle of equality between women and men is embodied in Article 18 of Albania's Constitution. *De iure* equality is further developed in Law No. 9970/2008 "On gender equality in society" which aims at providing protection against discrimination on grounds of gender and promoting equal opportunities between men and women. The law on gender equality introduced mandatory gender mainstreaming across the spectrum of law-making, policymaking, planning, implementing and monitoring processes, in the fields of education, media, employment and participation in public life. It paved the way for collecting gender-based statistics and developing gender indicators as well as gender responsive budgeting. The institutional set-up devoted to advancing gender equality was furthered with the adoption of Law No. 10 221/2010 "On protection from discrimination" and the creation of the independent institution of the Commissioner for the protection from discrimination. The Commissioner is mandated to hear and decide on cases of discrimination, assist victims before courts, conduct surveys and make recommendations to political decision-making bodies.

11. The 2014 report of the Commissioner<sup>18</sup> offers a snapshot of the main areas where women in Albania continue to face *de facto* discrimination. These are: (a) labour relations, where women report higher rates of unemployment and are the first to suffer from any slow-down in the economy; (b) access to goods and services, including basic services such as drinkable water and electrical supplies; (c) access to social and economic benefits including bank loans, mortgages and other forms of financial assistance; (d) access to property, capital and housing, as well as (e) participation in politics and decision-making. These and other issues of concern, such as access to justice and health services, have been largely echoed in the recent concluding observations on the fourth periodic report of Albania adopted by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee)<sup>19</sup>.

12. The Istanbul Convention is premised on the principle that gender inequality is a root cause of gender-based violence and contributes to women's victimisation. GREVIO welcomes efforts by the Albanian authorities to intertwine measures to combat violence against women with efforts to promote gender equality. Thus, under the on-going National Strategy and Action Plan on Gender Equality for the period 2016-20, the third strategic goal of reducing gender-based violence is preceded by the goals of empowering women economically and guaranteeing their factual and equal participation in the political and public decision-making arenas.

13. GREVIO commends the active involvement of human rights institutions in Albania, namely the Commissioner against Discrimination and the People's Advocate, to promote equality between women and men and combat violence against women. Their oversight of governmental action and participation in international human rights monitoring processes offer a clear added-value which also contributed to GREVIO's evaluation. GREVIO takes note of the Commissioner's finding of low

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<sup>18</sup> Published on the [Commissioner's website](#).

<sup>19</sup> Published on the [United Nations Human Rights Office of the High Commissioner's website](#).

levels of awareness amongst citizens and public officials that violence against women constitutes a violation of human rights resulting from gender discrimination.

14. **GREVIO encourages the Albanian authorities to:**

- a. **continue to ground their efforts to combat violence against women on policies in favour of empowering women in the private and public sphere and ensuring substantive equality between women and men;**
- b. **study possible means to heighten awareness around the discriminatory nature of violence against women and enhance the role of the Peoples' Advocate and that of the Commissioner against Discrimination as defenders of victims of violence against women.**

**2. Intersectional discrimination**

15. Article 4, paragraph 3 of the Convention requires Parties to secure the implementation of their undertakings under the Convention without any discrimination. This provision provides an open-ended list of discrimination grounds which draws on that of Article 14 of the European Convention on Human Rights (the ECHR) as well as the list contained in Protocol No. 12 to the ECHR<sup>20</sup> and mentions further 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<sup>21</sup>.

16. Limited data exists regarding violence against women and vulnerable group of women in Albania, although more than one report<sup>22</sup> provides information concerning the heightened difficulties they encounter in reporting violence and accessing adequate protection and support services. In Albania, disadvantaged and marginalised groups of women include in particular older women, Roma and Egyptian women, women with disabilities, migrant women, lesbian, bisexual and transgender women, as well as asylum seeking women. These women are particularly vulnerable to gender-based violence and victims face compounded difficulties to escape from the vicious cycles of violence.

17. Important steps have been taken at the legislative and policy level by the authorities to respond to the specific needs of a number of these groups, promote the full enjoyment of their rights and prevent discrimination<sup>23</sup>. As regards measures to prevent and combat violence against women, the introductory article to the LDV expressly acknowledges the need to pay special attention to elderly and disabled victims of domestic violence. Apart from this gender-neutral formal recognition in the law, however, measures taken to combat domestic violence do not appear to include components geared to these particular categories of victims<sup>24</sup>. Integrating disability-sensitive measures within policies to counter violence against women would conform to the so-called "twin-track approach" advocated by the United Nations Convention on the rights of persons with disabilities which Albania ratified in 2012. At the same time, GREVIO did not find any evidence indicating that policies targeting certain vulnerable groups, such as the National Action Plan for

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<sup>20</sup> 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.

<sup>21</sup> See paragraphs 52-54 of the Explanatory report.

<sup>22</sup> See in particular the 2016 Concluding observations on the fourth periodic report of Albania of the CEDAW Committee. An overview of violence against women and girls with disabilities in Albania is available in the study by **Çani B. et al** (2015), *Invisible Violence – An overview on the phenomenon of violence against women and girls with disabilities in Albania*, UNDP, Tirana.

<sup>23</sup> These include for instance signing up to the United Nations Convention on the Rights of Persons with Disabilities and developing a National Action Plan for Integration of the Roma and Egyptians for the period 2016-20.

<sup>24</sup> As regards disabled persons, the "twin-track approach" advocated by the United Nations for equalising opportunities for persons with disabilities consists of: (a) integrating disability-sensitive measures into the design, implementation, monitoring and evaluation of all policies and programmes and (b) providing disability-specific initiatives to support the empowerment of persons with disabilities.

Integration of the Roma and Egyptians for the period 2016-20, sufficiently mainstream measures to prevent and combat violence against women.

**18. GREVIO encourages the authorities to:**

- a. add specific indicators relating to vulnerable groups of women and girls in data collection;**
- b. integrate the perspective of such groups in the design, implementation, monitoring and evaluation of policies for preventing and combating violence against women;**
- c. mainstream preventing and combating violence against women in programmes which are tailored to the specific needs of such groups.**

**E. Gender-sensitive policies (Article 6)**

19. Albania's response to violence against women has widely incorporated a gender sensitive approach by recognising such violence as gender-based discrimination and linking policies and measures to combat violence against women with measures to promote equality and women's empowerment. Thus, both types of measures tend to be developed under comprehensive strategies and action plans treating violence against women and discrimination as a single policy problem. This dual approach is essential in effectively tackling violence against women and conforms to the approach taken by the Istanbul Convention in its Article 6. Whilst the strategic aims and goals of these policy instruments often target gender-based violence as an umbrella concept encompassing all forms of violence against women, their specific outcomes remain however very much focused on domestic violence. As mentioned earlier in this report, other forms of violence against women, such as forced marriage, forced abortion, sexual violence including rape and sexual harassment, have not been prioritised in the design and implementation of policies. In developing specific policy interventions for each of these other forms of violence against women, it is important that they continue to be linked together as different manifestations of gender discrimination.

20. If on the one hand, policies generally acknowledge the gendered nature of violence against women, understood as the "fundamental social, political and economic mechanism by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated"<sup>25</sup> and the "manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women"<sup>26</sup>, public opinion on the other hand, lacks a gendered understanding of violence against women and tends to view violence restrictively as a by-product of low socio-economic development. Many professionals share this vision as well. Thus, the notion that violence is mostly confined to poverty-stricken parts of the country, underprivileged neighbourhoods and poorly educated women is common currency. Prevalence data in Albania revealed that women with a university education are significantly less likely to experience domestic violence in their marriage/intimate relationships, compared to women with a lower education level, and that women who do not work outside of the home are more likely to experience domestic violence than women who work out of the home<sup>27</sup>. However, some research has shown that in Albania, the prevalence of domestic violence is in fact highest among women "with more than 12 years of education, those employed in white collar positions, women who were more educated than their spouse (...), and in couples where the wife was the only one employed"<sup>28</sup>. GREVIO warns against any belief which would reduce violence against women to a poverty issue and purport that only women of a low socio-economic status are susceptible to violence. Such a

<sup>25</sup> See paragraph 10 of the CEDAW Committee General Recommendation No. 19 on Violence against Women; paragraph 11 of the CEDAW Committee Draft Update of General Recommendation No. 19.

<sup>26</sup> See the preamble to the Istanbul Convention.

<sup>27</sup> See the findings of the 2013 survey on domestic violence conducted by INSTAT, in particular as regards women's level of education and work status.

<sup>28</sup> See. Genc Burazeri et al (2005), *Factors associated with spousal physical violence in Albania: cross sectional study*.

misconception would ignore widespread evidence that violence is pervasive across all levels of society and that it is not affected by economic wellbeing. It would further undermine efforts to reach out effectively to all women, regardless of their economic and/or social standing.

21. Moreover, there is a tendency in Albania to promote forgiveness under the pretext of traditional family values. Women and girls themselves believe, to a large degree, that they should tolerate violence to keep the family together. This tendency transpires, for instance, in the actions of public officials in law enforcement<sup>29</sup> and the judiciary<sup>30</sup> who promote mediation outside any legal framework and without proper consideration for the safety of victims. The inclination to preserve the unity of family at all costs may also explain disturbing failures in the procedure for issuing protection orders for children<sup>31</sup>. GREVIO voices its strong belief that respect for individual family members' right to live a life free from violence is instrumental in allowing families to thrive. It warns against any approach which justifies intra-family violence or otherwise downplays its seriousness, thereby undermining and ultimately destroying families. To counter this tendency, more should be done to raise awareness within society, the professionals concerned and amongst women and men alike, about the unacceptability of violence against women, under any pretext whatsoever.

22. **GREVIO urges the authorities to:**

- a. **promote a clear understanding within society of the gendered nature of violence against women which affects women not because of their educational level and socio-economic background, but because they are women;**
- b. **challenge attitudes in society which justify intra-family violence;**
- c. **have a clear gendered approach when developing targeted measures to address forms of violence against women other than domestic violence.**

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<sup>29</sup> See paragraph 8 of the written contribution to the evaluation process submitted by the Women's Association "Refleksione: "There are reported cases when police mediates reported cases of domestic violence and considers them "petty offence".

<sup>30</sup> See the section developed further in this report regarding the prohibition of mandatory alternative dispute resolution processes or sentencing.

<sup>31</sup> See the section developed further in this report regarding emergency barring orders and protection orders.

## II. Integrated policies and data collection

23. 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. Financial resources (Article 8)

24. As the main institution responsible for combating violence against women, the Ministry of Social Welfare and Youth (the MSWY) plans the annual budget for measures concerning violence against women alongside gender equality measures within the budgetary programme for social inclusion. Although the state report indicates that sums earmarked within this programme for gender-based violence, and in particular for domestic violence, have been increasing in the last years, precise figures have not been provided to substantiate this claim. Moreover, amounts given for the period 2014-17<sup>32</sup> show that although financial allocations related to social inclusion in 2017 almost doubled compared to 2014, they declined sharply compared to 2015 and 2016. As regards spending on personnel, the state report indicates an increased reliance of the gender equality structure, the entity within the MSWY responsible for issues related to violence against women, on external consultants. Other governmental entities involved in combating violence against women, such as the State Police, the Ministry of Justice, the Ministry of Health and the Ministry of Education, do not have budgetary allocations specifically devoted to violence against women. At the local level, gender equality employees who have the role of local co-ordinators against domestic violence remain to be appointed in 17 municipalities out of a total of 61. Data on local governing units' expenditure is not reported to the Ministry of Finance and hence could not be communicated to GREVIO. Although the increase in governmental spending for shelters and law enforcement measures<sup>33</sup> is to be commended, GREVIO does not consider that it can reasonably reach a similar conclusion concerning overall spending trends for preventing and combating violence against women.

25. International funding is mentioned throughout the state report carrying an important share of the costs for national strategies, awareness-raising campaigns, training of professionals and referral mechanisms as well as general and specialised services and shelters for victims. Approximate figures provided by the authorities indicate that donor funding accounts for at least half of the expenditure related to gender equality and gender-based violence. GREVIO welcomes the fact that the highest share of the budgeted expenditure (29.9%<sup>34</sup>) under the current National Action Plan on Gender Equality is allocated to combating gender-based violence<sup>35</sup>. It notices however at the same time that the largest funding gap<sup>36</sup> (64%) relates to the strategic goal of reducing gender-based violence. GREVIO notes under these circumstances that the needs identified to combat effectively violence against women largely exceed the committed means.

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<sup>32</sup> According to information provided by the authorities, total expenditure for social inclusion activities for the years 2014-17 is as follows: 102 336 Euros in 2014, 207 993 Euros in 2015, 294 265 Euros for 2016 and 182 593 for 2017.

<sup>33</sup> According to information provided by the authorities, the State Police budgeted 664 104 Euros for 2017 compared to 378 400 Euros in 2014 for the identification of domestic violence cases, and 663 993 Euros in 2017 compared to 378 400 Euros in 2014 for immediate protective measures for women and girls.

<sup>34</sup> Total costs for implementing the National Strategy and Action Plan amount to about 2,785 million Albanian Lek, or approximately 20.5 million Euros.

<sup>35</sup> Refer to page 28 of the National Strategy and Action Plan on Gender Equality: "Highest expenditure will be used by objective 3.2 "Strengthening of the referral mechanisms, and of specialized support services in the protection and treatment of cases of GBV & DV". The costs for this objective cover 29.9% of total NAP expenditures. Expenditures are targeted primarily to two activities: 63.59% of expenditure is targeted to activity 3.2.7 "Expanding the range of specialized support services in accordance with the requirements of the Istanbul Convention and their extension nationwide".

<sup>36</sup> In other words, the largest difference between estimated costs and identified budget.

26. Following the adoption of the law on gender equality, the Albanian government adopted the Council of Ministers Decision No. 465 dated 16.7.2012 “On gender mainstreaming in the medium term budget programme” whereby all central institutions are required to plan measurable gender equality targets in their budgets and finance gender-sensitive programmes. Gender-responsive budgeting is meant to offer a technical solution which allows tracking the share of national budget allocated in support of gender equality and women’s empowerment. Its impact depends upon the careful execution of the planned gender-sensitive outputs. By 2015, nine ministries were engaging in gender responsive budgeting. Gender mainstreaming is also being progressively introduced for local governing units’ budgets<sup>37</sup>. GREVIO notes with interest the possibility offered by this new budgeting method for clearly setting and measuring progress with respect to violence against women related indicators. It notes further that this exercise can help the authorities in achieving a better understanding of the costs of violence against women and of the financial strain it places on public resources<sup>38</sup>.

27. **GREVIO strongly encourages the Albanian authorities to:**

- a. **strengthen the machinery for combating violence against women by providing appropriate human and financial resources at both the central and municipal levels;**
- b. **expand significantly the budget allocated to the entity responsible for preventing and combating violence against women;**
- c. **commit budgetary resources dedicated to preventing and combating violence against women for other concerned line ministries;**
- d. **pursue and step up efforts in implementing gender responsive budgeting so as to be able to allocate appropriate funding and to monitor public spending dedicated to combating violence against women and to measure progress achieved.**

## **B. Non-governmental organisations and civil society (Article 9)**

28. If international donors are highly important sources of funding, nevertheless, it is the NGOs in Albania who are to be credited for operating most, if not all, counselling and support services for victims of the various forms of violence covered by the Convention. They include *inter alia* the NGOs running the shelters for victims and their children, the centre responsible for managing the new national telephone helpline, entities offering free legal assistance and legal aid and those providing services for perpetrators. Through their consolidated networks, NGOs are also active in supporting victims to achieve economic autonomy and facilitating their access to the labour market. Another area which relies predominantly on the work of NGOs is that of training of professionals. Moreover, NGOs have spearheaded the establishment of the first referral mechanisms at the level of municipalities and are often one of the cornerstones of any functioning co-ordinated community response. Awareness campaigns largely owe their success to NGOs’ initiative and/or involvement. International inter-governmental organisations active in the country seek their expertise and knowledge of the situation on the ground to produce studies and research reports.

29. Co-operation with government agencies exists in many forms and at various levels, some more institutionalised than others. At the policy-making level, NGOs are represented in the National Council on Gender Equality, which is the advisory body to the central government responsible for monitoring the implementation of policies in the field of gender equality and violence against women<sup>39</sup>. Civil society representatives regularly form part of inter-agency working

<sup>37</sup> For more detailed information on the status of gender-responsive budgeting in Albania, see Monika Kocaqi, Ani Plaku and Dolly Wittberger (2016), *Gender Brief Albania*, UN Women & UNDP, Tirana.

<sup>38</sup> A costing exercise was conducted by the NGO Center for legal civic initiatives, see: Aurela Anastasi et al. (2013), *A study of the economic costs for the implementation of the Albanian legislation against domestic violence*, UN Women & UNDP, Tirana

<sup>39</sup> Article 13/2 c of the Law No. 9970/2008 *On Gender Equality in Society*, expressly enshrines the duty of the lead responsible authority, namely the MSWY, to co-operate and provide support to NGOs active in this area of gender equality. The same obligation is placed by Article 14/2 upon local government authorities who are to “work closely with non-profit organizations to achieve gender equality in various fields”.

groups to address and improve particular aspects of the Albanian response to violence against women. They were widely consulted and involved during the preparatory stage of the authorities' report to GREVIO. As regards the response to domestic violence, co-operation with specialised NGOs is channelled through their participation in the multi-disciplinary technical teams and is officialised through the conclusion of formal protocols of agreement at the local level. The duty of the MSWY to support NGOs is also clearly spelled out in the LDV<sup>40</sup>.

30. GREVIO is thus of the opinion that the key role of NGOs in offering support and protection to women victims of gender-based violence is widely acknowledged in Albania. The specific expertise and values developed over the years by the specialist women's NGO sector is heavily relied on by the authorities. In particular, the implementation of the LDV, which NGOs pioneered many years before it was enacted, set the stage for building effective co-operation between the authorities and civil society, as mandated by Article 9 of the Convention. Despite this very positive assessment, GREVIO would point to a number of concerns.

31. The strong reliance on dedicated and specialist non-governmental support services undoubtedly ensures quality support to victims and is one way of discharging the obligation to provide services as required by Chapter IV of the Istanbul Convention. However, the dependency of Albanian NGOs on international funding raises an issue of long-term sustainability, unless the authorities are ready to provide the necessary funds. GREVIO notes with satisfaction the increase in governmental spending devoted in recent years to shelters. This type of expenditure relates for the most part to the funding of personnel (social workers) employed in NGO shelters and administered through the social fund regulated by Law No. 121/2016 on "Social services in the Republic of Albania". Apart from this source of funding, however, the only available instrument for distributing public funds to NGOs is the State Agency for Support to Civil Society, which awards small grants for projects of a limited duration and is not apt at ensuring constant funding streams. GREVIO welcomes in this regard the adoption of Law no. 125/2013 "On concessions and private public partnerships", which opens up new avenues for outsourcing social services and funding them on a long-term basis. GREVIO understands that the conditions needed for sub-contracting public services to NGOs on the basis of this law, such as the adoption of the necessary bylaws, have not yet been met. It also takes notes of the concerns voiced by civil society that the implementation of the law might translate into unfair and/or unsuitable procurement procedures<sup>41</sup>. GREVIO recalls in this respect that should the authorities lay down minimum/common standards to be met in order for NGOs to take part in any tendering procedure, such standards should acknowledge NGOs' know-how and be closely negotiated with civil society in accordance with international norms<sup>42</sup>.

**32. GREVIO urges the Albanian authorities to take further appropriate measures, such as the establishment of suitable programmes and grants, and adapted and transparent procurement procedures, to ensure stable and sustainable funding levels for women's NGOs working to support victims and prevent violence and thus enabling them to meet fully the needs of all victims.**

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<sup>40</sup> See Article 6 of the LDV: "*The lead responsible authority has the following duties: (...) b. To finance and co-finance projects designed for the protection and consolidation of family and for the care of victims of domestic violence; (...) c. To organize training sessions on domestic violence with (...) employees of non-profit organisations licensed to offer social services; (...) dh. To support and supervise the set-up of rehabilitation centres for domestic violence victims*".

<sup>41</sup> A comprehensive analysis of the issues at stake is developed in: Aurela Anastasi (2013), An analysis of the legal framework on NGO's subcontracting by central and local authorities, with regard to the services against domestic violence, UN Trust Fund to End Violence against Women, Tirana.

<sup>42</sup> See in particular the Council of Europe Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states, under which terms NGOs should, *inter alia*, not be subject to direction by public authorities, ensure that their management and decision-making bodies are in accordance with their statutes but otherwise be free to pursue their objectives and be consulted during the drafting of primary and secondary legislation that affects their status, financing or spheres of operation.

### C. Co-ordinating body (Article 10)

33. In Albania, co-ordination and implementation of state measures to combat violence against women at the national level is ensured by the MSWY and supported by the National Council on Gender Equality<sup>43</sup>. The National Council is placed under the leadership of the Minister of Social Affairs and Youth and comprises the deputy ministers of nine line ministries, as well as three representatives from civil society. It acts as an advisory body to the government on all issues related to gender equality, by reviewing draft legislation and programmes to combat violence against women and by making specific proposals for further measures. Whilst commending the fact that the co-ordination function within the National Council is tied in at a high administrative level, GREVIO notes that the purely advisory role of this body might not suffice to give it the necessary political clout to obtain commitment from the political decision-making bodies.

34. The state report refers also to the monitoring and evaluation function of the National Council which is tasked with reviewing and evaluating how effectively policies and measures are implemented. The evaluation function referred to under Article 10 is to be understood as implying an independent assessment of whether measures taken appropriately address the needs of victims and whether they achieve their aim and expose any unintended effects. Recent studies have highlighted the value in differentiating monitoring from evaluation and attributing these two functions to separate institutions<sup>44</sup>. Evaluation needs to be grounded on robust administrative and population-based data<sup>45</sup>. In Albania, the national co-ordinating body centralises and analyses data related to violence against women, in close co-operation with INSTAT, based on harmonised indicators on gender equality and the status of women<sup>46</sup>. The indicators touch on the sphere of competence of multiple authorities and thus promote cross-agency data synchronisation.

35. Under Article 13 of the law on gender equality, it is the responsibility of the MSWY to organise and follow-up on the meetings of the National Council. GREVIO is concerned that this very demanding task has simply been added to the workload of the gender equality sector without assigning any dedicated staff or budget to manage the functioning of the National Council. This raises questions as to the ability of the small team of the gender equality sector to discharge its duties adequately. Available information would indicate that “the National Council meets infrequently, and its visibility and effectiveness requires strengthening to enable it to operate fully according to its mandate”<sup>47</sup>. With the aim of overcoming these limitations, GREVIO welcomes the objective under the on-going National Strategy and Action Plan on Gender Equality of empowering the gender equality sector with a consolidated and efficient organisational structure<sup>48</sup>.

**36. GREVIO strongly encourages the Albanian authorities to strengthen the role of the National Council on Gender Equality by conferring upon it clear decision-making powers to enable this body to exercise effectively its functions as a co-ordinating body. It further invites the authorities to allocate dedicated human and financial resources to the co-ordinating body and consider conferring the evaluation function to an independent separate institution.**

### D. Data collection and research (Article 11)

37. Preventing and combating violence against women, including 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.

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<sup>43</sup> The National Council on Gender Equality was created under Article 11 of the law on gender equality.

<sup>44</sup> See page 28 of the report by Heike Rabe and Nadiye Ünsal (2016), Implementing Article 10 of the Council of Europe Convention on preventing and combating violence against women and domestic violence – establishing national co-ordinating bodies, Council of Europe, Strasbourg.

<sup>45</sup> See paragraph 71 of the Explanatory report.

<sup>46</sup> See the Harmonized indicators on gender quality and the status of women in Albania, 2011.

<sup>47</sup> See page 14 of the *Gender Brief Albania* mentioned prior in this report.

<sup>48</sup> See objective 4.1 under the *National Strategy and Action Plan on Gender Equality 2016-2020*.

38. From the information obtained during the evaluation, it is evident that most of the concerned stakeholders already engage in the collection of data on some or all of the forms of violence covered by the Convention - albeit to varying degrees. Thus, data on domestic violence allows drawing a plausible portrait of the reality of domestic violence in Albania. Data on other forms of violence against women such as sexual violence, however, barely hint at the existence of a phenomenon which by many accounts remains largely uncharted territory, fenced off by taboos and severe under-reporting<sup>49</sup>. GREVIO would like to point to the opportunities that the ratification of the Istanbul Convention presents in this regard, in particular the role assigned to the co-ordinating body in co-ordinating the collection and analysis of data and their dissemination (Article 10 paragraph 1). A number of tools exist to support governments wishing to improve data collection in the area of violence against women, suggesting a solid knowledge base to which the authorities can turn<sup>50</sup>. To support Albania's endeavours in this field, GREVIO hereafter submits a number of priority proposals for future action to be taken by a select number of stakeholders.

### **1. Law enforcement and criminal justice sector**

39. Data collection by law enforcement and criminal courts in Albania covers the annual numbers of offences reported to the police and those referred to prosecution, as well as numbers of convictions. It also provides information - broken down by sex and age-group - on the number of convicted persons, prisoners and victims. Data is further detailed based on the level of education of perpetrators and geographical location. All data is collected on the basis of the offences set out in the CCA. This data is used by INSTAT for the purposes of producing gendered statistics for different categories of offences<sup>51</sup>. INSTAT's publication "Women and men in Albania" contains data on rates of crime, by sex of victim, with a specific reference to the offence of domestic violence. It also elaborates data on the rate (per 10 000 inhabitants) of women who denounce domestic violence per major city and on the percentage of total murders caused by domestic violence. This publication is published on the internet on a yearly basis.

40. Whilst commending the gendered focus applied to data collection, GREVIO notes that information on the relationship between perpetrator and victim is not recorded. Even with respect to the dedicated offence of domestic violence, the family relationships to which this offence applies are insufficiently distinct and too varied to render the data category meaningful for the purposes of policy making. For example, they would cover intergenerational relationships such as father and daughter as well as intimate relationships between intimate partners. They would also cover offences committed among siblings. As a result, the data collected does not allow conclusions to be drawn on the number of cases of intimate-partner violence compared to those of, for example, child abuse. Thus specific categories of relationships are needed to render more visible the number of cases of domestic violence as understood by the Convention.

41. **GREVIO strongly encourages the Albanian authorities to :**

- a. **make domestic violence against women and the gendered nature of other forms of violence against women more visible in the crime statistics presented to the public, by clearly identifying the number of women victims per type of offence. This would include the visible presentation to the public of information on the number of homicides of women at the hands of men (gender-related killing of women);**
- b. **develop data categories on the type of relationship between perpetrator and victim for all forms of violence against women that would allow the nature of their relationship to be more specifically documented;**

<sup>49</sup> According to the state report, there were only 9 victims of sexual violence against women in 2014, and 15 victims in 2015, based on data collected by the State Police.

<sup>50</sup> See for example, the following Council of Europe publications: *Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention – A collection of papers on the Istanbul Convention* (2015); *Administrative data collection on domestic violence in Council of Europe member states*, (2008)

<sup>51</sup> Such categories include robbery, homicide, injury, sexual crime, drug crimes, criminal organisations, fraud, exploitation of prostitution and others.

- c. **ensure that these and any other data categories in use, including the type of violence and location where the offence is committed, are harmonised across the various sectors;**
- d. **conduct studies on conviction rates for all forms of violence against women and make public the results of such studies.**

## **2. Civil justice sector**

42. Data regarding protection orders issued by the civil law courts<sup>52</sup> is collected, but it is not published by the Ministry of Justice in the Statistical Yearbook nor is it otherwise systematically made available to the public. No information appears to be collected regarding the Parties involved, thus making it impossible to assess whether they have been issued for a child, a female or male victim of domestic violence. Limited information on the practice of courts gathered by NGOs demonstrates the need for more comprehensive and extended data on the numbers of applications filed, their acceptance rates and the reasons invoked by courts for rejecting them.

43. Another area where data from civil courts would help in the prevention of violence against women, in particular forced marriage is that related to judicial authorisations for minors to marry<sup>53</sup>. Initiatives aimed at collecting this type of data have been carried out by NGOs and have proven useful in highlighting the issues at stake<sup>54</sup>.

**44. GREVIO encourages the Albanian authorities to ensure the collection and publication of data from the civil justice sector on the number of protection orders, the sex, age and relationship of all Parties involved, as well as on the authorisations granted by courts for underage marriages.**

## **3. Health**

45. Following the entry into force of the LDV, emergency wards in hospitals and health care centers in municipalities and communes have been required to set up the necessary structures to provide health care to victims of domestic violence. Under the relevant provision of the LDV<sup>55</sup>, victims are entitled to receive medical and psychological support and should be referred to specialist support services. Domestic violence cases are to be recorded and communicated to the Ministry of Health using the appropriate templates approved by the ministry. Victims are entitled to receive documentation illustrating any injury sustained as a consequence of violence. Implementation of these provisions, however, is insufficient and hampered by healthcare professionals' reluctance to report cases of domestic violence, partly out of fear of exposing themselves or the victims to retaliation by the perpetrators. Thus, actors in the field acknowledge that data generated by healthcare are largely a substantial under-representation of real figures. There are no equivalent obligations to collect data regarding other forms of violence against women, such as sexual violence. As a result, information on the number of victims identified by medical professionals and on the treatment they receive is rather scarce. Thus, it is impossible to evaluate the impact such support services have where they are provided<sup>56</sup>, and whether they fulfil at all their intended role.

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<sup>52</sup> A detailed description of the Albanian system of civil law protection orders can be found in Chapter VI.

<sup>53</sup> Refer to the section of this report dealing with forced marriages.

<sup>54</sup> See the results based on the observation of the case-law of the district courts of Korça and Pogradec for the period January 2011 – December 2016 in the study by Arta Mandro-Balili, Bernard Zeneli (2017), Marriage in Court? -The rights of children, underage marriage and the role of the Court, Observatory for Children's Rights, Tirana.

<sup>55</sup> See Article 7, paragraph 2 of the LDV.

<sup>56</sup> Issues regarding services provided by healthcare professionals are dealt with further in this report with respect to Chapter IV of the Convention.

46. **GREVIO encourages the Albanian authorities to take measures to improve the systematic collection of data by all hospitals and other healthcare facilities, whether or not they have set up the necessary structures to deal with victims, on the number of victims, their age, and relationship with the alleged perpetrator, for all forms of violence against women, including lethal violence.**

#### 4. Research

47. The state report provides a list of studies on violence against women which were carried out or supported by the authorities between 2011 and 2015, mostly with the support of international funding and the involvement of specialist NGOs. These include reports submitted to human rights monitoring mechanisms, legislation and policy reviews, protocols and guidelines for concerned professionals and statistical reports published by INSTAT. Other studies focused on specific groups of victims, such as women with disabilities and women in the LGBT community.

48. Whilst GREVIO appreciates the fact that the above research is concerned with evaluating the efficacy of measures taken to prevent and combat violence against women, GREVIO notes that less attention is devoted to unearthing the root causes and understanding the effects of violence. Moreover, no support appears to have been given to research carried out by academia, despite the keen interest of universities to embark in studies on related matters. The role of the National Public Health Institute in the field of research could also be enhanced.

49. **GREVIO encourages the Albanian authorities to:**

- a. **increase their support to research into the underlying causes and the effects of violence against women, including its effects on children;**
- b. **promote research in the health sector on such topics as prevention and means to improve the responsiveness of health care professionals, with the aim of supporting policy-makers in identifying the most effective ways of reducing victims' mortality, morbidity and disability;**
- c. **address, through research, all forms of violence against women such as sexual violence, sexual harassment and forced marriage or other traditional practices harmful to women, as well as violence affecting vulnerable groups of women such as Roma women and girls and older women.**

#### 5. Surveys

50. GREVIO notes with satisfaction that two population-based surveys were conducted on domestic violence by INSTAT. The 2013 survey revealed trends on issues such as help-seeking behaviours of battered women, domestic violence inflicted by family members other than husbands/partners, alcohol as a "contributing factor"<sup>57</sup> to domestic violence<sup>58</sup>, the risk of unwanted

<sup>57</sup> See page 46 of the report by Robin N. Haar (2013), *Domestic violence in Albania - National population-based survey*. "The relationship between alcohol use/abuse and domestic violence is complicated. One of the myths – widely held false beliefs – about domestic violence is that alcohol is a major cause of domestic violence. In reality, alcohol does not cause domestic violence, although some abusive husbands/partners use alcohol as an excuse for becoming violent. While an abuser's alcohol use/abuse may have an effect on the severity of domestic violence or the ease with which the abusive husband/partner can justify his actions, an abusive husband/partner does not become violent because of alcohol. In other words, drinking does not cause an abusive husband/partner to lose control of his temper. Rather, domestic violence is used to exert power and control over another person; thus, it does not represent a loss of control".

<sup>58</sup> According to the 2013 survey, women whose husbands/partners drink alcohol (76.7%) were significantly more likely to experience domestic violence – psychological, physical, and/or sexual violence – compared to women whose husbands/partners did not drink alcohol (47.8%). More specifically, women whose husbands/partners drink alcohol (74.9%) were significantly more likely to experience psychological violence than women whose husbands/partners did not drink alcohol (46.9%). Moreover, women whose husbands/partners drink alcohol were nearly three times more likely to experience physical violence and six times more likely to experience sexual violence in their marriage/intimate relationship, compared to women whose husbands/partners did not drink alcohol.

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pregnancy and exposure to sexually transmitted diseases in intimate relationships<sup>59</sup>. GREVIO welcomes the upcoming demographic health survey co-ordinated by INSTAT, the National Public Health Institute and the MSWY, which will include a module on domestic violence. The survey will also bring about updated data on sex-selective abortion practices. Compared to domestic violence, the prevalence of other forms of violence against women, in particular sexual violence and forced marriage have been poorly assessed in Albania. GREVIO takes note in this respect of the opportunity given by INSTAT's regular labour force surveys to take up the topic of sexual harassment. Surveys would also be useful in order to support (or dispel) the widespread popular opinions that violence against women is more prevalent and entrenched in certain geographical parts of the country.

**51. GREVIO encourages the Albanian authorities to take measures to monitor the prevalence of the forms of violence against women not previously assessed, in particular sexual harassment, sexual violence, including in the context of intimate partnerships, and forced marriage.**

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<sup>59</sup> According to the 2013 survey, sexually abused women (15.7%) were nearly three times more likely to report their husband does not allow them to use contraceptives to avoid pregnancy, compared to women who were not sexually abused (5.8%).

### III. Prevention

52. This chapter contains a number of general and more specific obligations in the area of prevention. Prevention measures are particularly strategic in a long-term vision of ending violence against women, as they aim to ensure far-reaching changes in attitudes and beliefs towards women, their role and status in society and their sexuality. Such measures 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 prevention of violence against women. They 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.

53. Albania's on-going National Strategy on Gender Equality for the period 2016-20 is the third consecutive strategy addressing gender-based violence and domestic violence in correlation with gender equality. This approach attests to the authorities' clear focus on the need to integrate preventive measures against violence against women and domestic violence in a wider, holistic response challenging social norms. Despite such measures, available studies on perceptions and attitudes towards gender equality in general<sup>60</sup>, and violence against women and domestic violence in particular<sup>61</sup>, show that negative gender stereotypes which contribute to such violence continue to linger. Thus, there is a need to continue to challenge gender-biased mind-sets and the harmful practices which they risk perpetuating, drawing *inter alia* from the recommendations which have been issued on this matter by other international human rights monitoring bodies<sup>62</sup>.

#### A. Awareness raising (Article 13)

54. GREVIO commends the authorities' efforts to promote awareness around the issues of violence against women. In particular, it expresses its appreciation towards the authorities' initiatives in this field linking the issues of gender equality and violence against women, and involving men and boys as actors of change in combating stereotypes and rejecting all forms of violence<sup>63</sup>. GREVIO notes in this respect that awareness-raising is one of the strategic goals of Albania's National strategy and action plan on gender equality for 2016-20 which aims at increasing by 30% the number of individuals in society who support the strategy's vision of zero tolerance towards violence against women. Available studies on perceptions on violence against women in Albania<sup>64</sup> offer valuable suggestions as to areas where such efforts might concentrate. These include for instance the attitude, shared by women and men alike, which condones certain forms of violence, or violence under certain circumstances (such as provocation) as acceptable. Awareness-raising initiatives should also challenge women's and girls' belief that women should tolerate violence to keep the family together<sup>65</sup>. GREVIO notes in this respect the tendency in Albania to promote forgiveness under the pretext of traditional family values. Such initiatives should further aim at reshaping preconceived gender roles and stereotypes within the family.

<sup>60</sup> See Marsela Dauti, Edvin Zhllima (2016), Public perceptions and attitudes towards gender equality in Albania, UNDP, Tirana, 2017.

<sup>61</sup> See the 2016 study by Enkeleida Tahiraj et al: Fjalë Burri.

<sup>62</sup> See paragraph 21 of the Concluding observations on the fourth periodic report of Albania of CEDAW; refer also to the Concluding observations on the combined second and third periodic reports of Albania of the UN Economic and Social Council whereby it recommended that Albania should "[t]ake measures to eliminate the social perceptions of traditional gender roles and prejudices , including concerning employment , while raising awareness of both men and women especially about harmonizing work and family duties".

<sup>63</sup> See the National Action Plan for the Involvement of Men and Boys as Partners of Women and Girls for Gender Equality and the Prevention of Gender-Based and Domestic Violence (2014 – 2019)

<sup>64</sup> See page 14 of the report by Robin N. Haar (2013), Domestic violence in Albania - National population-based survey.

<sup>65</sup> See. page 33 of the aforementioned study Fjalë Burri.

55. In addition to addressing attitudes which tend to justify violence, awareness-raising activities should promote knowledge about the harm caused to children who witness domestic violence. GREVIO notes in this respect that in Albania children appear to be “the forgotten victims of domestic violence against women”<sup>66</sup>. GREVIO is particularly alarmed by the low level of awareness, among the victims of violence themselves, of the impact that witnessing domestic violence has on children.

56. Moreover, in light of information pointing to a lack of knowledge amongst victims as to their rights and the services to which they are entitled, awareness-raising campaigns should place an emphasis on possible legal redresses and available societal support, where victims may turn to for help and incidences of violence might be reported. GREVIO notes in this respect that the on-going Strategy for Legal Education of the Public represents an opportunity for the purposes of raising awareness about girls’ and women’s rights, promoting respect for such rights and ensuring access to justice as a means to redress any violations of such rights.

57. Besides targeting the general population, GREVIO finds that there is a need to diversify awareness-raising activities so that the information and messages disseminated are relevant to the particular needs and concerns of more vulnerable groups of women, such as women belonging to ethnic minorities, disabled or elderly women. Furthermore, awareness-raising campaigns should be designed to overcome the difficulties faced by certain parts of the population, such as women living in rural or suburban areas, to access mainstream information and/or modern information technology.

**58. GREVIO strongly encourages the Albanian authorities to sustain and further develop their awareness-raising efforts in support of a general anti-violence message. Targeted campaigns should be developed to:**

- a. raise awareness about the harm caused to children who witness domestic violence;**
- b. challenge social norms, attitudes and stereotypes regarding women’s inferior status in the domestic unit which contribute to the acceptance of intra-family violence;**
- c. reach vulnerable groups of women and girls and deal with their specific needs.**

## **B. Education (Article 14)**

59. GREVIO welcomes the involvement of the educational sector as a key player in the Albanian authorities’ overall scheme to prevent and combat violence against women. GREVIO notes with satisfaction steps taken to endow pupils in primary and secondary education with skills and competences which can help them recognise, understand and condemn violence against women. This is done by mainstreaming gender related issues, such as gender equality, non-discrimination based on gender and gender stereotypes, in educational curricula, textbooks and other pedagogical material. Teachers are also sensitised to gender-related matters through the university study programmes of the faculties of education and social sciences, as well as various teacher training programmes. In addition, the principles of mutual respect and the peaceful settlement of conflicts, which are also mentioned in Article 14 (in addition to the topics of gender equality and non-stereotyped gender roles), are addressed in the framework of Albania’s implementation of the Council of Europe Charter of the Education for Democratic Citizenship and Human Rights Education<sup>67</sup>.

60. While several initiatives have been undertaken to introduce pupils to the topic of violence at school or to promote awareness on specific forms of violence such as trafficking of human beings, there is no indication, however, that the phenomenon of gender-based violence which primarily

<sup>66</sup> See the 2013 INSTAT Survey, and in particular its finding that only 14.0% of women that “ever” experienced domestic violence thought it also influenced their children.

<sup>67</sup> See the Appendix to Recommendation CM/Rec(2010)7 of the Committee of Ministers to member states on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education.

affects girls is taken up as such. Likewise, there are no university study programmes or teacher training modules which address explicitly the various forms of violence against women. Considering the persisting reluctance of parts of the Albanian society to speak openly about violence against women<sup>68</sup>, GREVIO considers that schools and universities should be prepared and equipped to break the silence and the taboos surrounding such violence. The plan, under the on-going National Strategy on Gender Equality for the period 2016-20, to improve school curricula in pre-university education so as to involve men and boys in preventing violence against women constitutes a positive step in this direction.

61. GREVIO notes with interest the activities undertaken to involve young people from religious communities in preventing violence against women<sup>69</sup>. Apart from such activities, GREVIO is not aware of any other measure taken, in accordance with paragraph 2 of Article 14, to promote the principles of equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships in non-formal education, as well as in sports, cultural and leisure activities.

62. **GREVIO encourages the Albanian authorities to:**

- a. **incorporate teaching about the various forms of gender-based violence against women and girls in curricula at all levels of formal education from pre-primary to higher education, and develop relevant pedagogical resources on such issues, having due regard to the evolving capacity of learners;**
- b. **address the prevention of gender-based violence against girls, including in particular forced marriage, in the framework of the existing programmes on sexual education and education on sexual and reproductive health rights. Such measures could be complemented by awareness raising activities in schools and universities.**

63. **GREVIO invites the authorities to take further steps to promote the principles of equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships in non-formal education, as well as in sports, cultural and leisure activities.**

### **C. Training of professionals (Article 15)**

64. Considerable investments have been made in Albania to train professionals who deal with victims, particularly since the enactment of the legislation on domestic violence. Certain categories of professionals have already incorporated knowledge on the Istanbul Convention and the topics referred to in its Article 15 (namely prevention and detection of violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation) in their professional curricula and university study programmes, as well as in-service training modules. This is the case for judges and prosecutors, as well as for law enforcement officers, as attested by the numerous training manuals in use by the School of Magistrates and the Police Academy<sup>70</sup>. In the area of healthcare, a vast capacity-building initiative involving more than 4 400 health professionals and social workers was carried out from 2009 to 2013, based on a system of “training the trainers” and the development of practical tools, with the aim of strengthening local institutional capacity to address gender-based violence, as well as child abuse.

<sup>68</sup> See page 9 of the report *Domestic violence in Albania - National population-based survey* to which reference is made previously in this report: “Albanians, however, tend to consider domestic violence to be a private, family matter and a normal part of married and family life”.

<sup>69</sup> See the project “Religious Youth – change agents in prevention of gender based - domestic violence”, supported by UNDP/UN Women and implemented by Qendra “Fëmijët Sot”.

<sup>70</sup> See for instance the following publications: Arta Mandro, Milva Ekonomi, Mirela Arqimandriti, Irena Shtraza (2013), *Manual “How to respond to domestic violence - with special focus on the Albanian State police”*, Gender Alliance for Development Center, Tirana; Arta Mandro (2009), *Textbook for students of the Faculty of law and School of Magistrates - Family law*, ShB Emal, Tirana.

65. GREVIO welcomes progress made in this field, which is bound to improve the nature and quality of support provided to victims, as well as changing the outlook and conduct of professionals towards them. Nevertheless, GREVIO considers that there is further room to consolidate and expand the capacity of professionals to deliver an effective and sensitised response to violence against women through training. Indeed, certain professional categories appear to have received training limited to the technical aspects of their duties without any proper consideration of gender stereotypes and the gendered nature of violence against women, the needs and rights of victims, nor of the imperative of preventing secondary victimisation. Where training has been provided, such as in the aforementioned exercise involving vast numbers of medico-legal personnel, the impact of the training can be considered as falling short of expected results, as evidenced by the extremely low and steadily dwindling rate of reporting by healthcare professionals of domestic violence induced injuries<sup>71</sup>. This corroborates the need to upgrade the study programmes of the Faculty of Medicine for all study branches and at all levels (medical, nursing and public health students at both undergraduate and postgraduate levels), so as to include modules specifically devoted to violence against women<sup>72</sup>. Overall, trainings tend to concentrate on domestic violence and less on other forms of violence against women, such as sexual violence and forced marriage. Certain topics remain relatively unexplored and are not dealt with in training, such as risk assessment and risk management.

66. Within the education sector, psychologists and social workers have a special role to play in detecting and handling cases where pupils either fall victim to or witness violence against women, and teachers can also be instrumental in this regard. Besides domestic violence and sexual violence, this concerns in particular cases of minors dropping out of school after entering into forced marriage. Whilst the participation of the educational institutions in the referral mechanisms would imply their involvement in following-up on cases of violence involving children at school, GREVIO notes that the capacity of these professionals to identify and prevent cases of sexual violence, children witnessing domestic violence and forced marriages needs to be strengthened. This would require in particular reinforcing the presence of accessible psycho-social services in schools and providing all staff concerned with the necessary competences and skills.

67. GREVIO takes note with satisfaction of the abundant evidence of training activities on interagency co-operation, including the operation of the newly established online system for registering and tracking cases of violence against women at the level of the co-ordinated community response. This is an area which will continue to require sustained efforts in terms of training as the plan to establish new referral mechanisms gradually unfolds. As for the existing referral mechanisms, training levels of staff from both the public and NGO sector who are assigned to the case management of instances of violence against women appear to be uneven. In tackling these challenges, the authorities should develop a systematic approach to ensure that the training needs of newly recruited and existing staff are met and that training methods are up to the desired standards<sup>73</sup>.

68. On a general note, GREVIO notes that in pursuing efforts to train professionals, attempts should be made in parallel to address other factors which can either seriously hamper or enhance the effectiveness of any training. Amongst the former, mention can be made of the frequent turnover in staff following elections, which translates into the loss of institutional knowledge and capacity<sup>74</sup>. Regarding the latter, consideration should be given at framing training in a broader

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<sup>71</sup> In 2015, the health personnel reported only 36 cases of domestic violence to the Albanian Ministry of Health, whereas in 2014 there had been 186 reported cases.

<sup>72</sup> Currently, the only university programme addressing issues of domestic violence at the Faculty of Medicine in Tirana is the Master of Science in Public Health.

<sup>73</sup> Having due regard to the obligation made in Article 6, paragraph 1, indent ç of the LDV for the MSWY “to organise training sessions on DV with social service employees at any local government unit, police structures and employees of NPOs non-profit organisations licensed to offer social services”.

<sup>74</sup> See paragraph 8 of the written contribution to the evaluation process from the Women's Association "Refleksione": “Local elections of June 21st, 2015 did lead to political rotation in the leadership of municipalities, which quite often is associated with re-organization of municipality personnel chart, staff turnover and loss of capacities. This in particular affected the position of the DV specialists and the coordination of DV/GBV RMs who are in the front line to use the provisions of Istanbul Convention in their daily work. Staff and structure of some target municipalities are changed

scheme aimed at ensuring the integrity, commitment, professionalism and accountability of all the professionals concerned. An important precedent of this kind has been set by measures taken, within the judicial reform, to hold judges and prosecutors to account to the very norms they are to enforce. Another relevant example is the recent development of ethics standards on sexual harassment for law enforcement agents<sup>75</sup>. From this standpoint, training of civil servants, including on violence against women and domestic violence, could be construed as part and parcel of on-going efforts to build a professional civil service within the wider strategy on Albania's public administration reform<sup>76</sup>.

**69. With the aim of endowing professionals with the necessary attitudes, knowledge and skills regarding violence against women, GREVIO strongly encourages the authorities to:**

- a. introduce violence against women as a compulsory topic in vocational curricula and whilst respecting academic freedom, encourage higher education to introduce such a topic in university study programmes, where it is lacking, such as for bailiffs and healthcare professionals, especially for physicians and nurses;**
- b. ensure on a continuous and regular basis in-service training on all forms of violence against women, based on up-to-date and clear protocols and guidelines that set out the standards staff are expected to follow in their respective fields<sup>77</sup>;**
- c. integrate in all professional development schemes the dimension of professionals' duties and responsibilities when faced with cases of violence against women, including as members of the referral mechanisms.**

**In implementing the above, the authorities should take full ownership of the training process, in particular by guaranteeing the application of harmonised standards and monitoring the quality of training.**

#### **D. Preventive intervention and treatment programmes (Article 16)**

70. Support programmes for perpetrators of domestic violence have only recently been introduced in Albania<sup>78</sup>. At present, such programmes are provided only by a few NGOs, and not by any public institution<sup>79</sup>. Their development remains therefore embryonic, both in terms of the number of available services and of geographical coverage. Existing programmes appear to follow different approaches which are not always in line with prevailing best practices. This concerns in particular the recourse to family therapy/counseling and mediation<sup>80</sup>. Based on available information and having regard to the extremely low number of reported cases of sexual violence,

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recently. There are frequent staff turnover in DV/GBV RMs representative institutions (members of Steering Committees). While the DV specialist in municipalities is consolidating as a position and function in most of target municipalities, the frequent changes of nominated staff in DV/GBV RMs trained in addressing domestic violence constitutes a big loss of capacities regarding the quality of cooperation, level of response to case management and coordination with other partners and credibility of the DV/GBV RMs. This happened in Pogradec, and Puka municipalities where the DV specialists are not in place after the new local elections of June 21, 2015<sup>75</sup>.

<sup>75</sup> The relevant standards are those set out in Order No. 96/10.02.2015 by the General State Police Director "On the adoption of the standard procedure for dealing with cases of harassment and sexual harassment in the State Police".

<sup>76</sup> See the [Cross-cutting public administration reform 2015-20](#).

<sup>77</sup> Basic Package of Primary Health Care Services, revised and adopted by CMD No. 101/04.02.2015, setting out the templates and other forms for registering cases of violence.

<sup>78</sup> See Article 6 of LDV which establishes the responsibility of the MSWY as the lead authority tasked with the duty to support and supervise the set-up of rehabilitation centres for perpetrators of domestic violence, as well as Article 7, paragraph 4, indent c, which stipulates that local authorities (municipalities and communes) have the duty of "establish[ing] social and rehabilitation centres for victims and perpetrators and co-ordinat[ing] efforts with existing ones, giving priority to specialised centres in respective fields".

<sup>79</sup> Such as the Counseling line for men and boys, operating mainly in Tirana, and the office "For boys and men" in Shkodra.

<sup>80</sup> See the Council of Europe publication "Combating violence against women: minimum standards for support services", page 19: "The minimum standards for work with perpetrators mean that family counseling, mediation or reconciliation and anger management are not appropriate responses in domestic violence services in general and work with perpetrators in particular (RESPECT, 2004)".

GREVIO finds that there are no treatment programmes devoted specifically to sex offenders, and aimed at preventing them from re-offending.

71. In light of the above, GREVIO expresses its satisfaction with respect to the objective of the on-going National Strategy on Gender Equality of increasing by 30 % the number of (punished) perpetrators of gender-based violence/domestic violence having benefited from targeted rehabilitation programmes. GREVIO stresses the need for such programmes to comply with internationally accepted minimum standards<sup>81</sup>, which include, as a paramount objective, the safety for women and children. Considering that convicted perpetrators represent only a minority of those concerned, GREVIO further recalls that both voluntary perpetrator programmes and programmes mandated by courts should be ensured, and that in any case, the latter should not be used as an alternative to punitive sanctions. It takes note in this regard of the apparent low propensity of courts to make use of the provision of Article 10 of the LDV whereby protective measures can require perpetrators to follow rehabilitation programmes. Further, staff deployed to dispense such programmes should be properly trained. Training might include an exchange of good practice with existing services such as the “Counseling line for men and boys” which operates on the grounds of an effective co-operation with the courts, probation service and prison administration.

**72. GREVIO encourages the authorities to:**

- a. increase the number of available perpetrator programmes aimed at teaching perpetrators of domestic violence to adopt non-violent behaviour in interpersonal relationships, with a view to preventing further violence and changing violent behavioural patterns;**
- b. set up and/or encourage the setting-up and support treatment programmes for perpetrators of sexual assault and rape, with a view to minimising recidivism.**

**In doing so, the authorities should ensure that the safety of, support for and the human rights of victims are of primary concern and that, where appropriate, these programmes are set up and implemented in close co-ordination with specialist support services for victims, having due regard to recognised relevant standards<sup>82</sup>.**

## **E. Participation of the private sector and the media (Article 17)**

73. GREVIO welcomes the initiatives taken by the authorities, civil society organisations and the media to partner together in awareness campaigns on violence against women<sup>83</sup>. GREVIO takes note, however, of the mention made in the state report of the sporadic interest of media for these topics and their tendency toward sensationalist cover, without a proper analysis of the gender-rooted causes of violence against women<sup>84</sup>. GREVIO recalls that media coverage which disregards victims’ rights, including the rights of child witnesses of domestic violence, tends to trivialise violence, and thereby reinforce rather than prevent it. It therefore expresses its supports towards the authorities’ plan to improve the capacities of media professionals to address these issues correctly, and to foster zero tolerance against violence against women<sup>85</sup>. Ultimately, this is an issue which the media professionals themselves should take to heart by developing self-

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<sup>81</sup> See the Council of Europe collection of papers: Domestic and sexual violence perpetrator programmes: Article 16 of the Istanbul Convention

<sup>82</sup> *ibid.*

<sup>83</sup> See paragraph 5 “Media – the best channel to inform on the Istanbul Convention” of the written contribution to the evaluation process from the Women’s Association “Refleksione”.

<sup>84</sup> See also Albania’s National report on implementation of Beijing Platform: “[t]here is a need to focus on the role of media in the re-conception of the social relations among men and women, and a change of attitudes, positions and traditional roles that reinforce stereotypes and gender inequality. It is important to understand that the actual reporting quality on human rights, discrimination, and gender equality is a matter of technical capacities as well as an issue of prevailing attitude that exists in addition to being an issue of understanding that reinforces stereotypes instead of putting an end to them.”

<sup>85</sup> See the activities under paragraph 3.1.7 of the National Action Plan under the National Strategy on Gender Equality 2016-2020.

regulatory standards on how properly to disseminate information on instances of violence against women, whilst promoting and enhancing respect for the dignity of victims. At present, Albania's media professionals lack any such guidance.

**74. GREVIO encourages the Albanian authorities to:**

- a. continue to engage the media as a key partner to raise awareness on violence against women;**
- b. encourage media, including social media, to develop and monitor the use of self-regulatory standards in the area of violence against women and gender equality, having due regard to relevant existing international standards<sup>86</sup>.**

75. Regarding violence and abuse experienced by journalists themselves, GREVIO is aware of emerging evidence showing high levels of harassment and sexual violence targeting women journalists in Council of Europe member states, including in Albania<sup>87</sup>. In order to enable media to break away from stereotypes and attitudes that condone discrimination and violence against women, GREVIO considers it instrumental to improve the position of women in the media sector, in particular by protecting them against any violence aimed at them because they are journalists and because they are women. GREVIO therefore draws the authorities' attention to this area of concern and to the need to incorporate a gender perspective in taking the necessary measures to promote the safety of journalists against any unwarranted interference.

76. As regards the involvement of the private sector in its role as employer, GREVIO welcomes the recent amendments to the Labour Code regarding sexual harassment in the workplace<sup>88</sup>. Although the responsibility of employers to prevent violence against women at work was already established under the 2008 Law "On Gender Equality in Society", there is no available data to indicate that this law has contributed to encouraging victims and employers to speak out and take action against such violence. This would suggest that more remains to be done to encourage the engagement of the private sector in violence prevention, including violence which occurs outside the working environment. Efforts by businesses and private employers to promote the general advancement of women's rights and empowerment can help in creating a work environment where violence against women is not tolerated. A number of Albanian companies have led the way in support of this cause, for instance by signing up to the global initiative "Women's Empowerment Principles – Equality Means Business"<sup>89</sup>, and more could follow suit.

**77. GREVIO invites the authorities to seek the involvement of employers in the prevention of violence against women. To this end, employers should be encouraged to take part in the implementation of policies such as awareness-raising campaigns, as well as to foster a work environment where violence against women is openly condemned and victims feel that they can be heard and supported.**

<sup>86</sup> See *inter alia* the following Council of Europe instruments: Recommendation No. R (84)17 of the Committee of Ministers to member states on equality between women and men in the media; Recommendation 1555 (2002) by the Parliamentary Assembly of the Council of Europe on the image of women in the media; Recommendation 1799 (2007) by the Parliamentary Assembly of the Council of Europe on the image of women in advertising; Resolution 1751 (2010) and Recommendation 1931 (2010) by the Parliamentary Assembly of the Council of Europe on combating sexist stereotypes in the media. Reference is also to be made to the UNESCO's "Gender-Sensitive Indicators for Media" (GSIM).

<sup>87</sup> See *inter alia* the Council of Europe study Journalists under pressure: Unwarranted interference, fear and self-censorship in Europe, the study by Alana Barton and Hannah Storm Violence and harassment against women in the news media: A global picture, International Women's Media Foundation and International News Safety Institute.

<sup>88</sup> See Law No. 136/2015 "On some additions and amendments to Law No. 7961, dated 12/07/1995 "Labour Code in the Republic of Albania", concerning the obligation of the employer to take measures to prevent sexual harassment and molestation, as well as victimisation due to victims' reporting incidents of violence in the workplace.

<sup>89</sup> For more information on this joint initiative of UN Women and the UN Global Compact, available at : [www.weprinciples.org](http://www.weprinciples.org).

## IV. Protection and support

78. Chapter IV of the Istanbul Convention aims at a multi-faceted, professional and victim-oriented support structure for any woman who has experienced any of the forms of violence covered by the Convention. To meet these requirements, Parties are required to provide specialist and general support services and ensure that victims can easily access or be referred to the right one.

79. Since the adoption of its LDV in 2006 and the establishment of the first referral mechanisms based on the relevant executive decision of 2011<sup>90</sup>, Albania has taken many steps towards building the comprehensive and multi-agency based system of service provision required by the Istanbul Convention. To measure their achievements to date, the authorities have conducted several studies assessing the overall availability and accessibility of protection and support services<sup>91</sup>. Such studies show areas where good progress has been achieved and others where it has been slower. With the knowledge of work which remains to be done, it is important that the authorities continue to address current deficits and to increase service provision whilst ensuring its equitable distribution.

80. In pursuing this aim, protection and support services need to move clearly beyond the remit of domestic violence and respond to all forms of violence against women. Furthermore, attention should be paid to the additional needs of specific groups of women - such as rural women, women with disabilities and women belonging to certain ethnic minorities - which must be addressed if they are to access support<sup>92</sup>. In order to prevent discrimination, this might require the adaptation of existing services and the development of specialist services. Against this general background, GREVIO wishes to highlight the following points.

### A. General obligations (Article 18), with reference in particular to multi-agency co-operation

81. Addressing the complexity of violence against women requires establishing an intervention system which involves all relevant policy sectors, administrative levels and actors. Multi-sectoral and multi-agency interventions across the national 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 a “one-stop-shop” of services to victims.

82. Available studies<sup>93</sup> would indicate that Albania is one of the few countries in the Central and Eastern European region that has set up a network for co-ordinated community intervention. The various referral mechanisms established at municipal level, which are at the heart of Albania’s multi-agency approach, are articulated around three types of structures: a steering committee responsible for the political direction of the process, a multi-disciplinary technical team tasked with case-management and a local co-ordinator who leads and co-ordinates the work of the technical team. Referral mechanisms have been piloted since 2007 and are composed of representatives from municipalities, the police, the courts, including prosecutors and bailiffs, health offices, employment offices, educational offices and NGOs specialised in violence against women. Whichever member of the mechanism the victim first contacts will set the process in motion by

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<sup>90</sup> See Council of Ministers Decision No. 334, dated 17 February 2011 “On the Coordination Mechanism for referral of domestic violence cases and its methodology of proceeding”.

<sup>91</sup> See the study “Albania – Final mapping report on support services against violence against women and girls” 2015, supported by the UN Women and the Council of Europe, to which reference is made in Albania’s state report, Chapter IV, paragraphs 3 and 4.

<sup>92</sup> See paragraphs 36 and 37 of CEDAW’s Concluding observations on the fourth periodic report of Albania regarding rural women, as well as paragraphs 38 and 39 regarding disadvantaged groups of women.

<sup>93</sup> See page 28 of the report by Andrea Krizsan, Eniko Pap (2016) *Implementing a comprehensive and co-ordinated approach – An assessment of Poland’s response to prevent and combat gender-based violence*, Council of Europe, Strasbourg.

referring the victim to the local co-ordinator and/or the other members of the system. The services provided span both short-term and long-term solutions, such as healthcare support, shelter and protection, including procedures for protection orders. Long-term interventions include psychotherapy, assistance with children and with divorce procedures and reintegration in society. Currently<sup>94</sup>, referral mechanisms are in place in only 29 out of the total of 61 municipalities in Albania. One of the objectives of the on-going National Strategy on Gender Equality is that by the end of 2020, all 61 municipalities will be equipped with a fully operational referral mechanism and that within these mechanisms, the number and type of available specialised support services be increased by more than 50%<sup>95</sup>.

83. Albania's achievements in this area are rightfully cited as an example of best practice of multi-agency co-operation in the region<sup>96</sup>. GREVIO commends the political leadership of those mayors who drove the process of creating referral mechanisms in their communities. It is aware that setting up referral mechanisms and stabilising existing systems is a process which can only be achieved over a period spanning several years. With the aim of supporting such endeavours, the following areas have been identified as requiring sustained efforts. Firstly, "weak" links in the referral mechanisms affect the effectiveness and the quality of the inter-institutional response to violence against women. Secondly, frequent staff turnover, in particular following political elections, erodes capacity. Thirdly, referral mechanisms which lack a comprehensive set of services to offer victims fail to meet their needs<sup>97</sup>. Fourthly, multi-agency co-operation on forms of violence against women other than domestic violence lacks a clear legal basis. The authorities indicate that the referral mechanism set up to deal with cases of domestic violence can also serve to tackle other forms of violence against women. GREVIO was not, however, in a position to verify that victims of stalking, sexual violence and rape or forced marriage have ever been directed to such a mechanism. The lack of any rule clearly requiring referral and co-operation leaves these victims at risk of not being reached and this is a missed opportunity to direct victims of these forms of violence to the specialist support they need.

**84. GREVIO encourages the Albanian authorities to:**

- a. adopt the necessary measures, including legislative measures, to ensure that multi-agency co-operation under the referral mechanisms extends to victims of all forms of violence against women;**
- b. pursue their efforts to equip all municipalities with a fully operational referral mechanism;**
- c. improve inter-institutional co-operation amongst all members of the referral mechanisms, including in particular judicial officials and both public and private bailiffs, by promoting a sense of ownership and responsibility as to the common goal of eradicating violence against women;**
- d. develop the ability of referral mechanisms to provide victims with a comprehensive package of services with the goal of empowering them;**
- e. ensure the structural and financial sustainability of referral mechanisms in the long-term and minimise the disruptions caused by frequent staff turnovers;**
- f. capitalise on lessons learnt by existing referral mechanisms, including by showcasing successful models of co-ordinated community response.**

<sup>94</sup> Based on data provided by the MSWY dated May 2016.

<sup>95</sup> This would entail creating, in addition to the existing 13 specialist support services which include nine shelters, three counselling centres and one programme for perpetrators, seven additional services, namely two emergency shelters, one free national helpline, three programmes for perpetrators and one programme for children witnessing violence.

<sup>96</sup> See page 30 of the Council of Europe report cited under footnote number 94.

<sup>97</sup> See the report by Elida Metaj (2015) *Analysis of the functioning of the coordinated community response to domestic violence at the local level in Albania*.

85. Based on Article 6 of the LDV, the MSWY is the lead responsible authority in charge of collecting data on domestic violence. Its ability to fulfil this task relies on data contributed by the various authorities involved in Albania's co-ordinated response to domestic violence, namely the Ministry of Justice, the Ministry of the Interior and the Ministry of Health as regards respectively data collected by courts, law enforcement and medical professionals. Data fed into the digitalised system is disaggregated by sex, age, type of violence, the relationship between the perpetrator and the victim, and geographical location. Data generated at the local level of municipalities is centralised by the local gender equality employees, who transmit them to the MSWY. In the municipalities equipped with the digitalised online system for registering cases of domestic violence, transmission of anonymised data is automatic and data can be accessed by all the actors of the co-ordinated community response in the municipality. The digitalised online system also serves as a case-management tool to monitor progress and follow individual cases from their inception to their final conclusion. It further serves to assess the effectiveness of local actors' response to domestic violence, to measure progress in the implementation of gender equality policies and to fine-tune policies and measures taken at the local level.

86. GREVIO welcomes the initiative of supporting the work of the co-ordinated community response with a modern information system and a data-based approach. It takes note of the circumstances mentioned in the state report which pose a challenge to the full roll-out of this solution: the outstanding need to establish referral mechanisms in roughly a third of Albanian municipalities; difficulties in appointing on a full-time basis dedicated gender equality employees and lack of effective co-operation between the various entities responsible for collecting data.

**87. GREVIO invites the authorities to take the necessary measures to support a full scale deployment of the digitalised online system in all the municipalities of the country and for all forms of violence against women. In doing so, the authorities should respect the need to protect privacy in accordance with relevant international standards<sup>98</sup>.**

## **B. Information (Article 19)**

88. GREVIO notes with satisfaction efforts made in Albania to disseminate widely information on available services and legal measures, by the use of modern information technologies. Besides information made available in the public domain, Article 19 of the Convention requires that when seeking protection and support, victims should be provided with comprehensive and practical information (opening hours and contact details) as to where to seek and receive support, and should be offered a clear picture of the procedures they might wish to undertake. In addition, information should be tailor-made to serve groups of victims who are at risk of social exclusion or have difficulties in accessing services, within a wider approach of outreach aimed at making it possible for them to access support.

89. In Albania, this is one of the pillars of the co-ordinated community response mechanism, where any of the members, as the first point of contact, is to listen to, inform and appropriately refer the victim. Moreover, the provision of information is also integrated into the work of various service providers, such as shelters and helplines. GREVIO is informed that, nevertheless, misunderstandings regarding the rights and services to which they are entitled are still common amongst victims.

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<sup>98</sup> See Article 65 of the Convention. The authorities might further wish to draw inspiration from best practices such as those regarding multi-agency information sharing protocols.

90. **With the aim of empowering women victims, GREVIO invites the authorities:**
- a. **to sustain their efforts aimed at ensuring that women victims receive adequate and timely information allowing them to take informed decisions and to exercise effectively their rights to support and protection;**
  - b. **to develop information which is relevant and meaningful to vulnerable groups of women, including information in minority languages, as part of a wider effort aimed at engaging with “hard to reach” groups and opening up access to services for them.**

### **C. General support services (Article 20)**

#### **1. Social services**

91. GREVIO notes with satisfaction that the inter-agency co-operation assured by the co-ordinated community response enables the provision of holistic services, both general and specialised. The multi-disciplinary teams working at the level of the referral mechanisms offer the clear advantage of providing an interconnected range of support services, based on the victims' needs and choices. A central element of this mechanism is the provision of social and economic assistance to victims, many of which find themselves without any financial means after leaving their family home and violent partner. GREVIO welcomes in this respect the recent measures adopted to entitle women victims of domestic violence to receive social assistance benefits<sup>99</sup>, to receive a specific economic aid for as long as they are under the cover of a protection order<sup>100</sup> and to have priority access to social housing under certain conditions of income<sup>101</sup>.

92. GREVIO is, however, concerned that recent administrative reforms decentralising social services and discontinuing national funding might adversely impact the provision of social services. Without ignoring the merits of these reforms in terms of stronger capacities and clearer responsibilities for local governance, GREVIO observes the financial strain they place on municipalities and the need to match their new responsibilities with adequate budgetary resources. This concerns in particular the provision of long-term support and assistance which relies on the availability of sustained funding.

93. Beyond their immediate needs in situations of crisis, many victims need support until they acquire the means to recover from their histories of abuse. Supporting the economic integration and social empowerment of victims is often key to the success of this process. Whilst efforts have been made to this end, involving central and local authorities<sup>102</sup>, as well as international donors and NGOs, GREVIO considers that this is an area which could largely benefit from further resources.

94. **GREVIO strongly encourages the authorities to:**
- a. **ensure the appropriate funding for the social services delivered by municipalities to support victims of all forms violence against women and respond to their short and long term needs;**
  - b. **increase the funding and the number of available services aimed at women victims' economic integration and social empowerment, through the involvement of both line ministries and local authorities. Such services should be based on proactive approaches, including provision of housing, assistance in accessing employment and outreach to businesses.**

<sup>99</sup> See CMD No. 904 of 12 December 2012, as amended by CMD No. 375 of 11 June 2014.

<sup>100</sup> See CMD No. 114 of 31 January 2007, as amended by CMD No. 840 of 3 December 2014.

<sup>101</sup> See Law no. 9232 of 13 May 2004 as amended.

<sup>102</sup> See for instance to the Special fund for women entrepreneurs, which was established in 2016 by the Municipality of Tirana.

## 2. Healthcare services

95. Healthcare protocols for dealing with domestic violence have been developed covering the areas of identification and screening, diagnosis, treatment, referral and documentation. Nonetheless, GREVIO finds that knowledge gaps on applicable minimum standards are prevalent amongst healthcare professionals and it is concerned as to the impact this can have on the quality of services provided to women victims. There appears to be little awareness amongst healthcare professionals as to the need to examine and hear victims without any interference such as, for instance, on the part of their husbands authors of violence or members of the family. There is hardly any evidence of measures taken to implement the relevant provision in the LDV<sup>103</sup> calling for the set-up of dedicated structures in emergency units and at the healthcare centers in municipalities and communes. Healthcare professionals are often cited as one of the weakest links in the chain of the co-ordinated community response system. Furthermore, available reports would indicate that victims of domestic violence are not always properly informed on matters of health care, such as sexually transmitted infections, HIV/AIDS, reproductive health and in particular family planning<sup>104</sup>.

96. One area in particular, which by numerous accounts is failing victims, is that related to reporting. According to available data<sup>105</sup>, health care services are often the first and sometimes the only entry point for women and children victims of domestic violence. Yet, statistics on domestic violence generated by the healthcare sector seem disproportionately low. According to medical practitioners interviewed by GREVIO, the explanation for these low figures lies in women's reluctance either to admit the true cause of their injuries, or to incur the risk of the author of the violence discovering that they have revealed such a cause to a third party. Faced with such reluctance, medical professionals often keep a complicit silence. The omissions of physicians who fail to give victims a medical report documenting their injuries are detrimental to women's ability to address courts with the proper evidence. Their limited access to forensic medical examinations further impairs their right to access justice. GREVIO recalls that the guiding principle of a human rights based approach in this field should be that of informed consent, meaning that any medical evidence and certificate allowing to identify the victim should only be passed on to the authorities with the victim's consent. Exceptions to this principle are admitted when the safety of the victims or of others, such as the children of the victim, are at risk.

97. As a reflection of the law's main focus on domestic violence, specific standards for the treatment and care of other forms of violence against women, such as sexual violence and forced abortions, are lacking. The absence in Albania of any sexual violence referral centres, be they in a hospital or other setting, leaves victims at risk of not receiving the appropriate medical care. Moreover, the restrictive regulations subjecting forensic examinations to a request by the law enforcement agency or prosecution office are at odds with the best practice requiring forensic examinations to be carried out without delay in case of sexual violence regardless of whether the matter will be reported to the authorities. GREVIO is further informed in this respect that, in part due to the low fee paid for carrying out forensic examinations, victims have at times been required to pay additional amounts in order to receive an examination.

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<sup>103</sup> See Article 7 of the LDV: "Ministry of Health shall set up necessary structures to provide health care in domestic violence (limited) cases at the emergency units and at the health care centres in municipalities and communes, with a view to: (a) Offer at any time medical and psychological help to domestic violence victims,(b) To carry out necessary examinations at any time at respective public health institutions; (c) To record domestic violence cases at the appropriate medical documentations, as approved by the Ministry of Health; (ç) To provide the victim with the respective medical report; (d) To guide and refer the victim to other support and protection domestic violence services".

<sup>104</sup> See the [Shadow report "Healthcare field – Case of Albania"](#) submitted in February 2016 by the Albanian Center for Population and Development (ACPD) to the CEDAW Committee.

<sup>105</sup> See. the 2013 INSTAT Survey on domestic violence; [Strategic document on reproductive health](#) , Ministry of Health, 2009-2015, page 18.

98. **GREVIO urges the authorities to bring the health care system to the forefront of efforts to combat all forms of violence against women, by:**

- a. **achieving the support and commitment of the heads and decision makers of different sectors of health care to address violence against women as a matter of priority and professional mandate;**
- b. **ensuring that health professionals assume their responsibility and exercise their expertise in the early detection and prevention of violence against women;**
- c. **developing and/or upgrading adequate protocols and procedures, and providing the corresponding training, to bring professionals' attitudes, skills and responses to violence against women, including sexual violence, up to the required standards;**
- d. **setting up rape crisis or sexual violence referral centres, where forensic examinations are available in line with internationally recognised standards<sup>106</sup>;**
- e. **reinforcing the co-operation of the health sector with the referral mechanism.**

**Regarding reporting by healthcare professionals, GREVIO further urges the authorities to:**

- f. **uphold victims' right to equal protection from the law and to access to just and effective remedies, by guaranteeing that frontline medical staff operating in hospitals and healthcare centres issue victims with a medical report documenting their injuries;**
- g. **develop informed consent procedures whereby victims are systematically and sufficiently informed that any medical evidence will only be released to the authorities with their consent, in full compliance with the right for respect for private life and the protection of personal data, subject to the exceptions foreseen in the following paragraph.**

99. **The informed consent procedures should *inter alia* include straightforward examples of potential consequences of domestic violence to one's physical and mental health, including the risk of premature death due to trauma, as well as its harmful consequences on child witnesses. Such procedures should exceptionally allow for the reporting to their authorities without the victim's consent, whenever there are grounds to believe that a serious act of violence has been committed and further serious acts of violence are to be expected, in accordance with the provision of Article 28 of the Convention. Further exceptions should be allowed for patients with impaired decision making capacity and children. It should be recalled in this connection that in some jurisdictions, reporting might even be mandatory with respect to injured children, especially if they sustain serious injuries or if sexual violence is suspected.**

#### **D. Specialist support services (Article 22), with reference in particular to shelters (Article 23)**

100. The aim of specialised 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 specialised and experienced staff with in-depth knowledge of gender-based violence against women. The types of support that such dedicated services need to offer include providing shelter and safe accommodation, immediate medical support, the collection of forensic medical evidence in cases of rape and sexual assault, short and long-term psychological counselling, trauma care, legal counselling, advocacy and outreach services, telephone helplines to direct victims to the right type of service and specific services for children as victims or witnesses<sup>107</sup>.

<sup>106</sup> See the Guidelines for medico-legal care for victims of sexual violence, World Health Organisation, 2003.

<sup>107</sup> See paragraph 132 of the Explanatory report.

101. The foundational principles which should underlie specialist support services include *inter alia* a gendered understanding of violence against women, respect for confidentiality, ensuring women's safety, avoiding secondary victimisation and working to empower victims. To this end, specialist support services should aim at providing spaces in which women feel free to tell, where they are believed and respected and have the possibility to explore options.

102. GREVIO recalls that if the first purpose of shelters is to offer physical safety to victims and their children, such refuges are "more than a roof"<sup>108</sup>. GREVIO notes with satisfaction efforts made to ensure that shelters in Albania provide a combination of additional services, such as legal and other forms of advice, psychological counseling, education, vocational training and support for children. It further notes that existing structures strive to create a culture of empowerment by providing survivors with the means to regain control over their lives and undo the harm caused by violence. GREVIO stresses the importance for empowerment to go beyond helping victims reach financial autonomy, by giving them the knowledge and understanding to make sense of the violence through a gender analysis challenging prevalent attitudes which both justify violence and blame women.

103. In relation to the coverage and geographical spread of refuges, it emerges from the Albanian state report that there are currently 8 shelters offering safe immediate, short and long-term accommodation to women victims of violence and their children, with a total of 153 beds. This places the provision of this sort of service at 137 beds short of the number required in accordance with the standards set out in the Final Activity Report of the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence<sup>109</sup> which recommended safe accommodation in specialised women's shelters, available in every region, with one family place per 10 000 head of population. The report acknowledges further that the concentration of shelters in the capital and in a limited number of other localities (essentially, Elbasan, Vlora and Shkodra) leaves a wide portion of the population, especially in rural and remote areas, without sufficient protection.

104. Whilst acknowledging efforts made to step up support to shelters<sup>110</sup>, GREVIO is seriously concerned about information indicating that emergency sheltering in Albania is occasionally provided by municipalities in hospitals, dormitories and geriatric/elderly care homes, without any proper consideration for the needs of the victim in terms of safety and specialised protection<sup>111</sup>. The actors in the field interviewed by GREVIO concur that there is a pressing need to establish easily accessible shelters for short accommodation periods, also referred to as emergency or crisis shelters. This need stems from the fact that access to public and non-public residential social welfare institutions (shelters) can depend on meeting eligibility criteria. More particularly, according to the legal provisions applying to admission in these institutions<sup>112</sup>, only victims benefiting from the protection of an emergency barring order or a protection order are entitled to access them. GREVIO understands that the authorities rely on the issuance of a court decision granting protection as proof of the woman's condition as a victim. This however entails that during the interval of time needed for courts to examine applications for an emergency barring order, women can be left without any protection. GREVIO can therefore endorse stakeholders' request for the establishment of emergency or crisis shelters, which would comply with the principle that access to shelters should not be dependent on any legal or other requirement and should be possible at the time of the need.

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<sup>108</sup> See the 2002 survey conducted by WAVE: "More than a roof over your head".

<sup>109</sup> See document EG-TFV (2008)6.

<sup>110</sup> See section of this report dealing with financial resources (Article 8).

<sup>111</sup> See the study dated 3 June 2015. Functioning of the Coordination Mechanism for Referral and Treatment of Domestic Violence Cases– Achievements, challenges and future work.

<sup>112</sup> See Council of Ministers Decree No. 425 of 27 June 2012, as amended by Council of Ministers Decree No. 839 of 3 December 2014.

105. Another issue of concern is the limitations to access to the shelters for women victims of domestic violence who come from marginalised groups and/or have special needs, such as women with health problems or disabled women, owing to the lack of specialised services offered in shelters<sup>113</sup>.

106. **GREVIO strongly encourages the authorities to:**

- a. **ensure adequate specialist women support services offering immediate, short and long-term support to all victims and their children;**
- b. **increase the number and capacity of appropriate, easily accessible and specialised shelters providing safe accommodation;**
- c. **ensure equitable access to shelters for women in rural and remote areas and for vulnerable groups of women;**
- d. **make available in sufficient numbers crisis shelters for accommodating, 24/7, women and their children in emergency situations.**

#### **E. Telephone helplines (Article 24)**

107. GREVIO congratulates the authorities for their recent move to enter into an agreement with the women's NGO, the Counselling Centre for Women and Girls, to launch a single national hotline (116 117) covering the entire territory devoted specifically to violence against women, operating free of charge and 24/7. Until November 2016, the national women's helpline in Albania (Phone no.: +355 4 22 33 408) had not been available 24 hours a day due to limitations in funding. By complementing the services provided by the municipal helplines, the new hotline will allow meeting the requirements of Article 24, especially in terms of round-the-clock accessibility. GREVIO understands from the recently adopted operating standards<sup>114</sup> that the new national hotline is designed to serve all victims of violence against women, although it tends to be advertised as being dedicated only or mainly to victims of domestic violence. Standards of professionalism would require that the dedicated staff be trained not only on issues related to domestic violence but equally on the specificities of other forms of violence against women, such as sexual violence, forced marriages and forced abortions.

108. **GREVIO encourages the authorities to ensure the financial sustainability of the new national hotline serving all victims of violence against women.**

#### **F. Support for victims of sexual violence (Article 25)**

109. There are no rape crisis or sexual violence referral centres in Albania, although, as mentioned prior in this report, medical and forensic examinations are offered in hospitals and other healthcare settings. Other types of support such as trauma support, counselling for victims, support during court proceedings by woman to woman advocacy are rare<sup>115</sup>. Available administrative data record very few cases of sexual violence against women. According to the Statistical Yearbook of the Ministry of Justice, the number of convicted persons under the criminal offence of rape (Article 102 of the CCA) was only 3 in 2014 and 4 in 2015. However, given the taboo which very much still

<sup>113</sup> See paragraph 23, indent c, of CEDAW's Concluding observations on the fourth periodic report of Albania.

<sup>114</sup> See the Standards for the services of the national hotline for victims of domestic violence, adopted by Council of Ministers' Decision No. 430, dated 8 June 2016.

<sup>115</sup> See paragraph 4.5 of the written contribution to the evaluation process by AWEN: "Counselling/crisis centres are sometimes mixed up with the telephone helpline, providing needed information or any needed advice through phone. Crisis support is provided by both NGOs and state shelters. Only a few of them offer it as a 24 hours service. Crisis support is provided 24 hours only for women and girls or other family members suffering from violence against women and domestic violence who fulfil the criteria necessary for being accepted in specialist 24 hours/services, such as national shelters or some NGOs. In other cases, this type of service is provided only during a limited amount of hours/weeks and still by the NGOs which makes the duration time and existence of this type of service very dependent on donor's support".

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enshronds the phenomenon of sexual violence, it is likely that the great majority of cases go unreported. The prevalence of sexual violence in domestic relations was rated at 7.9 % in the 2013 national survey on domestic violence conducted by INSTAT, a figure which is considered an under-representation of the actual occurrence of sexual violence in intimate partner relationships<sup>116</sup>. In light of these figures, GREVIO is extremely concerned that the majority of victims of sexual violence are likely to receive little or no protection.

**110. GREVIO urges the authorities to set up rape-crisis centres and/or sexual violence referral centres. Such measures should be taken in the frame of a multi-sectorial response targeting the community at large and aiming at breaking the existing taboos in regard to sexual violence. Thus, GREVIO strongly encourages the authorities to take measures to encourage reporting and address the needs of victims.**

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<sup>116</sup> See page 38 of the report by Robin N. Haar (2013), *Domestic violence in Albania - National population-based survey*. “The fact that only 7.9% of women reported experiencing sexual violence in their marriage is likely a reflection of the fact that violations of a woman’s body are frequently justified within the context of marriage through cultural and religious values that define women as male property and sex as a marital obligation of wives. Moreover, forcible defloration of young brides on the wedding night and subsequent forced intercourse by husbands renders wives submissive to unwanted sexual intercourse throughout their marriage. Over time, many women often render themselves submissive to unwanted sexual intercourse with their husbands (18, 19, 20, 21). Thus, women would be less inclined to define their husband’s sexual aggression or sexually abusive behaviors as sexual violence or marital rape”.

## V. Substantive law

111. Chapter V of the Istanbul Convention covers a range of provisions related to substantive law, in the areas of 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.

112. Albania has grounded its message of “zero tolerance” towards violence against women on a set of legal provisions providing for the accountability of offenders in criminal law. Following the introduction of a dedicated offence for acts of domestic violence<sup>117</sup>, administrative data on reporting rates of domestic violence have steadily increased<sup>118</sup>. Yet, GREVIO is particularly alarmed about prevalence data showing that very few victims – less than 10% - seek help<sup>119</sup>. A continuing upward trend in reporting and conviction rates is therefore to be expected as more and more victims have the courage to turn to law enforcement and courts. For other forms of violence against women, such as sexual violence, the extremely low numbers of cases recorded would indicate that victims still have to break the taboos of shame and fear. Although a holistic approach to violence against women cannot rely solely on the criminal justice system, courts need to fall in line with the legislator’s firm stance against violence and provide a robust response, including in terms of sanctions. This will encourage further reporting.

### A. Civil law

#### 1. Civil lawsuits and remedies (Article 29)

113. Article 5 of the Istanbul Convention requires public officials to refrain from any acts of violence and to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by it. Resulting from this principle, civil remedies against state authorities that have failed in their duty to take the necessary preventive or protective measures within the scope of their powers must be available to victims. In Albania, general civil remedies regarding compensation for non-contractual damages apply against state authorities. Despite evidence that such failures by officials do occur, in particular as regards the non-enforcement of protection orders, there has been no recorded case of any victim ever having claimed or received compensation. GREVIO stresses that the effectiveness of such remedies is instrumental both in upholding victims’ human rights and in fostering trust in the public institutions.

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<sup>117</sup> See Law No.23/2012 criminalising domestic violence.

<sup>118</sup> See the “Shadow” report – Healthcare field – case of Albania”, submitted to the CEDAW Committee by the Albanian centre for population and development (ACPD), 2016, page 39: “There has been a progressive increase from year to year of the number of those reporting violence and other crimes that occur in family settings. Of the 94 cases recorded in 2005, only for the period from January to September 2015, this number is about 3,000 cases. There is a significant increase in the identification of these cases, especially after the amendments made to the Criminal Code in 2012 and 2013, where domestic violence is considered a crime and punished like any other crime. In 2014, there was an increase of about 30% of recorded cases and an increase of more than 35% of the number of requests and lawsuits filled for [emergency protection orders]”.

<sup>119</sup> See page 55 of the report by Robin N. Haar (2013), *Domestic violence in Albania - National population-based survey*: “Battered women are often reluctant to seek help for domestic violence. In fact, (...) only 8.4% of women that “ever experienced domestic violence, and 7.1% of women “currently” experiencing domestic violence ever tried to seek for the violence in their marriage/ intimate relationships. This finding demonstrates that the majority of battered women in Albania continue to suffer in silence (...)”.

**114. GREVIO urges the authorities to:**

- a. include elements regarding the civil responsibility of public officials in information provided to victims in pursuance of Article 19,**
- b. clearly state the principle of civil responsibility of public officials in codes of conduct and raise their awareness in relation thereto, for instance during relevant trainings;**
- c. monitor progress in this area by keeping data on numbers of civil claims and their outcome.**

**GREVIO further invites the authorities to assess which are the prevailing reasons preventing victims from accessing civil remedies against state authorities and, based on their findings, to take measures to address such causes. Such measures could include, for instance, the setting up of a specific system making it possible for court users to be compensated following dysfunctions within the court system which have affected them.**

**2. Compensation (Article 30)**

115. Pursuant to Articles 61 to 68 of the Albanian Code of criminal procedure (the ACCP), victims of violence are entitled to apply within criminal proceedings for compensation in connection with damages suffered for the criminal act. Compensation claims settled in criminal proceedings are limited to economic damage and their payment depends on the outcome of the criminal trial. Alternatively, victims may file a compensation claim extended to all forms of damage, including non-pecuniary damage, under Article 625 of the Civil code. There is no available information to indicate that any victim of violence against women, including domestic violence, ever instituted or benefited from such proceedings. Reports submitted to GREVIO point to elevated court fees as one of the factors preventing victims' access to compensation, despite the principle established by law that victims of domestic violence are exempted from court fees<sup>120</sup>. Moreover, there is no state compensation scheme available to victims of violence against women in Albania. No reservation was entered into by Albania exempting it from implementing Article 30, paragraph 2 of the Convention on subsidiary state compensation for serious bodily injury or impairment of health.

**116. GREVIO strongly encourages the Albanian authorities to adopt measures to facilitate and guarantee access to compensation for victims of all forms of violence against women, in particular by:**

- a. reviewing the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;**
- b. ensuring that victims are systematically informed of their right to exemption from court fees;**
- c. ensuring that victims are systematically informed of their right to claim compensation and the procedures to be followed, in accordance with Article 58, paragraph 1, indent g of the Albanian Code of criminal procedure<sup>121</sup>;**
- d. enabling victims to exercise their right to compensation by guaranteeing them effective access to legal assistance and legal aid;**
- e. strengthening the capacity of law practitioners to help victims claim compensation and incorporating the issue of compensation in training programmes aimed at members of the law enforcement agencies and the judiciary;**
- f. setting up a state compensation scheme accessible to victims;**
- g. monitoring progress in this area, by keeping data on numbers of compensation claims filed by victims and their outcome.**

<sup>120</sup> Considerations related to access to legal aid will be developed further in this report, in relation to Chapter VI of the Convention.

<sup>121</sup> As amended by Article 40 of Law No. 35/2017 dated 30 March 2017.

### 3. Custody and visitation rights (Article 31)

117. Article 31, paragraph 1 of the Convention aims at ensuring that judicial orders ruling on custody and visiting rights take into account incidents of violence against the non-abusive carer as much as against the child itself. Paragraph 2 of this article is designed further to prevent visitation and custody rights from posing a risk to the rights and safety of the victim and/or the children.

118. Information provided in the state report points to a limited implementation, in particular at the legislative level, of the provisions of Article 31. Incidents of violence are taken into consideration – albeit not systematically<sup>122</sup> - for the purposes of regulating the exercise of parental rights only within the limited frame and for the duration of emergency barring orders (EBOs) and protection orders (POs)<sup>123</sup>. Otherwise, the legal framework in place based on the relevant provisions of the Family Code does not require courts to consider incidents of domestic violence when deciding on the exercise of parental responsibility. It would appear however that in practice, judges are sensitive to these matters and will for instance consider the issuance of protection orders against the abusive father as relevant when determining custody and visitation rights within divorce arrangements. An appeal against a divorce ruling will, however, suspend the courts' decision on these matters, leaving custody and visitation rights without any clear settlement.

119. GREVIO specifies in this regard that the scope of Article 31, paragraph 1, is to guarantee that incidents of violence are not overlooked when determining custody and visitation rights. It does not require that the relationship between the father and the child be entirely severed or even severely limited without consideration as to the best interests of the child. GREVIO is informed in this regard of findings (based on a limited analysis of the relevant case-law) that in determining the rights of the father subject to a protection order to stay in contact with children, courts do not systematically analyse each case on its merits and determine the question of visitation rights purely on the basis of the child's emotional needs, but rather tend to use standard formulations.

120. With reference to Article 31, paragraph 2, of the Convention, GREVIO welcomes the introduction in Law No. 18/2017 on the Rights and Protection of the Child of provisions regulating supervised visits intended to protect children. It notes however that the Albanian legislation is silent as regards the risks inherent to violence which is not directed to the child, but might affect the child or the victim during the exercise of any visitation and custody rights.

121. **GREVIO urges the authorities to ensure that any determination of the modalities for the exercise of custody and visitation rights courts comply with the requirements of Article 31. To this end, the authorities should:**

- a. ***ex officio* enquire whether in case of a request for a protection order for a victim of domestic violence there are children involved and examine whether a protection order should be issued for them as well;**
- b. **within the framework of any decision to issue a protection order or any other relevant court decision settling family matters where there has been/is violence (for instance, in cases of separation or divorce), make the appropriate determinations regarding custody and visiting rights, having due regard to the violence and to the best interest of the child based on a case-by-case assessment;**
- c. **remedy any gap that might exist in the law as to settlement of custody and visiting rights in the course of any judicial proceedings, such as in the case of appeal against a divorce ruling;**
- d. **ensure that implementing contact orders will not expose victims and their children to the risk of further harm;**
- e. **monitor the courts' practice in this field and measure progress.**

<sup>122</sup> See for instance to Tirana District Court decision No. 3 of 6 January 2016. In this decision on the issuance of a protection order of one year, the perpetrator was ordered to pay alimony for his two children. The decision omitted however to regulate parents' custody and visiting rights.

<sup>123</sup> In Albania EBOs are referred to as "immediate protection orders". See Articles 10 and 11 of the LDV.

## **B. Criminal law**

122. The offence of domestic violence which was introduced in Albania's Criminal Code (the CCA) in 2012 is examined earlier in this report under Chapter I, in relation to Article 3 of the Convention on definitions. The following paragraphs will therefore focus on the offences which the Istanbul Convention requires to criminalise, outside the domestic context.

### **1. Psychological violence (Article 33)**

123. Article 33 of the Convention requires Parties to criminalise psychological violence, which is described as the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats. In this respect, psychological abuse is considered to be a prevalent form of domestic violence which can be perceived by victims as more severe and harmful than physical violence. It is also viewed as a frequent precursor to physical violence and linked to economic violence such as deprivation or restriction of financial resources.

124. Available data show that psychological violence, at least within the domestic unit, is the most pervasive form of violence against women in Albania. The 2013 survey on domestic violence conducted by INSTAT reveals that as many as 58.2% of women had "ever" experienced psychological violence in their marriage/intimate relationships, and 52.8% of women were "currently" experiencing psychological violence (within the 12 months prior to the interview). In other words, more than 1 out of 2 women had been/were being psychologically abused in their marriage/intimate relationships at the time of the survey.

125. Psychological violence, as defined by Article 33 of the Convention, does not find an expression in the CCA. Forms of psychological violence may be prosecuted in cases of domestic violence, which encompasses all acts of violence, including threats of death or other serious injury, resulting in a violation of the victim's psycho-social integrity. The offence of maltreatment of minors which is set out in Article 124/b of the CCA also covers psychological abuse in addition to physical abuse.

126. However, legal practitioners interviewed by GREVIO indicate that domestic violence is never prosecuted on the basis of psychological violence alone, with the exception of threats which however constitute a minority of cases<sup>124</sup>. Cases of domestic violence are commonly prosecuted as cases of battery and the courses of conduct which the drafters of Article 33 had in mind<sup>125</sup> are hardly taken into consideration in the absence of any concurring physical violence. Beyond the scope of domestic violence or abuse of children, the Albanian criminal law fails to establish psychological violence as a stand-alone offence. The prohibition of any serious threat to cause death or grave personal harm under Article 84 of the CCA is too narrow to capture all forms of threat which are relevant to the definition laid down in Article 33 of the Convention. For instance, it does not encompass blackmail or threats to reveal personal secrets. More generally, Article 84 of the CCA excludes all threats of a lower intensity, which often form part of the pattern of abuse, especially in domestic violence situations.

**127. GREVIO encourages the Albanian authorities to remedy the gap in their criminal legislation regarding psychological violence.**

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<sup>124</sup> For example, out of a total of 220 cases handled by the Tirana district court in 2016, only 17 cases were prosecuted under paragraph 2 of Article 130/a of the CCA regarding threats.

<sup>125</sup> See paragraph 181 of the Explanatory report: "This provision refers to a course of conduct rather than a single event. It is intended to capture the criminal nature of an abusive pattern of behaviour occurring over time – within or outside the family".

## 2. Stalking (Article 34)

128. Article 34 provides for two main constituent elements of the offence of stalking: a) the intention on the part of the perpetrator of instilling a sense of fear to the victim for her safety, combined with b) the effect of instilling such a fear by means of a repetitive threatening conduct.

129. Since 2012, Albania has a specific criminal provision addressing stalking in terms which are similar to those of Article 34 of the Convention. Article 121/a of the CCA criminalises the conduct of intimidating or harassing a person “through repetitive actions, with the intent to cause a state of constant and severe anxiety to or fear for personal safety, of a relative or person with whom that person has a spiritual connection, or to force him or her to change his or her way of living”.

130. Thus Albania’s provision on stalking primarily refers to the intent of the perpetrator, placing the focus on a behaviour-based definition rather than on a result-based one. According to the Statistical Yearbook of the Ministry of Justice, the number of convicted persons for this offence in 2015 was 42.

## 3. Physical violence (Article 35)

131. Article 35 of the Convention requires Parties to ensure that “the intentional conduct of committing acts of physical violence against another person is criminalised.” As specified in paragraph 188 of the Explanatory report, this provision criminalises any infliction of bodily harm caused by the application of immediate and unlawful physical force.

132. The CCA establishes a wide range of offences encompassing different forms of physical violence. Chapter II of the CCA, and in particular Sections 1 to 4, offer a comprehensive criminal response to crimes against life and health ranging from murder to minor bodily injuries.

133. Section 1 of Chapter II of the CCA, on “crimes against life committed intentionally” contains more than ten different provisions on murder. Article 76 deals with basic murder (“murder with intent”), for which punishment ranges from 10 to 20 years. Other provisions in this section define aggravated forms of murder including murder of a physically or mentally disabled person or of a pregnant woman. Article 79/c increases the punishment for “murder of the person who is the spouse, former spouse, cohabitant, or former cohabitant, close kin or close kin of the spouse of the offender” to no less than twenty years or life imprisonment.

134. Assault offences under the CCA are further categorised according to the level of severity of the inflicted injury: serious intentional injury (Article 88), non-serious intentional injury (Article 89), and other intentional harm (Article 90). The criteria for deciding the level of injury include loss of ability to work suffered as a result of the injury. These categories have implications in terms of prosecution because non-serious intentional injury (Article 89), and other intentional harm (Article 90) are prosecuted under private prosecution rules. This issue will be dealt with further in this report in the section on *ex officio* prosecution. Nevertheless, non-serious intentional injury and other intentional harm which qualify as domestic violence in pursuance of Article 130/a of the CCA attract harsher sanctions and are prosecuted *ex officio*.

## 4. Sexual violence, including rape (Article 36)

135. Article 36 of the Istanbul Convention requires Parties to criminalise all forms of non-consensual acts of a sexual nature, including rape. The central element of the Convention’s definition of sexual violence is lack of consent given voluntarily as the result of the person’s free will. In adjudicating cases of sexual violence, Parties should have regard to the case law of the European Court of Human Rights, and in particular to its landmark case *M.C. v Bulgaria* : “A rigid approach to the prosecution of sexual offences, such as requiring proof of physical resistance in all circumstances, risked leaving certain types of rape unpunished and thus jeopardising the effective

protection of the individual's sexual autonomy"<sup>126</sup>. From the foregoing it follows that a narrow, force-based definition of sexual violence, including rape, with a requirement of resistance fails to protect women's right to bodily integrity and sexual autonomy. It should also be ensured that the prosecution of such offences is based on a context-sensitive assessment of the evidence in order to establish on a case-by-case basis whether or not the victim has freely consented to the sexual act. The analysis should recognise the wide range of behavioural responses to sexual violence and rape which victims exhibit and it should not be based on assumptions of typical behaviour in such situations nor influenced by gender stereotypes and myths about women's and men's sexuality<sup>127</sup>. Finally, sexual violence should encompass domestic sexual violence. Historically, the laws of many countries have implicitly or explicitly condoned marital rape. Under Article 43 of the Convention the criminalisation of sexual offences applies irrespective of the relationship between perpetrator and victim.

136. The CCA devotes an entire Section (Section 6) to sexual crimes. The use of force is a constituent element of the crime of rape with an adult women defined in Article 102, except in cases of rape between spouses or cohabitants where the offence is based on the absence of consent. The possibility of freely given consent is precluded, without the requirement of the use of force, only in cases of exploitation of physically or mentally disabled persons, intimidation with the use of a weapon or abuse of a position of authority or trust. Use of violence is also a constituent element of the crime of rape involving children who are 14 to 18 years old, or who are otherwise sexually "mature"<sup>128</sup>. Besides rape, Article 107/a of the CCA also criminalises other violent conducts of a sexual nature with the use of objects.

137. Albania's provision on rape is thus a force-based definition and falls short of the Convention's requirements. Accordingly, the victim has the burden of proving violence/resistance. Where the victim is unable or unwilling to demonstrate resistance, this can lead to cases of rape going unreported or unprosecuted. Moreover, there is no evidence of a broad interpretation of the constituent element of force in courts, leading to significant barriers in access to justice for victims. Regarding the offence of rape involving "mature" minors, GREVIO recalls that the minimum age for sexual consent should not rely on arbitrary criteria and that puberty is not an indicator of becoming an adult<sup>129</sup>.

138. There is no provision in the CCA criminalising the non-consensual sexual behaviour described in paragraph 1, indents *b* and *c* of Article 36. Marital rape is a crime, however only between spouses or cohabitants, which falls short of the requirement in Article 36, paragraph 3 of the Convention to protect former and current spouses or partners as recognised by internal law, regardless of any cohabitation. There is no provision in the CCA to guarantee that acts of sexual violence other than rape in the context of an intimate or domestic relationship are effectively prosecuted.

139. **GREVIO urges the authorities to:**

- a. amend the definition of rape of adult women so that it is based on lack of freely given consent and does not require demonstration of use of force or resistance;**
- b. amend the definition of rape involving children between 14 and 18 so that it is based on lack of a freely given consent and does not require demonstration of use of force or resistance. In assessing the child's full and free consent, due consideration should be given to the age gap between the perpetrator and victim;**
- c. amend the definition of rape involving children between 14 and 18 so that it does not depend on whether or not the victim has reached puberty;**

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<sup>126</sup> Refer to paragraph 191 of the Explanatory report.

<sup>127</sup> See paragraph 192 of the Explanatory report.

<sup>128</sup> See Article 101 of the CCA.

<sup>129</sup> The United Nations Committee on the Rights of the Child has criticised the use of the biological criterion of puberty to set different ages of maturity between boys and girls.

- d. **criminalise the non-consensual sexual behaviour described in paragraph 1, indents b and c of Article 36 of the Convention;**
- e. **adopt the necessary measures to ensure that any offence of sexual violence applies between former or current spouses or partners as recognised by internal law.**

#### **5. Forced marriage (Article 37) – Civil consequences of forced marriages (Article 32)**

140. Article 37 of the Istanbul Convention requires the criminalisation of two types of conduct: 1) forcing a person to enter into marriage; 2) luring a person to a third country with this purpose (even if the marriage has not been concluded). The core element of forced marriage is the absence of consent of the victim owing to the use of physical or psychological force.

141. The CCA introduced a specific offence targeting both forms of forced marriage in Article 130 which criminalises the behavior of coercing someone to conclude a marriage and of requesting the victim to leave the territory of Albania for the purposes of forcing him or her to enter into marriage. Whilst this wording conforms to that of the Convention, the applicable penalties of a fine, or imprisonment, up to three months are very low.

142. As for the civil consequences of forced marriages, Articles 33 and 44 of Albania's Family code provide that a marriage concluded without the full and free consent of one or both of the spouses or as a result of a threat is null and void. The right to request the invalidation of a forced marriage belongs to the spouse whose consent was not freely given, provided such request is filed no later than 6 months from the date the threat ceased and in any case no later than 3 years after the conclusion of the marriage. The continuous cohabitation between the spouses lasting 6 months since the time the victim gained full freedom forfeits the right to file for the invalidation of the forced marriage. GREVIO notes that the conditions under which the invalidation of a forced marriage may be requested appear quite restrictive.

143. Available administrative evidence show that in recent years, prosecuted cases of forced marriages in Albania have been on the rise<sup>130</sup>. Analysis of existing data and in depth research would be required to explain these figures and have a clearer picture of the phenomenon, as well as to understand its prevalence amongst various communities and geographical distribution.

144. The damaging consequences of both forced marriages and child marriage have been amply illustrated by international human rights bodies<sup>131</sup>. Child, early and forced marriage is widely acknowledged as a harmful practice which violates human rights and perpetuates other harmful practices and human rights violations. In Albania marriage under the legal age (18) is regulated by law and can be authorised by courts. Available reports show, however, that the practice of courts could be largely improved to ensure that a thorough verification of the minor's free will to enter into marriage is conducted<sup>132</sup>. The state report points to shortcomings in the relevant civil legislation, in respect in particular to the absence of any provision setting the minimum age under which derogations to the legal age to marry would not be permitted.

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<sup>130</sup> Based on data published in the Statistical yearbook of the Ministry of Justice, there have been 21 persons convicted under this offence in 2012, 114 in 2013, 237 in 2014 and 206 in 2015.

<sup>131</sup> See [Resolution 156 of the UN General Assembly](#) and to the [Joint General Recommendation No. 31 by the CEDAW Committee](#) and general comment 18 of the Committee on the rights of the child .

<sup>132</sup> See the report [Marriage in Court? -The rights of children, underage marriage and the role of the Court](#), Arta Mandro-Balili and Bernard Zeneli, 2017.

145. **With respect to the criminal offence of forced marriage, GREVIO strongly encourages the authorities to:**

- a. **increase the applicable penal sanctions, and**
- b. **ease the conditions in which a forced marriage may be declared void or annulled, whilst ensuring that the victim does not incur any undue financial or administrative burden.**

**Having regard to the risk that child marriages poses in terms of possibly constituting forced marriage and other forms of violence, such as trafficking<sup>133</sup>, GREVIO encourages the authorities to:**

- c. **review the applicable legislation with a view to introducing appropriate additional safeguards, such as a minimum age requirement for minors to be able to request the authorisation to marry;**
- d. **develop guidelines framing the judicial review of any request by a minor seeking the authorisation to conclude marriage, and train judicial officials accordingly;**
- e. **ensure that any such review is carried out on the basis of a close co-operation between courts and the existing mechanisms for the protection of children's rights, such as the child protection units established at the municipal level.**

**Such measures should be taken in conjunction with efforts to raise awareness about this form of violence and to engage the professionals concerned in preventive actions<sup>134</sup>.**

## **6. Female genital mutilation (Article 38)**

146. Whilst the CCA does not contain any specific offence criminalising female genital mutilation, the conduct described in Article 38, indent a, of the Convention can be prosecuted under Article 88 of the CCA which regulates any intentional injury inflicting mutilation or any other permanent detriment to the health. It remains to be ascertained whether in practice, courts would resort to such offence to sanction female genital mutilation. The conducts of coercing, procuring or inciting to undergo female genital mutilation described in Article 38, indents b and c, remain however outside the scope of such an offence and do not appear to be criminalised under any other existing offence under the CCA.

147. There are no recorded convictions for any behaviour qualifying as female genital mutilation, which is largely alien to Albanian practices and traditions. This would explain the lack of knowledge and understanding regarding this form of violence against women amongst the professionals concerned. The influx of asylum seekers in the country - however low - was nevertheless cited by actors in the field as leading to victims of this form of violence against women possibly entering Albania, and thus as a reason to be prepared to identify and treat properly victims of female genital mutilation.

148. **GREVIO invites the authorities to:**

- a. **consider introducing in their criminal legislation an offence specifically targeting all forms of female genital mutilation contemplated in Article 38 of the Convention,**
- b. **raise awareness and knowledge amongst the professionals concerned and society at large regarding this specific form of violence against women.**

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<sup>133</sup> See paragraph 108 of GRETA's Sixth General Report covering the period from 1 January to 31 December 2016: "In the reports on Albania, (...), GRETA has recommended that the authorities intensify their efforts to prevent trafficking in children, including by paying special attention to Roma children, their inclusion in education and the prevention of child, early and forced marriages".

<sup>134</sup> See paragraph 42a of the Concluding observations on the fourth periodic report of Albania, CEDAW Committee, 2016.

## 7. Forced abortion and forced sterilisation (Article 39)

149. Article 93 of the CCA criminalises abortion without the consent of the pregnant woman with the sanction of a fine or imprisonment up to five years. The CCA lacks however a provision criminalising forced sterilisation.

150. Available reports points to the issue of sex-selective abortion as a source of concern in Albania. In 2011 the Parliamentary Assembly<sup>135</sup> of the Council of Europe highlighted alarming levels of skewed sex ratio at birth in several Council of Europe member countries, including Albania, where the rate stood at 112 /100 compared to a normal sex ratio at birth of 102-106 males to 100 females. Several international human rights bodies have equated pre-natal sex-selection to an act of violence against women and called on states to enact legislation prohibiting such practice<sup>136</sup>. A comparison between the results of demographic surveys<sup>137</sup> would indicate improvements in this ratio over the last decades. However, stakeholders on the ground pointed to the need for more up-to-date data allowing for an accurate assessment of the situation.

151. Whilst the Istanbul Convention does not contain an explicit reference to sex-selective abortion, instances where women are under psychological pressure to undergo a sex-selective abortion might qualify as psychological, physical violence or forced abortion. Regardless of whether they qualify as violence, sex-selective abortions are in any case discriminatory and stem from the disadvantaged status of women in society<sup>138</sup>.

**152. GREVIO encourages the authorities to introduce the offence of forced sterilisation in criminal law. Having regard to the risk that sex selective abortions poses in terms of discriminatory practice and possibly subjecting women to violence, GREVIO invites the authorities to take measures to raise awareness around this matter, and to heighten the capacity of the professionals concerned, in particular from the healthcare sector, to detect and prevent this form of violence against women.**

## 8. Sexual harassment (Article 40)

153. The offence of sexual harassment defined in Article 40 captures any unwanted behaviour, of a sexual nature, that affects or could affect the dignity of a person. Sexual harassment is not limited to the workplace and can occur in multiple contexts. Accordingly, the context or setting does not constitute an element of the offence defined in the Convention.

154. The Albanian legislation comprehensively addresses the different settings in which sexual harassment can occur in a set of complementary laws. Thus, sexual harassment in employment relations is regulated in Law No. 9970/2008, "On gender equality in society", in the Labour Code and in Law No. 10221/2010 "On protection against discrimination". The latter law also takes up sexual harassment in education. Criminal responsibility for sexual harassment is established in Article 108/a of the CCA sanctioning by one to five years of imprisonment the "commitment of actions of a sexual nature infringing the dignity of a person, by any means or form, and creating a threatening, hostile, degrading, humiliating or offensive environment".

155. GREVIO notes with satisfaction that the formulation of the CCA aligns with Article 40. It further welcomes measures taken to face this issue within law enforcement agencies, which included instituting sexual harassment as a serious disciplinary offence<sup>139</sup>. However, in the absence of meaningful data regarding convictions and non-criminal sanctions handed down for this

<sup>135</sup> See [PACE Resolution 1829\(2011\)](#).

<sup>136</sup> See the *Fourth World Conference on Women* held in Beijing in 1995.

<sup>137</sup> See [Sex imbalances at birth](#), UNFPA (2012), Tirana.

<sup>138</sup> See the Council of Europe [Commissioner's for Human Rights comment of 15 January 2015](#).

<sup>139</sup> See Law 173/2014 on "Military discipline in the armed forces of the Republic of Albania".

offence<sup>140</sup>, it would appear that such laws have scarcely – if at all - been applied. The Commissioner for Protection against Discrimination, whose competence to handle cases of sexual harassment is grounded in the aforementioned Law No. 10221 of 2010, has not as yet been requested to tackle this issue. Recent studies<sup>141</sup> on levels of sexual harassment in public administration show that the problem exists but that victims face considerable resistance to report it. Awareness on available mechanisms of redress is limited and victims stay silent for fear of damaging repercussions, including job loss.

**156. GREVIO strongly encourages the authorities to:**

- a. conduct studies to gain insight into the prevalence of sexual harassment in various settings and the main obstacles preventing this phenomenon from emerging; and based on their findings, take targeted actions to lift these obstacles;**
- b. adopt codes of conducts on sexual harassment in the workplace at all levels of public administration and provide training accordingly;**
- c. strengthen data collection regarding this form of violence against women, covering criminal, civil and disciplinary proceedings;**
- d. reinforce the role of the People’s Advocate and that of the Commissioner against discrimination in combating sexual harassment.**

**9. Unacceptable justifications for crimes, including crimes committed in the name of so-called “honour” (Article 42)**

157. Article 42 of the Istanbul Convention includes a clear prohibition of historically used justifications for acts of violence against women, including domestic violence. Thus, the criminal law and criminal procedural law of states party should not permit claims of the accused justifying his or her conduct as having been committed in order to prevent or punish a victim’s suspected, perceived or actual transgression of cultural, religious, social or traditional norms or customs. The *ratio legis* underpinning this provision is that any victim-blaming attitude should be disbarred.

158. Article 48 of the CCA includes amongst the circumstances mitigating punishment the fact that (indent a) the offence was committed due to motivations of positive moral and social values, (indent b) the offence was committed under the effect of a psychiatric distress caused by provocation or the unfair actions of the victim or some other person, (indent e) the relationship between the perpetrator and the victim has “gone to normal”. Whilst the non-applicability of indent (e) to cases of criminal offences against children or related to domestic violence takes due account of the pernicious cycles of violence in domestic relationships, the lack of a similar provision excluding the applicability of indents (a) and (b) to cases of domestic violence opens the door for considerations pertaining to an allegedly immoral behaviour of the victim to attenuate criminal responsibility. Such mitigating circumstances also carry the potential of neutralising the effects of the aggravating circumstance applying for offences committed within the family, which is examined further in this report. According to the state report, considerations related to culture, customs, belief, traditions or honor have served to qualify the offence as a “crime of passion”, without, however, resulting in a reduction in punishment.

**159. GREVIO strongly encourages the authorities to align the relevant provisions of the Albanian Criminal Code with the provisions of Article 42 of the Convention. More particularly, the circumstances foreseen in Article 48, indents (a) and (b) of the Code relating on the one hand, to “motivations of positive moral and social values” and on the other hand, to “psychiatric distress caused by provocation or the unfair actions of the victim or some other person” should not be considered as mitigating circumstances in cases of gender-based violence against women.**

<sup>140</sup> Following the introduction in 2014 of the crime defined in Article 108/a of the CCA, the Statistical Yearbook of the Ministry of Justice reported only 1 conviction in 2015 under this provision.

<sup>141</sup> See the 2017 study by the People’s Advocate in collaboration with the NGO LIST: [Ngacmimi moral dhe seksual në administratën publike shqiptare.](#)

## 10. Sanctions and measures (Article 45)

160. Article 45 of the Convention requires Parties to match the criminalisation of the offences defined in Articles 33 to 41 with the imposition of sanctions which are “effective, proportionate and dissuasive”. The analysis of the CCA confirms that this is the principle which the Albanian lawmaker has largely upheld, with the exception of forced marriages (punished by a fine or imprisonment of up to three months). Whether, in practice, courts have effectively sanctioned the seriousness of the offences in accordance with the spirit of the law is a question which only data can answer.

161. The data provided in the state report do not tie convictions to the specific offences they are related and so do not allow GREVIO to reach any definitive conclusion in this respect. The report indicates that out of 516 perpetrators punished in 2014, the vast majority (492) received an imprisonment sentence of up to two years. Similarly, nearly all the convictions handed down in 2015 (804 out of a total of 821) carried imprisonment sentences of the same duration. Only eight condemned persons in 2014 and in 2015 were punished with a term of imprisonment of up to five years.

162. In their report, the authorities state that there were 22 women victims of domestic murder in 2014 and 20 in 2015. They do not specify how many cases of murder in the domestic unit were either prosecuted or adjudicated by courts. Under the CCA, punishment for “murder with intent” ranges from 10 to 20 years. Following an amendment in 2013 which introduced Article 79/c regarding “murder because of family relations”, punishment for “murder of the person who is the spouse, former spouse, cohabitant, or former cohabitant, close kin or close kin of the spouse of the offender” has been increased and now stands at no less than twenty years or life imprisonment. Were data referred to in the previous paragraph of this report on punishment rates to be interpreted as including cases of murder, they would reveal a conspicuous gap between possible sanctions and sanctions actually enforced.

163. Such a conclusion would appear to be refuted by data published in the Statistical Yearbook of the Ministry of Justice. According to this source, there were 19 convictions under Article 79/c in 2014, of which 13 with sentence terms ranging from 10 to 25 years, and 30 in 2015, out of which 19 with sentence terms of the same duration. It should be noted that the statistics reported by the Ministry of Justice do not allow identifying murders involving specifically women and girls.

164. **GREVIO invites the authorities to:**

- a. **improve data collection regarding sanctions imposed for the different forms of violence against women covered by the Convention, in particular by disaggregating such data based on the sex of the offender and the victim and their relationship and by ensuring that data on convictions are clearly tied to the specific offences to which they are related;**
- b. **use such data to assess whether sentencing in cases of violence against women is commensurate to the gravity of the offence and preserves the dissuasive function of penalties.**

165. Apart from the mitigating circumstances examined earlier in this report, there are further elements in the CCA which provide for a lighter sentencing. These encompass, *inter alia*, a mitigated form of murder when committed in a state of profound psychiatric distress caused by violence or a serious insult on the part of the victim<sup>142</sup> and the parallel provision applying to mitigated physical assault offences<sup>143</sup>. A state of profound psychiatric distress can reduce the punishment by more than half<sup>144</sup>. In the light of existing evidence that provocation defences have

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<sup>142</sup> See Article 82 of the CCA.

<sup>143</sup> See Article 88/a on the offence of serious wounding under the conditions of strong psychic distress.

<sup>144</sup> For instance, in the case of murder, the offence is punished with a maximum sentence of 8 years of imprisonment.

often had a disparate impact that discriminates against women<sup>145</sup>. GREVIO is concerned that this type of provision might have the potential of justifying murder and physical assault in cases of violence against women, and in particular in domestic violence related offences, as a legitimate response to relationship difficulties.

**166. With reference to its proposals on mitigating circumstances, GREVIO also strongly encourages the authorities to revise the provisions in the Albanian Criminal Code on mitigated murder and physical assault as regards domestic violence cases.**

#### **11. Aggravating circumstances (Article 46)**

167. The aggravating circumstance listed in indent a of Article 46 of the Convention which is aimed at keeping the domestic sphere safe is incorporated in the CCA in multiple ways, through: (a) the establishment of the dedicated offence of domestic violence in Article 130/a; (b) the provisions in Articles 79/c and 88 on aggravated murder and serious intentional injury committed within family relations; (c) the increase by one third of the sanction foreseen in Article 121/a in cases of stalking, but only when “committed by an ex-spouse, former cohabitant, or person who had a spiritual connection with the injured party”; (d) the generic aggravating circumstance in Article 50, letter g concerning offences “committed through profiting from family, cohabitation, friendship, hospitality relations”. Abuse of authority appears however to be acknowledged only with respect to the offence of sexual assault committed by abuse of one’s official position in Article 105 of the CCA.

168. Article 50 of the CCA concerning generic aggravating circumstances refers to all the other aggravating circumstances contemplated in Article 46 of the Convention, with the exception of that regarding offences committed in the presence of a child. The commission of acts of domestic violence in the presence of a child was, however, the subject of an amendment to Article 130/a of the CCA in 2013 which increased punishment from up to two years of imprisonment to a minimum sentence of one year of imprisonment up to a maximum of five. Article 50 of the CCA goes further than what required under this article of the Convention by contemplating the harshening of sanctions in cases of offences committed during the period of validity or after the issuance of a protection order.

**169. GREVIO encourages the authorities to fill the remaining minor gaps in their criminal law regarding aggravating circumstances.**

#### **12. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)**

170. Article 48 of the Istanbul Convention bans mandatory alternative dispute resolution procedures in relation to cases of violence against women. This prohibition includes mediation and conciliation, but it is limited to mandatory mechanisms. This provision stems from the principle that these mechanisms require that the Parties enter into them freely. It is further based on the realisation that violence against women is a manifestation of unequal power relations and that inequality hinders freedom of consent. Furthermore, Article 48 serves to avoid re-privatisation of domestic violence and violence against women and to enable the victim to seek justice<sup>146</sup>.

##### **a. Conciliation in criminal procedures**

171. Article 338 of the Albanian Criminal Procedure Code (hereafter referred to as the “ACPC”) provides for systematic conciliation in cases of private prosecution. As stated earlier in this report, private prosecution applies to offences which are considered less serious, namely non-serious intentional injury (Article 89 of the CCA) and other intentional harm (Article 90 of the CCA), unless they qualify as domestic violence (in which case they are prosecuted *ex officio*). Other forms of

<sup>145</sup> See the Supplement to the handbook for legislation on violence against women , UNDAV – UN Women, 2011.

<sup>146</sup> See paragraph 252 of the Explanatory report.

violence against women covered by the Istanbul Convention which are subject to private prosecution include rape of adult women (Article 102) and consanguine persons and persons in the position of trust (Article 106) and forced marriage (Article 130).

172. Given the interrelations between the reconciliation mechanism and private prosecution, measures which the authorities might take with respect to Article 55 of the Convention<sup>147</sup> following GREVIO's suggestions would bring the aforementioned provisions of the ACPC in line with the requirements of Article 48. Until such amendments are enacted, strict controls over this mechanism should be introduced aimed at ensuring that victims consent freely to the reconciliation and that no coercion or intimidation is used upon them.

#### **b. Conciliation in civil procedures**

173. Conciliation in the course of the proceedings for the issuance of an EBO/PO is neither foreseen nor expressly forbidden in the LDV. Monitoring of courts' practice<sup>148</sup> has shown that judges will occasionally resort to Article 158/c of the Civil Procedure Code under which terms they are "depending on the nature of the case" to "make every effort to settle the dispute amicably during the preparatory stage" and may "where appropriate (...) order the Parties involved to appear before the court". In situations of immediate danger, imposing a conciliatory encounter between the victim and the perpetrator will defeat the very purpose of the protective measure which is to keep the victim at a distance from the perpetrator. Moreover, by ignoring the power dynamics which underlie violence, obligatory conciliation can easily lead to an artificial respite in the violence cycle and dangerously delay the victim's protection. Not surprisingly, in many cases where Albanian courts enforced conciliation, the victim withdrew her request for an EBO/PO, only to seek anew the courts' protection shortly thereafter<sup>149</sup>.

174. Conciliation is an obligatory step in divorce proceedings, including in cases where a request for divorce is filed on grounds of violence. The victim can, however, refuse to attend the court hearing in which case the judge will order the continuation of the procedure.<sup>150</sup> The state report sadly recounts that there have been cases where conciliation efforts have proven fatal to the victim. Judges are trained to forego conciliatory attempts in the presence of violence. However, this might prove insufficient in the absence of a clear indication in the law that mandatory conciliation is inappropriate.

<sup>147</sup> See the section of the report on *ex parte* and *ex officio* proceedings below.

<sup>148</sup> See the study of the NGO Human Rights in Democracy Center Role of Tirana District Court in Protection from Domestic Violence in Family Relationship, 2015: "In some cases where HRDC attended and represented the interests of victim/survivor of DV, we noticed the persistence of the court to reconcile. Such practice is not appropriate for domestic violence, where the victim/survivor request protection from previous episodes of violence and such protection extend the effects on the future. Moreover, the effects of protection orders are temporarily and do not bring permanent consequences for the perpetrator, but simply restriction or preventing violence. Also, it is noted a direct intervention of court by suggesting perpetrator to issue a statement where he agrees not to exercise violence in the future and at the same time asking the victim to withdraw from the case by a subsequent declaration".

<sup>149</sup> See the aforementioned study by the NGO Human Rights in Democracy Center: "HRDC's lawyers and advocates through representation of victims of domestic violence in court have found that in many cases victims of domestic violence who withdraw from the trial as result of reconciliation with the perpetrator find themselves as in previous situation, involving violence; for example, the HRDC advocates have supported, and legally represented to court one case for several times (she withdraw the legal case twice). Two decisions were granted by Tirana District Court for the legal case involving V.D and E.D with object issuance of Protection Order, respectively on 14.08.2015 and 10.07.2015. Such reconciliation situations of Parties in most of the cases have temporary result, because the cycles of violence tend to recur".

<sup>150</sup> See paragraph 2 of Article 135 of the Family Code: "When the defendant/spouse is not present, despite having proper notice, the judge shall postpone the reconciliation hearing and again notify the defendant/ spouse. If, the defendant/spouse does not appear after the second notice, except for reasonable cause, the judge, after hearing the plaintiff/spouse and determining that reconciliation of the spouses cannot be achieved, shall set the judicial hearing and order the presentation of necessary evidence at said hearing".

**175. GREVIO urges the authorities to take the necessary measures, including amending the relevant legislation, to:**

- a. clearly exclude the applicability of conciliation in the course of the proceedings for the issuance of protection orders;**
- b. establish the principle that conciliation cannot be obligatory in divorce proceedings where there is violence;**
- c. incorporate a risk assessment and safeguards to ensure the full and free consent of the victim in the frame of any voluntary conciliation procedure.**

## VI. Investigation, prosecution, procedural law and protective measures

176. 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. Immediate response, prevention and protection (Article 50)

177. Based on its interviews with those working in this area, GREVIO finds that satisfaction levels concerning the law enforcement's response to violence against women stand generally high. The setting up, at police departments, of special units to handle domestic violence cases, together with consistent initial and on-going quality training are credited for ensuring that law enforcement officials treat violence against women as seriously as any other violent offence. GREVIO welcomes the indication in the state report that more and more women are joining the police, thus increasing the possibility for victims to be heard by women police officers. GREVIO recalls in this respect that compliance with the obligation laid down in Article 50 of the Convention requires *inter alia* providing for an adequate number of female law enforcement officers, including at high levels of responsibility. It further requires hearing victims without delay by specially trained, and where appropriate female, staff in premises that are designed to establish a relationship of trust between the victim and the law enforcement personnel<sup>151</sup>. This is an area where GREVIO finds that improvements could be made by ensuring the presence of trained professionals, including women psychologists, in police districts and providing them with adequate facilities for accepting victims and their children<sup>152</sup>. Whilst standard operating procedures (SOPs) for law enforcement have been issued for cases of domestic violence<sup>153</sup>, SOPs for the handling of other forms of violence against women, such as forced marriage and sexual violence, have yet to be developed.

178. NGO monitoring of police station activities show that one area which could considerably benefit from a more pro-active role on the part of law enforcement is that of EBOs/POs. Under Article 13 of the LDV, law enforcement officers are entitled to file an application for an EBO and/or a PO on their own initiative. However, in practice, it would appear that this prerogative remains widely under-exploited despite evidence that submissions for protection orders filed by law enforcement stand a better chance of obtaining a court endorsement<sup>154</sup>. A further advantage stemming from this power of initiative is that claims filed by law enforcement necessarily land before courts, immune as they are from victims' withdrawal under the pressure of threats and intimidation<sup>155</sup>.

179. **GREVIO strongly encourages the authorities to:**

- a. **empower law enforcement to make use, where appropriate, of their prerogatives to request the issuance of an emergency barring order or protection order;**
- b. **improve law enforcement premises and equip them with the necessary human and technical resources to properly handle cases of violence against women;**
- c. **develop standard operating procedures for law enforcement with regard to all forms of violence against women covered by the scope of the Convention.**

<sup>151</sup> See paragraph 258 of the Explanatory report.

<sup>152</sup> See the Assessment of the functioning of the domestic violence structures of the Albanian state police, as part of the national referral mechanism for the treatment of domestic violence cases, Monika Kocaqi and Miranda Fishka, 2015.

<sup>153</sup> See Order No. 1035/17.11.2008 of the General Police Director laying down the procedures applicable to the police in cases of domestic violence.

<sup>154</sup> See page 27 of the study Role of Tirana District Court in protection from domestic violence in family relationship by the ONG Human Rights in Democracy Center, 2015.

<sup>155</sup> See Article 13, paragraph 4 of the LDV: "When the petition is presented by the police (...), the victim's wish to drop the case does not have an effect on the continuation of the judicial process".

## **B. Risk assessment and risk management (Article 51)**

180. Concerns for the victim's safety must lie at the heart of any intervention in cases of all forms of violence covered by the scope of the Convention. Thus, Article 51 establishes the obligation to ensure that all relevant authorities, not limited to the police, effectively assess and devise a plan to manage the safety risks a particular victim faces on a case-by-case basis, according to standardised procedures and in co-operation and co-ordination with each other. The risk assessment must therefore be carried out with a view to managing the identified risk and devising a safety plan for the victim in order to provide co-ordinated multi-agency safety and support if necessary.

181. Risk assessment procedures have not yet been formalised in Albania, although the work of those concerned might integrate in practice limited risk assessment components<sup>156</sup>. Without the guidance of a framework for assessing risks, professionals from the field have voiced their concern that they might be unable to direct victims to the appropriate services. Where victims are unwilling to press charges or do not agree that their case be referred, professionals do not feel legitimised to determine whether critical or imminent safety concerns for the adult and/or child victim might justify overriding the victim's choice. Risk assessment has yet to become an integral part of the procedures on emergency barring and protection orders<sup>157</sup>.

**182. GREVIO urges the authorities to develop standardised procedures for assessing and managing the risk of lethality and repeated violence for victims of all the forms of violence against women covered by the Convention, and provide training accordingly. Such procedures should become central to the multi-agency co-ordinated response of referral mechanisms in Albania and be made available to all professionals who enter into contact with victims.**

## **C. Emergency barring and protection orders (Articles 52 and 53)**

183. GREVIO welcomes the introduction in the LDV of a mechanism to provide victims of domestic violence with court orders shielding them and family members from immediate threats to their security, health or well-being. Available data show that that the mechanism is widely used<sup>158</sup> and that victims are willing to seek the protection it affords, regardless of whether or not they pursue other legal proceedings. EBOs are issued within 48 or 24 hours following an application, depending on whether they are meant to apply to adults or children respectively. The protection granted provisionally under an EBO can be extended on condition that a request for a PO is submitted to the court within 20 days from the issuance of the EBO. The court deliberates within 15 days whether the effects of the EBO should be prolonged, modified or cease and decides accordingly whether to grant or not a PO. The available measures which can be decided include, *inter alia*, the removal of the perpetrator from the family home, the order for the perpetrator to stay a certain distance from the victim or other family members and the placement of the victim and her children in temporary shelters. The judicial decision pronouncing an EBO or PO constitutes an executive title from the moment it is adopted and is thus immediately enforceable.

184. GREVIO has been apprised of a number of difficulties regarding the application of this mechanism, which for the most part do not relate to deficiencies in the law but rather to its ineffective implementation. The major issue is the weakness of protection orders, such as those ordering the perpetrator to live in one part of the family dwelling leaving the victim to live in the other. Available reports explain these decisions in terms of "a combination of discrimination and pragmatism on the part of the judiciary"<sup>159</sup> which is reluctant to leave the perpetrator homeless.

<sup>156</sup> See pages 42 and 43 of the Manual "How to respond to domestic violence" - with special focus to the Albanian police, SIDA, SIPU International and Gender Alliance for Development.

<sup>157</sup> See the paragraphs below of this report dealing with protection orders.

<sup>158</sup> According to the state report, there were 2 422 requests filed for protection orders in 2014 and 1 719 in 2015.

<sup>159</sup> See the study Ending domestic violence in Albania, Amnesty International, 2010.

Thus, considerations relating to the scarcity of housing and the low socio-economic status of the perpetrator have at times prevailed over the prime consideration which should underpin any decision to issue an EBO/PO: the victim's safety. Moreover, in taking this approach, rather than protecting the victim, protection orders have at times become the ante-chamber to more violence<sup>160</sup>. Whilst there is no doubt that decision-making regarding EBOs/POs should be context-sensitive, such as in the case of extended families living in the property of the victim's in-laws, the paramount need is a thorough assessment of the risks for the victims' safety.

185. Other obstacles standing in the way of an effective implementation of the EBOs/POs mechanism relate mainly to the lack of reactivity of responsible officials. These concern (a) the non-compliance with procedural deadlines, such as the 24 hour deadline to notify the victim, law enforcement, bailiffs and social services of the issuance of EBOs<sup>161</sup>, or the absence of clear deadlines applying in case of appeals against the decision to issue an EBO/PO; (b) the scarce use by law enforcement and prosecution of their power to set in motion the procedure for the issuance of an EBO<sup>162</sup>; (c) the failure of the responsible enforcement agencies, in particular bailiffs, to execute or to ensure the enforced implementation of EBOs/POs. GREVIO is further informed in this respect of cases where bailiffs have required payments from the victims in order to enforce EBOs or POs. Both perpetrators acting in violation of protection orders and officials failing to execute them can be held accountable under the relevant provisions of criminal law<sup>163</sup>. Although the state report offers data concerning the number of violation of protection orders<sup>164</sup>, no information is provided as to the sanctions which might have been applied as a consequence thereof.

186. It would appear that most women in Albania prefer to seek safety in a shelter rather than staying in their own homes. While it can take up to 48 hours to obtain an EBO, during that intervening time, the women is protected in a shelter. Nevertheless, GREVIO recalls that the purpose of Article 52 is to allow women to remain in their home and require perpetrators to vacate the premises, which underlies the need for an EBO to be issued without delay in order to ensure victims' safety. In this context, the Albanian legislation could be seen as not fully satisfying the requirements of Article 52.

187. Available data would indicate that a high number of victims withdraw their submission for an EBO or stop short from seeking the long term protection offered by a PO<sup>165</sup>. Some research<sup>166</sup> has indicated that in a number of cases, victims' decisions to lay aside their application for a protection order are the consequence of conciliation efforts. Further studies into the causes of this behaviour would cast light on to the reasons why victims give up their protection and to what extent this exposes them to further violence.

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<sup>160</sup> See the decision of 11 November 2016 of the Fieri District Court enjoining the perpetrator to keep the mere distance of 2 meters from the victim. The perpetrator murdered the victim on 3 December 2016.

<sup>161</sup> See Article 19, paragraph 5, of the LDV.

<sup>162</sup> See Article 13, paragraph 3, indent c, of the LDV.

<sup>163</sup> See Articles 320 and 320/a of the CCA.

<sup>164</sup> 151 violations of protection orders were recorded in 2014, and 112 in 2015.

<sup>165</sup> See the report Violence against women and girls, Amnesty International, 2015-2016: "State police reported 1,696 cases of family violence in the first six months of the year [2016], giving rise to 993 requests for civil protection orders. Of 406 requests submitted to courts in the capital Tirana between January and August, only 118 were granted, with 251 applicants withdrawing their application, or not attending court due to pressure from their abusers or family members".

<sup>166</sup> See the study of the NGO Human Rights in Democracy Center Role of Tirana District Court in Protection from Domestic Violence in Family Relationship, 2015, mentioned above.

188. **GREVIO urges the authorities to:**

- a. **review legal provisions applying to EBOs to ensure that in situations of immediate danger, EBOs can be issued without undue delay in order to ensure the victim's safety;**
- b. **without prejudice to the need to ensure victims' immediate safety, integrate a risk assessment in the procedure for the issuance of emergency barring orders and protection orders ;**
- c. **promote a more pro-active role of law enforcement, prosecution and courts by encouraging them to make use of their prerogatives whilst respecting the victims' informed choices;**
- d. **ensure an effective enforcement of emergency barring orders and protection orders by the responsible agencies, in particular bailiffs<sup>167</sup>;**
- e. **prosecute perpetrators who violate emergency barring orders and protection orders and apply the relevant criminal sanctions;**
- f. **hold to account officials who fail to enforce emergency barring orders and protection orders, by applying the relevant criminal sanctions;**
- g. **identify further areas of improvement by analysing the reasons behind the high numbers of victims who do not pursue their protection under the emergency barring order/protection order mechanism.**

189. **Having regard to the requirement in Article 53 that restraining or protection orders be available to victims of all forms of violence covered by the Convention, GREVIO further urges the authorities to introduce such forms of protection for victims of violence against women other than domestic violence.**

190. GREVIO welcomes recent measures taken to enshrine in the Albanian legislative framework the duty for the relevant authorities to provide child witnesses of domestic violence with the appropriate psychosocial counselling support<sup>168</sup>, including when they are party to judicial proceedings. It further welcomes the creation of the new Order of Psychologists which represents an assurance of professionalism and quality service in this field. Against this background, there are nevertheless areas of concern where the best interests of the child risk being undermined, in particular in the context of protection orders. GREVIO is informed that the situation of children is not systematically examined whenever court decisions for protection orders are taken in situations of domestic violence. Furthermore, even when a request is submitted for a protection order to cover children, the principle that the Parties should cover the expenses related to the obligatory psychological report means that in cases where they are unwilling or unable to pay, the default solution which prevails is that there is no psychological report and the children remain with the violent partner. Psychological fees can be particularly prohibitive compared to standard living conditions<sup>169</sup>. This not only constitutes a violation of the right of victims of domestic violence to be exempted from the payment of any court fees, but it means leaving the interests of the children entirely unattended. The provisions of the newly adopted Code of Criminal Justice for Children – the first specific piece of legislation dedicated to criminal justice for children in Albania – which establish free legal and psychological assistance for child victims and witnesses, only concern criminal proceedings and they do not apply to civil procedures for the issuance of protection orders.

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<sup>167</sup> The bailiffs concerned include both public bailiffs and private bailiffs regulated by Law No. 10 031/2008, "*Për shërbimin përbarimor gjyqësor privat*".

<sup>168</sup> See Article 7, paragraph 2, indent a of the LDV on the duties of the Ministry of Health; refer also to the relevant provisions of the ACPC (Articles 58/1/b, 297/3 and 361/a) and the new Code of Criminal Justice for Children (Articles 18 and 20).

<sup>169</sup> Depending on courts, fees range from 15 000 to 40 000 Lek. Based on data from INSTAT for 2016, the monthly minimum wage is 22 000 Lek and average monthly wage is 54 488 Lek.

191. **GREVIO urges the authorities, in close co-operation with the Order of Psychologists, to take the necessary measures to ensure that:**

- a. **in all cases where a protection order is issued for victims of domestic violence, the situation of child witnesses is systematically – regardless of a specific request from the applicant – examined to determine whether they too should benefit from a protection order;**
- b. **psychological reports submitted before courts respond to the necessary criteria of professionalism and objectivity;**
- c. **the fees for the obligatory psychological report do not constitute a barrier to access justice.**

**D. *Ex parte* and *ex officio* proceedings (Article 55 paragraph 1)**

192. Pursuant to Article 55, states Parties undertake the obligation to provide that investigations into or prosecutions of at least the more severe forms of violence proceed without a report or complaint filed by the victim, and to enable proceedings to continue in the event of withdrawal of such a complaint. This rule aims at sparing victims the sole responsibility for initiating prosecution<sup>170</sup>.

193. The provision covers only some offences, thus in cases of psychological violence (Article 33), stalking (Article 34) or sexual harassment (Article 40) requirements for *ex officio* investigation and prosecution are not mandatory. With regard to all other forms of violence against women the *ex officio* rule applies, therefore “law enforcement authorities should investigate in a proactive way in order to gather evidence such as substantial evidence, testimonies of witnesses, medical expertise, etc., in order to make sure that the proceedings may be carried out even if the victim withdraws her or his statement or complaint at least with regard to serious offences, such as physical violence resulting in death or bodily harm”<sup>171</sup>.

194. In Albania, the rule is that a criminal offence is subject to public prosecution, unless it falls into the category of crimes subject to private prosecution. Crimes of private prosecution can only be investigated and prosecuted upon complaint of the victim and terminate if the victim withdraws the complaint or forgives the perpetrator.

195. Article 284 of the ACPC lists the crimes of private prosecution. For the purposes of the Istanbul Convention, the relevant offences submitted to private prosecution are: non serious intentional injury (Article 89 of the CCA), rape of adult women (Article 102, first paragraph of the CCA), sexual or homosexual activity by abuse of official position (Article 105 of the CCA), sexual or homosexual activity with consanguine persons and persons in the position of trust (Article 106 of the CCA), and coercion or obstruction of cohabitating, concluding or dissolving a marriage (Article 130 of the CCA). As regards the offence of non-serious intentional injury, it should be noted that Albania did not make use of the possibility of entering a reservation to Article 55, paragraph 1, in respect of Article 35 regarding minor offences.

196. Domestic violence is not listed under Article 284 of the ACPC and is therefore subject to public prosecution. This means that any case of physical violence, including non-serious intentional injury and battery, whenever committed in the domestic sphere, is subject to *ex officio* prosecution. Article 130/a of the CCA defining domestic violence does not however include sexual violence, which means that such instances of violence can only be investigated and prosecuted if the victim brings forth a complaint or a report. Given the taboo surrounding sexual violence, subjecting this form of violence to public prosecution could also serve to make this phenomenon emerge from current under-reporting.

<sup>170</sup> See paragraph 279 of the Explanatory report.

<sup>171</sup> See paragraph 280 of the Explanatory report.

197. In light of the foregoing analysis, Albanian law subjecting physical violence not qualifying as domestic violence, sexual violence whether or not it qualifies as domestic violence, and forced marriage to *ex parte* investigation and prosecution is not in line with the requirement set in Article 55 of the Convention. Expecting victims of these forms of violence to initiate private prosecution proceedings against perpetrators ignores their reluctance to report and increases the risk of secondary victimisation or further violence.

**198. GREVIO urges the authorities to amend their legislation so as to bring it in conformity with the rules regarding *ex parte* and *ex officio* prosecution set in Article 55, paragraph 1 of the Convention.**

#### **E. Measures of protection (Article 56)**

199. GREVIO welcomes the recent amendments to the ACPC which contemplate specific measures to protect the rights and interests of victims at all stages of investigations and judicial proceedings.

200. More particularly, Article 58/a of the ACPC has introduced an array of safeguards in the areas covered by indents *b* (right to be informed when the perpetrator is released from detention), *c* (right to be informed of the follow-up given to the complaint, the charges, the general progress of the investigation or proceedings and the outcome of the case), *d* (right to be heard), *e* (right to be supported) and *h* (right to benefit from interpretation) of paragraph 1 of Article 56. Victims' access to information has been further enhanced following the enactment of the new law on the prosecution office<sup>172</sup> establishing a public relations co-ordinator responsible for informing victims in each prosecution office. Moreover, a new article specifically devoted to the rights of victims who are minors has been introduced in Article 58/b of the ACPC.

201. In addition to the safeguards foreseen in Articles 58/a and 58/b, the newly introduced Article 58/c of the ACPC grants victims of sexual offences and trafficking the ability to refuse answering questions regarding their private life which are unrelated to the criminal proceedings, as well as the right to be heard during the trial through audio-visual tools.

202. Nevertheless, GREVIO is not able to ascertain whether the recent amendments to Albania's legislation will allow meeting, in practice, the requirements of indents *a* (on the protection from intimidation and retaliation), *b* (as regards the right to be informed when the perpetrator escapes from prison), *f* (on protective measures regarding privacy and image), *g* (on avoidance of contact in the court and law enforcement agency premises) and *i* (on the ability to testify without the presence of the alleged perpetrator), for all victims of violence against women.. GREVIO notes in this regard that, despite the existence of provisions meant to spare victims from having to face the perpetrator in courtrooms, the indication in the state report is that women victims of violence receive psychological counselling to prepare for such face-to-face encounters.

**203. GREVIO invites the authorities to ensure that all the requirements in Article 56 on protective measures are effectively implemented in practice, for all women victims of violence.**

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<sup>172</sup> See Article 61, paragraph 4, of the Law No. 97/2016 "On the organisation and functioning of the prosecution office in the Republic of Albania".

## F. Legal aid (Article 57)

204. Navigating judicial and administrative procedures is a particularly difficult task. It can be all the more daunting for victims in the aftermath of violence. To ensure victims' effective access to legal remedies, Article 57 requires Parties to provide for their right to legal assistance and free legal aid under the conditions provided by internal law. This provision is a reflection of the case-law of the ECtHR, which found that depending on the complexity of procedures and the emotional character of the situation, appearing in court without the assistance of a lawyer can conflict with the degree of objectivity required by advocacy.<sup>173</sup> Thus, even in the absence of legislation granting free legal representation in civil matters, the ECtHR has ruled that it is incumbent upon the authorities to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer<sup>174</sup>.

205. Available information regarding victims' participation in court proceedings in Albania would indicate that a large proportion of victims present their case before civil courts on their own<sup>175</sup>. Access to the state legal aid scheme is virtually non-existent<sup>176</sup> and the only available form of legal assistance is that offered by NGOs. Since its adoption in 2008, Law No. 10039/2008 "On Legal Aid" underwent several amendments which extended the benefit of legal aid to victims of domestic violence and introduced several improvements to the law. Legislative changes failed however to improve the lot of victims, stymied as they were by the lack of proper funding and serious shortcomings of the competent institutions. These inefficiencies have attracted much attention from human rights monitoring bodies<sup>177</sup>, including the CEDAW Committee<sup>178</sup>.

206. **GREVIO urges the authorities to take the necessary legislative and other measures to:**

- a. **establish and fund appropriately an effective system of legal aid for the victims of all the forms of violence against women covered by the Convention, based amongst others on the involvement of adequately trained lawyers;**
- b. **ensure that victims are properly informed of their right to access legal aid;**
- c. **recognise, support and promote the work of NGOs specialised in procuring legal assistance to victims.**

<sup>173</sup> See *Airey v. Ireland* judgment, 9 October 1979; *Golder v. the United Kingdom*, judgment of 21 February 1975.

<sup>174</sup> See paragraph 295 of the Explanatory report.

<sup>175</sup> See *inter alia* the study of the NGO Human Rights in Democracy Center Role of Tirana District Court in Protection from Domestic Violence in Family Relationship, 2015. Monitoring of the practice of Tirana District Court by this NGO revealed that in 42% of cases (out of 646 applications for a PO), domestic violence victims benefited from legal representation: "NGOs cover 21% of the represented cases, and other part 20% is covered by private advocates, and only 1% of cases are covered by state lawyers (for minors). Only for minors court has appointed state lawyers (in penal cases)".

<sup>176</sup> According to the state report, only two women benefited from state legal aid in 2014. There are no data indicating that legal aid was ever granted during the year 2015.

<sup>177</sup> See paragraphs 90 to 94 of the Report by the Council of Europe Commissioner for Human Rights following his visit to Albania in September 2013 dated January 2014; See also paragraph 142 of GRETA's report concerning the implementation of the Council of Europe Convention on action against trafficking in human beings by Albania - 2nd evaluation round, June 2016.

<sup>178</sup> See paragraph 13, indent a, of CEDAW's Concluding observations on the fourth periodic report of Albania: "In light of its General Recommendation No. 33 (2015) on access to justice, the Committee recommends that the State party: (a) Ensure women's unhindered access to justice systems, including by raising the awareness of the public in general and women victims of discrimination and gender-based violence in particular, about existing laws and mechanisms to obtain free legal assistance, enabling them to file claims about violations of their rights".

## VII. Migration and asylum

207. 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 violence against women. 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 at risk of violence (Article 60).

### A. Migration (Article 59)

208. Although Albania has traditionally been a country of origin<sup>179</sup>, it has adopted in the last decades a comprehensive legislative framework addressing immigration in a bid to approximate its law to EU regulations. Family reunification is regulated by Article 56 of the Law no. 108/2013 “On aliens” which sets the conditions under which an application for family reunification may be lodged to the Border and migration police. The spouse or partner holder of a family reunification permit may apply for an autonomous residence permit after an uninterrupted presence in the territory of Albania for a period of at least 5 years. Divorce or dissolution of the marriage or relationship with a sponsor occurring before this minimum term of 5 years will forfeit the right to remain in Albania. No exception to this requirement is made in the law for non-Albanian victims of domestic violence wishing to leave or having left their abusive spouses or partners. Besides having drawn criticism from other human rights monitoring bodies<sup>180</sup>, this provision is contrary to the requirement in Article 59, paragraph 1, that an autonomous residence permit should be delivered to victims in the event of particularly difficult circumstances irrespective of the duration of the marriage or the relationship.

209. **GREVIO invites the authorities to align the conditions for sponsored spouses and partners to obtain autonomous residence status with the requirements laid down in Article 59, paragraph 1, of the Convention.**

### B. Gender-based asylum claims (Article 60)

210. Albania is not a major country of destination for asylum seekers<sup>181</sup>, but the authorities recognise that it is becoming a country of transit for migrants and asylum seekers from the Middle East and Africa<sup>182</sup>. Albania has been a party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol since 1992. The conditions for obtaining asylum, subsidiary protection and temporary protection are set forth in the recently adopted Law No. 121/2014 on asylum which is the single comprehensive legislative source regulating the status of asylum-seekers, refugees and persons under temporary and subsidiary protection, as well as the conditions and modalities applying to their integration and family reunification. The right to asylum recognised in Article 40 of the Albanian Constitution is regulated by Article 4 of Law No. 121/2014, under which terms such right can be claimed by any “foreigner or stateless person who, owing to

<sup>179</sup> According to recent available data (ref. the Extended Migration Profile of Albania 2012–2014, Ministry of Internal Affairs, Tirana 2015 (Profili i Zgjeruar i Migracionit për Shqipërinë, 2012-2014, Ministria e Punëve të Brendshme, Tiranë, 2015), foreigners residing in Albania consist of no more than 0.3 per cent of the total population of the country.

<sup>180</sup> See paragraph 26 of the Concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2010.

<sup>181</sup> See the 2015 Migration profile of Albania according to which in 2014 there were 133 asylum-seekers in Albania and 106 in 2015.

<sup>182</sup> See paragraph 14 of GRETA's report concerning the implementation of the Council of Europe Convention on Action against Trafficking in human beings by Albania (second evaluation round), June 2016.

well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his nationality or habitual former residence and is unable or unwilling to seek the protection of that country, as a result of these events because of this fear". Gender-based violence as such is not mentioned as a form of persecution and GREVIO is not aware of any practice whereby gender-specific violence might be recognised by the authorities as amounting to persecution. The provision in Article 3, indent 25, of Law No. 108/2013 "On Aliens" qualifying victims of rape and other forms of serious physical, psychological and sexual violence as vulnerable persons is relevant only for the different purpose of enforcing removal orders<sup>183</sup>. The authorities have adopted standardised procedures<sup>184</sup>, including irregular migrant pre-screening methods, with the aim of identifying persons in need of assistance, such as for instance victims of trafficking. They lack however procedures for identifying potential victims of violence against women from culturally diverse backgrounds. The professionals concerned, such as staff working at the center for asylum seekers, could benefit from awareness-raising and training efforts in this area.

**211. In order to allow women victims of gender-based violence to access international protection, GREVIO invites the authorities to take measures, including the development of appropriate standards of procedure and training efforts, to ensure a gender-sensitive interpretation of the grounds for requesting and granting refugee status. GREVIO further invites the authorities to adopt measures aiming at a culturally sensitive identification of victims of violence against women among irregular migrants and asylum seekers.**

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<sup>183</sup> See Article 106, paragraph 8, of Law No. 108/2013: "At the moment of enforcement of the removal of the alien from the territory, it shall be considered the best interest of the child, vulnerable persons, family life and health situation of the alien who is subject to removal from the territory".

<sup>184</sup> See Council of Ministers Decision No. 582 of 27 July 2011.

## Concluding remarks

212. Numerous legislative and policy measures adopted in Albania over the last decade offer a clear manifestation of the country's commitment to combat violence against women. In particular, the enactment in 2006 of the law on domestic violence laid the groundwork for gathering all the concerned actors and concerting their efforts across the three interlinked levels of prevention, protection and prosecution. Civil society, which had strongly lobbied for the introduction of the bill on domestic violence in parliament, stands firmly united with the authorities in providing a holistic response to violence against women built on promoting gender equality. In Albania, there is a clear sense that women's empowerment is key to putting an end to the violation of women's right to live free of violence, as much as it is instrumental to advancing society and enabling sustainable economic development.

213. At the time this report was under preparation, half of the ministerial seats in Albania's government were occupied by women. The reported rate of women in senior positions in public administration was nearly as high. The recent national elections served as a testing ground for Albania's commitment towards ensuring women's representation in the national assembly. Women parliamentarians have come together under a unified alliance – the Alliance of women deputies – bridging their political divisions under the common goal of promoting women's rights and combating violence against women.

214. These developments have opened up discussions in the public sphere on the topic of violence against women. Public officials in their daily work, youth in schools, men and boys as actors of change have started to talk publicly about a matter hitherto regarded as a taboo. Authorities thus aim to encourage women victims to name violence and let their voice be heard.

215. Against this backdrop of promising change, there remain areas where progress is still needed. Sexist stereotypes and patriarchal mentalities which belittle women die hard. The authorities are aware of the remaining challenges and have entered the evaluation process as an opportunity for critical self-examination. The state report already outlines several aspects in Albania's legislation and policy calling for action. These and other points have been further developed in this report, marking the beginning of GREVIO's fruitful co-operation with the authorities of Albania.

216. GREVIO invites the Albanian authorities to keep it regularly informed of developments regarding implementation of the Istanbul Convention and stands ready to continue its positive co-operation with the authorities.

217. GREVIO would also invite 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

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## **Appendix I**

### **List of proposals and suggestions by GREVIO**

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

##### **B. Scope of the Convention (Article 2)**

1. GREVIO urges the authorities to further their action against violence against women by ensuring that measures taken in accordance with the Istanbul Convention address all forms of violence against women, in a holistic and comprehensive fashion (paragraph 4).

##### **C. Definitions (Article 3), with reference in particular to domestic violence**

2. GREVIO strongly encourages the Albanian authorities to take all necessary measures, including legislative measures, to harmonise its definition of domestic violence in domestic law with the Convention and to ensure the effective application of such a harmonised definition in practice. The authorities should further introduce a clear gendered approach in their legislation to acknowledge fully the gendered nature of domestic violence which predominantly affects women and girls (paragraph 9).

##### **D. Fundamental rights, equality and non-discrimination (Article 4)**

###### **1. Gender equality and non-discrimination**

3. GREVIO encourages the Albanian authorities to:

- a. continue to ground their efforts to combat violence against women on policies in favour of empowering women in the private and public sphere and ensuring substantive equality between women and men;
- b. study possible means to heighten awareness around the discriminatory nature of violence against women and enhance the role of the Peoples' Advocate and that of the Commissioner against Discrimination as defenders of victims of violence against women (paragraph 14).

###### **2. Intersectional discrimination**

4. **GREVIO encourages the authorities to:**

- a. add specific indicators relating to vulnerable groups of women and girls in data collection;
- b. integrate the perspective of such groups in the design, implementation, monitoring and evaluation of policies for preventing and combating violence against women;
- c. mainstream preventing and combating violence against women in programmes which are tailored to the specific needs of such groups (paragraph 18).

##### **E. Gender-sensitive policies (Article 6)**

5. **GREVIO urges the authorities to:**

- a. promote a clear understanding within society of the gendered nature of violence against women which affects women not because of their educational level and socio-economic background, but because they are women;
- b. challenge attitudes in society which justify intra-family violence;
- c. have a clear gendered approach when developing targeted measures to address forms of violence against women other than domestic violence (paragraph 22).

## **II. Integrated policies and data collection**

### **A. Financial resources (Article 8)**

6. GREVIO strongly encourages the Albanian authorities to:
- a. strengthen the machinery for combating violence against women by providing appropriate human and financial resources at both the central and municipal levels;
  - b. expand significantly the budget allocated to the entity responsible for preventing and combating violence against women;
  - c. commit budgetary resources dedicated to preventing and combating violence against women for other concerned line ministries;
  - d. pursue and step up efforts in implementing gender responsive budgeting so as to be able to allocate appropriate funding and to monitor public spending dedicated to combating violence against women and to measure progress achieved (paragraph 27).

### **B. Non-governmental organisations and civil society (Article 9)**

7. GREVIO urges the Albanian authorities to take further appropriate measures, such as the establishment of suitable programmes and grants, and adapted and transparent procurement procedures, to ensure stable and sustainable funding levels for women's NGOs working to support victims and prevent violence and thus enabling them to meet fully the needs of all victims (paragraph 32).

### **C. Co-ordinating body (Article 10)**

8. GREVIO strongly encourages the Albanian authorities to strengthen the role of the National Council on Gender Equality by conferring upon it clear decision-making powers to enable this body to exercise effectively its functions as a co-ordinating body. It further invites the authorities to allocate dedicated human and financial resources to the co-ordinating body and consider conferring the evaluation function to an independent separate institution (paragraph 36).

### **D. Data collection and research (Article 11)**

#### **1. Law enforcement and criminal justice sector**

9. GREVIO strongly encourages the Albanian authorities to :
- a. make domestic violence against women and the gendered nature of other forms of violence against women more visible in the crime statistics presented to the public, by clearly identifying the number of women victims per type of offence. This would include the visible presentation to the public of information on the number of homicides of women at the hands of men (gender-related killing of women);
  - b. develop data categories on the type of relationship between perpetrator and victim for all forms of violence against women that would allow the nature of their relationship to be more specifically documented;
  - c. ensure that these and any other data categories in use, including the type of violence and location where the offence is committed, are harmonised across the various sectors;
  - d. conduct studies on conviction rates for all forms of violence against women and make public the results of such studies (paragraph 41).

## **2. Civil justice sector**

10. GREVIO encourages the Albanian authorities to ensure the collection and publication of data from the civil justice sector on the number of protection orders, the sex, age and relationship of all Parties involved, as well as on the authorisations granted by courts for underage marriages (paragraph 44).

## **3. Health**

11. GREVIO encourages the Albanian authorities to take measures to improve the systematic collection of data by all hospitals and other healthcare facilities, whether or not they have set up the necessary structures to deal with victims, on the number of victims, their age, and relationship with the alleged perpetrator, for all forms of violence against women, including lethal violence (paragraph 46).

## **4. Research**

12. GREVIO encourages the Albanian authorities to:

- a. increase their support to research into the underlying causes and the effects of violence against women, including its effects on children;
- b. promote research in the health sector on such topics as prevention and means to improve the responsiveness of health care professionals, with the aim of supporting policy-makers in identifying the most effective ways of reducing victims' mortality, morbidity and disability;
- c. address, through research, all forms of violence against women such as sexual violence, sexual harassment and forced marriage or other traditional practices harmful to women, as well as violence affecting vulnerable groups of women such as Roma women and girls and older women (paragraph 49).

## **5. Surveys**

13. GREVIO encourages the Albanian authorities to take measures to monitor the prevalence of the forms of violence against women not previously assessed, in particular sexual harassment, sexual violence, including in the context of intimate partnerships, and forced marriage (paragraph 51).

# **III. Prevention**

## **A. Awareness raising (Article 13)**

14. GREVIO strongly encourages the Albanian authorities to sustain and further develop their awareness-raising efforts in support of a general anti-violence message. Targeted campaigns should be developed to:

- a. raise awareness about the harm caused to children who witness domestic violence;
- b. challenge social norms, attitudes and stereotypes regarding women's inferior status in the domestic unit which contribute to the acceptance of intra-family violence;
- c. reach vulnerable groups of women and girls and deal with their specific needs (paragraph 58).

## **B. Education (Article 14)**

15. GREVIO encourages the Albanian authorities to:
- a. incorporate teaching about the various forms of gender-based violence against women and girls in curricula at all levels of formal education from pre-primary to higher education, and develop relevant pedagogical resources on such issues, having due regard to the evolving capacity of learners;
  - b. address the prevention of gender-based violence against girls, including in particular forced marriage, in the framework of the existing programmes on sexual education and education on sexual and reproductive health rights. Such measures could be complemented by awareness raising activities in schools and universities (paragraph 62).
16. GREVIO invites the authorities to take further steps to promote the principles of equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships in non-formal education, as well as in sports, cultural and leisure activities (paragraph 63).

## **C. Training of professionals (Article 15)**

17. With the aim of endowing professionals with the necessary attitudes, knowledge and skills regarding violence against women, GREVIO strongly encourages the authorities to:
- a. introduce violence against women as a compulsory topic in vocational curricula and whilst respecting academic freedom, encourage higher education to introduce such a topic in university study programmes, where it is lacking, such as for bailiffs and healthcare professionals, especially for physicians and nurses;
  - b. ensure on a continuous and regular basis in-service training on all forms of violence against women, based on up-to-date and clear protocols and guidelines that set out the standards staff are expected to follow in their respective fields<sup>185</sup>;
  - c. integrate in all professional development schemes the dimension of professionals' duties and responsibilities when faced with cases of violence against women, including as members of the referral mechanisms.

In implementing the above, the authorities should take full ownership of the training process, in particular by guaranteeing the application of harmonised standards and monitoring the quality of training (paragraph 69).

## **D. Preventive intervention and treatment programmes (Article 16)**

18. GREVIO encourages the authorities to:
- a. increase the number of available perpetrator programmes aimed at teaching perpetrators of domestic violence to adopt non-violent behaviour in interpersonal relationships, with a view to preventing further violence and changing violent behavioural patterns;
  - b. set up and/or encourage the setting-up and support treatment programmes for perpetrators of sexual assault and rape, with a view to minimising recidivism.

In doing so, the authorities should ensure that the safety of, support for and the human rights of victims are of primary concern and that, where appropriate, these programmes are set up and

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<sup>185</sup> Basic Package of Primary Health Care Services, revised and adopted by CMD No. 101/04.02.2015, setting out the templates and other forms for registering cases of violence.

implemented in close co-ordination with specialist support services for victims, having due regard to recognised relevant standards<sup>186</sup> (paragraph 72).

#### **E. Participation of the private sector and the media (Article 17)**

19. GREVIO encourages the Albanian authorities to:

- a. continue to engage the media as a key partner to raise awareness on violence against women;
- b. encourage media, including social media, to develop and monitor the use of self-regulatory standards in the area of violence against women and gender equality, having due regard to relevant existing international standards<sup>187</sup> (paragraph 74).

20. GREVIO invites the authorities to seek the involvement of employers in the prevention of violence against women. To this end, employers should be encouraged to take part in the implementation of policies such as awareness-raising campaigns, as well as to foster a work environment where violence against women is openly condemned and victims feel that they can be heard and supported (paragraph 77).

### **IV. Protection and support**

#### **A. General obligations (Article 18), with reference in particular to multi-agency co-operation**

21. GREVIO encourages the Albanian authorities to:

- a. adopt the necessary measures, including legislative measures, to ensure that multi-agency co-operation under the referral mechanisms extends to victims of all forms of violence against women;
- b. pursue their efforts to equip all municipalities with a fully operational referral mechanism;
- c. improve inter-institutional co-operation amongst all members of the referral mechanisms, including in particular judicial officials and both public and private bailiffs, by promoting a sense of ownership and responsibility as to the common goal of eradicating violence against women;
- d. develop the ability of referral mechanisms to provide victims with a comprehensive package of services with the goal of empowering them;
- e. ensure the structural and financial sustainability of referral mechanisms in the long-term and minimise the disruptions caused by frequent staff turnovers;
- f. capitalise on lessons learnt by existing referral mechanisms, including by showcasing successful models of co-ordinated community response (paragraph 84).

22. GREVIO invites the authorities to take the necessary measures to support a full scale deployment of the digitalised online system in all the municipalities of the country and for all forms of violence against women. In doing so, the authorities should respect the need to protect privacy in accordance with relevant international standards<sup>188</sup> (paragraph 87)

<sup>186</sup> See the Council of Europe collection of papers: Domestic and sexual violence perpetrator programmes: Article 16 of the Istanbul Convention .

<sup>187</sup> See *inter alia* the following Council of Europe instruments: Recommendation No. R (84)17 of the Committee of Ministers to member states on equality between women and men in the media; Recommendation 1555 (2002) by the Parliamentary Assembly of the Council of Europe on the image of women in the media; Recommendation 1799 (2007) by the Parliamentary Assembly of the Council of Europe on the image of women in advertising; Resolution 1751 (2010) and Recommendation 1931 (2010) by the Parliamentary Assembly of the Council of Europe on combating sexist stereotypes in the media. Reference is also to be made to the UNESCO's "Gender-Sensitive Indicators for Media" (GSIM).

<sup>188</sup> See Article 65 of the Convention. The authorities might further wish to draw inspiration from best practices such as those regarding multi-agency information sharing protocols.

## **B. Information (Article 19)**

23. With the aim of empowering women victims, GREVIO invites the authorities:
- a. to sustain their efforts aimed at ensuring that women victims receive adequate and timely information allowing them to take informed decisions and to exercise effectively their rights to support and protection;
  - b. to develop information which is relevant and meaningful to vulnerable groups of women, including information in minority languages, as part of a wider effort aimed at engaging with “hard to reach” groups and opening up access to services for them (paragraph 90).

## **C. General support services (Article 20)**

### **1. Social services**

24. GREVIO strongly encourages the authorities to:
- a. ensure the appropriate funding for the social services delivered by municipalities to support victims of all forms violence against women and respond to their short and long term needs;
  - b. increase the funding and the number of available services aimed at women victims' economic integration and social empowerment, through the involvement of both line ministries and local authorities. Such services should be based on proactive approaches, including provision of housing, assistance in accessing employment and outreach to businesses (paragraph 94).

### **2. Healthcare services**

25. GREVIO urges the authorities to bring the health care system to the forefront of efforts to combat all forms of violence against women, by:
- a. achieving the support and commitment of the heads and decision makers of different sectors of health care to address violence against women as a matter of priority and professional mandate;
  - b. ensuring that health professionals assume their responsibility and exercise their expertise in the early detection and prevention of violence against women;
  - c. developing and/or upgrading adequate protocols and procedures, and providing the corresponding training, to bring professionals' attitudes, skills and responses to violence against women, including sexual violence, up to the required standards;
  - d. setting up rape crisis or sexual violence referral centres, where forensic examinations are available in line with internationally recognised standards<sup>189</sup>;
  - e. reinforcing the co-operation of the health sector with the referral mechanism.

Regarding reporting by healthcare professionals, GREVIO further urges the authorities to:

- f. uphold victims' right to equal protection from the law and to access to just and effective remedies, by guaranteeing that frontline medical staff operating in hospitals and healthcare centres issue victims with a medical report documenting their injuries;
- g. develop informed consent procedures whereby victims are systematically and sufficiently informed that any medical evidence will only be released to the authorities with their consent, in full compliance with the right for respect for private life and the protection of personal data, subject to the exceptions foreseen in the following paragraph (paragraph 98).

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<sup>189</sup> See the Guidelines for medico-legal care for victims of sexual violence , World Health Organisation, 2003.

26. The informed consent procedures should inter alia include straightforward examples of potential consequences of domestic violence to one's physical and mental health, including the risk of premature death due to trauma, as well as its harmful consequences on child witnesses. Such procedures should exceptionally allow for the reporting to their authorities without the victim's consent, whenever there are grounds to believe that a serious act of violence has been committed and further serious acts of violence are to be expected, in accordance with the provision of Article 28 of the Convention. Further exceptions should be allowed for patients with impaired decision making capacity and children. It should be recalled in this connection that in some jurisdictions, reporting might even be mandatory with respect to injured children, especially if they sustain serious injuries or if sexual violence is suspected (paragraph 99).

**D. Specialist support services (Article 22), with reference in particular to shelters (Article 23)**

27. GREVIO strongly encourages the authorities to:

- a. ensure adequate specialist women support services offering immediate, short and long-term support to all victims and their children;
- b. increase the number and capacity of appropriate, easily accessible and specialised shelters providing safe accommodation;
- c. ensure equitable access to shelters for women in rural and remote areas and for vulnerable groups of women;
- d. make available in sufficient numbers crisis shelters for accommodating, 24/7, women and their children in emergency situations (paragraph 106).

**E. Telephone helplines (Article 24)**

28. GREVIO encourages the authorities to ensure the financial sustainability of the new national hotline serving all victims of violence against women (paragraph 108).

**F. Support for victims of sexual violence (Article 25)**

29. GREVIO urges the authorities to set up rape-crisis centres and/or sexual violence referral centres. Such measures should be taken in the frame of a multi-sectorial response targeting the community at large and aiming at breaking the existing taboos in regard to sexual violence. Thus, GREVIO strongly encourages the authorities to take measures to encourage reporting and address the needs of victims (paragraph 110).

## **V. Substantive law**

### **A. Civil law**

#### **1. Civil lawsuits and remedies (Article 29)**

30. GREVIO urges the authorities to:

- a. include elements regarding the civil responsibility of public officials in information provided to victims in pursuance of Article 19,
- b. clearly state the principle of civil responsibility of public officials in codes of conduct and raise their awareness in relation thereto, for instance during relevant trainings;
- c. monitor progress in this area by keeping data on numbers of civil claims and their outcome.

GREVIO further invites the authorities to assess which are the prevailing reasons preventing victims from accessing civil remedies against state authorities and, based on their findings, to take measures to address such causes. Such measures could include, for instance, the setting up of a specific system making it possible for court users to be compensated following dysfunctions within the court system which have affected them (paragraph 114).

## **2. Compensation (Article 30)**

31. GREVIO strongly encourages the Albanian authorities to adopt measures to facilitate and guarantee access to compensation for victims of all forms of violence against women, in particular by:

- a. reviewing the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;
- b. ensuring that victims are systematically informed of their right to exemption from court fees;
- c. ensuring that victims are systematically informed of their right to claim compensation and the procedures to be followed, in accordance with Article 58, paragraph 1, indent g of the Albanian Code of criminal procedure<sup>190</sup>;
- d. enabling victims to exercise their right to compensation by guaranteeing them effective access to legal assistance and legal aid;
- e. strengthening the capacity of law practitioners to help victims claim compensation and incorporating the issue of compensation in training programmes aimed at members of the law enforcement agencies and the judiciary;
- f. setting up a state compensation scheme accessible to victims;
- g. monitoring progress in this area, by keeping data on numbers of compensation claims filed by victims and their outcome (paragraph 116).

## **3. Custody and visitation rights (Article 31)**

32. GREVIO urges the authorities to ensure that any determination of the modalities for the exercise of custody and visitation rights courts comply with the requirements of Article 31. To this end, the authorities should:

- a. *ex officio* enquire whether in case of a request for a protection order for a victim of domestic violence there are children involved and examine whether a protection order should be issued for them as well;
- b. within the framework of any decision to issue a protection order or any other relevant court decision settling family matters where there has been/is violence (for instance, in cases of separation or divorce), make the appropriate determinations regarding custody and visiting rights, having due regard to the violence and to the best interest of the child based on a case-by-case assessment;
- c. remedy any gap that might exist in the law as to settlement of custody and visiting rights in the course of any judicial proceedings, such as in the case of appeal against a divorce ruling;
- d. ensure that implementing contact orders will not expose victims and their children to the risk of further harm;
- e. monitor the courts' practice in this field and measure progress (paragraph 121).

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<sup>190</sup> As amended by Article 40 of Law No. 35/2017 dated 30 March 2017.

**B. Criminal law****1. Psychological violence (Article 33)**

33. GREVIO encourages the Albanian authorities to remedy the gap in their criminal legislation regarding psychological violence (paragraph 127).

**2. Sexual violence, including rape (Article 36)**

34. GREVIO urges the authorities to:

- a. amend the definition of rape of adult women so that it is based on lack of freely given consent and does not require demonstration of use of force or resistance;
- b. amend the definition of rape involving children between 14 and 18 so that it is based on lack of a freely given consent and does not require demonstration of use of force or resistance. In assessing the child's full and free consent, due consideration should be given to the age gap between the perpetrator and victim;
- c. amend the definition of rape involving children between 14 and 18 so that it does not depend on whether or not the victim has reached puberty;
- d. criminalise the non-consensual sexual behaviour described in paragraph 1, indents *b* and *c* of Article 36 of the Convention;
- e. adopt the necessary measures to ensure that any offence of sexual violence applies between former or current spouses or partners as recognised by internal law (paragraph 139).

**3. Forced marriage (Article 37) – Civil consequences of forced marriages (Article 32)**

35. With respect to the criminal offence of forced marriage, GREVIO strongly encourages the authorities to:

- a. increase the applicable penal sanctions, and
- b. ease the conditions in which a forced marriage may be declared void or annulled, whilst ensuring that the victim does not incur any undue financial or administrative burden.

Having regard to the risk that child marriages poses in terms of possibly constituting forced marriage and other forms of violence, such as trafficking<sup>191</sup>, GREVIO encourages the authorities to:

- c. review the applicable legislation with a view to introducing appropriate additional safeguards, such as a minimum age requirement for minors to be able to request the authorisation to marry;
- d. develop guidelines framing the judicial review of any request by a minor seeking the authorisation to conclude marriage, and train judicial officials accordingly;
- e. ensure that any such review is carried out on the basis of a close co-operation between courts and the existing mechanisms for the protection of children's rights, such as the child protection units established at the municipal level.

Such measures should be taken in conjunction with efforts to raise awareness about this form of violence and to engage the professionals concerned in preventive actions<sup>192</sup> (paragraph 145).

<sup>191</sup> See paragraph 108 of GRETA's Sixth General Report covering the period from 1 January to 31 December 2016: "In the reports on Albania, (...), GRETA has recommended that the authorities intensify their efforts to prevent trafficking in children, including by paying special attention to Roma children, their inclusion in education and the prevention of child, early and forced marriages".

<sup>192</sup> See paragraph 42a of the Concluding observations on the fourth periodic report of Albania, CEDAW Committee, 2016.

#### **4. Female genital mutilation (Article 38)**

36. GREVIO invites the authorities to:

- a. consider introducing in their criminal legislation an offence specifically targeting all forms of female genital mutilation contemplated in Article 38 of the Convention,
- b. raise awareness and knowledge amongst the professionals concerned and society at large regarding this specific form of violence against women (paragraph 148).

#### **5. Forced abortion and forced sterilisation (Article 39)**

37. GREVIO encourages the authorities to introduce the offence of forced sterilisation in criminal law. Having regard to the risk that sex selective abortions poses in terms of discriminatory practice and possibly subjecting women to violence, GREVIO invites the authorities to take measures to raise awareness around this matter, and to heighten the capacity of the professionals concerned, in particular from the healthcare sector, to detect and prevent this form of violence against women (paragraph 152).

#### **6. Sexual harassment (Article 40)**

38. GREVIO strongly encourages the authorities to:

- a. conduct studies to gain insight into the prevalence of sexual harassment in various settings and the main obstacles preventing this phenomenon from emerging; and based on their findings, take targeted actions to lift these obstacles;
- b. adopt codes of conducts on sexual harassment in the workplace at all levels of public administration and provide training accordingly;
- c. strengthen data collection regarding this form of violence against women, covering criminal, civil and disciplinary proceedings;
- d. reinforce the role of the People's Advocate and that of the Commissioner against discrimination in combating sexual harassment (paragraph 156).

#### **7. Unacceptable justifications for crimes, including crimes committed in the name of so-called "honour" (Article 42)**

39. GREVIO strongly encourages the authorities to align the relevant provisions of the Albanian Criminal Code with the provisions of Article 42 of the Convention. More particularly, the circumstances foreseen in Article 48, indents (a) and (b) of the Code relating on the one hand, to "motivations of positive moral and social values" and on the other hand, to "psychiatric distress caused by provocation or the unfair actions of the victim or some other person" should not be considered as mitigating circumstances in cases of gender-based violence against women (paragraph 159).

#### **8. Sanctions and measures (Article 45)**

40. GREVIO invites the authorities to:

- a. improve data collection regarding sanctions imposed for the different forms of violence against women covered by the Convention, in particular by disaggregating such data based on the sex of the offender and the victim and their relationship and by ensuring that data on convictions are clearly tied to the specific offences to which they are related;
- b. use such data to assess whether sentencing in cases of violence against women is commensurate to the gravity of the offence and preserves the dissuasive function of penalties (paragraph 164).

41. With reference to its proposals on mitigating circumstances, GREVIO also strongly encourages the authorities to revise the provisions in the Albanian Criminal Code on mitigated murder and physical assault as regards domestic violence cases (paragraph 166).

### **9. Aggravating circumstances (Article 46)**

42. GREVIO encourages the authorities to fill the remaining minor gaps in their criminal law regarding aggravating circumstances (paragraph 169).

### **10. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)**

#### **b. Conciliation in civil procedures**

43. GREVIO urges the authorities to take the necessary measures, including amending the relevant legislation, to:

- a. clearly exclude the applicability of conciliation in the course of the proceedings for the issuance of protection orders;
- b. establish the principle that conciliation cannot be obligatory in divorce proceedings where there is violence;
- c. incorporate a risk assessment and safeguards to ensure the full and free consent of the victim in the frame of any voluntary conciliation procedure (paragraph 175).

## **VI. Investigation, prosecution, procedural law and protective measures**

### **A. Immediate response, prevention and protection (Article 50)**

44. GREVIO strongly encourages the authorities to:

- a. empower law enforcement to make use, where appropriate, of their prerogatives to request the issuance of an emergency barring order or protection order;
- b. improve law enforcement premises and equip them with the necessary human and technical resources to properly handle cases of violence against women;
- c. develop standard operating procedures for law enforcement with regard to all forms of violence against women covered by the scope of the Convention (paragraph 179).

### **B. Risk assessment and risk management (Article 51)**

45. GREVIO urges the authorities to develop standardised procedures for assessing and managing the risk of lethality and repeated violence for victims of all the forms of violence against women covered by the Convention, and provide training accordingly. Such procedures should become central to the multi-agency co-ordinated response of referral mechanisms in Albania and be made available to all professionals who enter into contact with victims (paragraph 182).

### **C. Emergency barring and protection orders (Articles 52 and 53)**

46. GREVIO urges the authorities to:

- a. review legal provisions applying to EBOs to ensure that in situations of immediate danger, EBOs can be issued without undue delay in order to ensure the victim's safety;
- b. without prejudice to the need to ensure victims' immediate safety, integrate a risk assessment in the procedure for the issuance of emergency barring orders and protection orders ;
- c. promote a more pro-active role of law enforcement, prosecution and courts by encouraging them to make use of their prerogatives whilst respecting the victims' informed choices;
- d. ensure an effective enforcement of emergency barring orders and protection orders by the responsible agencies, in particular bailiffs<sup>193</sup>;
- e. prosecute perpetrators who violate emergency barring orders and protection orders and apply the relevant criminal sanctions;
- f. hold to account officials who fail to enforce emergency barring orders and protection orders, by applying the relevant criminal sanctions;
- g. identify further areas of improvement by analysing the reasons behind the high numbers of victims who do not pursue their protection under the emergency barring order/protection order mechanism (paragraph 188).

47. Having regard to the requirement in Article 53 that restraining or protection orders be available to victims of all forms of violence covered by the Convention, GREVIO further urges the authorities to introduce such forms of protection for victims of violence against women other than domestic violence (paragraph 189).

48. GREVIO urges the authorities, in close co-operation with the Order of Psychologists, to take the necessary measures to ensure that:

- a. in all cases where a protection order is issued for victims of domestic violence, the situation of child witnesses is systematically – regardless of a specific request from the applicant – examined to determine whether they too should benefit from a protection order;
- b. psychological reports submitted before courts respond to the necessary criteria of professionalism and objectivity;
- c. the fees for the obligatory psychological report do not constitute a barrier to access justice (paragraph 191).

### **D. *Ex parte* and *ex officio* proceedings (Article 55 paragraph 1)**

49. GREVIO urges the authorities to amend their legislation so as to bring it in conformity with the rules regarding *ex parte* and *ex officio* prosecution set in Article 55, paragraph 1 of the Convention (paragraph 198).

### **E. Measures of protection (Article 56)**

50. GREVIO invites the authorities to ensure that all the requirements in Article 56 on protective measures are effectively implemented in practice, for all women victims of violence.(paragraph 203)

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<sup>193</sup> The bailiffs concerned include both public bailiffs and private bailiffs regulated by Law No. 10 031/2008, "Për shërbimin përmbartësor gjyqësor privat".

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**F. Legal aid (Article 57)**

51. GREVIO urges the authorities to take the necessary legislative and other measures to:
- a. establish and fund appropriately an effective system of legal aid for the victims of all the forms of violence against women covered by the Convention, based amongst others on the involvement of adequately trained lawyers;
  - b. ensure that victims are properly informed of their right to access legal aid;
  - c. recognise, support and promote the work of NGOs specialised in procuring legal assistance to victims (paragraph 206).

**VII. Migration and asylum****A. Migration (Article 59)**

52. GREVIO invites the authorities to align the conditions for sponsored spouses and partners to obtain autonomous residence status with the requirements laid down in Article 59, paragraph 1, of the Convention (paragraph 209).

**B. Gender-based asylum claims (Article 60)**

53. In order to allow women victims of gender-based violence to access international protection, GREVIO invites the authorities to take measures, including the development of appropriate standards of procedure and training efforts, to ensure a gender-sensitive interpretation of the grounds for requesting and granting refugee status. GREVIO further invites the authorities to adopt measures aiming at a culturally sensitive identification of victims of violence against women among irregular migrants and asylum seekers (paragraph 211).

**Appendix II**  
**List of representatives of Albania**  
**present at the state dialogue with GREVIO**

- Merita Xhafaj, Head of Delegation, General Director of Social Polices, Ministry of Social Welfare and Youth
- Etleva Sheshi, Chief of Gender Equality Sector, Ministry of Social Welfare and Youth
- Blerina Subashi, Head of Gender Statistics Sector, INSTAT
- Silvana Sulaj, Head of Sector for Juveniles and Domestic Violence, State Police, Ministry of Interior
- Brunilda Peci, Head of sector, Ministry of Foreign Affairs
- Iliriana Topulli, Director of European Integration, Ministry of Education

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### **Appendix III**

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

#### **National authorities**

- Ministry of Social Welfare and Youth :
  - o Agency for support for civil society
  - o Child protection agency
  - o Employment sector
  - o Gender equality sector
  - o Gender equality network
  - o Social services sector
  - o State shelter
  
- Ministry of Justice :
  - o Bailiff's Service
  - o Forensic Medicine Institution
  - o Statistics Directorate
  
- Minister of Interior:
  - o Police Academy
  - o State Police
  
- Ministry of Health:
  - o Health Centre No.9
  - o Institute for public health
  
- Ministry of Finances
- Ministry of Economy
- Ministry of Education and Sport :
  - o Institute for Education Development

In addition to a number of ministries listed before, the following ministries were met within the Gender Equality Employee Network:

- Ministry of Agriculture, Rural Development and Water Administration
- Ministry of European Integration

#### **National Assembly:**

- Majlinda Bregu, member of parliament
- Vasilika Hysi, member of parliament, Chair of the Law Commission

## Local authorities

- Municipality of Tirana
  - o Social services
- Municipality of Korça
  - o Major
  - o Members of the referral mechanism – multi-disciplinary team :
    - Child Protection Unit
    - Domestic violence specialist
    - Education Department - School psychologist Unit
    - Employment Office
    - Foundation Jezu Krishti
    - Foundation Kenedi
    - Housing Unit
    - Judicial District Court – Prosecutor’s Office
    - Law enforcement
    - Public Health Directorate
    - Social services

## Public bodies

- Commissioner against Discrimination
- High Council of Justice
- Institute of Statistics (INSTAT)
- Tirana District Court

## Non-governmental organisations

- Albanian Disability Rights Foundation (ADRF)
- Albania Society for all ages (ASAG)
- Albanian Women Empowerment Network (AWEN)
- Center for Legal Civic Initiative
- Counseling line for girls and women
- Counseling line for boys and men
- Forumi i Gruas Elbasan
- Gender Alliance for Development Center
- Hearth Psycho-Social Center (VATRA)
- Human Rights in Democracy Center
- Refleksione
- Refugee and Migrant Services in Albania (RMSA)
- Romani Baxt Albania
- Roma women’s rights association
- Shelter for Abused Women
- Today for the Future - Community Development Center Network
- Woman to Woman Association

## Civil society and other organisations

- National Chamber of Advocates
- National Order of Doctors
- National Order of Nurses
- National Order of Psychologists
- Lindita Cela, journalist with Balkan investigative reporting network (BIRN)
- Eni Vasili, journalist, author of “Une kam vrare (I have killed)”
- Religious leaders from the Muslim, Bektashi, Catholic, and Orthodox communities
- School of Magistrates

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**Academia**

- Faculty of Psychology, University of Tirana
- Faculty of Social Sciences, University of Tirana
- Faculty of Law, University of Tirana

**International Organisations**

- UN Thematic Group on Gender
  - o UN Women
  - o UNDP
  - o UNFPA
  - o UNHCR



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](http://www.coe.int/conventionviolence)

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are 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.