

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

---

**Comments submitted by Norway  
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)**

**Received by GREVIO on 21 November 2022**

GREVIO/Inf(2022)38

Published on 25 November 2022

Council of Europe - Europarådet  
Avenue de l'Europe  
F-67075 Strasbourg Cedex

Your ref.

Our ref.  
20/688 - HMK

Date  
21.11.2022

## **GREVIO's final report on Norway – comments from Norway**

### **1. INTRODUCTION**

The Norwegian government welcomes the Final 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 GREVIO throughout the process of evaluating the implementation of the Istanbul Convention by Norway.

The Norwegian government takes due note of the recommendations provided by GREVIO and welcomes the opportunity to comment on the final report.

The Norwegian government notes with satisfaction that a large part of our comments to the draft report has been taken into account in the final report. On some points, however, the government finds that the information is still incomplete or inaccurate. We would therefore like to make the following comments:

## **2. COMMENTS TO SELECTED PARAHGRAPHS IN THE REPORT**

### **I. PURPOSES, DEFINITIONS, EQUALITY AND NON-DISCRIMINATION, GENEREAL OBLIGATIONS**

#### **Scope and application of the convention and definitions (articles 2 and 3)**

##### **8.**

In paragraph 8 of the final report GREVIO writes: “For example, legislation of key relevance in the area of domestic violence such as the Law on Crisis Centres which sets out the standards regarding the provision of shelter services is formulated in a gender-neutral manner and operate on the above-mentioned concept.”

Please note that the Law on Crisis Centres is not gender neutral as it refers to “women, men and children” and explicitly states that women and men must live in separate units or separate shelters.

In paragraph 8 GREVIO also states that: “According to the WAVE 2020 Handbook, the gender neutrality of the Law on Crisis Centres resulted in 22 of the 51 crisis centres providing safe accommodation to victims of domestic violence and their children in Norway being reserved for men, yet two years after the law entered into force, 10 of the men’s crisis centres were not in use due to a lack of demand.”

Please note that the link to the WAVE handbook is inactive. Please also note that the correct number of crisis centres today is 43 (as stated below in the same paragraph).

#### **Data collection and research (article 11)**

##### **54.**

GREVIO has been informed that when it comes to assessing the prevalence of the different forms of violence covered by the Istanbul Convention, please take note that stalking is included in the nationwide survey carried out by the Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS) in 2014.

### **III. PREVENTION**

#### **Training of professionals (article 15)**

##### **83 and 164.**

In paragraph 83 on the Family Counselling Service GREVIO writes that: “However, according to indications shared with GREVIO, their professional guidance and willingness to recognise and identify cases of domestic and other forms of violence covered by the Istanbul Convention remains limited, particularly regarding mediation in separation procedures and custody and visitation disputes (see Chapter V, Articles 31 and 48).”

Similarly in paragraph 164 GREVIO states: “According to existing research, high-conflict families, which include families affected by domestic violence, are offered inappropriate or inadequate services by mediators due to the lack of systematic training on issues related to such families.”

Please note that there is a prioritized and ongoing strengthening of this area in The Family Counselling Service. The specialised team on violence and high conflict cases offers training efforts, material, and guidance on basic knowledge such as addressing and identifying violence and further assessment and differentiation, as well as more specialised domestic violence focused work and work on the healing process within families. Throughout the training efforts, focus on safety is a constant consideration, as well as cooperation with other services.

Regarding mediating separation procedures in particular, the mediators receive more specific training about the detection and handling of violence, both prior to and during the mediation situation, as part of the ongoing efforts to enhance the professional guidance and ability to recognize and identify cases of domestic and other forms of violence.

#### **IV. PROTECTION AND SUPPORT**

##### **Telephone helplines (article 24)**

###### **129.**

In paragraph 129 GREVIO states that: “In 2019, a national telephone helpline for all victims of domestic violence (the VO-helpline) was set up and in 2021 an online chat option was added to the services of the helpline. It is funded by the Ministry of Justice and Public Security as part of a three-year pilot project and is operated by trained staff of the Secretariat of the Shelter Movement and Oslo Crisis Centre.

Please note that the helpline is since 2022 funded by the Ministry of Children and Families and is now made permanent. The evaluation of this service is ongoing, and will hopefully be completed by late fall 2023.

##### **Reporting by professionals (article 28)**

###### **145 – 149.**

In paragraph 149 GREVIO «strongly encourages the Norwegian authorities to review the obligation for professionals to report cases of violence against women, including the obligation to report to the police and to alert social services, other than in situations in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the Istanbul Convention has been committed and further serious acts are to be expected»

We would like to point out the duty to avert criminal acts or the consequences thereof only applies to specific serious criminal acts, such as forced marriage, aggravated deprivation of liberty, aggravated human trafficking, entering into marriage with a

person who is under 16 years of age, aggravated bodily harm, homicide, abuse and aggravated abuse in close relationships, genital mutilation and serious sexual offences. The duty to avert applies only when it appears certain or most likely that one of the specifically mentioned criminal acts has been or will be committed and it is still possible to avert the act or the consequences thereof.

## **V. SUBSTANTIVE LAW**

### **Civil remedies against the state (article 29)**

#### **153.**

There seems to be a misunderstanding concerning paragraph 153. GREVIO writes that “the procedure to launch criminal proceedings against public officials for negligent behaviour, misconduct or failure to comply with the positive obligations requires the decision of the Criminal Investigations Bureau as a prerequisite. GREVIO notes with concern that the latter may delay or completely prevent the victim’s ability to initiate criminal proceedings and consequently seek redress in the course of those.”

However, as previously communicated to GREVIO, as an example if someone who is exposed to violence in close relationships reports officials in the police for misconduct, the Norwegian Bureau for Investigation of the Police Affairs will be able to initiate an investigation immediately if there is reasonable reason to investigate the reported incident.

### **Compensation (article 30)**

#### **156.**

In paragraph 156, please note that the correct wording of “the upper limit” should be: “Compensation is granted for physical and psychological suffering and the law sets 60 times the “basic amount” defined under the Norwegian National Insurance Scheme as the upper limit of the amount of compensation for which a single applicant may be eligible *per case*.” (Correction in italic).

#### **159.**

Please note that the correct date for the adoption of the law in the parliament should be the 30th of May 2022.

We would also like to point out a misunderstanding in the report’s mention of the access mechanism in the new Compensation for Victims of Violent Crime Act. Although the claim for compensation as a main rule should be dealt with in the court’s handling of the criminal case, this is not the only way to access the mechanism. The victim can also submit an application for compensation to the Criminal Injury Compensation Authority, when no criminal case is proceeded before the court.

### **Custody, visitation rights and safety (article 31)**

### **164 and 213.**

In paragraph 164 GREVIO writes that “[...] the mandatory nature of the mediation process in custody decisions with no possibility for exceptions in cases of families marred by domestic violence runs counter to the standards of the Istanbul Convention. Instead, separate meetings should be granted regularly upon the request of a victim of domestic violence.”

In paragraph 213 GREVIO states the following: “The law also obliges the parties to attend mediation in person unless the mediator decides that compelling reasons prevent them from doing so. However, it does not explicitly acknowledge intimate partner violence as such a ground, nor does it provide any other criteria.”

Please note that the circular complementing the regulation (meklingsrundskrivet) lists the following criteria for the mediators decision on whether “compelling reasons” exist:

- one parent has or has had a restraining order towards the other parent or child
- one parent is in a crisis center and it would be unsafe to meet the other for mediation
- there has been violence in the relationship
- one parent has a violence alarm
- one parent lives at a restricted address
- one parent can demand a direct divorce on the basis of abuse, according to Section 23 of the Marriage Act (abuse), but wants to go the route of separation because this is less burdensome.

See also comments to paragraph 164 under paragraph 83.

### **166.**

In paragraph 166 GREVIO states: “According to research, although child custody mediation is mandatory in Norway for all separating couples with children, the number of child custody disputes in courts is similar to the other Nordic countries with voluntary mediation schemes only.”

As previously commented to GREVIO, please take note that according to numbers given to The Nordic Council (2020), there seems to be a large variation in numbers of child custody cases in the Nordic countries, cf. [\*Betænkning over medlemsforslag om fællesnordiske regler for grænseoverskridende tvister om forældremyndighed og ret til samvær \(A 1831/velfærd\) \(norden.org\)\*](#).

### **Physical violence (article 35)**

#### **182.**

We have already informed GREVIO that Section 282 does not cover “a romantic partner”. According to the wording of the law and case law it is required that one is or has been cohabiting at least, cf. also Prop. 105 L (2010-2012) point 6.1, for Sections 282 and 283 of the Criminal Code to apply. In the case of violence between lovers, it is therefore the general provisions on violence, threats, coercion, etc. that apply.

## **Sexual violence, including rape (article 36)**

### **186.**

In paragraph 186 GREVIO states that «it is not clear what sort of behaviour is covered by» Section 297 of the Norwegian Criminal Code. As already pointed out to GREVIO the term “sexual act” (“seksuell handling”) in Section 297 covers a wide range of physical contact which has some sort of sexual character, for example kissing or touching of someone’s breasts. However, the provision also covers more serious and invasive sexual activities, such as intercourse, masturbation and oral sex, which are also covered by the provisions regarding sexual assault/rape and sexual abuse etc.

The government is in the process of reviewing Chapter 26 of the Norwegian Criminal Code regarding sexual offences. Since the government has stated in its policy platform that it will put forward a proposal to amend the Criminal Code so that the wording reflects that sexual intercourse and similar sexual activities («seksuell omgang») without consent is prohibited and defined as rape, we will not comment GREVIO’s assessments regarding the implementation of Article 36 of the Istanbul Convention further.

## **Forced marriage (article 37)**

### **191.**

The following in GREVIO’s report in paragraph 191: “Section 284 of the Norwegian Criminal Code criminalises female genital mutilation (FGM) and defines it as any act damaging or permanently modifying a woman’s genitalia, including re- infibulation and regardless of the victim’s consent. GREVIO notes with particular interest the obligation contained in the Section 196 of the Criminal Code, which is imposed on every adult citizen and thereby includes workers and employees in day-care centres, child welfare services, social services, health and care services, schools and before and after-school care services as well as elders and leaders of religious or belief communities, to alert authorities to cases of FGM. This obligation also applies to situations where FGM isn’t performed but, its likelihood sets off the duty to avert to prevent it from happening. Failure to meet this obligation is punishable by a fine or up to one year in prison. GREVIO, however, does not have information on the implementation of the reporting obligation stipulated in Section 196 of the Criminal Code in cases of FGM, including in which the victim is a minor.”

Please take note that this is not a correct understanding of the law. Section 196 of the Criminal Code imposes citizens to avert, not alert, and comes into use only when one has a chance to stop a criminal act, such as female genital mutilation.

As explained to GREVIO an obligation to avert female genital mutilation follow from Section 196 in the Criminal Code. This obligation applies to anyone, including workers and employees in day-care centres, child welfare services, social services, health and care services, schools, before and after school care services.

### **192.**

In paragraph 192 GREVIO invites the Norwegian authorities to ensure that Section 253 of the Norwegian Criminal Code covers the intentional conduct of luring an adult or a child to the territory of another state with the purpose of forcing this adult or child into a marriage. We would therefore like to point out that this act is covered by Section 253, cf. Section 253 (2) which states that any person who by deceit or other means contributes to another person travelling to a country other than that person's country of residence with the intent that the person will there be subjected to forced marriage shall be subject to imprisonment for a term not exceeding six years.

### **Female genital mutilation (article 38)**

#### **196.**

In paragraph 196 GREVIO strongly encourages the Norwegian authorities to criminalise the intentional conduct of coercing or procuring a woman to undergo any act of excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris, and any act of inciting, coercing or procuring a girl to undergo such acts.

We have however explained to GREVIO that according to the Section 15 of the Norwegian Criminal Code a penal provision also applies to any person who contributes to the violation, unless otherwise provided. Sections 284 and 285 regarding genital mutilation and aggravated genital mutilation are therefore applicable to anyone who intentionally incites, coerces or procures a girl or woman to undergo genital mutilation.

### **Forced abortion and forced sterilisation (article 39)**

#### **199.**

In paragraph 199 GREVIO strongly encourages the Norwegian authorities to criminalise the intentional behaviour of: a. performing an abortion on a woman without her prior and informed consent; b. performing surgery which has the purpose or effect of terminating a woman's capacity to naturally reproduce without her prior and informed consent or understanding of the procedure.

We have informed GREVIO that even though the Norwegian Criminal Code does not contain a provision explicitly dealing with forced abortion and forced sterilisation, such acts are covered by the general provisions on violent crime, including Section 274 on aggravated bodily harm, cf. Section 11.

### **Aggravating circumstances (article 46)**

#### **209.**

In paragraph 209 GREVIO strongly encourages the Norwegian authorities to ensure that the presence of children is considered as an aggravating circumstance by the judiciary.

We have already informed GREVIO that Section 77 of the Norwegian Criminal Code regarding aggravating circumstances states that when sentencing, an aggravating factor



to be given particular consideration is that the offence is committed in the presence of children under the age of 15.

### **Prohibition of mandatory alternative dispute resolution processes or sentencing (article 48)**

#### **210.**

Please note that the official translation for “Konfliktrådet” is the National Mediation Service. Please also note that as of 1<sup>st</sup> July 2022, the criminal mediation is no longer mediated under Section 69 of the Criminal Procedure Act.

#### **211.**

In paragraph 211 GREVIO states that “Mediation in criminal law is a voluntary process intended to supplement the criminal justice process as a restorative element by offering the victim the opportunity to reach closure in a way the formal criminal justice process cannot. Referrals to mediation are either requested by the parties or recommended by the prosecuting authority. Both sides, victim and perpetrator, must consent to the process and may withdraw their consent at any time. It has no effect on the outcome of the criminal proceedings and does not replace a conviction; however, if the parties reach an agreement it results in the suspension of execution of the sentence.”

Please note that if the parties themselves take the initiative to mediation by the National Mediation Service (i.e. not as part of a prosecution decision/sentence), this will be considered a civil case. If the prosecuting authority makes a decision on the transfer of a case pursuant to Section 71 a of the Criminal Procedure Act, this will be considered a criminal sanction, cf. Section 30 first paragraph letter g of the Criminal Code. Similarly, it will be considered a criminal sanction if the court pronounces a decision on conditional imprisonment with conditions for mediation by the National Mediation Service according to Section 37 first paragraph letter i of the Criminal Code.

Please also note that the last sentence in paragraph 2011 does not reflect the difference between the cases that fall within civil and criminal law respectively. Section 21 in the Act relating to mediation by the National Mediation Service (The Mediation Service Act) reads: “In cases that have been referred for victim-offender mediation pursuant to section 71 a first subsection of the Criminal Procedure Act, and the meeting does not take place or an agreement is not established, the mediation office must promptly forward the case to the prosecuting authority. If the accused breaches an established agreement, the prosecuting authority must be notified. The prosecuting authority may resume its criminal prosecution if the meeting is not held because of the accused, because an agreement is not established, or because the accused materially breaches the agreement.

In cases where victim-offender mediation has been made a condition for a suspended sentence pursuant to section 37 first subsection i of the Penal Code, and the meeting does not take place on account of the accused, the mediation office must promptly forward the case to the prosecuting authority. If the accused breaches an established agreement, the prosecuting authority must be notified. The prosecuting authority will decide whether the case should be brought before the court to determine new conditions or to execute the sentence, cf. section 39 of the Penal Code.”

**213.**

See comments to paragraph 213 under paragraph 164.

**VI. INVESTIGATION, PROSECUTION, PROCEDURAL LAW AND PROTECTIVE MEASURES**

**Restraining and protection orders (article 53)**

**244.**

As GREVIO correctly states at this point the use of electronic monitoring of offenders is only allowed as part of a sentence. At GREVIO has been informed, at present the government is looking into the possibility of extending the use of reverse violence alarms in connection with a restraining order imposed by the police under the Criminal Procedure Act. Please also note that as of March 2011, 139 charges had been taken out on reverse violence alarms.

**Ex parte and ex officio proceedings (article 55)**

**252.**

Please note that there is an error i paragraph 252 concerning the Support Centres for Crime Victims. The services at the Support Centres are not provided by trained lawyers. A more correct wording would be (changes in italic): "In addition to legal representation, all police districts have their own Support Centres for Crime Victims. *The employees at the centres provide psychosocial support, information and guidance to victims, support and assistance with initiating compensation procedures.* While welcoming the provision of such support, GREVIO notes with some concern that Support Centres for Crime Victims are general victim support services, not specialist women's support services."

**Legal aid (article 57)**

**256.**

Please note that there is a misunderstanding in the report concerning what it means that the income threshold from 1. January 2022 was raised 30 %. People who have income under the threshold are entitled to free legal aid. Therefore, it is positive when the income threshold is raised as it means that a lot more people will have the right to free legal aid.

**257.**

Please note that the first sentence in paragraph 257 must be a misunderstanding. The Legal Aid Committee has not proposed excluding any offences covered by Section 107a of the Criminal Procedure Act.

**VII. MIGRATION AND ASYLUM**

## **Residence status (article 59)**

### **264.**

Please note that the maintenance requirement is regulated in the Immigration Act; it is thus not a non-statutory requirement. Persons applying for a residence permit on the basis of abuse (Immigration Act Section 53 first paragraph letter b) is exempt the maintenance requirement, see Section 10-8 third paragraph in the Immigration Regulation. It is also stated in the Directorate of Immigration's guideline UDI 2010-009, that for other permits according to Section 53, as well as permits according to Section 38 in the Act, exceptions are normally made, based on an assessment of strong humanitarian considerations.

### **268.**

Section 38 of the Immigration Act (strong humanitarian considerations) is considered subsidiarily in all applications for a residence permit, not only in asylum cases. Please note that it is possible to submit applications directly after Section 38, not only subsidiarily.

Yours sincerely

Anders Schiøtz Worren  
Deputy Director General

Hilde Marit Knotten  
Research Coordinator

*The document is approved electronically, as such no handwritten signatures are required.*

