

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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

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## Comments by Sweden to 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)

### 1. Introduction

The Swedish Government welcomes the Evaluation Report by the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and highly appreciates the efforts made by the group throughout its monitoring of Sweden 2017–2018.

At the time of writing, the national elections held in Sweden on the 9<sup>th</sup> of September 2018, have not yet resulted in the formation of a new government. Consequently, it remains to be seen what priorities the next Swedish government will make in this area and how it will respond to GREVIO's recommendations.

Since long, Swedish governments have been firmly committed to ending violence against women as well as domestic violence in line with the objectives of their policies for Gender Equality and the Rights of the Child. As follows from Sweden's State Report (2017), numerous actions were taken for this purpose in the past few years, including the adoption of a ten-year national strategy in 2016.

The present (transitional) Government was given the opportunity to comment on the first draft of the evaluation report and notes with satisfaction that, in general, the final report accounts correctly for current Swedish conditions. On some points, however, the Government finds the

information incomplete, unclear or partly inaccurate and would therefore like to make the following amendments.

## 2. Comments to selected paragraphs

### II. Integrated policies and data collection

#### E. Data collection and research (Article 11), 2 Population-based surveys, paragraph 67

*'GREVIO strongly encourages the Swedish authorities to conduct dedicated surveys on violence against women at regular intervals and to carry out a population-based survey to assess Sami women's exposure to sexual and domestic violence as a starting point for further policy measures.'*

**Comment (1):** As previously communicated to GREVIO, the Government has funded parts of a population based study of health and living conditions in Sápmi, by the Centre for Sami Research at the University of Umeå in close collaboration with municipalities, regions/county councils, the Sami Parliament and the Public Health Agency (Govt. Decision S2018/03552/FS). This study will cover experiences of violence and abuse. The Centre's long-term objective is to establish a recurring study through which health trends in this population may be identified over time.

Since March 2017, the Government is also funding a three-year project of developing a network of Sami health care professionals, by the County Council of Västerbotten in collaboration with the county councils of Jämtland, Norrbotten and Dalarna as well as the Sami Parliament and Sami organizations. The project aims to increase the supply of health services that are sensitive to Sami culture and accessible in Sami languages.

### III. Prevention

#### C. Training of professionals, paragraph 90

*'...GREVIO welcomes the efforts that are underway and the in-service training for social services staff on domestic violence provided by the National Board of Health and Welfare and the County Administrative Boards but points to the need to ensure systematic in-service training on other forms of violence as well.'*

**Comment (2):** The in-service-training for social services staff provided by the National Board of Health and Welfare (NBHW) as well as the County Administrative Boards does in fact cover other forms of violence than domestic violence. For instance, the NBHW has been commissioned to provide more in-depth training on honour-related violence and oppression, including forced marriage and forced genital mutilation irrespective of the relationship between victim and perpetrator 2018–2021 (Govt. Decision 2018/03516/JÄM).

### C. Training of professionals, paragraph 95

*'GREVIO strongly encourages the Swedish authorities to ensure systematic and mandatory initial and in-service training on all forms of violence covered by the Istanbul Convention for members of the judiciary and the law enforcement agencies.'*

**Comment (3):** As regards the Swedish courts, it should be acknowledged that these bodies are independent and autonomous in relation to the Parliament, the Government and other government agencies. This principle is stated in the Swedish Constitution and means that no other agency, or the Government, can decide how a court shall adjudicate in a specific case. A requirement for a judge to participate in certain training could be considered at odds with this principle of independence. Therefore, training of permanent judges is not mandatory. The Courts of Sweden Judicial Training Academy, which is independent from the Government and the Swedish National Courts Administration, is responsible for providing voluntary training for judges, including what courses are offered and their content. The training program offered is very comprehensive and is based on an inventory of the need among the courts and judges. There is an awareness in the courts of the need for special knowledge and training on certain types of cases. This comment likewise applies to paragraph 169.

### E. Participation of the private sector and the media (Article 17), paragraph 105

*'In addition, the Code of Ethics for the Press, Radio and Television, issued by the Swedish Press Co-operation Committee in 2001, lists journalistic practices that associated media have committed to adhere to, such as accuracy of information, respect for privacy and the application of the principle of an adversarial process when reporting.<sup>44</sup> Complaints about alleged violations in relation to print media may be filed with the press ombudsman and the Press Council. GREVIO notes, however, that the existing instruments do not necessarily regulate the representation of women in a stereotyped and sexualised manner*

*and observes that questionable images and messages continue to be spread by the media and advertising sector.<sup>45</sup>*

**Comment (4):** The Government would like to point out that existing instruments do regulate the representation of women in a stereotyped and sexualised manner. The Swedish Advertising Ombudsman (Reklamombudsmannen [RO]), is a self-regulatory organization founded by the industry itself. RO receives complaints about advertising and assesses if commercial advertising is following the Consolidated ICC Code. RO also provides information, guidance and training in the field of ethical marketing. Financiers can get copy advice about specific campaigns.

In the first five months of 2018, 14 cases were tried, 8 were upheld and deemed to be stereotyping in a way that violates the codes of ethics. In 2017 86 cases were tried, 32 were upheld. Both citizens and organizations can complain, Sweden's women lobby is an active organization that has filed many complaints. (For further details, see <http://reklamombudsmannen.org/eng/>).

Moreover, although most recently revised in 2001, the Code of Ethics referred to in paragraph 105, actually dates to 1916.

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

##### **A. General obligations (Article 18), paragraph 113**

*'While GREVIO welcomes the recognition of the need to strengthen and institutionalise co-ordination and co-operation between the multiple actors involved as expressed by the Swedish Government, it regrets that since the convention's entry into force, very few steps have been taken in this regard, despite the availability of promising practices to draw from, such as Concept Karin or the Barnabus model.'*

##### **C. General support services (Article 20), paragraph 122**

*'...GREVIO is concerned by the apparent lack of emphasis placed so far on effective multi-agency co-operation and the provision of holistic services to victims.'*

**Comment (5):** Due to efforts by local and regional actors, the number of Barnabus in Sweden has grown in recent years. Today there are about 30 such centres serving most regions of the country. The government has taken various measures to support their development as well as measures aiming to

develop other forms of effective multi-agency co-operation and the provision of holistic services to victims. For instance, the County Administrative Boards are commissioned to specifically promote and follow-up co-operation between municipalities (the social services in particular), county councils, government agencies at regional level and civil society, not least to attain well-coordinated interventions for individuals (Govt. Decision S2017/07420/JÄM). As part of the same commission, the Boards are supporting the development of multi-agency regional resource centres for child and adult victims of domestic violence, especially honour-related violence and oppression.

In addition, the Swedish Public Employment Service, the Social Insurance Agency, the Migration Agency and the National Board of Health and Welfare are commissioned to prepare a joint plan for enhanced cooperation aiming to improved detection of domestic violence in the years 2019–2021. Among other things, the plan is to be developed in consultation with the County Administrative Boards and it must deal with referrals to social services and health care as well as law enforcement/the judicial system (Govt. Decision S2018/03696/JÄM).

## **V. Substantive law**

### **A. Civil law (Article 18), 2 Compensation (Article 30), paragraph 157**

*Women victims of intimate partner and other forms of violence frequently apply for compensation, but the recording system does not allow for information on the forms of violence for which women seek subsidiary state compensation to emerge. Estimates suggest that their number is around 500-700 annually. The compensation granted ranges from 2 500 SEK (around €250) for every month of suffering to lump sum payments of 40 000 SEK (around €4 000).<sup>2</sup>*

**Comment (6):** The compensation granted is ranging from 2 500 SEK for every month of suffering to lump sum payments between 10 000 SEK (around € 1 000) and 100 000 SEK (around € 10 000). The amount is determined by an individual assessment of the criminal act as well as the extent of the violence suffered.

**A. Civil law (Article 18), 3 Custody and visitation rights (Article 31), paragraph 163**

*'GREVIO welcomes this specific requirement but notes that it is unclear to what extent it is implemented in practice, both by social services (family law sections and secretaries) and the courts. The latest public inquiry into the family law area showed that both the courts and social services perform risk assessment more often today than they did a decade ago, but that evidence-based assessment tools are rarely used.<sup>72</sup> Courts seem to rely on "in-house models" and the letter of the law. GREVIO notes that prosecutors are now required to inform the relevant social welfare committee when a child lives with an abuser (irrespective of custody) – a step which might lead to improved risk assessment by social services. Interviews with social workers have, however, revealed a widespread absence of critical assessment of abusive fathers and their parenting abilities, while the notion of an abused mother as unfit to fully care for her children is more established.<sup>73</sup>*

**Comment (7):** However, as recognised under paragraph 169, the Family Law and Parental Support Authority has developed a guide to risk assessments in matters of custody, residency and visitation on the commission of the Government (Govt. Decision S2016/07779/RS). The guide was published in May 2018.

Furthermore, the interviews of the source referred to by GREVIO were carried out in 1999 and 2000. They formed part of a qualitative data set with a limited number of social workers and do not necessarily allow for general conclusions on the ways in which parenting abilities are currently assessed by the social services in Sweden.

**A. Civil law (Article 18), 3 Custody and visitation rights (Article 31), paragraph 164**

*'Information provided to GREVIO seems also to suggest that not all family law judges are fully aware of the possible impact which witnessing domestic violence by one parent against the other has on children. ...'*

**Comment (8):** The term 'family law judges' is misleading since, in the Swedish judicial system, judges of general courts handle all sorts of cases.

**A. Civil law (Article 18), 3 Custody and visitation rights (Article 31), paragraph 165**

*'The insufficient training of judges in this particular area might serve as an explanation.<sup>74</sup> It would also explain the lack of knowledge around how joint custody and/or visitation*

*rights of an abusive father can seriously endanger the safety of a woman and her child. GREVIO has been repeatedly informed of domestic violence shelters which ask women to move out if their perpetrator is suspected of using visitation with his children to locate the whereabouts of the family, and subsequently, the shelter. Without any other means of reigning in the danger of disclosure of its secret location, women and children are requested to leave, and, for lack of alternative options, often return to the abuser.'*

**Comment (9):** See comment (3) to paragraph 95.

**A. Civil law (Article 18), 3 Custody and visitation rights (Article 31), paragraph 169**

*'... In this context GREVIO stresses the need for more effective training and support to be provided to family law judges.'*

**Comment (10):** Again, the term 'family law judges' is misleading since judges of general courts handle all sorts of cases. There are no family law judges in the Swedish judicial system. See also comment (3) to paragraph 95.

**B. Criminal law, 1 Domestic violence, paragraph 175**

*'From the data provided on the number of reported cases of molestation, unlawful threat and gross violation of a woman's (or girl's) integrity and the number of cases that have led to the identification of a suspect (person-based clearances), it is, however, difficult to draw conclusions as to how operational these provisions are in holding domestic abusers accountable for psychological violence. The concerns raised by civil society organisations during the course of the evaluation procedure suggest their limited use in practice. This is corroborated by the fact that only a fraction of the reported cases leads to the identification of a suspect, although it is not known what percentage of these concern domestic violence cases and how many lead to prosecution and, ultimately, convictions.'*

**Comment (11):** Regarding crime statistics on domestic violence it should be noted that the number of convictions in relation to the number of reported cases may be misleading. Amongst other things, this is due to the special construction of the crime gross violation of a woman's integrity since it includes various acts that in themselves and independently constitute offences such as threats and physical abuse. The prosecutor decides how to label the case when pressing charges, yet the court's judgment may differ from the prosecutor's line of reasoning. Consequently, a person who is prosecuted for gross violation of a woman's integrity may instead be convicted for e.g. different assault crimes. For instance, this can be the case



when such offences have been proven but were committed on different occasions with long time lapses in between.

#### **B. Criminal law, 1 Domestic violence, paragraph 176**

*'GREVIO encourages the Swedish authorities to ensure the effective application of the full range of criminal offences relevant to psychological violence employed by one intimate partner against the other, by, among other things, stepping up training efforts as well as human and financial resources among law enforcement agencies.'*

**Comment (12):** It should be noted that the psychological element is often prominent in cases of gross violation of a woman's integrity. The number of reported cases has declined by 31 percent in the past ten years with 1 870 cases reported in 2017. The suspect is often taken into custody as there is a great risk of relapse as well as of influencing witnesses and victims.

Furthermore, a Swedish prosecutor may specialize in various fields after a few years of service. The Prosecution Authority is served by several prosecutors who have received special training in dealing with cases of domestic violence.

#### **B. Criminal law, 3 Sexual violence and rape (Article 36), paragraph 179**

*'A recent amendment to the Criminal Code now ensures that all non-consensual sexual acts are criminalised. Sections 1 and 2 of Chapter 6 on Sexual offences criminalise intercourse or any other sexual act with a person "who is not participating voluntarily". Participation in a sexual act must be voluntary and this must be perceptible. Passivity cannot be per se considered a sign of voluntary participation. Prison sentences may range from two to six years. This amendment is a departure from the previous offence of rape and sexual abuse which required the use of force, threats or the taking advantage of the vulnerable situation of the victim, and brings the Swedish Criminal Code in line with the requirement of Article 36, paragraphs 1 and 2 of the Istanbul Convention. Causing another person to engage in non-consensual acts of a sexual nature with a third person as required by Article 36, paragraph 1 c does not seem to be criminalised, however.'*

**Comment (13):** The dividing line between a punishable and a non-punishable sexual act is drawn according to whether or not participation was voluntary. The law does not require the voluntariness to be expressed. However, in assessing whether the participation was voluntary, particular consideration shall be given to whether the voluntariness was expressed through words or deed or in some other way. In other words, the law is

based on the assumption that a person who voluntarily participates in a sexual act will express his/her willingness to participate somehow and that the lack of such expression usually means that participation is not voluntary. Nevertheless, in exceptional cases, a silent consent to sexual intercourse may be considered sufficient.

Furthermore, causing another person to engage in non-consensual acts of a sexual nature with a third person is indeed criminalized in Sweden. See for example the judgement from Svea hovrätt in case B 9189-17 concerning a man who instructed a child to engage in non-consensual sexual acts with another child. The conduct was considered aimed at both children and judged as two cases of rape of a child. (See also comment [15] to paragraph 182).

#### **B. Criminal law, 3 Sexual violence and rape (Article 36), paragraph 181**

*“This being a very recent development, GREVIO has not had the opportunity to assess its implementation by the judiciary. GREVIO nonetheless wishes to point out that with the new rape legislation the onus is on the perpetrator to ensure that all sexual acts are engaged in voluntarily. This shift in perspective is what is needed to move away from case law that all too often focuses on the behaviour of the victim, including her appearance and actions prior, during and after the act. It is thus of crucial importance to ensure, through training, awareness-raising and other opportunities for discussion and exchanges, that the members of the Swedish judiciary fully apply this shift in paradigm. Past case law on rape has revealed alarming assumptions around women’s consent to sexual acts and how it may be expressed.<sup>78</sup> A window of opportunity has opened up and must be used by the judiciary to ensure criminal responsibility for all perpetrators of rape and sexual assault.”*

**Comment (14):** To effect real change, the legislation must gain traction throughout society. The Government has therefore tasked the Swedish Crime Victim Compensation and Support Authority with producing information and running sexual offences education campaigns targeting primarily young people, as well as the adults who interact with them on a daily basis. In the spring of 2018 the Government increased the funding of The Swedish Crime Victim Compensation and Support Authority and the Swedish National Courts Administration to further strengthen the efforts of giving information and training on the new legislation against sexual offences to the judicial system.

## B. Criminal law, 3 Sexual violence and rape (Article 36), paragraph 182

*'GREVIO invites the Swedish authorities to introduce criminal legislation that would cover the intentional conduct set out in Article 36, paragraph 1 c of the Istanbul Convention, which is not currently covered by the Swedish Criminal Code.'*

**Comment (15):** Again, causing another person to engage in non-consensual acts of a sexual nature with a third person is in fact criminalized in Sweden. See for example the judgement from Svea hovrätt in case B 9189-17 concerning a man who instructed a child to engage in non-consensual sexual acts with another child. The conduct was considered aimed at both children and judged as two cases of rape of a child.

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

### A. Immediate response, prevention and protection (Article 50), 1 Reporting to and investigations by law enforcement agencies, paragraph 203

*'GREVIO urges the Swedish authorities, in particular the law enforcement authorities, to reinforce their investigative capabilities significantly to reduce the backlog of domestic violence and rape cases, and to take immediate measures to ensure a prompt and appropriate response by law enforcement agencies in all cases of violence against women, as required by Article 50, paragraph 1 of the Istanbul Convention.'*

**Comment (16):** It should be acknowledged that many actions have recently been taken to reinforce the investigative capability of the Swedish Police Authority with a specific focus on the type of crimes mentioned above. As noted by GREVIO, this includes increased funding of the agency to allow for a significantly growing number of employees in the next few years.

The Government is closely following the results of police investigations through monthly statistics. The number of rape investigations reported to prosecutors increased during 2017 and even more so the following year. In 2018, there was also an increase in reported investigations into domestic violence.

These developments are notable considering current challenges to the Swedish police, including a rise in gang-related crime and shootings in public places. In addition, the Swedish police has undergone a major reform by which 21 regional police authorities were merged into a single, national authority.

The Swedish police is clearly giving high priority to domestic violence and sexual offences. As further recognised by GREVIO, a very high rate of cases concerning these crimes do lead to criminal investigation in Sweden.

**A. Immediate response, prevention and protection (Article 50), 2 The role of the prosecution services and conviction rates, paragraph 206**

*'The importance of victim support in criminal procedures cannot be overestimated, and the Swedish authorities are aware of this, in particular in relation to cases of sexual violence and rape. Victim support lawyers are, in principle, available to victims of rape and other serious crime, and law enforcement officials are under the obligation to inform victims of this right once a preliminary investigation has been opened, usually upon the filing of a complaint. The reporting of a crime to the law enforcement authorities is simple and can be done online, over the phone or in person. Not all officials seem to inform victims of their right to the services of a victim support lawyer this early into the procedure, although the law and the checklist require them to do so. This lack of support and guidance has led to a certain degree of disaffection among some victims, which in turn affects the quality of the investigation and prosecution (see below). This is particularly important as the role of the victim in Sweden is not only that of witness but as a party in the trial alongside the prosecutor. Victim support lawyers thus have the authority to challenge proceedings, call new witnesses or request a tougher sentence.'*

**Comment (17):** This paragraph is incongruent with paragraph 230 which deals with the same topic. The Prosecution Authority has identified shortcomings in crime victim support and guidance concerning the information provided on the right to a legal counsel. Consequently, the problem is acknowledged and the authority has decided to take measures to ensure that victims obtain the necessary information.

**A. Immediate response, prevention and protection (Article 50), 2 The role of the prosecution services and conviction rates, paragraph 208**

*'... Consensus does seem to exist around the fact that the number of reported rapes is much higher in Sweden compared to other European countries.'*

**Comment (18):** However, it is important to recognise that a high number of reported rapes may in fact reflect low public and legal tolerance for sexual offences, widespread trust in law enforcement agencies and high priority given to such cases by the judicial system. The 2014 EU-wide survey on violence against women by the European Union Agency for Fundamental Rights (FRA) explained differences in levels of self-reported violence

between EU-member states along these lines, arguing, for instance, that increased gender equality leads to higher levels of disclosure about violence against women.

**A. Immediate response, prevention and protection (Article 50), 2 The role of the prosecution services and conviction rates, paragraph 210**

*Reports suggest that these measures are not always taken in cases of sexual violence and that attitudes towards rape victims change depending on their social status. ...' These reports also show that stereotypes, personal beliefs and values of professionals in the criminal justice sector significantly influence their decisions. Questions on sexual preferences, clothing and behaviour of the victim persist, while other evidence is not always given sufficient attention. This seems to be the case in particular among the lay judges who assist judges at the district courts. Several rape cases in which the lay judges overruled the assessment of the facts by the trained judge and acquitted the suspect have caused an outcry in the media and the general public. This has led to more media scrutiny of rape trials and has prompted a renewed debate of the system of lay judges, who are politically appointed and of senior age.'*

**Comment (19):** It is unclear what reports GREVIO is referring to. GREVIO has not presented solid data pointing in this direction and there is no reason to believe that lay judges are particularly prone to let stereotypes and personal beliefs influence their decisions in rape cases. It should be noted that during the deliberations of the court, the professional judge has an obligation to explain to the lay judges the substance of the matter at issue and the applicable legal rules (Chapter 30, Section 7 of the Swedish Code of Judicial Procedure).

**C. Emergency barring and protection orders (Articles 52 and 53), paragraph 219**

*The civil law protection orders are available under the Marriage Code and the Cohabitants Act which allow civil law courts to prevent, upon application, a spouse or cohabiting partner from contacting the other spouse or partner during the process of divorce or separation. A protection order may be issued by civil courts until the division of property, including the use of the joint residence, has been decided on and implemented.'*

**Comment (20):** The terms 'civil law courts' and 'civil courts' are misleading as general courts handle all sorts of cases. There are no specific civil courts in the Swedish judicial system.

### C. Emergency barring and protection orders (Articles 52 and 53), paragraph 228

*'GREVIO urges the Swedish authorities to revamp its system of protection orders and equip the competent authority with the power to specifically expel a perpetrator of domestic violence from the joint residence that he shares with the victim in situations of immediate danger and as an emergency safety measure and for this expulsion to remain in force for an appropriate length of time to allow the victim to feel safe and to take other measures to ensure safety. Moreover, GREVIO strongly encourages the Swedish authorities to end the practice of allowing for exceptions to prohibitions on contact.'*

**Comment (21):** The assessment underlying the Swedish ratification of the Istanbul Convention, is that Sweden meets the obligations under Articles 52 and 53 (Govt. Bill 2013/14:208).

As follows from Sweden's State Report, there are various measures available for offering immediate protection of the kind referred to in Article 52 of the Convention. For instance, if required for averting a punishable act, a police officer may turn away or remove a person from a certain area or certain premises according to Section 13 of the Police Act (1984:387). If such measure proves inadequate, the person may be taken into temporary custody. Another possible measure is detention (Chapter 24, Section 1 of the Swedish Code of Judicial Procedure). When the court decides to remand a person in custody or to extend such detention, it shall simultaneously, at the request of the prosecutor, consider whether the remand prisoner's contact with the outside world may be restricted (Chapter 24, Section 5a of the Swedish Code of Judicial Procedure). Along with non-contact orders these options allow for the ordering of a domestic violence perpetrator to vacate the residence of the victim or a person at risk in situations of immediate danger.

Moreover, a person can be barred from being in a home used jointly with another person if there is a risk, due to special circumstances, that the person to whom the order is intended to apply will commit a crime against the life, health, freedom or peace of a cohabiting partner (Section 1a of the Non-Contact Order Act [1988:688]).

The non-contact order regarding the joint home is based on the premise that it is the violator, not the victim, who should tolerate a restriction on his/her freedom of movement when there is a conflict between opposite interests.

The introduction of this provision was also justified by the need for protecting children and allowing them to stay at home (Govt. Bill 2002/03:70, pp. 30–31).

Matters of non-contact orders shall be processed promptly and decisions by the prosecutor on orders regarding the joint home shall be issued with particular promptness. If the person to whom the order is intended to apply has been taken to interrogation, the decision shall be issued in conjunction with the end of the interrogation unless there is an extraordinary impediment of doing so (Section 6a of the Non-Contact Order Act). According to the Swedish Prosecution Authority's Handbook on Contact Bans, decisions on non-contact orders shall normally be issued within a week and orders regarding the joint home or specially extended non-contact orders shall be issued within four days. Importantly, this does not preclude faster decision making.

It is unclear what is meant by the 'practice of allowing for exceptions to prohibitions on contact' which GREVIO encourages Swedish authorities to end. The law itself permits manifestly justified contacts due to special circumstances (Section 1, Paragraph 4 of the Non-Contact Order Act), for instance, if children who the parties have in common are becoming urgently ill (Govt. Bill 1987/88:137, pp. 41–42). This is a rule of exemption that should be restrictively applied and it does not include ordinary contacts, such as those concerning visitation rights (see Niklas Dahlgren, *Lagen om kontaktförbud och lagen om europeisk skyddsorder* [1 July 2018, Zeteo], the commentary to Section 1).

Notably, a non-contact order can also be issued for the protection of a child. Furthermore, an abused partner may apply for sole custody and denial of the other parent's visitation rights. The court must base its decision on an assessment of what is in the best interest of the child with special regard to, among other things, the risk of the child or someone else in the family being exposed to attacks or otherwise harmed.

#### D. Victim support in legal proceedings (Article 55 paragraph 2), paragraph 230

*The Swedish authorities are aware that, in practice, not all victims are informed of their right to a victim support lawyer and that this has had an impact on investigations and prosecutions in particular of sex offences. The recent amendment of the offence of rape and*

*sexual assault was therefore accompanied by more stringent rules on the appointment of victim support lawyers for all victims of sex offences. In addition, the Swedish Prosecution Authority has recognised the need for more training of prosecutors and administrative staff, which GREVIO welcomes. GREVIO hopes that this will improve women's access to such lawyers in practice to ensure more satisfactory criminal outcomes.'*

**Comment (22):** See comment (17) to paragraph 206 which appears to be redundant given the information provided in paragraph 230.

## **VII. Migration and asylum**

### **A. Migration (Article 59), paragraph 237**

*'The Swedish Aliens Act contains all rules on visas, asylum, refugee status and subsidiary protection, residence permits and family immigration, work permits, returns and detention.<sup>95</sup>'*

**Comment (23):** To clarify, rules on residence permits can also be found in other laws, such as the Act on Temporary Restrictions to Obtain a Residence Permit in Sweden (2016:752) and in the Act concerning Special Controls of Aliens (1991:572).

### **A. Migration (Article 59), paragraph 238**

*'The act specifies in Chapter 5 Section 3 that a spouse or cohabiting partner will be granted a residence permit unless any of the exceptions in section 17 apply (for example criminal activity, misrepresentation etc.). Such a residence permit is temporary and usually for a period of two years, after which a permanent residence permit may be granted (Chapter 5 Section 16).'*

**Comment (24):** The information above is incomplete. In addition, a person who intends to marry or enter into a cohabitee relationship may also be granted a residence permit according to Chapter 5, Section 3 a, unless some of the exceptions in section 17 apply. Such a residence permit, as specified in Chapter 5, Section 3 and Chapter 5, Section 3 a, is either permanent or temporary. If a temporary permit is granted, its duration is usually for a period of two years, after which a permanent residence permit may be granted (Chapter 5, Section 16). A residence permit that is granted according to the Act on Temporary Restrictions to Obtain a Residence Permit in Sweden (2016:752) is normally temporary.



#### A. Migration (Article 59), paragraph 239

*'GREVIO welcomes the fact that the Aliens Act contains specific provision for permanent residence to be granted where the relationship has ended primarily because in the relationship the alien or the alien's child has been subjected to violence or some other serious violation of their liberty or peace (Chapter 5 Section 16). Currently excluded from this provision are migrants who derive their residence permit from a spouse with recognised refugee status or subsidiary protection.<sup>96</sup> ...'*

*Footnote 96 This is set out in the Law on Temporary Restrictions to obtaining a Residence Permit in Sweden currently in force to limit the scope of the Aliens Act until the year 2019. See Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige, 2016:752.*

**Comment (25):** Those currently excluded from this provision are migrants who derive their residence permit from a spouse with a temporary residence permit with a recognized refugee status or subsidiary protection.

Footnote 96: The Act on Temporary Restrictions to Obtain a Residence Permit in Sweden (2016:752) is presently in force until 20 July 2019.

#### A. Migration (Article 59), paragraph 243

*'... In the absence of a maximum period of leave from Sweden for residence permit holders, there is no formal policy implementing Article 59, paragraph 4, although it does appear to take action on an ad hoc basis in respect of those taken abroad for forced marriage.'*

**Comment (26):** According to the preparatory works (Govt. Bill 1983/84:144, p. 89) a permanent residence permit shall not be revoked if the alien has been compelled to remain for a longer time in the country of origin.

#### B. Gender-based asylum claims (Article 60), 1 Reception and accommodation, paragraph 251

*'However, GREVIO notes with concern that the above efforts might be offset by the (unintentional) humanitarian consequences of the 2016 amendments to the Reception of Asylum-Seekers and Others Act (hereafter LMA). These amendments set out that adult asylum-seekers without children are no longer entitled to accommodation, subsistence allowance and medical care once their asylum application is rejected and that they have to leave Sweden. ...'*

**Comment (27):** The above information on the 2016 amendments to LMA and their effects is not entirely correct. As far as health and medical care is concerned, these amendments did not affect an asylum-seeker's rights; the asylum-seeker still has the right to care after refusal of his or her asylum application. Regarding the entitlement to housing and financial aid, certain new rules do affect adult asylum-seekers who do not live with their own child or a child for whom the asylum-seeker may be considered a deputy parent. For these asylum-seekers, the entitlement to housing and financial aid ceases if the asylum application is denied, the expulsion decision becomes legally binding and the time limit for voluntary departure expires. However, the aid does not cease if it would be manifestly unreasonable, e.g. if the decision of expulsion cannot be enforced and the asylum-seeker has cooperated with the authorities. Nor does the entitlement to aid cease if the expulsion decision cannot be enforced pursuant to a decision by the Swedish Migration Agency or a court.