

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**Comments submitted by Ireland
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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Following the publication of the baseline Evaluation of Ireland’s implementation of the Istanbul Convention, Ireland welcomes GREVIO’s recognition of the positive legal and policy measures that have been taken prior to and following Ireland’s ratification of the Istanbul Convention in 2019. We look forward to continuing positive engagement on the recommendations and on other work to tackle violence against women with the Council of Europe.

Tackling Domestic, Sexual and Gender Based Violence is a priority for this Government and we welcome GREVIO noting that the measures we have taken demonstrates our firm commitment to tackling these heinous crimes.

We have considered the GREVIO report and have noted the issues where GREVIO highlights improvement is needed. A number of the points referenced are issues that we are already aware of and are working on addressing through the Third National Strategy on Domestic Sexual and Gender Based Violence, and other Government policies and approaches.

We will continue to work across Government to address the areas that GREVIO have highlighted that need improved and are committed to ensuring we work towards full in compliance with the Istanbul Convention

Updates as of December 2023 and other comments

Executive Summary and Paragraph 2:

The references to “divisional protective units” are understood as referring to An Garda Síochána’s Divisional Protective Services Units (DPSUs)

Paragraph 52:

We are glad to confirm that the “under reservation” designation for data provided by An Garda Síochána was removed by the Central Statistics Office on 25 October 2023.

Paragraphs 72-77:

We would like to highlight that in relation to the reference that *‘the use of digital means to raise awareness hampered some vulnerable groups’ access to this information’* that the Campaign also ran on traditional media – radio and television and out of home advertising.

Paragraph 90:

We wish to highlight that the recording of the Domestic Violence/Domestic Abuse motive on the PUSLE system commenced in 2004 and not in 2022.

Paragraph 92:

With reference to the following comment, *“As regards prosecutors, only some voluntary training has been made available between 2020 and 2022, primarily to comply with the recommendations made by a report commissioned by the state”* the Irish Government is glad to clarify that training shaped by recommendations set out in the O’Malley Report formed only part of the work of the ODPP around training for their prosecutors.

Paragraphs 97-101

Paragraph 98 suggests that An Garda Síochána have been granted the legislative power to refer offenders to perpetrator programmes, which is not the case. The assertion, therefore, that “limited referrals have been made” by An Garda Síochána is therefore potentially misleading.

Paragraph 118:

We wish to highlight that the obligation to report harm or the risk of harm to a child arises solely under Children First legislation. TUSLA Policy on Child Abuse Substantiation Procedure (CASP) does not create the obligation and is the procedure adopted in certain cases where Tusla are obliged to substantiate an allegation of abuse against a perpetrator for the purposes of sharing that information with 3rd parties to safeguard other children who may be at risk of harm

Paragraphs 124 - 126

Regarding the Rent Supplement and Social Housing Supports, and as outlined in page 11 of the guidance referenced in footnote 117, while someone who has a joint interest in the family home will not be eligible for entry onto a waiting list for social housing support, where a deed of separation cannot be put in place, local authorities may consider social housing support in the form of Rental Accommodation Scheme (RAS) or Housing Assistance Payment (HAP), for prescribed intervals until ownership of the property is resolved, once the household otherwise qualifies for social housing support. Legislation currently allows for this and it is

important to note that once the issue of ownership of the family home is resolved, and the household qualifies for social housing support, any time spent in HAP or RAS will be reckonable to carry over for time on the social housing transfer list.

Paragraph 158:

With regards to Article 25, while paragraph 158 states that the taking of forensic samples from victims of sexual violence is carried out by professional forensic doctors, we would clarify that this may be carried out by doctors or nurses/midwives trained in sexual assault forensic examination.

Paragraphs 200 - 223:

In relation to paragraphs 200-223 regarding Article 34, we would like to highlight Ireland's recent criminalisation of stalking as a stand-alone offence. [The Criminal Justice \(Miscellaneous Provisions\) Act 2023](#) was commenced and came into force On 3 November 2023 with stalking now criminalised in Ireland as a stand-alone offence. Section 10 of the Non-Fatal Offences Against the Person Act 1997 has been amended by the substitution of Section 23 of the 2023 Act which provides for the offence of harassment as well as stalking.

The new stand-alone offence of stalking has a maximum sentence of 10 years imprisonment. With this new offence, with specific requirements classifying stalking.

Paragraphs 213 – 216:

We note that GREVIO strongly recommends the Irish authorities ensure that the offence of forced marriage criminalises the *intentional* conduct of forcing a child into a marriage, as well as the intentional conduct of luring a child to the territory of another state with the purpose of forcing the child into a marriage. However, we would note that section 38(d) of the Domestic Violence Act 2018 already criminalises luring a person outside of the state to force them into marriage. Section 38, regarding the offence of forced marriage, in the Domestic Violence Act 2018, includes children in the scope of the term "person".

Paragraphs 215 and 216b:

In this jurisdiction it is possible to obtain a decree of nullity by the court marking a civil marriage as invalid. A legal declaration of nullity is readily available under our common law

principles, and can be exercised where a marriage was entered upon a lack of consent, duress (such as where it was a forced marriage), mistake, misrepresentation and fraud.

Paragraphs 224 -230:

The offence of harassment under Section 10 of the Non-Fatal Offences Against the Person Act 1997 has now been amended by the Criminal Justice (Miscellaneous Provisions) Act 2023, which was commenced on 19 July 2023.

The Criminal Justice (Miscellaneous Provisions) Act 2023, amending the Non-Fatal Offences Against the Person Act 1997, has further brought the constituent element of the crime (*actus reus*), and the scope of intent (*mens rea*) within the provisions of the Convention.

Paragraph 231:

In regards to paragraph 231, concerning Article 45 sanctions and measures, we would like to highlight the recent extension of the maximum sentence for assault causing harm from 5 to 10 years. This increase took place on 1 November 2023. This offence is common in domestic abuse cases and particularly relevant here. .

Paragraph 251:

In relation to paragraph 251 we are glad to clarify that when members of the Gardaí are assessing the risk levels of reports relating to domestic violence offences a formal risk assessment is a mandatory requirement and is set out in a separate procedure document and in the associated training, which is referenced previously in the report.

Paragraphs 275 and 282a:

Regarding emergency barring orders, we note that paragraph 264 of the Explanatory Report to the Convention, in relation to article 52 of the Convention, which states “*the drafters decided to leave to the Parties to identify and empower, in accordance with their national legal and constitutional systems, the authority competent to issue such orders and the applicable procedure.*”

Paragraphs 277 and 282d:

Regarding paragraph 277 and 282, subsections 14 and 16 of section 8 of the Domestic Violence Act 2018 give clear guidance and time limits which will be placed on interim barring orders.

The 2018 act clearly states that an interim barring order remains in effect until the application for a barring order has been determined, except where the interim barring order is made ex parte. An interim barring order that is made ex parte has effect for a period not exceeding 8 working days, unless the order is confirmed by the court within the 8 day period following an application made on notice to the person against whom the order is sought.

Paragraphs 286 and 290:

A victim can apply for and obtain orders under the Domestic Violence Act 2018 as a preliminary or ancillary measure in divorce or separation proceedings.

It is not a requirement for such an order that divorce or separation proceedings have commenced.

Paragraphs 287 and 290b:

It should be noted that the Domestic Violence Act 2018 clearly provides that the temporary orders under the Act, including interim barring orders, protection orders and emergency barring orders, can be applied for and obtained on an ex parte basis.

Appendix I

With regards to Appendix I, “List of proposals and suggestions by GREVIO”, we are glad to clarify in relation to recommendation 43. b. under “VI. Investigation, prosecution, procedural law and protective measures” that the Domestic Abuse Risk Assessment Tool has been a mandatory consideration in respect of every domestic abuse related incident across the country since it was first rolled out in February 2022.

Appendix II

Regarding Appendix II, “List of the national authorities, other public bodies, non-governmental organisations and civil society organisations with which GREVIO held consultations”, the Health Service Executive (HSE) is also a national authority that was consulted when drafting the report.

ENDS