



# GREVIO

## Baseline Evaluation Report Italy

” 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)

**ITALY**

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



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## Foreword

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

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

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

Based on this assessment, it 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 levels are important. These are, in order of priority, “urges”, “strongly encourages”, “encourages” and “invites”. GREVIO uses “urges” where it considers that immediate action is required to bring the party’s legislation or policy into compliance with the Istanbul Convention, or to ensure its implementation. “Strongly encourages” is used where GREVIO has noted shortcomings which need to be remedied in the near future in order to ensure a comprehensive implementation of the convention. A third level of urgency is indicated by the use of “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 (the state report);
- an evaluation visit to the party under review to meet with governmental and non-governmental representatives working in this field;
- comments by the party on GREVIO’s draft report;
- publication of GREVIO’s report after its adoption together with any comments received from the party.

GREVIO also 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. Within the framework of the evaluation of Italy, GREVIO received a shadow report from women’s NGOs that was co-ordinated and edited by the national network of anti-violence centres in Italy – D.i.Re (Donne in Rete contro la violenza) – (hereafter the shadow report of women’s NGOs); a joint shadow report by the Italian association of

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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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women for development (AIDOS) and the European Network EndFGM; written contributions from BeFree (Social co-operative on violence against women, human trafficking and discrimination), the FID (Italian disability forum), and Relive (Relations free from violence) (hereafter the shadow report on perpetrator programmes); a report on the procedures of the civil courts and the juvenile courts concerning the custody of children in cases of domestic violence, which was drawn up by several NGOs and experts (hereafter the shadow report on court proceedings regarding child custody); and comments and recommendations on the role of the Italian university system in the implementation of the Istanbul Convention from the academic network UNIRE (Network of universities against gender-based violence).

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

The analysis, suggestions and proposals contained in this first baseline evaluation report were drawn up under the exclusive responsibility of GREVIO. It covers the situation as of May 2019. 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 70, paragraph 2). GREVIO requests the national authorities to translate this report into their official national language 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 that work in the field of violence against women.

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## Executive summary

This report presents an assessment of the implementation of measures adopted by the Italian authorities concerning all aspects of the Council of Europe Convention on the Prevention and Combating of Violence against Women and Domestic Violence (hereinafter referred to as “the convention”).

This assessment was carried out by the Council of Europe’s Group of Experts on Combating Violence against Women and Domestic Violence (GREVIO), an independent human rights monitoring body responsible for monitoring the implementation of the convention. GREVIO’s findings are based on the information obtained during the various steps of the first (baseline) assessment procedure described in Article 68 of the convention. Sources of information include written reports (a state report submitted by the Italian authorities and additional information submitted by NGOs and other civil society actors) and a seven-day evaluation visit to Italy. A list of the bodies and entities which GREVIO exchanged with can be found in Appendix II.

As an expression of its genuine political will to prevent and combat violence against women, Italy has taken a range of measures to implement the Istanbul Convention. A succession of legislative reforms has created an extensive set of rules and mechanisms reinforcing the authorities’ ability to match their intentions with concrete actions to stop the violence. Some of these legislative initiatives were particularly innovative, such as the legislation of 2009 on stalking, which contributed to creating a diffuse awareness as to the dangerousness of this criminal behaviour and the need to afford victims appropriate protection. GREVIO particularly welcomes the adoption of Law No. 119/2013 which formalised the authorities’ duty to support and to promote, including by attributing financial means, a vast network of support services for victims. This law acknowledged the experience and achievements of years of commitment on the part of women’s organisations who were the first in the country to set up anti-violence centres and shelters for women and their children.

While acknowledging progress made to promote gender equality and further women’s rights, the report finds that the cause of gender equality is facing resistance in Italy. GREVIO voices its concern about the emerging signs of a tendency to reinterpret and refocus gender-equality policies in terms of family and motherhood policies. To overcome these difficulties, GREVIO considers that it is essential that the authorities continue to devise and effectively implement policies of equality between women and men and the empowerment of women which clearly acknowledge the structural nature of violence against women as a manifestation of historically unequal power relations between women and men.

In the area of victim protection and support, the report recognises that to various levels, multisectoral and multiagency interventions are practiced across the national and local levels. However, GREVIO considers that the lack of systematised interinstitutional communication and co-ordination continues to be problematic. The report therefore considers that as a matter of priority, the authorities need to develop further solutions offering a co-ordinated multiagency response to violence based on the strong involvement of local authorities and the participation of all the stakeholders concerned, including in particular women’s NGOs.

In Italy, specialist support services and shelters for victims are provided mainly by anti-violence centres run by NGOs. The report finds that varying approaches in applying the relevant regulations lead to divergent conditions for accessing state funding and disparities in the quality of service provision. Moreover, different regional mechanisms for funding specialist services negatively impact the financial stability of women’s NGOs and the continuity of service provision. Moreover, the report points to an issue of uneven spread of services throughout the country and of limited capacity of existing structures to respond to the needs of all victims of all forms of violence, including for example forced marriage. The report therefore calls on the authorities to urgently expand the coverage and capacity of specialist services and to harmonise the provision of such services with the human rights-based approach and the standards of the convention.

Further measures are urgently needed to fill the gap in the provision of specialist support services for victims of sexual violence in the form of rape crisis and/or sexual violence referral centres. Child witnesses' access to protection and support also poses a challenge, despite commendable progress made in Italian legislation and policies towards recognising the harmful effects on children of witnessing violence against women and reinforcing the support for children who become orphans as a consequence of violence against women. The report therefore suggests as a matter of urgency ensuring wider levels of awareness among the professionals concerned of the harmful effects of witnessing domestic violence on children and guaranteeing access for child witnesses to appropriate support services based on a gendered understanding of violence against women.

Several legislative reforms, including the recent Law No. 69 of 19 July 2019 (known as the Red Code) have led to the development of a solid legislative framework in line with the requirements of the convention on the civil and criminal law remedies for victims of violence. Nevertheless, the report finds a legislative gap caused by the absence of effective civil remedies against any state authority that has failed in its duty to take the necessary preventive or protective measures within the scope of its powers, in accordance with the requirements of Article 29, paragraph 2, of the convention. Another area requiring urgent consideration by the authorities is that relating to the determination of custody and visitation rights. The report finds that existing provisions in the law which would allow giving priority, in cases of violence against women, to the best interest of the child over and above the principle of shared parenting are rarely used. In its report, GREVIO expresses its concern about the tendency of the system in place to expose to secondary victimisation mothers who seek to protect their children by reporting the violence. The report also finds that legislative amendments are necessary to bring the Italian legislation in conformity with the requirement of ex officio prosecution set out in Article 55, paragraph 1, of the convention, as regards in particular the offences of physical and sexual violence.

The report further highlights areas where the protection of women victims of violence is hampered by a partial implementation of the requirements of Chapter VI of the convention on criminal investigations, prosecutions and convictions of the various forms of violence covered by the convention. Despite the development of a number of guidelines on risk assessment, GREVIO finds that risk assessment and management procedures are not systematically applied by all relevant statutory agencies at all the relevant stages of proceedings and are not part of a multiagency effort. Despite the existence of an articulated system of emergency barring, restraining and protection orders in criminal, civil and administrative law, the report identifies several critical shortcomings in its implementation. The report therefore requires adopting urgent measures to lift the barriers preventing victims from accessing protective orders and to enhance their effective enforcement.

In the field of asylum, the report finds that failures of vulnerability assessments to properly detect victims can lead to deportations or returns in violation of the obligation of non-refoulement. Recent policies of abandoning sea rescue and strengthening deterrence at sea, together with the closure of Italian ports to boats carrying rescued migrants, further increase the risk of refoulement. GREVIO therefore urges the authorities to uphold their obligation to respect the principle of non-refoulement and the human rights of victims rescued at sea.

While GREVIO welcomes Italy's ratification of the Istanbul Convention, it has identified a number of priority issues requiring further action by the Italian authorities to comply fully with the convention's provisions. Drawing from the above and in addition thereto, these relate to the need to:

- ensure an application of the legal provisions on the offence of ill-treatment in the family which is sensitive to the gendered nature of domestic violence against women;
- ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3, which would include inter alia mainstreaming the prevention of gender-based violence in the activities of the national body(ies) mandated to combat discrimination and in programmes which are tailored to the specific needs of women who are or might be exposed to intersectional discrimination;

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- ensure that policies and measures equally address prevention, protection, investigation and punishment, in accordance with the due diligence standard enshrined in Article 5 of the Istanbul Convention;
  - take further measures to ensure that policies address violence against women in a comprehensive and integrated fashion and are implemented and monitored by way of an effective co-ordination between national, regional and local authorities;
  - ensure appropriate financial and human resources for measures and policies, while increasing the transparency and accountability in the use of public funds and developing appropriate long-term/multi-annual financing solutions for women's specialist services;
  - reinforce the support and recognition of independent women's organisations and strengthen the national and local institutional framework for consulting and co-operating with women's organisations;
  - provide a strong institutional basis for the bodies mandated to ensure the implementation and co-ordination of measures and policies to combat violence against women and pursue efforts to enable an effective monitoring and evaluation of policies;
  - improve data collection in line with the requirements of Article 11 of the convention;
  - reinforce preventive actions in the fields of awareness-raising, education, training of professionals, perpetrator programmes and the employment sector, while pursuing proactive and sustained measures to promote changes in sexist social and cultural patterns of behaviour that are based on the idea of inferiority of women;
  - step up victims' access to general support services which are adequately distributed throughout the territory, properly resourced and provided by trained staff members.

Furthermore, GREVIO has identified a number of additional areas in which improvements are required in order to comply fully with the obligations of the convention. These relate, among others, to the need to consider amending the criminal offence of sexual violence so that it is based on the notion of freely given consent, in accordance with Article 36, paragraph 1, of the convention, and introducing legislation to ensure that sexual harassment experienced in all areas of life is subject to a legal sanction. The authorities should furthermore pursue their efforts aimed at enabling an expeditious handling of investigations and criminal proceedings into cases of violence against women, while ensuring that measures taken to this end are adequately funded. Further areas in need of improvement relate to foreign victims' access to a residence entitlement and to gender-sensitive asylum procedures, reception and accommodation facilities and support services.

## Introduction

Italy ratified the Istanbul Convention on 10 September 2013 and was among the first state parties for which it entered into force on 1 August 2014. Italy did not enter any reservation upon the deposit of its instrument of ratification of the convention.

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 Italy by letter and transmission of its questionnaire on 31 October 2017. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The Italian authorities subsequently submitted their state report on 22 October 2018 – the deadline set by GREVIO. Following a preliminary examination of the Italian state report, GREVIO carried out an evaluation visit to Italy which took place from 13 to 20 March 2019. The delegation was composed of:

- Biljana Branković, member of GREVIO
- Helena Leitão, member of GREVIO
- Paola Degani, expert
- Jane Freedman, expert
- Liri Kopaçi-Di Michele, 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 met with a wide range of governmental, regional, municipal and non-governmental representatives, including representatives of academia, legal and media professionals, working in the area of preventing and combating violence against women. The delegation also visited several shelters, a centre running perpetrator programmes (the Italian centre for the promotion of mediation – CPIM), the specialised support unit for victims of sexual and domestic violence of the Mangiagalli clinic at Milan hospital, the autonomous section on preventive measures of the Court of Milan and the reception centre for asylum seekers (CARA) of Bari Palese. The GREVIO delegation further participated in a meeting of the technical committee on male violence against women. A list of all the authorities, institutions, bodies, non-governmental organisations and others met is set out in Appendix II of this report. GREVIO is grateful for the valuable information provided by all of them.

The evaluation visit was prepared in close co-operation with Laura Menicucci, Co-ordinator in the General Affairs Office, Presidency of the Council of Ministers, Department for Equal Opportunities, who was appointed as contact person for the evaluation by GREVIO. GREVIO wishes to extend its gratitude to the contact person and the other members of the Department for Equal Opportunities for the excellent co-operation and efficient support provided throughout the entire evaluation procedure. GREVIO is particularly appreciative of the constructive approach adopted by the Italian authorities and for their decision to include representatives of civil society during the evaluation, in particular at the meeting of the technical committee on male violence against women.

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As a first baseline evaluation, GREVIO has looked into the measures of implementation taken by the Italian authorities with regard to all aspects of the convention and reviewed data from the years 2015 to 2018. For the sake of brevity, this report prioritises some provisions over others. While 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, including 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.

2. The Italian authorities have long pursued a solid agenda of policy setting in the area of preventing and combating violence against women. The political will to act predates Italy's ratification of the Istanbul Convention in September 2013. Several legislative acts, action plans and strategies, both at the national and regional level, have achieved considerable progress towards building a legislative, policy and institutional framework to prevent and combat violence against women. Their overarching aim is to break with the engrained patriarchal mindsets and attitudes that continue to plague many women.

3. GREVIO welcomes the manifold initiatives taken by the Italian authorities to reinforce their response to violence against women and adapt it to international standards. The assessment in this report aims to provide a comprehensive review of the measures taken so far and analyse their compliance with the requirements of the Istanbul Convention.<sup>2</sup> The suggestions and proposals outlined in the report are intended to guide the Italian authorities towards a more sustainable and consolidated implementation of the convention.

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

4. In light of the scope of the Istanbul Convention set out in its Article 2, paragraph 1, the first baseline evaluation focuses on measures taken in relation to all forms of violence against women, including domestic violence, which affects women disproportionately. The term "violence against women" used throughout the questionnaire and throughout this report thus refers to 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. 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.

5. Sexual violence was one of the first forms of violence against women for which the Italian legislature intervened with the aim of construing this offence as a violation of human rights. With the adoption of Law No. 66/1996 on sexual violence, the entire Chapter I of Title IX of Book II of the Criminal Code was reworded, and sexual violence was categorised as a crime against personal freedom, rather than a crime against public morality. Subsequently, the legislature operated a profound revision of the legal framework applying to domestic violence. Although Law No. 154/2001 containing measures against violence in family relations is formulated in a gender-neutral manner, it filled an important gap in the protection of women victims of violence, by introducing criminal and civil barring and restraining orders that can be imposed upon the violent family member. Female genital mutilation is yet another form of violence against women for which a dedicated law, Law No. 7/2006, was enacted and laid the foundations of a holistic approach to this harmful practice

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<sup>2</sup> It is specified that for lack of information regarding the implementation of the recently enacted Law No. 69 of 19 July 2019 (known as the Red Code), this assessment does not cover all the changes introduced by this piece of legislation.

against women and girls. Stalking was criminalised with the adoption of Law No. 38/2009, which innovated by creating the possibility for a victim to request the issuance of a police warning before and/or without having to file a criminal lawsuit against the perpetrator. Italy's first "National Plan Against Gender-Based Violence and Stalking" (the first NAP) was issued in 2011, and was followed, in 2014, by the "Extraordinary Plan of Action against Sexual and Gender Violence 2015-2017" (the second NAP). The current "National Strategic Plan to Combat Men's Violence Against Women" (the third NAP) began in 2017 and will expire in 2020.

6. An important piece of legislation which first addressed violence against women in a gendered manner is Law No. 119/2013, known as the law on femicide. The law was adopted in parallel with Italy's ratification of the Istanbul Convention and contains a series of measures designed to bring the Italian legislative and policy framework in line with the requirements of the convention. The measures included, among others, the principle that investigations and criminal proceedings regarding the crimes most often committed against women, namely sexual violence, stalking and domestic violence, should be prioritised; a new aggravating circumstance for crimes committed against and/or in the presence of a child; the entitlement of foreign women victims of violence to a residence permit; and several procedural guarantees in line with the provisions of Article 56 of the convention on protection measures during legal proceedings. Worthy of mention are also Law Decree No. 80/2015 granting women victims of violence special paid leave and Law No. 4/2018 containing several measures in favour of orphans of a victim of domestic violence, two measures which GREVIO considers as examples of promising practices from which other countries may wish to draw inspiration.

7. In July 2019, further legislation<sup>3</sup> was approved (known as the Red Code), which, among other things, introduced a series of new offences, such as forced marriage, the deformation of an individual's appearance through permanent facial injuries and the unlawful dissemination of sexually explicit images or videos or revenge porn. Moreover, the Red Code strengthened the sanctions for the crimes of stalking, sexual violence and domestic violence and increased the applicable sanctions for aggravated circumstances.

8. GREVIO praises these sustained efforts towards building a comprehensive response to violence against women in all its manifestations. It commends the goodwill demonstrated by the authorities in bettering their policies and yielding to the expertise and expectations of civil society by producing a national strategy on gender-based violence, the third NAP, which for the first time offers a truly comprehensive and integrated vision on how to tackle violence against women.

9. Against this backdrop, GREVIO also heard specialist women's organisations' reservations stemming from their perception that efforts expended by policymakers to continue to enact new criminal provisions and stricter punishments are not matched by comparable investments in preventing violence, protecting victims and ensuring that laws and policies already in place are adequately enforced and, where necessary, suitably financed. GREVIO emphasises that this raises the issue of the need for the authorities' response to violence against women to be equally strong on all the four fronts of prevention, protection, prosecution and integrated policies covered by the "4 Ps" approach of the convention. Further considerations on this point are developed below in this report in relation to Article 5 of the convention.

### **C. Definitions (Article 3)**

10. Article 3, paragraph b, of the Istanbul Convention defines domestic violence as "acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim". While this definition is gender-neutral and includes therefore intimate partner violence as well as intergenerational violence, Article 2, paragraph 1, of the convention requires implementing the provisions related to domestic violence with a gendered understanding of violence. In pursuance of the relevant provisions of Chapter V of the convention, acts of domestic violence are to be criminalised in relation to the offences described in this chapter.

<sup>3</sup> Law No. 69 of 19 July 2019.

Owing to the seriousness of domestic violence, Article 46 of the convention requires ensuring that the circumstance in which the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority, may entail a harsher sentence either as an aggravating circumstance or a constituent element of the offence.

11. In Italy, domestic violence is instituted as a crime under Article 572 of the Criminal Code. This provision criminalises “ill-treatment in the family” which applies to the conduct of “anyone who mistreats a person of the family or in any case a cohabiting person, or a person under his authority or entrusted to him for reasons of education, training, care, supervision or custody, or for the exercise of a profession or art”. The offence is commonly interpreted as applying also to former spouses and partners, regardless of any co-habitation. In accordance with the relevant case law of Italian courts, for violent conduct to qualify as ill-treatment, it must be characterised by the systematic nature of the violent conduct and by the criminal intent of causing physical and/or psychological harm to the victim and/or violating her dignity. Ill-treatment is therefore categorised as a crime of habitual nature and is subject to *ex officio* prosecution. Where the systematic nature of the violent conduct cannot be proven, the perpetrator might be held to account under such other crimes as battery (Article 581 of the Criminal Code), bodily harm (Article 582 of the Criminal Code) and threat (Article 612 of the Criminal Code), which are prosecutable *ex parte* and may fall within the jurisdiction of lower courts (justice of the peace).

12. Under the definition of domestic violence given by the Istanbul Convention, the repetition of the acts of physical, sexual, psychological or economic violence is not an essential feature of the violence. It is only limited to certain offences described in Chapter V of the convention such as psychological violence and stalking, where the violence is qualified by the repeated nature of the conduct.<sup>4</sup> During its evaluation, GREVIO has identified several issues which are linked to the definition of ill-treatment as a habitual crime and which it would like to bring to the attention of the authorities. One issue relates to the consequences of such a definition on the courts’ interpretation of Article 572 of the Criminal Code. Another pertains to the repercussions of such a definition on the investigative work of law-enforcement agencies.

13. On the first of these issues, recent case studies<sup>5</sup> have focused on the reasons given in court decisions to set aside the qualification of offensive conduct as ill-treatment. These studies found that the habitual character of the conduct was excluded in the following instances: (1) where the repetitive violent conduct took place during a short lapse of time, for instance because the intimate partner relationship lasted only for a brief period; (2) where the violence reported occurred at the end of a relationship and was not preceded by any complaint, thus being ascribed to an occasional “state of anger”; and, more commonly, (3) where the victim was not found to be reduced to a state of passive submission because of the violence. In relation to the final example, the research found that whenever the victim demonstrated the capacity to resist and react to the violence, the violence tended to be reduced to a situation of conflict within the couple. Conversely, where perpetrators dominated and controlled the victim, they were found guilty of ill-treatment.

14. While recognising that the research findings quoted above relate to the practices of a limited number of courts and may not be generalised, GREVIO notes that similar practices were reported by numerous women’s NGOs to be widespread. GREVIO is extremely concerned that courts’ qualification of violence as domestic violence may depend on the ability of the victim to “tolerate” the violence, either by enduring years of a violent relationship without making a complaint or by defending herself. This sort of interpretation can overshadow the nature of domestic violence against women as a violation of their human rights which society should not tolerate on any account.

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<sup>4</sup> Paragraph 181 of the Explanatory Report to the convention specifies that the provision of Article 33 defining psychological violence “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”, such as coercive control.

<sup>5</sup> See *The criminal response to domestic violence – An enquiry into the practices of the Court of Milan in the field of ill-treatment of family members and co-habitants*, C. Pecorella, P. Farina, 2018.

15. The second issue of relevance which derives from the characterisation of domestic violence as a habitual crime is the centrality of investigations for the purposes of differentiating between ill-treatment and single episodes of violence which cannot be ascribed to a pattern of abuse behaviour. Only thorough investigations which are not limited to the last violent incident but attempt to reconstruct the pattern of violence as it unfolded prior to the reporting can support successful criminal charges on account of ill-treatment. In this area, research based on the study of the case law of the courts of Bologna and Catania showed that investigations are “far from thorough” and that victims are heard in only a minority of cases. In a sample of 119 cases dismissed by one of these courts, “police investigations often [stopped] after identifying the investigated person and obtaining a small amount of information. There [were] traces of investigations by the public prosecutor in about a third of the cases; the victim was heard in a little more than one case in five”.<sup>6</sup> The consequences for the victim of the different characterisation of the violence either as one single offence of ill-treatment or as a series of separate minor offences are sizeable. Where the evidence to support a victim’s claim of domestic violence is insufficient, she cannot apply for barring and protection orders which are reserved for victims of ill-treatment and law-enforcement agencies cannot exercise their powers to stop such violence, for instance by arresting the perpetrator in flagrante delicto. The research further highlighted the impact of such a characterisation on the outcome of the criminal proceedings. Dismissal rates were far higher (more than 90%) before a justice of the peace compared to criminal courts, in part because proceedings before the former can be brought to a halt following the withdrawal of the victim’s complaint. “The results of the proceedings, when a justice of the peace is not involved, [were] a little more favourable to the woman: slightly less than one woman in two [obtained] a conviction”.<sup>7</sup>

16. GREVIO would therefore underscore the importance of a diligent response of the statutory agencies in investigating allegations of domestic violence, based on a proper understanding of the nature and cycles of violence in intimate partnerships. GREVIO recalls that the due diligence obligation enshrined in Article 5 of the convention represents one of the overarching principles of the convention, which should therefore underpin states parties’ implementation of all their obligations under the convention. In line with this principle, state parties are required to organise their response to violence against women by proactively preventing, investigating, punishing and providing reparation to victims.<sup>8</sup> Such a response is mandated by the seriousness of domestic violence and the duty of the Italian authorities to prosecute the crime of ill-treatment *ex officio*. It is furthermore essential to encourage victims to report the violence. Otherwise leaving the victim in a position to have to explain why she did not submit a complaint earlier and dismissing cases of violence for lack of thorough investigations and/or failure to hear the victim would be unjustifiable. More detailed considerations of the authorities’ obligation to ensure the effective investigation and prosecution of the offences of violence against women are developed below in this report, in Chapter VI.

17. The aforementioned case studies further revealed enduring stereotypes in courts’ decisions on cases of domestic violence and their tendency to “reduce violence in intimate relations to a conflict: to consider a priori both parties responsible for the violence ..., ignoring the power differential created by the use of violence itself. There also [emerged] a tendency to give credence to stereotypes and common beliefs that would consider an intimate relationship as intrinsically based on submission/overpowering, possessiveness; to suppose automatically that a wife/partner heading towards separation is a woman bent on revenge, seeking to obtain damage and to punish the partner”.

18. In the light of these issues, which were largely echoed by women’s organisations and legal practitioners met by GREVIO during the evaluation, GREVIO considers that the main factor which besets the effective application of the offence of ill-treatment to combat violence against women in Italy is the lack of a sufficiently strong understanding of violence against women. While the gender-neutral formulation of the criminal provisions to tackle such violence is not of itself contrary to the convention, their successful implementation requires being supported by the awareness that domestic violence against women is a gendered phenomenon and that such violence is directed against women because they are women.

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<sup>6</sup> See page 35 of the study “When women press charges against their (ex)partner. The responses of the Criminal Justice System to male violence against women in intimate relationships”, G. Creazzo, R; Palidda, 2011.

<sup>7</sup> Ibid. page 36.

<sup>8</sup> Explanatory report to the convention, paragraph 59.

**19. With a view to encouraging reporting of domestic violence against women and conveying society's condemnation of such violence as a form of discrimination against women and a violation of their human rights, GREVIO strongly encourages the Italian authorities to ensure an application of the legal provisions on the offence of ill-treatment in the family which is sensitive to the gendered nature of domestic violence against women and is not hampered by stereotyped views of women and their experience of violence. Measures taken to this effect should have regard to the proposals and suggestions made throughout this report about training (Article 15 of the Istanbul Convention) and the requirement to ensure statutory agencies' appropriate and prompt response to violence (Article 50 of the Istanbul Convention).**

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

20. One of the requirements of Article 4 of the Convention is that parties should secure the implementation of their undertakings under the Convention without any discrimination. This provision provides an open-ended list of grounds of discrimination which draws on that of Article 14 of the European Convention on Human Rights as well as the list contained in its Protocol No. 123, and, in addition, includes the grounds of gender, sexual orientation, gender identity, age, state of health, disability, marital status, and migrant or refugee status or other status. This obligation stems from the realisation that discrimination against certain groups of women, for example at the hands of law-enforcement agencies, the judiciary or service providers, is still widespread.<sup>9</sup>

21. The latest prevalence data, based on a 2014 survey by ISTAT (Italian National Institute of Statistics), show that around 36% of women with health issues and/or suffering from a disability have been victims of one or another form of physical and sexual violence, compared to 11.3% of the general female population. The risk of rape or attempted rape doubles for women with a disability and is set at 10% compared to 4.7% for women without disabilities. Such data were by and large confirmed by more recent prevalence data collected by the newly established National observatory on violence against women with disabilities.<sup>10</sup> Women with disabilities face heightened physical, psychological and cultural obstacles to recognising and reporting the violence, and when they speak out they are at risk of being stigmatised and met with disbelief because of a generalised lack of understanding of their exposure to gender-based violence. Access to information on victims' rights and on available support services is hampered by the lack of targeted awareness-raising campaigns and adapted informative material.<sup>11</sup>

22. Anti-Gypsyism is a specific form of racism<sup>12</sup> and a powerful obstacle that prevents Roma and Sinti inclusion.<sup>13</sup> Italian NGOs report that routine violent attacks against Roma and Sinti settlements and individuals and occasional episodes of collective hysteria are exemplificative indicators of the broadly diffused and deep-rooted anti-Roma sentiments in Italian society.<sup>14</sup> According to reports from these NGOs, women and girls from the Roma, Sinti and Travellers (RST) community in Italy are particularly exposed to gender-based violence and harmful practices. Stereotypical beliefs about these women often result in insufficient responses from the authorities. As well as facing discrimination from Italian society, women from the RST community also face violence and inequality within their community, including a real threat of forced and early marriage.

<sup>9</sup> Explanatory Report to the convention, paragraphs 52-54.

<sup>10</sup> The observatory is run by the women's organisation Differenza Donna.

<sup>11</sup> See shadow report submitted to GREVIO by the FID (Italian Disability Forum).

<sup>12</sup> ECRI, General Policy Recommendation no. 13: On Combating Anti-Gypsyism and Discrimination Against Roma, June 2011.

<sup>13</sup> Council of Europe Commissioner for Human Rights, "The discrimination of Roma in Europe: a human rights perspective", September 2010; Council of Europe Commissioner for Human Rights, "Positions on the Human Rights of Roma", May 2010.

<sup>14</sup> See submission by the ONG Associazione 21 Luglio to the UN Committee on the Elimination of All Forms of Discrimination Against Women at its 67th session, 3-23 July 2017. See also the urgent measure applied by the European Court of Human Rights in the case *P.H. and Others v. Italy* (application no. 25838/19) concerning three Bosnian citizens of Roma ethnicity who were evicted with their children from a settlement in Ponte Riccio in April 2018.

23. While acknowledging the challenges Italy faces due to the absence of an effective European-wide system of solidarity, various UN experts and bodies have expressed concerns in recent years about the tightening of immigration rules and their serious impact on migrants' lives in terms of increased vulnerability to social exclusion and exploitation. They noted that these legislative changes occur in a context marked by "an escalation ... in hate incidents against groups and individuals, including children, based on their actual or perceived ethnicity, skin colour, race and/or immigration status".<sup>15</sup> Although migrant and asylum-seeking women are legally entitled to social and health-care services on an equal footing with nationals, their full access thereto can be hindered by administrative barriers, such as residence requirements and/or the uneven interpretation given to these requirements. Access to support is also hampered by cultural barriers, namely the lack of stable cultural mediation services and the limited capacity to provide culturally sensitive information and deliver gender and culturally sensitive services. Migrant women fleeing a situation of violence face compounded difficulties when seeking accommodation and employment.<sup>16</sup> These difficulties can also result in migrant women generally being more likely to become victims of violence in the first place owing to their socio-economic circumstances.

24. GREVIO notes with satisfaction that the latest national action plan on violence against women incorporates the issue of intersecting discrimination affecting disadvantaged groups of women, such as women with disabilities, Roma women, asylum-seeking and migrant women. It observes however that the references in the plan to these groups of women remain fragmented and do not include concrete operational targets and commitments in all the areas of prevention, protection, punishment and co-ordinated policies. GREVIO further notes that policies to address intersecting discrimination against women would benefit largely from the establishment in Italy of an independent national human rights institution operating in line with the Paris principles, as well as from the creation of a complaint mechanism for victims. GREVIO was informed that the mandate of the existing body competent to combat discrimination, the National office against Racial Discrimination (UNAR), will be extended to cover nationality, in addition to the grounds of race or ethnic origin, religion, age, disability, sexual orientation and gender identity.<sup>17</sup> However, a recent report by the European Commission against Racism and Intolerance (ECRI) found that UNAR does not comply with the principle of independence and its powers are incomplete.<sup>18</sup> Moreover, GREVIO considers that policies to address intersecting discrimination against women should be able to draw from research and data illustrating the prevalence of gender-based violence among these groups of women and they should reflect the knowledge and position of women's organisations representing their interests and defending their rights.

25. Moreover, the efficacy of measures to prevent and combat violence against women subject to intersectional discrimination would be greatly enhanced if gender-related issues and gender-based violence were systematically mainstreamed in general policies regarding these groups of women. While such a gendered perspective was successfully introduced in the ongoing National Strategy for the inclusion of Roma, Sinti and Travellers, a similar approach is lacking regarding women with disabilities.

26. To conclude on this point, GREVIO would note that it has received little information regarding measures taken by the authorities to address intersecting discrimination among other groups of women, such as women from the LGBTI community, elderly women, women in prostitution and women who abuse substances, and to mainstream issues of gender-based violence against women in programmes and activities addressing these groups of people.

## **27. GREVIO strongly encourages the Italian authorities to:**

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<sup>15</sup> See joint statement dated 21 November 2018, available at: [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23908&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23908&LangID=E).

<sup>16</sup> Page 57 of the shadow report of women's NGOs refers to the "widespread racism of employers".

<sup>17</sup> The authorities have informed GREVIO that this extension of the body's mandate is meant to implement EU Directive 2014/54/EU of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers.

<sup>18</sup> ECRI report on Italy (fifth monitoring cycle), paragraph 25, June 2016 and ECRI conclusions on the implementation of the recommendations in respect of Italy subject to interim follow-up, adopted on 3 April 2019.

- a. **strengthen measures to prevent and combat violence which affects women who are or might be exposed to intersectional discrimination, including women with disabilities, women belonging to minority groups, women from the Roma, Sinti and Travellers community, migrant and asylum-seeking women, women from the LGBTI community, elderly women, women in prostitution and women who abuse substances;**
- b. **integrate the perspective of such women into the design, implementation, monitoring and evaluation of policies for preventing and combating violence against women, by supporting, funding and closely co-operating with women's NGOs representing them;**
- c. **mainstream gender-related issues and the prevention of gender-based violence in the activities of the national body(ies) mandated to combat discrimination and in programmes which are tailored to the specific needs of these women, including by developing special programmes aimed at proactively reaching out to them;**
- d. **raise the awareness of victims belonging to these groups of women about their rights and entitlement to access protection and support services;**
- e. **develop and improve the accessibility of protection and support services for these groups of women;**
- f. **support research and add specific indicators in data collection pertaining to violence against women which relate to women and girls who are or might be exposed to intersectional discrimination;**
- g. **ensure the effective enforcement of the due diligence obligation to diligently prevent, investigate, punish and provide reparation for victims belonging to these groups of women.**

#### **E. State obligations and due diligence (Article 5)**

28. Article 5 of the convention enshrines the overarching principle of due diligence: states parties are under the obligation to organise their response to all forms of violence covered by the scope of the convention in a way that allows relevant authorities to diligently prevent, investigate, punish and provide reparation for such acts of violence, as well as to provide protection for victims. It is not an obligation of result, but an obligation of means. Failure to meet this obligation incurs state responsibility for an act otherwise solely attributed to a non-state actor. The realisation of the full potential of the due diligence standards relies on the ability of state institutions to invest in equally strong terms in all the required actions of prevention, investigation, punishment, reparation and protection, starting from the duty to transform patriarchal gender structures and values that perpetuate and entrench violence against women.<sup>19</sup>

29. The widespread sentiment among civil society organisations and professionals met by GREVIO is that policy makers in Italy have to date largely privileged policies aimed at criminalising acts of violence and tackling the inadequacies of criminal law provisions.<sup>20</sup> This would reflect an approach which tends to consider violence against women restrictively as an issue of law and order rather than a violation of women's human rights, and in so doing fails to fully recognise the structural dimension of the phenomenon. In public discourse, this trend is commonly fuelled by elected officials' view that cases of rape would offer the unequivocal demonstration of an ongoing social crisis threatening public order and calling for "tougher" laws and punishments.<sup>21</sup> GREVIO stresses that policies which overemphasise the criminal aspects of violence against women can overshadow the need to concentrate on such other issues as remedying institutional shortcomings in the response to violence against women, countering prejudices and gender inequalities, implementing effective partnerships with civil society, allocating adequate resources, and gender mainstreaming in all government policies and measures.

<sup>19</sup> "The due diligence standard as a tool for the elimination of violence against women", UN Special Rapporteur on violence against women, its causes and consequences, E/CN.4/2006/61, January 2006.

<sup>20</sup> Shadow report submitted to GREVIO by BeFree, pages 4 and 8.

<sup>21</sup> See press release "Violenza è problema strutturale, il governo ignora la voce dei centri", D.i.RE, 29 April 2019.

30. GREVIO welcomes the indication that the latest national action plan on violence against women moves away from this approach and is the first nationwide comprehensive policy instrument to embrace the “4 Ps” approach advocated by the Istanbul Convention. Nevertheless, GREVIO finds that Italy’s response to violence against women continues to be predominantly driven by the notion that priority should go towards toughening criminal laws, without a comparable attention to the preventive and protective dimension of policies. GREVIO recalls that the passing of harsh punitive laws without an equal investment in lifting the barriers to women’s full and equal enjoyment of human rights leads to such laws not being effectively applied in practice and, as a result, many victims do not have fair and effective access to justice.

**31. GREVIO strongly encourages the Italian authorities to use the same level of commitment in relation to prevention, protection, investigation, punishment and provision of remedies for violence against women, in accordance with the due diligence standard enshrined in Article 5 of the Istanbul Convention.**

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

32. Article 6 of the convention calls on parties to promote and implement policies aimed at achieving equality between women and men and at empowering women. This obligation stems from the realisation that in order to put an end to all forms of violence covered by the scope of the convention, it is necessary to promote *de jure* and *de facto* equality between women and men. It is furthermore the reflection of the principle that violence against women is a consequence as much as it is a cause of gender inequality.

33. Italy ranks 70th in the 2018 Global Gender Gap Index of the World Economic Forum, and it has achieved a score of 63 out of 100 according to EIGE’s Gender Equality Index for 2019 compared to the EU average of 67.4. Progress in this area continues to be hindered by the absence of an overarching and integrated policy on gender equality at the national level.<sup>22</sup> Persistent inequalities are particularly noticeable in the area of economic rights: according to data from Bankitalia,<sup>23</sup> women in Italy possess on average 25% less economic resources compared to men and this divide increases to 50% in couples. Forty per cent of married women are unemployed and those who work earn less and are still discriminated against in the workplace. Austerity measures introduced in response to the economic and financial crisis appear to have had a severe and disproportionate impact on women, in particular women with disabilities, older women and women domestic workers. Poverty rates among women, in particular single mothers, are high.<sup>24</sup>

34. GREVIO recalls that progress towards gender equality and furthering women’s rights is not automatic nor linear and requires constant efforts. Sustained commitment on the part of the authorities remain therefore essential to preserve the achievements made until now and to ensure continued progress. During its evaluation, GREVIO was apprised of the resistance which the cause of gender equality is facing in Italy and its repercussions for women’s rights and related issues. This was particularly visible in the area of education, where a number of schools are facing mounting pressure to forego educational activities on gender equality, and in relation to the work of women’s NGOs, whose support is undermined by the increasing recognition gained by non-rights-based groups.<sup>25</sup> In the field of academic research, anti-gender campaigns are delegitimising studies on gender-related topics and women’s NGOs warned GREVIO of examples in some Italian cities that the access to knowledge on gender-related topics is being curtailed by censorship in public libraries.<sup>26</sup> Another area where clear signs of retrogression have been recorded is that of women’s sexual and reproductive

<sup>22</sup> Concluding observations on the seventh periodic report of Italy, CEDAW, paragraph 21d, July 2017.

<sup>23</sup> Gender wealth gap in Italy, Giovanni D’Alessio, March 2018.

<sup>24</sup> Data from ISTAT showed that in 2016 there were around two and a half million women living in absolute poverty in Italy (7.9% of the entire female population).

<sup>25</sup> See considerations developed further in this report in relation to the assessment of measures taken to implement Article 9 and Article 14 of the convention.

<sup>26</sup> Shadow report of women’s NGOs, p. 21.

rights.<sup>27</sup> Furthermore, with the increased participation of women in Italian politics, sexist hate speech, misogyny and online violence targeting women politicians and leading figures are on the rise.<sup>28</sup>

35. GREVIO is particularly concerned about the emerging signs of a tendency to reinterpret and refocus gender-equality policies in Italy in terms of family and motherhood policies. It shares the concerns expressed by the CEDAW Committee that certain governmental departments tend to give priority to the protection of the family compared to that afforded to the elimination of discrimination against women.<sup>29</sup> Besides leaving out many women, such a tendency in policies falls short of the need to achieve the structural change required to achieve sustainable improvements to women's rights and gender equality. In relation to violence against women, policies of this nature tend furthermore to overlook the reality of women's exposure to violence within families.

36. GREVIO expresses grave concern in the face of recent legislative proposals which are the clear expression of these tendencies and of their potential to deny the very existence of violence against women which occurs in families. GREVIO refers to this effect to the draft decree No. 735 submitted to parliament,<sup>30</sup> which, had it been approved, would have entailed a serious retrogression in the fight against gender inequality and deprived survivors of domestic violence of important protections. The draft law included, as described in the shadow report,<sup>31</sup> the proposal to introduce compulsory mediation, a reference to the so-called parental alienation syndrome, and mechanisms holding women responsible for children's "alienation" towards their father by restricting their parental rights. The proposal contemplated furthermore sanctioning women whenever their claims of violence do not result in convictions. The draft decree has met with severe criticism from many politicians and members of parliament, women's NGOs, academics and lawyers, and was discussed at length during GREVIO's evaluation visit. GREVIO subscribes entirely to the analysis of the draft decree made by the UN Special Rapporteur on Violence against Women<sup>32</sup>. GREVIO takes note of information provided by the authorities after the evaluation visit indicating that the adoption of such a piece of legislation is not among the objectives of the Italian government. Nevertheless, GREVIO is extremely concerned that such a proposal contemplated violating important provisions of the Istanbul Convention, including, but not limited to, Article 48 prohibiting compulsory alternative dispute resolution processes.

37. Against this background, GREVIO considers that closing the gender gap and promoting women's autonomy and emancipation in all fields of life<sup>33</sup> should remain a priority in the agenda of policy makers and responsible governing institutions. Moreover, GREVIO believes that it is urgent that gender mainstreaming be consistently applied in the formulation and implementation of all laws, regulations and policies across all sectors of governmental action, whether at the central or decentralised level. This would imply systematically screening draft laws and policies in terms of their potential impact on women and the prevention of gender-based violence. It would require furthermore introducing a gender perspective in policy areas which hitherto have largely been dealt with in a gender-neutral manner. One such area is the settlement of custody and visitation rights of children. Here GREVIO has found ample evidence of a tendency to prioritise the preservation of the child-parent relationship regardless of any instance of violence, and thus treat violent and non-violent parents equally.<sup>34</sup> Another area is that of policies to address disability. As highlighted in the shadow report submitted to GREVIO by the Italian Disability Forum, the efficacy of policies in the field of disability is marred by a general lack of focus on the specific needs of girls and women with disabilities, including their vulnerability to various forms of gender-based violence such as domestic violence, forced abortion and forced sterilisation.

<sup>27</sup> "Backlash in gender equality and women's and girls' rights", FEMM Committee, p. 46, June 2018.

<sup>28</sup> Ibid. p. 42.

<sup>29</sup> Concluding observations on the seventh periodic report of Italy, paragraph 21d, CEDAW, July 2017.

<sup>30</sup> The text of the proposal can be consulted on the official website of the Italian Senate at: [www.senato.it/leg/18/BGT/Schede/Ddliter/testi/50388\\_testi.htm](http://www.senato.it/leg/18/BGT/Schede/Ddliter/testi/50388_testi.htm).

<sup>31</sup> Shadow report of women's NGOs, p. 43.

<sup>32</sup> UN Special Rapporteur's query to the Italian Government of 22 October 2018: [www.ohchr.org/Documents/Issues/Women/WG/Communications/OL\\_ITA\\_5\\_2018.pdf](http://www.ohchr.org/Documents/Issues/Women/WG/Communications/OL_ITA_5_2018.pdf).

<sup>33</sup> A summary description of the areas of interventions where women's NGOs are calling for stronger gender policies is drawn up in the document "We have a plan: feminist plan against men's violence against women and gender-based violence", November 2015.

<sup>34</sup> See further on this topic the considerations developed in connection with the assessment of measures taken to implement Article 31 of the convention.

38. GREVIO takes positive note of information indicating that the authorities are preparing a new strategic framework for gender equality, to be finalised by the end of 2020, which will further promote social and economic empowerment of girls and women and mainstream gender-related issues at all relevant policy levels.

**39. Bearing in mind the need to constructively engage with and consider the views of specialist women's NGOs, as well as independent experts and academics, when devising policies and laws on women's human rights, gender equality and violence against women, GREVIO urges the Italian authorities to:**

- a. pursue their efforts to devise and effectively implement policies of equality between women and men and the empowerment of women;**
- b. ensure that such efforts are not undermined by policies which overlook or downplay gender inequalities and gender-based violence by failing to acknowledge the structural nature of violence against women as a manifestation of historically unequal power relations between women and men;**
- c. consistently mainstream gender and gender-based violence in relevant policy areas, for instance in policies regarding women and girls with disabilities;**
- d. systematically screen draft legislation and measures against their potential impact on gender relations and gender-based violence and their alignment with the standards of the Istanbul Convention.**

## II. Integrated policies and data collection

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

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

41. Article 7 of the Istanbul Convention requires states parties to ensure that co-ordinated and comprehensive measures to prevent and combat violence against women address all forms of violence against women. Women and girls experience gender-based violence in and outside the family, and any holistic response to all forms of violence against women needs to address this. Besides domestic violence, one form of violence against women which has prompted a comprehensive policy response along all the “4 Ps” advocated by the Istanbul Convention is female genital mutilation. This has been the result of the enactment of Law No. 7/2006, which is expressly dedicated to the eradication of this harmful practice. Among the many measures which the law entails is the organisation of information campaigns for migrant women originating from countries where female genital mutilation is practised, the development of training plans and multidisciplinary guides for health-care professionals and the creation of a dedicated freephone helpline.<sup>35</sup> Similar broad and integrated measures, extending to all the areas of prevention, protection and prosecution, have not been developed for equally devastating forms of violence against women such as rape and sexual violence outside the family, sexual harassment, forced marriage, or forced sterilisation and abortion, as well as crimes committed against women in the name of so-called honour. Although the Criminal Code has recently been amended to criminalise some of these forms of violence and to ensure its further alignment with the convention, a holistic response would require preventive and protective measures to accompany such legislative change.

42. Another requirement of Article 7 is that comprehensive and co-ordinated policies be implemented throughout the entire national territory, with the involvement, where appropriate of regional and local authorities. Currently, co-ordination between the central and local levels is achieved by involving representatives from the National association for Italian municipalities (ANCI) and the State-Regions Conference in the interinstitutional steering committee tasked with overseeing the implementation of the 3rd NAP on violence against women. However, co-ordination is complex since, in Italy, regions, autonomous provinces and, at times, municipalities have each developed, within the limits of their jurisdiction, their own laws and action plans aimed at combating violence. A description of the laws and mechanisms in place in the different regions and autonomous provinces in Italy is provided in the state report;<sup>36</sup> however, there is no comment about their impact and the issue of how differences across the country are co-ordinated is not addressed. During its evaluation, GREVIO was not able to assess the degree of co-ordination of such policies and was apprised by many women’s NGOs that responses to violence – both in terms of measures suggested and amounts allocated for their implementation – greatly differ from one region to another, and even from one local community to another, depending on varying levels of economic power and political priorities. While recognising that local-level policy making allows for specificities and needs of communities to be taken into account, GREVIO is concerned that the high degree of autonomy of local authorities in devising policies and measures to combat violence may endanger the principle that the enjoyment of human rights and relevant national legal standards should apply equally throughout the national territory.

43. During the evaluation process, GREVIO was able to gain in-depth knowledge regarding local policies and governance models implemented by two regions, Lombardy and Apulia. GREVIO was not, however, in a position to assess the overall levels and quality of implementation of measures taken at local level. This is largely due to the lack of instruments in place to compare and evaluate local authorities’ performance in terms of their compliance with the requirements of the Istanbul

<sup>35</sup> Issues related to the implementation of this law are developed further throughout this report.

<sup>36</sup> State report, pages 42-89.

Convention. NGOs and specialist women's organisations have conveyed their concern to GREVIO that varying regional regulations and policies give rise to differing institutional practices which do not consistently respect the victim-centred and human rights-based approach mandated by the convention.<sup>37</sup> Besides pointing to weaknesses in the monitoring and evaluation functions of the national co-ordinating body<sup>38</sup> and raising a possible issue of discrimination, GREVIO considers that this matter calls for devising stronger interaction mechanisms between the national and regional/local levels of governance and embedding these mechanisms in the co-ordinating body's structures and/or working methods. Such mechanisms should furthermore make room for opportunities to discuss lessons learned and exchange best practices developed at the regional/local level. GREVIO takes positive note of the fact that one of the outcomes of the ongoing collaboration between the DEO (the Department for Equal Opportunities) and the National Council for Research (CNR) is the comparative analysis of existing regional laws, policies and structures dealing with violence against women. Such an analysis constitutes a first important step towards building a much-needed unified vision of the local authorities' responses to violence against women. GREVIO stresses the value of tasking independent experts on violence against women to compare regional/local policies across the country, identify their strengths and weaknesses and assess their impact, with the aim of improving co-ordination and ensuring the dissemination of good and promising practices.

**44. GREVIO strongly encourages the Italian authorities to pursue efforts aimed at:**

- a. expanding the ongoing endeavours to conduct independent comparative analyses of the existing regional legislation and policies on violence against women, with a particular focus on identifying promising practices that can be recommended throughout Italy, and promote such endeavours both at national and regional levels;**
- b. devising and implementing comprehensive and holistic policies to address violence against women in all its forms and manifestations, including in particular sexual violence, sexual harassment, forced marriage, forced sterilisation and abortion, as well as crimes against women committed in the name of so-called honour;**
- c. harmonising and monitoring the implementation at regional/local level of policies and measures to prevent and combat violence against women;**
- d. improving the co-ordination between national and regional/local government in the implementation of policies to prevent and combat violence against women and strengthening co-operation with regional/local authorities within the administrative make-up of the national co-ordinating body.**

**Such efforts should be supported by the allocation of adequate financial resources and the promotion of best practices.**

**B. Financial resources (Article 8)**

45. In Italy, the main sources of funding that support policies and measures to prevent and combat violence against women are those which were introduced by Law No. 119/2013. The first relates to the necessary funds to implement the national action plan or strategy against gender-based violence (Article 5 of Law No. 119/2013) and the second is specifically devoted to financing specialist support and protection services for women victims, namely anti-violence centres and shelters (Article 5-bis of Law No. 119/2013). GREVIO was informed by the authorities that under these two lines of funding and for the three-year period spanning 2015-2017, around 55 million euros were devoted to the implementation of the second NAP, and a total of about 30 million euros was earmarked for strengthening existing and/or establishing new anti-violence centres and shelters. The funds for the latter purpose were transferred from the central government to administration by regional governments, as explained below in this report.

<sup>37</sup> Shadow report of women's NGOs, pages 5 and 6.

<sup>38</sup> See considerations developed below in this report with respect to the evaluation functions of the national co-ordinating body.

46. The responsibility for programming, distributing and monitoring the use of funds allocated under Law No. 119/2013 is vested in the DEO. Additional centralised data regarding funds made available by other governmental departments are scarce and fragmentary, although efforts are being made by the authorities, and in particular the Ministry of Economy and Finances, to develop such data through gender budgeting. Thus, for example, information is available regarding funds allocated to finance the special leave permit for victims of violence<sup>39</sup> and the dedicated helpline for preventing female genital mutilation.<sup>40</sup> No centralised data exist, however, regarding funds allocated to the response to violence against women by regions, provinces, municipalities and public entities other than ministries, which makes it impossible to draw a complete picture of the total amount of funds devoted to combat violence.

47. GREVIO welcomes the fact that with the enactment of Law No. 119/2013, the funding levels of initiatives to counter violence against women have increased considerably, while the types of initiatives and the numbers of territories and public institutions involved in providing funding have also steadily increased. Based on the figures communicated regarding budgeted amounts for 2018, 2019 and 2020, which show a more than twofold increase in total amounts earmarked for anti-violence centres and shelters during this three-year period,<sup>41</sup> GREVIO trusts that this positive trend is set to continue. GREVIO remains concerned, however, about the tendency in Italy to introduce new policies and measures without anticipating their financial implications and backing them with the necessary financial means. As an example, mention can be made of the provision, under the ongoing third NAP,<sup>42</sup> that makes the implementation of action in support of migrant and asylum-seeking women conditional upon the authorities' ability to secure hypothetical EU funding.

48. The DEO resorts to a variety of instruments to distribute funds aimed at supporting the implementation of Law No. 119/2013 and national strategic plans. These instruments include the transfer of funds to regions through the issuance of presidential decrees, the publication of calls for tender open to the participation of qualified entities and the conclusion of co-operation agreements with national institutions such as the agreement with the CNR to map specialist support services and to monitor the two latest national action plans on violence against women.<sup>43</sup> In turn, regions that benefit from national funding redistribute these resources either by transferring them to local municipalities or by issuing public calls for tender.

49. One of the consequences of such a multilayered system to disburse funding is the delay with which funds reach their final beneficiaries, particularly the NGOs managing anti-violence centres and/or shelters. A study conducted in this area based on data updated to 31 October 2018<sup>44</sup> showed for example that of the overall amounts reserved for anti-violence centres and shelters for the years 2015-2016, only 30.6% of funds for operating structures and 17% for structures to be set up had been disbursed. These delays negatively impact the ability to deliver timely on the objectives of national action plans and are an obstacle to the continuity and quality of services and programmes to support and protect women and their children from violence.<sup>45</sup>

50. Another consequence of the existing set-up for distributing national funds is the lack of transparency and consistency in the management of resources at regional and local level.<sup>46</sup> Although procedures are in place requiring regions to report regularly to the DEO as to their use of funds and information drawn from these reports is published on the DEO's website, there is a lack of sufficiently clear criteria to qualify as an anti-violence centre eligible for funding, which creates uncertainty as to

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<sup>39</sup> In 2017, more than 11 million euros were earmarked for this purpose within the budget of the Ministry of Labour and Social Policies.

<sup>40</sup> In 2017, the Ministry of Interior dedicated the amount of 112 974 euros to support the functioning of this helpline.

<sup>41</sup> The Ministry of Economy and Finance informed GREVIO that the amounts of 33 913 303 euros and 28 million euros had been budgeted respectively for the years 2018 and 2019/2020.

<sup>42</sup> See page 47, regarding migrant, refugee and asylum-seeking women.

<sup>43</sup> The amount of one million euros was budgeted for this exercise, to which the CNR contributed the additional amount of 300 000 euros.

<sup>44</sup> See page 10 of the publication *Trasparenza e accountability: i fondi nazionali anti-violenza 2015-2017*, ActionAid Italy, 2018.

<sup>45</sup> Shadow report of women's NGOs, p. 30.

<sup>46</sup> *Trasparenza e accountability: i fondi nazionali anti-violenza 2015-2017*, pages 8 and 9, ActionAid Italy, 2018

the ultimate use of funds. Women's organisations consulted by GREVIO unanimously agree that existing criteria, namely those set forth in Law No. 119/2013 and the State-Region Agreement of November 2014, are insufficient to guarantee homogenous minimum standards in the provision of specialist services and equal access to support and protection.

51. A further issue of concern is the scarcity of available funds which becomes apparent when the total average sums received by anti-violence centres and shelters are calculated. A report by the Court of Auditors in 2016 found that the average yearly amount of public funding available for anti-violence centres and shelters was approximately 6 000 euros.<sup>47</sup> Women's associations consulted by GREVIO operate largely based on unpaid voluntary and/or poorly remunerated work and many of them struggle to cover even the basic costs of their programmes. Their difficulties in securing funding are at times compounded by locally enacted procedures for allocating funds which fail to consider the costs faced by NGOs and can aggravate their cash-flow burdens.<sup>48</sup> As a general remark, GREVIO notes a lack of appropriate financial mechanisms to secure long-term funding for specialist women's services and which acknowledge the social value of their work as different from profit-seeking enterprises. Having this in mind, GREVIO considers it bad practice the tendency to award funds at public tenders according to the "lowest bid mechanism",<sup>49</sup> which in reality may favour general service providers who tend to minimise the overall costs at the expense of skilled and experienced specialist women's associations which prioritise victims' needs, in line with a victim-centred approach, as specified in the convention. In planning funding for interventions in support of women victims of violence, GREVIO would stress the importance of highlighting the costs entailed for victims and society at large of the violation of their human rights, as they were clarified in a recent cost study.<sup>50</sup>

52. GREVIO further notes with concern that recent legislative changes in the field of migration<sup>51</sup> have led to significant cuts in funding for reception facilities. Such cuts are likely to affect women migrant and asylum seekers and their ability to access mental health and psychosocial support services, especially in first-line reception facilities, which will henceforth accommodate the entire population of asylum seekers with no opportunity to be referred to better-equipped specialist second-line reception facilities, now limited to recognised refugees.

53. During the evaluation, a number of further areas emerged where the effectiveness of policies and measures to combat violence against women are undercut by the lack of appropriate funding. These are discussed below in this report and relate, among others, to the need to secure sufficient resources for general support services for victims and their children and other relevant mechanisms such as the state compensation scheme and legal aid.

**54. GREVIO strongly encourages the Italian authorities to:**

- a. develop additional indicators of gender budgeting which would allow the identification of budgets allocated and the amounts actually spent by all central governmental agencies concerned, in support of measures to prevent and combat violence against women;**
- b. compile centralised data regarding funding by the different levels of territorial governance (regions, provinces, municipalities);**
- c. ensure that the introduction of new policies and measures (such as national action plans, protocols and guidelines) to prevent and combat violence against women is accompanied from the onset by a thorough estimation of their financial implications and by the identification of available sources and amounts of financing;**

<sup>47</sup> Resolution 9/2016/G dated 5 September 2016 of the national Court of Auditors.

<sup>48</sup> See pages 4 to 6 of the shadow report of women's NGOs.

<sup>49</sup> Shadow report of women's NGOs, p. 31.

<sup>50</sup> A 2013 economic study entitled "Quanto costa il silenzio: indagine dei costi economici e sociali della violenza contro le donne" by Vingelli G., Badalassi G., Garreffa F., Mussida C., Barabaschi B. and D'este C. estimated such costs at 17 billion euros per year.

<sup>51</sup> Law Decree 13/2018 converted into Law 132/2017, which entered into force in October 2018. The effects of this law are examined in more detail further in this report in connection with the assessment of measures taken to implement Chapter VII of the convention.

- d. ensure adequate funding levels for existing measures to prevent and combat violence against women, such as the state compensation fund to which women victims of violence have access where compensation cannot be obtained by the perpetrator;
- e. simplify and expedite the disbursement of funding to NGOs and consider introducing direct transfer of national funds to implementing NGOs, in particular those providing support and protection services to women victims and their children, to prevent disruptions in the provision of services amounting to a violation of women's human rights;
- f. ensure clear minimum criteria to qualify as specialist women's services operating in line with the standards of the Istanbul Convention and recognised best practices, and make access to public funding dependent on the fulfilment of such criteria;
- g. increase the transparency and accountability in the use of public funds, notably by improving monitoring of expenditure at central, regional/provincial and local level;
- h. develop appropriate long-term/multi-annual financing solutions for NGOs, particularly anti-violence centres and shelters, to secure continuous funding for ongoing support and protection services for victims and their children;
- i. step up funding levels for women's specialist services, as well as general policies and measures to prevent and combat all forms of violence against all women exposed to gender-based violence, including migrant and asylum-seeking women.

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

55. For decades in Italy, the women's movement and women's rights NGOs have played, as they continue to play, a crucial role in advocating and enabling progress in legislative and policy measures to prevent and combat violence against women, in line with international standards and, more recently, the standards of the Istanbul Convention. The Italian system of protection and support for victims of violence and their children is to a large extent based on the work of women's NGOs that are usually set up in the form of non-profit organisations running anti-violence centres and shelters at local or regional level. Besides running specialist services for women victims, women's NGOs organise prevention activities and provide training on violence against women for law-enforcement officials, prosecutors, magistrates, social workers and other relevant stakeholders. The role played by women's organisations has received recent legislative recognition at the national level. The principle of their involvement in the design of policies to counter violence against women was expressly acknowledged under Article 5, paragraph 1, of Law No. 119/2013, which called for their participation in drawing up the second NAP on violence against women. Article 5-bis of this law further recognised the need for all public institutions to work in close co-operation with associations and civil society organisations involved in supporting and assisting women victims of violence, including anti-violence centres and shelters.<sup>52</sup>

56. Despite this legislative recognition, consultation between national authorities and civil society is not ensured within a stable and institutionalised framework. It is carried out according to the varying governance models which are set up under the different national action plans. Under the second NAP, co-operation with women's NGOs for the purposes of devising and monitoring the implementation of measures taken to give effect to the NAP occurred within the National observatory on violence against women, co-ordinated by the DEO. The mandate of the national observatory did not survive the expiry of the second NAP. It was replaced by a technical committee, which, in the opinion of women's NGOs,<sup>53</sup> does not afford NGOs the same leverage on decision-making processes and tends to marginalise their viewpoint. The lack of a permanent structure for dialogue and for co-operating with civil society exposes women's NGOs to fluctuations in the degree of their recognition, depending on governments' varying agendas.

<sup>52</sup> Considerations pertaining to the policies developed under this legislative framework are set out in connection with the assessment of measures taken to implement Article 7 of the convention.

<sup>53</sup> See page 4 of the shadow report submitted to GREVIO.

57. At the local level, regional laws and action plans to prevent and combat violence against women generally provide a permanent means through which public and private entities involved in ensuring their implementation, including women's NGOs, can be consulted. NGOs consulted by GREVIO have a mixed experience of these mechanisms, with some NGOs reporting very good levels of co-operation with local authorities compared to others. An issue of concern brought to GREVIO's attention regarding the interventions of regions relates to the lack of a vetting system prior to allocating funding to civil society organisations. As a result, government grants for anti-violence centres and shelters are allocated without sufficient checks regarding the value system that organisations promote through their work, and whether they uphold fundamental values such as equality between women and men and human rights.<sup>54</sup> Moreover, limited access by specialist NGOs to the asylum system, including reception facilities and repatriation centres, limit effective co-operation with these NGOs and reduce their positive impact in delivering complementary services and sharing thematic expertise with reception personnel.

58. The impact of anti-gender movements is particularly hard felt by women's NGOs operating at local level, where certain local constituencies have shifted support from long-standing NGOs working in defence of women's rights and women's self-determination to more traditional and conservative movements following a gender-neutral approach. The plight of the Casa Internazionale delle Donne, a group of women's organisations operating in premises owned by the Municipality of Rome, offers yet another example of how local authorities' shifting positions can create a disruptive working environment for women's NGOs.<sup>55</sup> GREVIO shares the analysis of the UN Special Rapporteur on Violence against Women who qualified the sudden request by the municipal government to collect years of back rent from a number of these organisations – based on rental calculations that failed to take into account their not-for-profit status, their value to the community or, in some cases, significant independent expenditures for the restoration and maintenance of the buildings in question – as a “crackdown on women's spaces”.<sup>56</sup>

**59. GREVIO strongly encourages the Italian authorities to:**

- a. reinforce their support and recognition of independent women's organisations, by acknowledging the value and expertise they bring in terms of following a gendered approach to violence against women and fostering victims' trust and promoting their human rights;**
- b. strengthen the national and local institutional framework for consulting and co-operating with women's organisations for the purposes of the design, monitoring, evaluation and implementation of measures and policies to prevent and combat violence against women, including within the asylum system;**

**while ensuring that non-governmental organisations dealing with victims, their children and perpetrators of violence follow a common approach to violence, based on the principles and standards of the Istanbul Convention.**

**D. Co-ordinating body (Article 10)**

60. In Italy, the Department for Equal Opportunities serves as the national governmental body responsible for co-ordinating and implementing policies on violence against women. It is subordinated to the Presidency of the Council of Ministers and operates under the aegis of the Under-Secretary to Equal Opportunities. The DEO has been responsible for devising and overseeing the implementation of the three national action plans on violence against women adopted so far. Moreover, the DEO contributes to the drafting of legislation on violence against women and manages the distribution of national funds for specialist women's services and local projects contributing to the realisation of the objectives of the national action plans. The DEO also co-ordinates and centralises the collection of

<sup>54</sup> The issue of improper distribution of funds at regional level for anti-violence centres and shelters is dealt with more extensively in connection with the assessment of measures taken in Italy to implement Articles 8 and 18 of the convention.

<sup>55</sup> See pages 19-22 of the written contribution to GREVIO by BeFree Cooperativa Sociale sulla violenza contro le donne, il traffico di esseri umani e la discriminazione.

<sup>56</sup> See [www.ohchr.org/Documents/Issues/Women/WG/Communications/OL\\_ITA\\_5\\_2018.pdf](http://www.ohchr.org/Documents/Issues/Women/WG/Communications/OL_ITA_5_2018.pdf).

quantitative and qualitative data, in co-operation with the National Institute of Statistics (ISTAT).<sup>57</sup> GREVIO acknowledges that the co-ordinating role of the DEO is difficult to achieve, as regions in Italy differ a great deal with respect to regional legislation and policies, as well as funds allocated for their implementation.

61. Co-ordination and implementation of national policies on violence against women is further attained through the meetings of an interinstitutional steering committee (Cabina di Regia), chaired by the Under-Secretary to Equal Opportunities and serviced by the DEO. The committee serves as a national interinstitutional forum for planning, implementing and financing measures to combat gender-based violence under the NAP. It is composed of representatives of the Prime Minister's Office (Department for Family Policies and Department for Public Administration), the Ministry of Foreign Affairs and International Co-operation, the Ministry of the Interior, the Ministry of Justice, the Ministry of Defence, the Ministry of Economy and Finance, the Ministry of Labour and Social Policies, the Ministry of Economic Development, the Ministry of Education, University and Research and the Ministry of Health, as well as representatives from regional and local authorities.

62. A technical committee (Comitato Tecnico) assists the steering committee in ensuring the proper implementation of the NAP. Its members include representatives of the main national organisations and networks dealing with victims and perpetrators of gender-based violence,<sup>58</sup> in addition to representatives from the governmental bodies that make up the steering committee. Within the technical committee, eight working groups have been established with a view to ensuring the implementation of different aspects of the NAP, dealing respectively with law-enforcement operations, judicial proceedings, research and the educational system, communication and media, defence administration, international co-operation, legislation and professionals from public and private entities dealing with victims and perpetrators.

63. GREVIO welcomes the strengthening of the institutional framework for action against gender-based violence which came with the creation – under the second NAP – of the steering committee. It notes, however, that the functioning of this body is dependent on the approval of a national action plan on violence against women, as well as on the political mandates of nominally appointed ministers. GREVIO queries whether such an approach confers upon the national machinery for violence against women the required stability to ensure the continuity of policies. GREVIO notes in this respect that it was only after the general elections in March 2018 and the formation of the new Italian Government in June 2018, that the renewal of the mandate of the steering committee was confirmed in September 2018.<sup>59</sup> As a result, a period of more than one year lapsed between the approval of the third NAP in November 2017 and the first meeting of the steering committee in December 2018. The same observation applies to the technical committee. Moreover, in the transition from the second NAP to the ongoing third NAP, the technical committee (formerly national observatory) underwent a change in its configuration, which NGOs claim diminished the ability of civil society to interact with political decision makers.<sup>60</sup> GREVIO further notes that the steering and technical committees have not been assigned a separate budget nor dedicated staff (in addition to the existing staff of the DEO) and that the lack of dedicated financial and human resources reduces the ability of these bodies to carry out continuous and sustained policy work.

64. Besides co-ordinating and implementing policies and measures to prevent and combat violence against women, the tasks assigned to national co-ordinating bodies under Article 10 of the convention encompass monitoring and evaluating such policies and measures to assess whether they achieve their aim and/or expose any unintended effects. To date, only limited action has been carried out by the DEO to this effect, due mainly to the fact that the first two national action plans on gender-based violence did not set forth the expected results and specific indicators which might

<sup>57</sup> Data collection is analysed extensively further in this report in relation to the assessment of measures taken in Italy to implement Article 11 of the convention.

<sup>58</sup> Namely Telefono Rosa, Unione Donne in Italia (UDI), Donne in Rete Contro la Violenza (D.i.Re), Fondazione Pangea, Associazione Maschile Plurale, Centro di Ascolto Uomini Maltrattanti (CAM) and Nostrostras.

<sup>59</sup> The renewal of the mandate of the steering committee was enacted by Decree of the Presidency of the Council of Ministers dated 25 September 2018.

<sup>60</sup> Co-operation between the authorities and civil society is examined earlier in this report in connection with the assessment of measures taken in Italy to implement Article 9 of the convention.

be used to measure progress in implementation and did not specify the responsible implementing authorities. To remedy these shortcomings, the authorities have mandated the National Council for Research (CNR) to propose a set of criteria enabling the *ex post* evaluation of the achievements and results obtained under the second NAP which ended in 2017. At the same time, the CNR has been entrusted with the task of identifying clear indicators of success for the ongoing third NAP, which will be adjusted accordingly to allow for a thorough analysis of its efficacy and impact once the plan reaches the end of its term. GREVIO welcomes the decision to entrust the role of monitoring and evaluating to an independent authority with competence in methodology of evaluation and research, such as the CNR. It further notes that this positive development will presumably enhance the DEO's ability to perform its role as the co-ordinator of the implementation of the plan. GREVIO further notes in this context that the possibility of a mid-term evaluation of the ongoing third NAP, rather than an *ex post facto* evaluation, might be considered.

65. While welcoming the measures taken to ensure that the DEO fulfils all the tasks of a national co-ordinating body, as required by Article 10 of the Istanbul Convention, GREVIO remains concerned by the limited capacity of the DEO to harness the different processes for which it is responsible. In a country characterised by high levels of regional and local autonomy such as Italy,<sup>61</sup> GREVIO considers that it is all the more necessary to ensure the national co-ordinating body has the necessary financial means and human resources to ensure that institutional responses to violence against women follow a harmonised approach and guarantee comparable levels of protection and support to all women victims and their children throughout the national territory.

**66. With a view to ensuring continuous policy setting and effective implementation, monitoring and evaluation of measures taken to prevent and combat violence against women, GREVIO strongly encourages the Italian authorities to:**

- a. **provide the steering committee and technical committee, or equivalent bodies mandated to ensure the implementation and co-ordination of measures and policies to combat violence against women in accordance with the requirements of Article 10 of the Istanbul Convention, with a strong institutional basis beyond the limited time frames of national action plans and the terms of governmental mandates, and to equip them with appropriate dedicated human and financial resources;**
- b. **pursue efforts to enable an effective monitoring and evaluation of policies, including by setting clear targets against which to measure progress achieved and by clearly identifying responsible implementing entities when issuing national action plans/strategies;**
- c. **improve the co-ordination between national and decentralised governmental structures and enhance the ability of the Department of Equal Opportunities to ensure the consistent application of policies and measures at regional and local level, for instance by allowing the national co-ordinating body to be represented in local co-ordination mechanisms.**

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

### **1. Administrative data collection**

67. Law-enforcement agencies collect data regarding reported and investigated offences in the Interforce Informatic System SDI-SSD managed by the Ministry of Interior. Information is recorded on the geographical location where the offence was committed and is disaggregated based on the age, nationality and sex of the victim and perpetrator. The relationship between the victim and the offender is generally not recorded in the SDI-SSD information system, except for cases of killings of women and where the nature of the relationship entails the application of aggravating circumstances (such as for the offence of stalking). The SDI-SSD database is not accessible to the public. However, ISTAT regularly extracts data from the database of the Ministry of Interior and publishes detailed tables<sup>62</sup>

<sup>61</sup> The institutional framework for addressing violence against women at regional and local level is examined earlier in this report in connection with the analysis of measures taken in Italy to ensure comprehensive and co-ordinated policies which comply with the standards of Article 7 of the convention.

<sup>62</sup> See the webpage [www.istat.it/it/violenza-sulle-donne](http://www.istat.it/it/violenza-sulle-donne).

regarding (1) the number of offences of ill-treatment in the family, stalking, battery and sexual violence, disaggregated by the sex, age and nationality of the victim; (2) the perpetrator; and (3) the number of warnings and barring orders issued by law-enforcement officials in cases of stalking and ill-treatment. GREVIO underlines the positive value of these publications, which are not limited to an expert audience and address the population at large, with the aim of heightening awareness about violence against women among the general public. In relation to the offence of ill-treatment, the fact that data collected do not specify the relationship of the victim to the perpetrator masks the extent of victimisation of women by male partners/spouses, including ex-partners/spouses. The same observation applies to the offences of sexual violence and stalking. Moreover, GREVIO draws attention to the fact that the offence of ill-treatment, as defined in the Italian Criminal Code, encompasses a broad range of behaviours, as well as a wide range of perpetrators, including members of the family, co-habitants or individuals exercising an authority over the victim or who are entrusted with the victim's instruction or care, making it difficult to capture the different relevant conducts identified in the Istanbul Convention such as psychological and economic violence.

68. The Criminal Investigation Information System (SICP) collects data gathered by the prosecution service on the number of investigations opened per type of offence. The offences are those defined in the Criminal Code, which are not, however, gender-specific. Since 2019, the system systematically records data on the sex of victim, and first steps have been taken towards integrating the relationship between the victim and the perpetrator<sup>63</sup>. In the justice sector, data on victims and the relationship between the victim and the perpetrator may be recorded in the (paper) criminal files kept at the registries of the courts. However, these data are not collated in an electronic database, making them unsuitable for any analysis. Data collection is not integrated across the police and justice services, owing to a lack of co-ordination and comparability of data. This makes it impossible to track cases at all stages of the law-enforcement and judiciary procedures and to identify the outcome of cases. GREVIO emphasises in this connection that an important requirement of Article 11 of the convention is to design data models that allow an assessment of conviction rates and an analysis of the factors which contribute to many reported cases of violence “falling out” of the legal system without a final conviction,<sup>64</sup> as a crucial element for analysing the efficiency of the judicial response to violence. To this end and having regard to good practices and recommendations developed on this matter at the international level,<sup>65</sup> data collected by law-enforcement agencies, prosecutors, courts, prisons and probation services should use the same definitions and the same units of measurement from the initial stages of legal proceedings to their conclusion. Unfortunately, in many countries, different units are used at different stages of the criminal justice system: law-enforcement agencies typically use crimes (incidents, events), while the judiciary and prisons use perpetrators.

69. Other shortcomings regarding data collection and legal proceedings concern the lack of data from civil courts – such as the number of protection orders – and from juvenile courts, and the lack of data on compensation claims brought before criminal and civil courts. Data are equally missing on risk assessments, on barring/restraining/protection orders and their violations, and on sanctions imposed as a result of such violations. There are no data on recidivism, which would be useful for assessing the effectiveness of preventive programmes for perpetrators and sex offenders, for example.

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<sup>63</sup> GREVIO was informed that negotiations are ongoing between the Ministry of Justice and ISTAT to include data on the victim-perpetrator relationship in the SCIP.

<sup>64</sup> See Chapter VI of this report, on the role of the prosecution services and conviction rates.

<sup>65</sup> See the webpage [www.istat.it/it/violenza-sulle-donne](http://www.istat.it/it/violenza-sulle-donne).

70. Data collected on cases resulting in the death or attempted killing of a woman could also be improved, as highlighted by the disparities between public official data and data collected by civil society on the basis of press reports.<sup>66</sup> Owing to the lack of a common methodological approach, statutory agencies do not consistently categorise killings of women and pay scarce attention to other victims of the violence, in particular children who have lost their mothers to violence against women or who were themselves killed. GREVIO takes a positive note of the fact that the Senate of the Italian Republic Impact Assessment Office published a report focused on femicide.<sup>67</sup> However, GREVIO notes that, in general, limited analysis is provided of the dynamics of the killings which could serve the purpose of understanding the risk factors and remedying gaps in institutional responses, having in mind that high rates of killings of women may indicate serious flaws in the system of protection, a lack of co-ordination in implementing measures related to the “4 Ps” of the convention, improper visitation and custody arrangements, and a widespread sexist and misogynist culture. GREVIO takes positive note of the research conducted by the Ministry of Justice into judgments related to cases of killings of women<sup>68</sup> and to the authorities’ response to the UN Special Rapporteur on Violence against Women’s call for femicide-related data and information.<sup>69</sup> With the aim of further systematising efforts in this area, the authorities might wish to consider giving effect to the UN Special Rapporteur’s recommendation to establish a femicide watch and/or equivalent interdisciplinary panel of experts tasked with collecting and analysing data on femicides.

71. There are no consolidated data at the national level regarding victims’ access to health and social services. Certain regions have adopted laws and/or set up dedicated observatories to collect data of this nature, but data are not consistently broken down depending on the gender and age of the victim, her relationship to the perpetrator, and whether children have witnessed or were victims of violence. GREVIO was nevertheless informed by the authorities that the Ministry of Health is planning to initiate data collection regarding victims’ admissions for emergency treatment. GREVIO recalls the importance of developing agency-based client data on service use for the purposes of assessing the effectiveness of policies in place, as well as for estimating the administrative cost of violence.

72. There are no official data regarding the grounds on which asylum is invoked and granted in Italy. GREVIO was therefore unable to verify to what extent gender-based violence against women is recognised as a form of persecution within the meaning of the UN’s 1951 Convention relating to the Status of the Refugees and as a form of serious harm giving rise to complementary/subsidiary protection, in accordance with Article 60, paragraph 1, of the Istanbul Convention.<sup>70</sup>

73. The collection of administrative data tends to be organised based on the existing offences in the Criminal Code and having regard to those offences which either have a clear gendered connotation, such as female genital mutilation, or which affect women disproportionately, such as sexual violence, stalking and ill-treatment. However, data are missing for certain forms of violence against women covered by the Istanbul Convention, such as forced marriage, forced abortion and forced sterilisation. Data are equally missing regarding the number of children who witness violence against their mothers and/or who die as a result of violence against women.

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<sup>66</sup> In November 2018, an official report issued by the State Police (“Questo non è amore”) reported 32 cases of deaths of women, compared to 94 cases counted by the NGO La Casa delle donne per non subire violenza. Figures collected by this NGO throughout the years based on the definition of femicide as defined by the UN Special Rapporteur on Violence against Women are relatively stable and total around 120 killings per year.

<sup>67</sup> Commissione d’inchiesta sul femminicidio e la violenza di genere, Femicide – The final report of the first Italian Joint Committee of Inquiry, Senate of the Italian Republic, Impact Assessment Office, February 2018 (in English), [www.senato.it/application/xmanager/projects/leg18/English\\_Focus\\_Femicide\\_1.pdf](http://www.senato.it/application/xmanager/projects/leg18/English_Focus_Femicide_1.pdf)

<sup>68</sup> The research conducted in 2017 by the Ministry of Justice can be consulted on the following webpage: [www.istat.it/it/files/2018/04/Analisi-delle-sentenze-di-Femminicidio-Ministero-di-Giustizia.pdf](http://www.istat.it/it/files/2018/04/Analisi-delle-sentenze-di-Femminicidio-Ministero-di-Giustizia.pdf).

<sup>69</sup> In November 2018, the Inter-ministerial Committee for Human Rights under the Ministry of Foreign Affairs and International Co-operation submitted its written contribution to the UN Special Rapporteur on Violence against Women ([www.ohchr.org/Documents/Issues/Women/SR/Femicide/Italy.pdf](http://www.ohchr.org/Documents/Issues/Women/SR/Femicide/Italy.pdf)).

<sup>70</sup> See Chapter VII of this report on gender-based asylum requests.

74. Since the adoption of the second NAP, the authorities have undertaken a vast exercise aimed at systematising and co-ordinating data collection across all statutory agencies, local authorities and civil society organisations dealing with victims of violence. The development of such a unified integrated database falls under the responsibility of the DEO together with the National Institute of Statistics (ISTAT) and relies on the involvement of regions. The database combines administrative and prevalence data, as well as data held by specialist women's services. It is intended to widely disseminate among the public data and information regarding violence against women and to equip the authorities with a strong tool to devise, monitor and evaluate evidence-based policies. GREVIO welcomes such an initiative as an example of a promising practice which offers considerable potential in terms of providing an overall picture of victims' pathways to escape the violence.

75. In addition, GREVIO would draw the authorities' attention to the need to put in place appropriate safeguards when handling widely available personal data. Establishing legal safeguards for the processing of personal data concerning health or sexual life is an obligation undertaken by Italy under the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108)<sup>71</sup> and should draw from best practices developed internationally.

76. A further necessary precaution regards the need to respect specialist women's services' working methods and the core requirement that specialist services safeguard victims' confidentiality and anonymity.<sup>72</sup> These standards have been developed and refined by the women's movement and have been comprehensively reviewed in Council of Europe publications.<sup>73</sup> Such standards are based on the principles that unauthorised access to personal data should not be possible; that all participating agencies should follow clearly defined protocols regulating procedures for data sharing; that full anonymity should be granted to persons whose personal data have been registered, including the requirement that such data should not be shared without their informed consent; and that individuals should not be identifiable through data available to the public.

77. In this respect, GREVIO notes with concern that in certain regions, anti-violence centres' access to local funding has been interrupted owing to their reluctance to comply with a new system conditioning such access on the transmission of victims' personal data (fiscal code) enabling their identification. GREVIO expresses its strong reservation as to the need for the authorities to acquire such data for the purposes of monitoring incidents of violence against women and anti-violence centres' activities in support of victims.<sup>74</sup> GREVIO notes that the respect for privacy and anonymity is one of the core principles of data collection stated in the country ongoing NAP. It notes further that requiring victims to give their consent to the transmission of such data would ignore the situation of vulnerability in which victims find themselves and undermine the relationship of trust between victims and service providers, which is at the heart of anti-violence centres' interventions.

**78. Bearing in mind the need for data collection to apply to all forms of violence covered by the Istanbul Convention, GREVIO strongly encourages the Italian authorities to take the necessary measures, including – if deemed appropriate – legislative amendments establishing the duty of statutory agencies to collect gender-disaggregated data, to:**

- a. ensure that data collected by all statutory agencies (namely law-enforcement agencies, judicial authorities, and health and social services) are disaggregated with regard to the gender of the victim and the perpetrator, their relationship and the different forms of**

<sup>71</sup> Article 5 of Convention ETS No. 108 sets out the obligation to ensure that personal data undergoing automatic processing shall be obtained and processed fairly and lawfully, stored for specified and legitimate purposes and not used in a way incompatible with those purposes and preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored. Article 6 explains that personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards.

<sup>72</sup> See further in this connection considerations developed in this report in relation to Article 18 of the convention.

<sup>73</sup> *Combating Violence against Women: Minimum Standards for Support Services*, L. Kelly and L. Dubois, Council of Europe, 2008, and *Ensuring Data Collection and Research on Violence against Women: Article 11 of the Istanbul Convention*, Council of Europe, 2016.

<sup>74</sup> Similar reservations were voiced by the National authority for the protection of personal data, in its 2015 activity report (section 7.1).

- violence and offences covered by the Istanbul Convention, and that information on the presence of child witnesses and victims is also included;
- b. harmonise data collection between law-enforcement agencies and the judiciary, with the aim, *inter alia*, of: allowing the assessment of conviction and attrition rates, and of recidivism rates; enabling a thorough analysis of the pathway of cases in the criminal justice system through the chain – law enforcement, prosecutors’ offices and the courts; identifying gaps in the response of institutions which may contribute to low conviction rates and/or discrepancies between reporting rates and conviction rates;
  - c. harmonise data collection and analysis regarding cases of violence against women which have resulted in the killing of the woman and, where appropriate, children;
  - d. expand data collection to cover risk assessments, civil remedies for victims such as compensation, and protective measures in civil, criminal and administrative law, including data on breaches of these measures and the consequences of such breaches;
  - e. introduce a data-collection system that allows the recording of the registration and outcomes of asylum claims made on the basis of gender-related persecution, including female genital mutilation and forced marriage;
  - f. ensure that the process of collecting, storing and transforming collected data complies with standards on personal data protection, as contained in the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, and with recognised best practices requiring respect for specialist services’ working methods aimed at guaranteeing victims’ privacy and anonymity;
  - g. increase awareness among the responsible government and regional agencies as to the requirements of the Istanbul Convention regarding data collection and enhance the skills and capacity of the professionals concerned to collect data, including through training in ways to detect and report cases of violence against women.

## 2. Population-based surveys

79. The first nationwide survey dedicated to violence against women was conducted by ISTAT in 2006. The survey covered various forms of violence against women (physical, sexual, psychological and economic violence, stalking) and extended to the presence in the family of children who either directly suffered or witnessed domestic violence. It shed light on such important factors as the socio-demographic characteristics of the victims, risk factors, the severity and consequences of violence, victims’ awareness as to their rights and available protection mechanisms, as well as the pathway undertaken by victims to escape from violence.<sup>75</sup> The survey was repeated in 2014<sup>76</sup> with an important innovation, namely the involvement of a representative sample of foreign women residing in Italy. In the period 2015-2016, ISTAT also conducted a targeted survey on sexual harassment and sexual blackmail against women and men at work, which revealed the prevalence of these forms of violence against women.<sup>77</sup> GREVIO considers that these surveys provide examples of good practices that other countries might wish to follow.<sup>78</sup>

80. GREVIO takes positive note of the plan, under the ongoing agreement between ISTAT and the DEO concluded in 2017, to carry out a third survey on violence against women, which will also include a module on female genital mutilation. In addition to the insights and the comparison of trends which these two surveys have made possible, GREVIO notes that surveys could further address the socio-economic and cultural factors linked to violence against women and domestic violence, by uncovering dominant opinions and attitudes towards violence within the general population, including young people. In this context, GREVIO notes that many experts from civil society, the public sector and academia with whom it was engaged during the evaluation pointed to widely spread prejudices against women in the general population, and many even used the term “sexist and misogynist culture”. GREVIO further notes that certain forms of violence against women covered by the convention have not been dealt with, such as forced marriage, forced sterilisation and forced abortion.

<sup>75</sup> See [www.istat.it/it/files/2011/07/testointegrale.pdf](http://www.istat.it/it/files/2011/07/testointegrale.pdf).

<sup>76</sup> See [www.istat.it/it/files//2015/06/Violenze\\_contro\\_le\\_donne.pdf](http://www.istat.it/it/files//2015/06/Violenze_contro_le_donne.pdf).

<sup>77</sup> See [www.istat.it/it/files//2018/02/EN\\_sexual\\_harassment.pdf](http://www.istat.it/it/files//2018/02/EN_sexual_harassment.pdf).

<sup>78</sup> See page 26 of the final report of the Senate committee of enquiry on femicide and all forms of gender-based violence, approved in February 2018, available (in Italian) at: [www.regioni.it/download/news/550680](http://www.regioni.it/download/news/550680).

**81. Bearing in mind the need to cover all forms of violence against women within the scope of the Istanbul Convention, GREVIO encourages the Italian authorities to continue to carry out gender-sensitive surveys and to design surveys appropriate for providing sociologically oriented insights into the general population's opinions and attitudes towards violence against women. In accordance with the requirements of Article 11, paragraph 2, of the Istanbul Convention, the authorities should endeavour to conduct such surveys at regular intervals.**

### **3. Research**

82. Article 11, paragraph 1*b*, of the convention creates the obligation for parties to support research, out of the consideration that it is essential that parties base their policies and measures to prevent and combat all forms of violence covered by the convention on state-of-the-art research and knowledge in this field. As a key element of evidence-based policy making, research can contribute greatly to improving day-to-day, real-world responses to violence against women and domestic violence by the judiciary, support services and law-enforcement agencies.<sup>79</sup>

83. In Italy, GREVIO has found only limited evidence of synergies between policy makers and academia for the purposes of ensuring evidence-based policies. Although the authorities have undertaken recent measures to ensure the design and evaluation of their policies follow an objective and scientific methodology, increased support for research would be instrumental in allowing stronger links with academia. In its written submission to GREVIO, the Network of Universities against Gender-based Violence, UNIRE, reports that due to insufficient national funding, research in the field of gender-based violence is mostly funded by local authorities and remains limited in its breadth.<sup>80</sup>

84. The UNIRE network, which is based in the University of Milano Bicocca and numbers 10 participant universities, aims at engaging academics from all Italian universities in activities to foster the implementation of the Istanbul Convention. Its principal goal is to promote scientific, educational and socio-cultural activities which favour the necessary cultural changes to overcome gender-based violence. The network also has the goal of enhancing local partnerships among local authorities, civil society organisations and women's NGOs engaged in preventing and combating violence against women. The main message conveyed in UNIRE's report to GREVIO is that academia in Italy offer a potential, in terms of their ability to produce knowledge and data, monitor policies, raise awareness, educate future generations and train professionals, which remains largely underexploited. This was also the dominant feeling which emerged from GREVIO's meeting with representatives of academia. Having regard to the obligation set forth in Article 7, paragraph 3, of the convention, that the design and implementation of relevant policies should take into account the expertise and perspective of relevant stakeholders, agencies and institutions, GREVIO expresses its opinion that academia has an important role to play to this end. GREVIO notes furthermore that as an example of a structured initiative to mobilise academic establishments to become actively engaged in the prevention of violence against women, the UNIRE network offers an example of good practice which other universities in other states party to the convention might wish to draw inspiration from.

**85. While ensuring full respect for the independence of academia, GREVIO encourages the Italian authorities to step up their support for academic research into issues related to violence against women, including by financially encouraging research into these areas. GREVIO invites the authorities to take further measures to take stock of the expertise and perspective of academia in the design, implementation, monitoring and evaluation of policies to prevent and combat violence against women.**

<sup>79</sup> Explanatory report to the convention, paragraph 77.

<sup>80</sup> "Role of the Italian university system in the implementation of the Istanbul Convention (Comments and recommendations for the GREVIO delegation during their visit in Italy – 13-20 March 2019)", p. 4, UNIRE, March 2019.

### III. Prevention

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

87. Despite measures taken by the authorities to uproot prejudices and attitudes which perpetuate gender inequality and fuel violence against women, negative gender stereotypes remain an issue of concern in Italy. In its Concluding observations on the seventh periodic report of Italy,<sup>81</sup> the CEDAW Committee noted in this connection “the entrenched stereotypes concerning the roles and responsibilities of women and men in the family and in society, perpetuating traditional roles of women as mothers and housewives and undermining their social status and educational and career prospects”, as well as “the growing influence of men’s organisations in the media, portraying negative stereotypes of women”. GREVIO is particularly concerned about the sexist hate speech, misogyny and tolerance towards violence against women which occurs in public debate, whether in traditional or online social media. Sexist attacks and smear campaigns against prominent women figures, such as parliamentarians, journalists and personalities of the entertainment world are described in the shadow report of women’s NGOs<sup>82</sup> and were referred to often during the evaluation visit, including some deeply disturbing examples. Women taking a stand against gender inequality and gender-based violence are often prime targets of organised attacks aimed at silencing them. In addition, GREVIO notes that a recent survey conducted by the national federation of the Italian printed press (FNSI) published in April 2019 revealed that as many as 85% of women journalists report having suffered sexist harassment.

**88. Having regard to the recently adopted Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism, GREVIO strongly encourages the Italian authorities to pursue proactive and sustained measures to promote changes in sexist social and cultural patterns of behaviour, especially of men and young boys, that are based on the idea of inferiority of women. Such measures should include, *inter alia*, investing in a comprehensive public infrastructure that serves as a platform for women’s empowerment and gender equality, developing a policy framework on the elimination of sexism and gender discriminatory stereotypes, and providing victims of sexist behaviour with appropriate remedies, including legal remedies.**

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

89. Since the launch of the first National Action Plan on Gender-Based Violence and Stalking in 2011, the promotion of awareness-raising campaigns and programmes has been a constant feature of Italy’s policies to prevent violence against women. Under the ongoing third NAP (priority area 1.1), awareness-raising activities are foreseen at three different levels. At the societal level, communication campaigns are envisaged to reinforce the message that a society free of gender-based violence and negative stereotypes benefits both men and women. At the institutional level, targeted campaigns are planned to tackle violence which affects women in the workplace. At the individual level, campaigns are to be conducted to challenge men’s views of acceptable violence, abuse and controlling behaviour in relationships and to promote and encourage positive alternatives to negative behaviour. Of the various campaigns carried out by the authorities, GREVIO commends in particular the wide-ranging campaign aimed at publicising the helpline 1522. This campaign involved, *inter alia*, concluding an agreement with the state railroad company and the national postal authority, and received praise

<sup>81</sup> CEDAW/C/ITA/CO/7, 24 July 2017, paragraph 25.

<sup>82</sup> Shadow report of women’s NGOs, pages 15 and 16.

during the G7 meeting on gender equality held in November 2017 in Taormina, where it was showcased.

90. NGOs in Italy, including in particular women's NGOs working in the area of protection and support for women victims of violence against women, have a long tradition of carrying out successful awareness-raising activities, at local, regional and national level. Article 13 of the Istanbul Convention encourages authorities to implement their undertakings under this provision in co-operation with civil society in order to increase their ability to reach out to the general public. Another requirement stemming from the convention is that campaigns must work with a clear and comprehensive definition of gender-based violence against women as defined by Article 3. According to this provision, violence against women is to be understood as a violation of women's human rights and a form of discrimination (Article 3a), as well as a gendered phenomenon which is directed against women because they are women or that affects women disproportionately (Article 3d). During the evaluation process, Italian NGOs have conveyed their perception as to the inability of awareness-raising initiatives organised by the authorities to empower victims and unveil the systemic function of violence against women as a social mechanism by which women are forced into and/or kept in a subordinate position compared with men. In GREVIO's view, this would appear to indicate that the authorities have not sufficiently involved women's organisations in devising effective policies and initiatives to promote public awareness about the structural causes and consequences of violence against women.

91. Moreover, GREVIO considers it crucial to expand the scope of awareness-raising activities to cover certain forms of violence and address certain types of audience. Campaigns and programmes should explicitly take up sexual violence and rape, including violence which occurs during dating and within intimate partner relationships. Such efforts would be key to encouraging reporting of this form of violence, which remains severely underreported. In addition, the authorities should consider raising the general population's awareness about harmful practices directed against girls and women, such as female genital mutilation and forced marriages. Campaigns of this nature would be useful to complement programmes which have been carried out in the past specifically targeting migrant communities and FGM-affected diaspora populations. Furthermore, awareness-raising activities would be necessary to promote knowledge about the harm caused to children who witness violence, including domestic violence. As evidenced further in this report, GREVIO finds that this is an area where greater awareness, including among the professionals concerned, would spare children and their mothers from frequent revictimisation. Finally, GREVIO believes awareness-raising efforts should be stepped up as concerns violence to which disadvantaged groups of women and girls are exposed, such as migrant women and women belonging to ethnic minority communities, women in prostitution, women with disabilities, elderly women and LGBTI women.

**92. GREVIO strongly encourages the Italian authorities to sustain and further develop their awareness-raising efforts in support of a general anti-violence message. Targeted campaigns should be developed both at the national and local level, including with the involvement of grass-roots organisations and specialist women's organisations, to:**

- a. challenge patriarchal attitudes and stereotypes which contribute to the acceptance of violence and tend to blame women for violence;**
- b. raise awareness about the harm caused to children who witness domestic violence;**
- c. address all manifestations of violence against women, including in particular those forms of violence which remain underreported, such as sexual violence and rape, as well as female genital mutilation and forced marriage;**
- d. convey the notion that under no grounds whatsoever should violence be tolerated, including harmful practices that are often justified through concepts of religion, tradition or so-called honour;**
- e. reach vulnerable groups of women and girls and address their specific needs.**

Measures taken to this effect should promote an understanding of violence against women based on the principles of the Istanbul Convention and take into consideration the expertise and knowledge of specialist women's NGOs.

## B. Education (Article 14)

93. Article 14 of the Istanbul Convention requires that programmes at all levels of education (primary, secondary and tertiary) promote the values of gender equality, mutual respect in interpersonal relationships and non-violence and that they enlighten learners about the various forms of violence covered by the scope of the convention. This requirement was introduced in Italian legislation in 2015 when Article 1, paragraph 16, of Law 107/2015 (the so-called law on the Good School) made it obligatory for all educational establishments to include in their three-year planning the promotion of the principles of equal opportunities, gender equality, the prevention of gender-based violence and all discriminations, with the aim of educating pupils, teachers and families on these topics. Specific guidelines on the education of respect<sup>83</sup> were issued by the Ministry of Education in 2017 to encourage schools to take up these topics. The guidelines draw from the principles of the Italian Constitution and applicable international standards, including the Istanbul Convention, and insist on the need to equip students with skills in gender equality, the prevention of gender-based violence and discrimination in all its forms, as well as the use of gender-sensitive language. The implementation of the guidelines is currently supported by a national action plan for educating respect, which was launched in 2017 with a budget of 8.9 million euros. In parallel, a national observatory for monitoring and promoting educational and training activities on gender equality and the prevention of violence against women was set up in 2017 to provide schools with a list of public and private entities with whom to engage in activities in these areas. Moreover, the Ministry of Education created a web portal ([www.noisiamopari.it](http://www.noisiamopari.it)) for sharing best practices on activities in schools to prevent gender-based violence and to eradicate negative stereotypes based on gender.

94. As highlighted by the Committee of Ministers' Recommendation CM/Rec(2007)13 to member states on gender mainstreaming in education, the effective implementation of measures taken to mainstream gender equality and the prevention of gender-based violence in educational programmes is highly dependent on whether teachers and pedagogical staff are adequately trained to apply these programmes. At the time of GREVIO's evaluation, there was no mandatory training for teachers on the topics covered by Article 14 of the Istanbul Convention. One of the aims of the National Strategic Plan on Male Violence against Women (2017-2020) is to introduce compulsory initial and in-service training for teachers on equal opportunities and the prevention of gender-based violence, in co-operation with specialist women's NGOs.

95. Moreover, effective gender mainstreaming in education relies to a large extent on the availability of textbooks and teaching material which are sensitive to gender equality. In Italy, a self-regulatory code was issued in 1999 to provide editors with guidelines on how to eliminate negative gender stereotypes and ensure a balanced representation of women/girls and men/boys in schoolbooks. The code was the outcome of the POLITE project involving the Presidency of the Council of Ministers and the Italian Association of Editors (AIE). Research conducted in this area more than 10 years after the adoption of the code<sup>84</sup> revealed, however, that school textbooks were still far from ensuring an equitable representation of gender. Under the ongoing NAP, the authorities plan to update the code with the aim of further encouraging editors' adherence to the code's standards.

96. GREVIO commends these initiatives which bear witness to the commitment of the Italian authorities to fulfil their obligations under Article 14 of the Istanbul Convention. However, GREVIO takes note with concern of the mounting resistance faced by schools to undertake educational projects in line with the standards of the convention.<sup>85</sup> Strong opposition from anti-gender movements, relayed by local authorities and media, have created an intimidatory environment pressuring schools into bringing many such projects to a halt and ceasing their co-operation with women's specialist organisations, by raising fears among parents about alleged attempts to introduce their children to the "theory of gender". As a result, several schools have adopted a seemingly more "scientific" approach to the issues covered by Article 14 of the convention and avoid addressing the gendered aspects of

<sup>83</sup> Linee Guida Nazionali – Educare al rispetto: per la parità tra i sessi, la prevenzione della violenza di genere e di tutte le forme di discriminazione. See [www.miur.gov.it/documents/20182/0/Linee+guida+Comma16+finale.pdf/c1dd73b7-e8dc-4486-87d8-9969db64f01a?version=1.0](http://www.miur.gov.it/documents/20182/0/Linee+guida+Comma16+finale.pdf/c1dd73b7-e8dc-4486-87d8-9969db64f01a?version=1.0).

<sup>84</sup> See Irene Biemmi (2015), "Gender in schools and culture: taking stock of education in Italy", in *Gender and Education*, 27:7, pages 812-827.

<sup>85</sup> Shadow report of women's NGOs, pages 18-21.

discrimination and violence against women. GREVIO was informed that to allay these concerns, a recent circular was issued by the Ministry of Education in November 2018 clarifying the need for each education establishment to inform parents about its triennial plan and to seek their consent for any extra-curricular activity. In the light of the widespread disinformation attempts surrounding these matters, GREVIO considers that the authorities should pursue their efforts to dismantle false assumptions about the content of gender-sensitive education as required by the Istanbul Convention and, in line with previous circulars,<sup>86</sup> use stronger unequivocal language to recall how such education is part of the mandatory educational curricula which all schools, with no exception, are required to apply.

97. Education on sexuality can provide a means to address the topics covered by Article 14 of the convention, in particular the right to personal integrity and the notion that sexual violence is based on the absence of freely given consent. Furthermore, sexual education for all boys and girls in schools is essential to guarantee women's sexual and reproductive rights and is a full component of the rights to education and to health. Both the European Committee of Social Rights<sup>87</sup> and the UN Committee on the Rights of the Child<sup>88</sup> have stressed that adolescents should have access to appropriate and objective information on sexual and reproductive issues, including family planning, contraception and the prevention of sexually transmitted diseases, as part of the ordinary school curriculum and provided without discrimination on any ground. In Italy, the Ministry of Health and the Ministry of Education have been working since 2015 on the "National Guidelines for Education to Affectivity, Sexuality and Reproductive Health in Schools", following the WHO Guidelines on Sexual Education. However, growing resistance to education on sexuality and the stigmatisation of those partaking in it on the part of certain movements, often channelled through disinformation campaigns on the content of such education, have caused this initiative to come to a halt. In its concluding observations on the seventh periodic report of Italy,<sup>89</sup> CEDAW recommended that Italy finalise and implement these guidelines with no further delay.

98. In the light of the above, GREVIO considers that it is crucial for the authorities to develop tools allowing for the measurement of the extent to which pupils in Italy have acquired the necessary skills, competences and knowledge on gender equality and the other topics outlined in Article 14 of the convention, namely non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women, including forms of violence such as forced marriage and female genital mutilation, and the right to personal integrity. In GREVIO's opinion, the proposal to include a module on gender stereotypes and attitudes towards violence against women in ISTAT's survey on students at schools would offer the opportunity to build a general picture of students' attitudes and perceptions towards gender inequalities and gender-based violence, especially in the light of the limited available prevalence data which would indicate a certain degree of tolerance of violence among young people.<sup>90</sup>

**99. Bearing in mind the need to follow an integrated approach in mainstreaming gender in the education system, in line with Recommendation CM/Rec(2007)13 of the Committee of Ministers to member states on gender mainstreaming in education, GREVIO strongly encourages the Italian authorities to:**

- a. pursue their efforts to mainstream gender equality and information about gender-based violence in all its forms, including forced marriage and female genital mutilation, and the topics covered by Article 14 of the Istanbul Convention in the education system, by ensuring the wide dissemination of the national guidelines on the education of respect**

<sup>86</sup> Circular of the Ministry of Education of 15 September 2015.

<sup>87</sup> See for instance the decision adopted on 30 March 2009 in the case of *International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia* (complaint No. 45/2007).

<sup>88</sup> General Comment No. 4 (2003) – Adolescent health and development in the context of the Convention on the Rights of the Child.

<sup>89</sup> CEDAW/C/ITA/CO/7, 24 July 2017, paragraph 36c.

<sup>90</sup> See the results of a 2015 survey conducted by Skuola.net and reported by the news agency ANSA, available at: [www.ansa.it/sito/notizie/speciali/2015/11/23/amore-fra-teenager-geloso-e-violento-1-ragazzo-su-10-alza-le-mani\\_85fb99d4-00a0-4573-9049-72dbeca452de.html](http://www.ansa.it/sito/notizie/speciali/2015/11/23/amore-fra-teenager-geloso-e-violento-1-ragazzo-su-10-alza-le-mani_85fb99d4-00a0-4573-9049-72dbeca452de.html). See also the research report "Intimate partner violence: Attitudes in a sample of Italian students", Rollè et al., in *Cogent Psychology* (2018), 5: 1514960.

**in all schools and vocational establishments throughout the country and by promoting obligatory initial and in-service training of teachers and all education staff on these topics;**

- b. develop a set of indicators allowing for the measurement of pupils' skills and competences on the topics mentioned in Article 14 of the Istanbul Convention and in relation to all forms of gender-based violence against women;**
- c. finalise and implement the national guidelines for education on affectivity, sexuality and reproductive health in schools, as an important means to introduce pupils to the topics of the right to physical integrity and the definition of sexual violence given in Article 36 of the Istanbul Convention.**

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

100. The requirement set out in Article 15 of the Istanbul Convention for parties to provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by the scope of the convention led the Italian authorities to draw up a set of national principles on training. These general principles were adopted in July 2015 and formed an integral part of the second NAP. Under the ongoing NAP, the authorities are involved in translating these principles in operational training guidelines, together with the competent stakeholders and specialist NGOs. The DEO is responsible for co-ordinating the drafting of the training guidelines, whereas the responsibility to ensure their proper implementation will be vested in the single competent governmental departments or ministries. At the time of GREVIO's evaluation, seven working groups had been established to this end and the finalisation of the first training modules was expected before the end of the year 2019.

101. In the health-care sector, the development of national guidelines on protection pathways for victims of sexual violence, ill-treatment and stalking in hospital emergency rooms has set the ground for delivering extensive training to health professionals working in first aid. These guidelines aim at enabling the early identification and the proper assistance of victims and to foster an interinstitutional response to violence against women involving all competent statutory agencies and women's specialist services. At the time of GREVIO's evaluation, training based on these guidelines had been delivered to serving staff in 18 first aid centres and a project funded by the Ministry of Health to extend training to all the remaining first aid centres operating in the country was under way. Besides training for personnel working in emergency units, the delivery of training to health-care professionals on the different forms of violence against women, including female genital mutilation, appears to remain highly dependent on the initiative of local hospitals, health structures and administrative authorities. This is also a reflection of the fact that in Italy, health-care provision and training of health-care professionals is a regional competence, which entails differences in approaches and in the use of available funds. The same observation applies to training for social workers, as social work falls within the remit of local authorities' competence.

102. In the judicial sector, national guidelines aimed at disseminating best practices for the proper handling of cases of violence against women have been issued by the Italian national self-regulatory body of magistrates (the High Judiciary Council) in 2009 and have been recently updated in 2018 following the judgment of the European Court of Human Rights in the *Talpis v. Italy* case.<sup>91</sup> A key feature of these guidelines is that only specialist and trained magistrates should be tasked with examining cases of violence against women. Accordingly, the High Judiciary Council offers, in co-operation with the National School of Magistrates, courses on gender-based violence of three to four

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<sup>91</sup> This case concerns violations of Articles 2 and 3 of the European Convention on Human Rights because of the inertia of the authorities in handling the applicant's complaint concerning domestic violence inflicted on her by her husband in 2012, which led to an escalation of the violence that culminated in 2013 with the attempted murder of the applicant and the murder of her son. The case also concerns a violation of Article 14 taken together with Articles 2 and 3 because of the discriminatory aspect of the failings identified in the protection of women against domestic violence. In its judgment of 2 March 2017 (application no. 41237/14), the European Court of Human Rights criticised in particular: the fact that the risk to the life of the applicant and her son was not rapidly assessed by the authorities and that no protective measures were taken; the absence of any investigative act (including the hearing of the victim) until seven months after the applicant had filed a complaint; and the excessive length of the first set of criminal proceedings for aggravated bodily harm brought against the applicant's husband.

days on a yearly basis to serving judges and prosecutors, as part of the compulsory in-service training delivered at national level. The High Judiciary Council encourages district courts to organise training programmes at local level but this is an area where practices vary from court to court and access to training is not ensured in a uniform manner.

103. Training on intimate partner violence, stalking and sexual violence is part of the mandatory curriculum for candidate officials of the two law-enforcement bodies responsible for policing cases of violence against women, namely the state police (Ministry of Interior) and the carabinieri (Ministry of Defence). Detailed figures regarding the number of trained law-enforcement officials and the nature of the training delivered are provided in the state report. The DEO has concluded co-operation protocols with both institutions, as well as with the National association for Italian municipalities (ANCI) regarding local police officers (*vigili urbani*), to promote regular obligatory refresher courses on these topics. Extensive training involving around three thousand police officers has also been provided to support the implementation of applicable operational protocols, such as the protocol EVA and the protocol SARA on risk assessment.

104. Professionals involved in issuing residence permits for foreign women victims of violence and in handling gender-based asylum requests represent another professional group which should receive training on the subjects required by Article 15. Despite the existence of a number of awareness-raising and training initiatives targeting these professionals, GREVIO finds that this is an area where the lack of knowledge of existing protection mechanisms and an inadequate understanding of gender-based violence poses an obstacle to the effective implementation of existing laws and hinders the exercise of victims' rights. Detailed considerations pertaining to these issues, including for personnel working in reception centres, are developed further in this report with respect to the assessment of measures taken by the authorities to implement the provisions of Chapter VII of the convention.

105. Scarce information exists as to available initial training for professionals who deal with victims of violence and perpetrators, such as lawyers, magistrates, psychologists and social workers. The role that universities can play in promoting knowledge about violence against women and in equipping these professionals with the necessary skills was underlined by the President of the Conference of University Deans (CRUI) in the final report of the parliamentary committee of inquiry on femicide and gender-based violence. The report noted that the issue of violence against women was addressed only in a limited number of graduate university courses, as well as in certain specialist master's degrees. The report underscored that it was desirable to further promote the inclusion of the topic in existing university programmes with the aim of achieving the cultural change necessary to effectively tackle gender-based violence. This was also the view of the representatives of academia, including from the UNIRE network, whom GREVIO met during the evaluation visit. GREVIO takes positive note of the steps taken by certain local authorities towards enhancing co-operation to this end, such as the agreement concluded between the regional authorities of Lombardy and the universities in the region to encourage – while respecting each university's autonomy – the inclusion of training modules on violence against women in university programmes.

106. Considering the above, GREVIO welcomes the authorities' engagement in striving to fulfil the requirements of Article 15 of the convention. Nevertheless, as the following sections of this report will illustrate, inadequate institutional responses to violence which can be ascribed to a lack of understanding of violence against women remain an issue of concern and call for sustained efforts in this domain. In their shadow report to GREVIO,<sup>92</sup> women's groups mention that many staff members in general support services do not possess sufficient knowledge on violence, and do not apply a gendered approach. This leads to improper interventions, including in the context of custody and visitation arrangements, which assimilate violence to conflict and often fail to recognise the consequences of witnessing violence on children. In pursuing training efforts, GREVIO stresses the importance of capitalising on the knowledge and skills of specialist women's associations. Anti-violence centres in Italy were among the first to gain in-depth knowledge about male violence against women and continue to represent a key asset in terms of their ability to foster, through training, the change in institutional cultures advocated by the Istanbul Convention. Moreover, great vigilance will remain necessary to ensure that the guidelines developed by DEO to harmonise and systematise

<sup>92</sup> Shadow report of women's NGOs, pages 29 and 39-44.

training are adequately enforced and serve to disqualify existing training initiatives which operate in denial of the standards of the Istanbul Convention.

**107. GREVIO strongly encourages the Italian authorities to take measures, in close co-operation with regional and local authorities, as well as relevant stakeholders including women's specialist organisations and academia, to:**

- a. ensure compulsory initial training in all the forms of violence against women covered by the Istanbul Convention in the vocational and professional curricula for health professionals;
- b. expand and make compulsory the available in-service training for practising health professionals, including on how to provide appropriate treatment to victims of female genital mutilation;
- d. pursue efforts to ensure that all law-enforcement officials who might enter into contact with victims receive continuous training on violence against women, which places a strong emphasis on the need to understand the dynamics of violence against women and on the role of law-enforcement agencies in seeking evidence to prosecute cases of violence;
- e. expand the available initial and in-service training opportunities for members of the judiciary and legal professionals to address all forms of violence against women covered by the Istanbul Convention;
- f. provide for compulsory professional training for serving legal professionals;
- g. develop training for other professionals involved in supporting judicial decision-making processes, such as social workers and psychologists;
- h. ensure that professionals involved in the assessment of situations of violence affecting migrant women, such as law-enforcement agencies, lawyers and social services, have access to training which enhances their understanding of gender-based violence and their ability to effectively implement the relevant legislation entitling victims to an autonomous residence permit;
- i. strengthen the training in the early detection, protection and referral of asylum-seeking women victims of gender-based violence, including female genital mutilation, for staff operating in initial landing settings, hotspots and reception facilities;
- j. develop standard training on gender-sensitive refugee status determination processes and provide for compulsory training for immigration and asylum officials;
- h. monitor and ensure the effective implementation of any national guidelines issued to harmonise and systematise training.

Besides covering all the topics mentioned in Article 15 of the Istanbul Convention and all the forms of violence covered by the convention, training developed in pursuance of the aforementioned suggestions and proposals should address: (a) the referral to preventive intervention and treatment programmes in accordance with Article 16 of the convention; (b) victims' right to civil law remedies and compensation against the perpetrator and the state in accordance with Articles 29 and 30 of the convention; (c) the need to recognise the harmful effects of violence on children and to ensure violence against women is taken into account in the determination of custody and visitation rights in accordance with Article 31 of the convention; (d) the requirement that in proceedings on the various forms of violence covered by the Istanbul Convention, evidence relating to the sexual history and conduct of the victim which has no probative value is not permitted in accordance with Article 54 of the convention; (e) the requirement to favour victims' access to protective measures during legal proceedings owing to the traumatising nature of gender-based violence and the special needs of victims as witnesses in accordance with Article 56 of the convention; and (f) the need to avoid placing an excessive burden on victims and their legal counsel when determining the conditions for accessing legal aid in accordance with Article 57 of the convention. They should furthermore follow an approach based on the safety and respect for the human rights of the victim, as well as a gender-equality perspective, and aim to prevent secondary victimisation and challenge professionals' own prejudices and assumptions which stand in the way of delivering effective support and protection for women victims of violence.

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

108. In Italy, the main national network implementing perpetrator programmes is Relive. Relive numbers 24 member organisations, concentrated mostly in northern and central Italy. The network's main aim is to improve women's and children's safety in cases of domestic violence by promoting co-ordinated work with perpetrators which fulfil internationally accepted quality standards and follow a gender-sensitive perspective. The network is actively engaged in fostering knowledge and raising awareness about the relevance of work with perpetrators within a comprehensive and co-ordinated approach against domestic violence. Programmes implement a psycho-educational and cognitive behavioural approach led by multidisciplinary teams. Most of them are integrated into a wider multiagency network linking law-enforcement agencies, women's support services, and probation and social services. They focus on the violent behaviour of perpetrators and support violent men in taking responsibility for this behaviour and changing their attitudes towards violence.

109. Relive has developed consolidated guidelines for perpetrator programmes and supports newly established programmes to reach baseline standards through practice exchange and training. In December 2018, it formalised an accreditation process that allows perpetrator programmes, after three years of affiliate membership, to apply for full membership provided they fulfil the applicable standards and meet the accreditation criteria. To assess the efficacy of its interventions, Relive applies the IMPACT toolkit which is part of the evaluation system recommended by the WWP European Network.

110. GREVIO welcomes the example offered by Relive as a network of perpetrator programmes solidly anchored to internationally recognised best practices and mindful of the requirements of the Istanbul Convention.

111. Several perpetrator programmes are run by entities not affiliated to Relive. In Emilia-Romagna, these programmes – the Centres LDV or Let us break free from violence – are based on a public-private partnership. They have been set up within and are financed by the health-care system and follow the operating standards promoted by Relive. Other programmes are managed by private entities and do not necessarily follow a standard approach. This reflects the fact that apart from a few very broadly framed principles, such as those which were spelt out in the second NAP, there are no stringent standards endorsed by the authorities which would apply to these programmes. Consequently, public funds earmarked for perpetrator programmes have not consistently benefited programmes possessing the requisite knowledge and experience and applying a harmonised approach in line with the requirements of the Istanbul Convention.

112. Law No. 119/2013 introduced several legislative changes aimed at encouraging responsible institutions, namely enforcement agencies and courts, to promote perpetrator programmes. One such change is that which sets forth the duty of law-enforcement officials who issue a warning for acts of domestic violence to inform the perpetrator about the opportunity to attend a programme. It would appear, however, that the relevant provision of this law is not systematically applied and the low rate of issuance of the administrative sanction of warnings in domestic violence cases reduces considerably the number of possible referrals to perpetrator programmes. Law No. 119/2013 further introduced the requirement that prosecutors and judges take into consideration the attendance of a perpetrator programme for the purposes of amending or revoking security measures issued during criminal proceedings. However, the application of the relevant provision of this law is undercut by the tendency not to refer indicted perpetrators to a programme during the initial stages of the proceedings, thus not allowing them enough time to complete a programme and become entitled to the benefit of this provision. Other situations in which statutory agencies may resort to perpetrator programmes with a view to preventing acts of gender-based violence or their repetition include (without limitation): the issuance of warnings in cases of stalking in pursuance of Law No. 11/2009; the adoption of emergency barring and protection/restraining orders; and judicial proceedings to determine custody and visitation rights in cases of children witnessing or experiencing domestic violence.

113. The limited role that statutory agencies play in promoting perpetrator programmes transpires from data provided in Relive's shadow report on these programmes. Most men attending their programmes (approximately 45%) are self-referred. A smaller proportion (39%) of perpetrators joining the programmes do so following a non-mandatory referral by the judicial system, most of them only after being sentenced for gender-based violence and through the collaboration of probation services. The report further notes that a wider use of perpetrator programmes would be possible if Italian laws allowed statutory agencies to impose an obligation for the perpetrator to attend, in accordance with the practice followed in several other countries.

114. Another way of enhancing the potential of perpetrator programmes to serve as a preventive tool would be to ensure their alliance with a structured co-ordinated response to violence against women and to train the various agencies involved in this response on the purpose and the ways of referring perpetrators, as well as on how to identify perpetrators and distinguish instances of violence from cases of mere conflict. During its evaluation visit, GREVIO visited the perpetrator programme run by the CIPM in Milan. The centre, which is part of the network Relive, has concluded several co-operation protocols with local authorities and the district court in Milan and operates as part of a co-ordinated network involving judges, law-enforcement officials and probation services. It works towards improving the efficiency of the criminal justice system by engaging with perpetrators at different levels (prior to the commission of a qualified criminal offence, during criminal proceedings and after a conviction has been handed down by a court).

115. There are only a few treatment programmes aimed at preventing sex offenders from reoffending in Italy. One is that run by CIPM based on an agreement with the City Council of Milan. The programme offers treatment to convicted sexual offenders both inside the jail of Bollate and S. Vittore and as an outpatient treatment once the offenders are released from jail. The treatment follows a criminological approach, which draws from the Good Lives and the Circles of Support and Accountability models. Other programmes include those run by the prison in Florence Solliciano together with the association CAM and the recently initiated EU-funded CONSCIOUS project carried out by the prison in Frosinone. Moreover, GREVIO was informed that one of the novelties introduced by Law No. 69 of 19 July 2019 is the possibility for convicts of sexual crimes against children to access treatment programmes while serving their prison term.

116. GREVIO takes positive note of the authorities' ongoing endeavours to achieve a comprehensive picture of the number and distribution of available perpetrator programmes within the framework of the mapping exercise conducted by the CNR. It welcomes further the indication in the third NAP on gender-based violence (priority 1.4) that the authorities are taking action towards remedying the issues identified during the evaluation procedure, namely by promoting standard intervention models, introducing eligibility criteria for accessing funding and encouraging synergies between statutory agencies and perpetrator programmes. GREVIO would stress the need for such measures to be underpinned by the understanding that perpetrator programmes cannot work in isolation from specialist services for victims, in accordance with recognised best practices.<sup>93</sup> This is essential to fulfil the requirement of Article 18 of the convention that measures to protect and support victims of gender-based violence be based on an integrated approach that is mindful of the relationship between victims, perpetrators, children and their wider social environment and that aim to avoid secondary victimisation.

**117. Bearing in mind the need for perpetrator programmes to form an integral part of institutions' multiagency response to violence against women, GREVIO strongly encourages the Italian authorities to:**

- a. promote the use by all entities running programmes for perpetrators of domestic violence of clear minimum standards and ensure the evaluation of such programmes to determine their short- and long-term impact, including through the development of statistics on perpetrators who have attended them and through scientifically designed**

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<sup>93</sup> See "Domestic and sexual violence perpetrator programmes: Article 16 of the Istanbul Convention – A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence", Council of Europe, September 2014.

- outcome studies, in line with the principles of the Istanbul Convention and recognised best national and international practices;**
- b. take measures to ensure that only those programmes that are in the position to comply with the requirements of the Istanbul Convention and recognised best national and international practices receive public funding;**
  - c. expand the number of available programmes for domestic violence perpetrators and sex offenders, including by diversifying the sources of their funding;**
  - d. promote the attendance of perpetrator programmes both by mandatory and voluntary referral, by ensuring a more consistent application of existing mechanisms intended to encourage their use and by considering introducing the ability for statutory agencies to impose upon the perpetrator an obligation to attend such programmes;**

**while ensuring that perpetrator programmes uphold the principle of perpetrators' accountability for acts of violence and work in close co-operation with women's specialist services to ensure victims are adequately informed and protected.**

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

118. Several legislative and regulatory acts exist in Italy which are of relevance to this article and are illustrated in detail in the state report.<sup>94</sup> In the field of advertising, Legislative Decree No. 70/2017 makes access to public funding for print agencies dependent on their adoption of measures apt at combating all forms of discrimination, including gender-based discrimination, in advertising. A self-regulatory code has been adopted to this end by the institute responsible for self-regulation in commercial communications (IAP). Furthermore, the institute and the DEO have entered into an agreement entitling the national co-ordinating body to solicit the intervention of the IAP with the aim of seeking to remove any advertisement which conveys degrading images of women and incites or normalises violence against women. A similar agreement has been concluded between the IAP and the national association of local municipalities (ANCI) to promote responsible billboard advertising that is respectful of women's dignity.

119. Under the terms of the applicable corporate agreement, public radio, television and multimedia broadcasting services (RAI) are under an obligation to promote non-sexist representations of women and to conduct an annual qualitative and quantitative monitoring to assess how effectively measures taken to this effect are implemented in their programming. RAI's equal opportunities board seeks to raise awareness about these issues among its employees and journalists through various training and awareness-raising initiatives. Both public and private audiovisual and radio communication services are bound by the standards of respect for human dignity and non-discrimination, including on grounds of sex, set forth by Legislative Decree No. 177/2005. Compliance with these standards is supervised by an independent administrative authority, the National Communications Authority (AGCOM), which has also issued specific guidelines concerning the correct portrayal of women in current affairs and entertainment programmes. AGCOM extends its action at local level through its regional communication committees or Corecoms. AGCOM further plays an important role in overseeing the effective implementation of the legal provisions<sup>95</sup> requiring media to promote equal opportunities for women and men in political communication programmes, including during electoral campaigns.

<sup>94</sup> See pages 36-40 of the state report.

<sup>95</sup> Law No. 28/2000, as amended by Law No. 215/2012.

120. Good practices have been developed by way of self-regulatory guidelines on how to respect gender equality and avoid gendered stereotypes when reporting on instances of gender-based violence, such as the Manifesto of Venice.<sup>96</sup> The manifesto is the result of a joint endeavour between the association of female journalists GIULIA and the national federation of the Italian printed press (FNSI). GIULIA supports the dissemination of these guidelines through training and has developed a reference text, “Stop violence: words to say it”, for the continuous professional training of journalists. The association is further involved in one of the working groups co-ordinated by the DEO tasked with developing operational training guidelines.<sup>97</sup>

121. GREVIO commends the aforementioned efforts which are an expression of the clear understanding on the part of the authorities of the role played by ethical media reporting on violence against women and towards raising awareness of the structural nature of violence against women. It notes, however, that women’s NGOs claim that the sexist portrayal of women and the normalisation of violence against women in the media remain prevalent and often go unpunished.<sup>98</sup> Journalists met by GREVIO during the evaluation acknowledged that the authorities’ efforts had led to improvements but considered that the authorities lack a robust monitoring system to measure progress achieved. In their view, the existing institutional solutions to monitor and promote compliance with the applicable standards, whether in public or in private broadcasting, are not leveraged effectively and the functioning and/or creation of independent monitoring mechanisms dealing with the representation of women and gender-based violence in the media should receive greater support. GREVIO would also stress the relevance of involving local authorities and institutions in these efforts, drawing on existing examples of successful co-operation among stakeholders for the purposes of ensuring gender-sensitive media reporting.<sup>99</sup>

**122. Having regard to the important role of the media in shaping attitudes to the status and role of women in society and in overcoming social tolerance towards violence against women, GREVIO encourages the Italian authorities to:**

- a. pursue their efforts aimed at effectively implementing policies, monitoring and complaint mechanisms which are intended to ensure respect by the media for the principle of human dignity and to prohibit all discrimination on grounds of sex, as well as incitement to hatred and to any form of gender-based violence;**
- b. set incentives, support or otherwise promote the development and monitoring of self-regulatory standards in the non-stereotypical and non-sexist portrayal of women in the media, including in the context of reporting on violence they have suffered.**

**In giving effect to these suggestions and proposals, the authorities might wish to seek guidance from the Committee of Ministers Recommendation CM/Rec(2013)1 on gender equality and the media.**

123. Article 17 further calls upon states parties to encourage employers to partake in the creation and implementation of policies and to develop self-regulatory standards to prevent violence against women and to enhance respect for their dignity. This obligation is to be understood as encouraging more private companies to establish protocols or guidelines on, for example, how to deal with cases of sexual harassment in the workplace. In Italy, a national agreement on violence and harassment at work was signed in 2016 between the employers’ organisation, Confindustria, and the three main union confederations, namely CGIL, CISL and UIL. The agreement provides that employers’ associations and trade unions at territorial level must meet to identify procedures and structures to provide support, including psychological and legal counselling, for victims of workplace violence and harassment. A declaration annexed to the agreement can be directly implemented at company level

<sup>96</sup> The text of the manifesto is available (in Italian) on the following webpage: [www.fnsi.it/upload/70/70efdf2ec9b086079795c442636b55fb/0d8d3795eb7d18fd322e84ff5070484d.pdf](http://www.fnsi.it/upload/70/70efdf2ec9b086079795c442636b55fb/0d8d3795eb7d18fd322e84ff5070484d.pdf).

<sup>97</sup> See paragraph 96 of this report.

<sup>98</sup> See page 25 of the shadow report of women’s NGOs.

<sup>99</sup> One such example is the Charter of Pordenone, which brings together the municipal authorities, the local anti-violence centre and various local press agencies and cultural institutions. The text of the charter is available (in Italian) on the following webpage: [www.comune.pordenone.it/cartadipordenone](http://www.comune.pordenone.it/cartadipordenone).

and aims to ensure that all companies, including small ones, sign up to the commitment to prevent harassment and violence in the working environment. On this basis it is up to every company to devise and implement its own procedures in conformity with the contents of the agreement. Currently, unions are engaging in discussions with employers and are raising awareness in order to increase the number of employers of small and medium-sized enterprises who sign the agreement, and sectoral and territorial agreements are being agreed. Certain sectors stand out as being particularly innovative in addressing gender-based violence at work.<sup>100</sup>

124. GREVIO welcomes these measures which set the employment sector on the right course towards implementing strong measures to prevent violence against women in the workplace. These actions are supported by a network of equality councillors, who are officials working at different levels (national, regional, provincial, metropolitan, city) of the public administration and who are responsible under Law Decree No. 198/2006 for promoting equal opportunities and preventing discrimination and violence against women at work.<sup>101</sup> GREVIO is, however, concerned about the low levels of reporting of sexual harassment by women workers. Data provided in the state report show that, in 2016, equality councillors received 38 reports of sexual harassment. These numbers appear to be extremely low when compared to available prevalence data.<sup>102</sup> GREVIO considers that an in-depth analysis should be carried out to understand why the potentially promising mechanism of equality councillors is not reaching its intended result in terms of increased reporting rates.

**125. GREVIO strongly encourages the Italian authorities to pursue their efforts to encourage the employment sector to prevent and combat gender-based violence against women in the workplace, ensure a more efficient use of existing mechanisms to encourage reporting of such violence and consider devising new mechanisms to this end.**

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<sup>100</sup> "Safe at home, safe at work – Trade union strategies to prevent, manage and eliminate work-place harassment and violence against women", p. 29, European Trade Union Confederation (ETUC), May 2017.

<sup>101</sup> The activities of the equality councillors are described in detail in the state report, pages 40-41.

<sup>102</sup> Prevalence data regarding sexual harassment are mentioned below in this report, in relation to Article 40 of the convention.

## IV. Protection and support

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

### A. General obligations (Article 18)

127. Article 18 of the Istanbul Convention sets out a number of general principles to be respected in the provision of both general and specialist protective and supportive services. One of these principles is the need for services to act in a concerted and co-ordinated manner with the involvement of all the agencies concerned. Addressing the complexity of violence against women requires establishing an intervention system which involves all relevant policy sectors, administrative levels and actors. Multisectoral and multiagency 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 “one-stop-shop” services to victims.

128. GREVIO notes that the lack of interinstitutional communication and co-ordination was found to be one of the main issues of concern identified by the Senate committee of enquiry on femicide and all forms of gender-based violence in its report of February 2018.<sup>103</sup> The report found that approximately half (57%) of the prosecutorial offices surveyed by the committee had concluded a form of multiagency co-operation agreement, whereas only about 15% of first-instance courts and 25% of courts of appeal had done so. The report further highlighted great disparities in the number and type of entities involved in multiagency co-operation. It pointed to serious gaps in co-operation agreements which failed to involve important players such as juvenile courts and lawyers. The report further expressed criticism of the tendency of many co-operation agreements to state general principles on the need to co-operate without spelling out concrete ways on how to make interinstitutional co-operation become a reality. It noted also a general lack of practical guidelines to support the implementation of co-operation agreements.

129. The many downsides of the lack of effective multiagency co-operation are examined in various sections of this report. They include, among others, the lack of effective co-ordination between general and specialist service provision, poor risk-assessment and management processes and the inability of civil courts to take into consideration instances of violence against women for the purposes of settling issues of custody and visitation.<sup>104</sup> GREVIO would, nevertheless, acknowledge that it has witnessed a growing sensitivity towards this issue. Women’s NGOs have relayed to GREVIO several examples where successful co-ordination is practised and where the strong involvement of particularly committed public officials have made a difference, at times even with relatively few financial means.

**130. GREVIO urges the Italian authorities to develop further solutions offering a co-ordinated multiagency response to all forms of violence against women and to support their implementation by developing appropriate guidelines and training the staff concerned. Such solutions should be built on the strong involvement of local authorities and the participation of all the stakeholders concerned, including non-governmental organisations defending women’s rights and combating violence against women.**

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<sup>103</sup> See pages 137-141 of the report.

<sup>104</sup> See considerations developed below in this report regarding respectively Articles 20, 51 and 31 of the convention.

## B. Information (Article 19)

131. Law-enforcement officials, medical and social services, and public agencies in general are under a legal duty<sup>105</sup> to provide victims of domestic violence, including sexual violence and stalking, with information regarding existing specialist services. Where victims so request, they must furthermore help refer them to such services. Women's NGOs, however, claim that the provision of information to victims on available support services and legal measures is not systematic and that it is highly dependent on whether local co-operation protocols between statutory agencies and women's specialist services have been concluded. These NGOs indicate further that hardly any informative material has been developed to this end, apart from material produced by the anti-violence centres themselves.

132. Where criminal proceedings are initiated, Article 90-bis in the Code of Criminal Procedure applies and defines the information that must be given to victims of crime at the first contact with the prosecuting authority. This information, to be provided in a language the victim understands, includes the entitlement to legal assistance and free legal aid, and to request compensation for damages suffered as a result of the offence. Victims must also receive information regarding available health services, anti-violence centres and shelters. The High Judiciary Council issued guidelines<sup>106</sup> on how to communicate effectively with victims and, during its evaluation, GREVIO was able to identify several examples of good practice.<sup>107</sup> GREVIO was however apprised by women's NGOs that in most cases, information tools developed to support the practical implementation of Article 90-bis are only available in Italian, are not widely disseminated and fail to fulfil the victim's need to understand her options. Moreover, they are not suitable for all categories of victims, including foreign women and women with disabilities.

**133. GREVIO encourages the Italian authorities to ensure the wider dissemination of information on the support services and legal measures available to victims of domestic and other forms of violence against women. This would include measures such as the dissemination of posters and leaflets as well as the intensification of efforts to ensure that professionals of all relevant institutions take a more proactive approach towards informing victims. The information provided should be adequate and accessible to victims, including foreign victims and victims with disabilities.**

## C. General support services (Article 20)

134. Following the reform enacted by Constitutional Law No. 3/2001, the provision of general support services in Italy, particularly social and health services, is characterised by elevated levels of local autonomy. The state authorities remain responsible under Article 117 of the Italian Constitution to guarantee citizens equal access to human rights and to safeguard the social cohesion of the country through the provision of harmonised basic social and health-care services. Constitutional Law No. 3/2001 therefore places upon the state the responsibility of determining minimum levels of services throughout the national territory. Such levels should define both the type of service to guarantee and the group of individuals entitled to benefit from services, which includes women in difficult situations. To date, the state authorities have only partially fulfilled this undertaking and have introduced legislation establishing "essential levels of assistance" (LEA) in the area of health care. Based on the yearly monitoring by the Ministry of Health, it appears that there has been a gradual improvement in the compliance of regions with the LEA over the years, with certain regions, however, still failing to meet them. Another consequence of the decentralisation of responsibilities to local authorities has been the decrease in overall amounts available for general support services under the central funding mechanism for social policies (the national fund for social policies), which, according

<sup>105</sup> Article 3, paragraph 5 of Law No. 119/2013.

<sup>106</sup> *Risoluzione sulle linee guida in tema di organizzazione e buone prassi per la trattazione dei procedimenti relative a reati di violenza di genere e domestica*, paragraph 7.3, High Judiciary Council, May 2018.

<sup>107</sup> See for instance leaflet *Vittime di reato – Mai più sole* developed by the Prosecuting Office of the Tribunal of Tivoli, with the support of the Local Health District ASL Roma 5, the Region Latium and with the co-operation of the ONG Differenza Donna, March 2019.

to women's organisations, have been only marginally compensated for by funds available under the various national action plans on gender-based violence.<sup>108</sup>

135. In the field of preventing and combating violence against women, this situation leads to structural inequalities in victims' access to general services across the country. General services are more widely available in the northern and central regions of the country and tend to be dispersed in the south and in the islands. Another consequence is the variety of approaches to violence against women, which are not always driven by a gendered understanding and the aim of upholding victims' and their children's needs for safety, protection and empowerment. Efforts have been made to ensure that personnel in general services receive training to assist victims and refer them to appropriate services; however, as highlighted earlier in this report in the section dedicated to training (Article 15 of the convention), sustained efforts in this area remain necessary, especially in terms of the need to standardise and systematise training. Furthermore, women's NGOs brought to GREVIO's attention the fact that insufficient training can lead to staff in general services harbouring a cultural attitude which questions victims' credibility and exposes them to secondary victimisation. This has also a severe impact on victims made vulnerable by particular circumstances,<sup>109</sup> such as women with disabilities: staff lacking the necessary training are not adequately prepared to detect the violence and when victims approach services and report the violence, they are at risk of being prejudiced.<sup>110</sup>

136. Discrepancies exist also in the levels of services' participation in a multiagency response that involves other relevant agencies, both public and private. These aspects characterise general services' interventions in cases of intimate partner violence and other forms of violence against women as well. For instance, the written contribution submitted to GREVIO by AIDOS and the EndFGM network reports that service provision for women and girls affected by female genital mutilation (FGM) is not homogenous and lacks co-ordination and communication with local administrations in charge of providing multisectoral services. The report suggests that prevention and protection services for victims of FGM should be institutionalised, for instance by creating regional FGM centres integrated into the broader existing referral systems for gender-based violence and involving all the sectors concerned, namely health care, education, social work, the judiciary, law enforcement and the asylum system.<sup>111</sup>

137. One of the aims of protection and support services should be victims' empowerment and economic independence. GREVIO notes with interest the inclusion in the third NAP on gender-based violence of a specific goal to this end. Under priority 2.2 of the plan, the authorities aim to support victims' access to employment and autonomous housing through a series of measures, which include among other things the promotion of policies and tax incentives to favour women's access to the workforce, a pilot project on the issue of how violence exposes women to problems of debt, and the further development of priority access to social housing and rental payment support schemes. At the time of GREVIO's evaluation, these measures remained at an early stage of implementation and the authorities did not provide any data illustrating how many women had benefited from measures of this kind which were already in place under the second NAP on gender-based violence. Women's organisations running anti-violence centres, which are at the forefront of efforts made to support victims find a job and a house of their own, had high expectations that the measures would alleviate their difficulties.

138. Another measure foreseen under priority 2.2 of the third NAP on gender-based violence is a qualitative and quantitative study to be carried out regarding victims' entitlement to special paid leave. A special leave period of three months was introduced by Law Decree No. 80/2015 for victims employed in either the public or private sector, as well as certain categories of self-employed women, and allows them to reduce their working schedule while retaining their full pay and pension benefits. GREVIO commends this measure, which can be instrumental in granting the victim the necessary time to organise her recovery from the violence without renouncing her employment. It notes, however, that data provided by the authorities indicate that very few women benefit from special paid leave

<sup>108</sup> Shadow report of women's NGOs, p. 20.

<sup>109</sup> A list of persons made vulnerable by particular circumstances is provided in paragraphs 87 and 120 of the explanatory report to the convention.

<sup>110</sup> Shadow report of women's NGOs, p. 26.

<sup>111</sup> See pages 8-9 of the report.

(fewer than 100 per year). The planned study aims at uncovering the reasons for these low figures, which appear to relate to the lack of awareness, among employers and employees alike, as to the existence of this opportunity, and victims' reluctance to disclose the violence in their working entourage.

139. Access to appropriate childcare services can be decisive in allowing women victims to seek and/or maintain paid work and support themselves economically. The state report<sup>112</sup> contains information on measures to support women in reconciling family life and work, without however indicating how these measures are tailored to meet the specific needs of women victims of violence. GREVIO notes that this is an area where data would indicate that women in general struggle in Italy. Figures from the national labour inspectorate<sup>113</sup> show a steady increase over the past few years of the number of women workers who voluntarily give up their employment for reasons such as the high costs of childcare and difficulties in accessing nursery and preschool services. This is also the subject of a recurrent grievance of trade unions in Italy.<sup>114</sup>

140. One of the requirements of the convention which applies to general services is that the provision thereof should not depend on the victim's willingness to press charges or testify against any perpetrator.<sup>115</sup> Hence, professionals in general services should refrain from applying any kind of overt or implicit pressure on victims to support prosecutorial action. The evaluation identified a tendency of general services in Italy, in particular health services operating according to the general guidelines for emergency wards (known as the Pink Code) to over-rely on the readiness and/or to pressure women into filing a criminal complaint. This also emerges from research reports<sup>116</sup> showing that pressing charges, especially where there are under-age children, tends to represent an "implicit" condition for accessing the available resources. ... A victimized woman who does not file a complaint is not deemed credible and/or is seen as insufficiently "deserving" of help. ... The woman who did not press charges, then, becomes a "reproachable" woman. She may be suspected of "collusion" with the perpetrator, or lying for personal reasons or aims, or of being excessively fragile and weak. Lastly, for professionals with direct responsibility towards children, the victim's complaint appears as a sort of "protection" when risky decisions are at stake, especially towards the intervention of the Minor Court [juvenile court].

**141. Recalling that the decentralisation of the institutional framework to address violence against women does not diminish the central government's responsibility to fulfil, with due diligence, its international and national obligations to effectively tackle such violence, GREVIO strongly encourages the Italian authorities to:**

- a. step up victims' access to adequate general support services, such as health services, housing services, employment services, public education and training services, financial support and childcare, to address the specific needs of victims of all the forms of violence covered by the scope of the Istanbul Convention;**
- b. ensure that these services are evenly distributed throughout the country, adequately resourced and provided by staff members trained in the gendered dynamics of violence against women and the need to follow a victim-centred approach so that they can respond to needs of the victims in a supportive manner;**
- c. ensure the service provision pays particular attention to the needs of victims who are or may be exposed to intersectional discrimination and/or those groups of victims who are made vulnerable by particular circumstances, including but not limited to victims with disabilities.**

**Measures taken to this end should comply with the requirements of Article 18 of the Istanbul Convention, which include the need for services to be part of a multiagency approach**

<sup>112</sup> See pages 15-18 of the state report.

<sup>113</sup> See the annual report on the validation of resignations and consensual terminations of work relationships of female and male workers, 2017.

<sup>114</sup> See the manifesto "All together. We want everything!", of the platform on gender of the trade union CGIL (General Italian Confederation on Labour).

<sup>115</sup> Article 18, paragraph 4, of the convention.

<sup>116</sup> See "When women press charges against their (ex)partner. The responses of the Criminal Justice System to male violence against women in intimate relationships", G. Creazzo, R. Palidda, 2011.

**to violence against women and to be based on a gendered understanding of violence and a victim-centred approach which focuses on the human rights and empowerment of the victim and does not depend on her willingness to press charges or testify against the perpetrator.**

#### **D. Assistance in individual/collective complaints (Article 21)**

142. Article 21 of the Istanbul Convention sets out the obligation of states parties to ensure that victims have information on and access to applicable regional and international complaint mechanisms, depending on which mechanisms have been ratified. In the case of Italy, these include the European Court of Human Rights, the CEDAW Committee and the European Social Charter. The provision aims at promoting the availability of sensitive and knowledgeable assistance to victims in presenting such complaints, which may be provided by the state, bar associations, relevant NGOs or other bodies.<sup>117</sup> Women's organisations and legal professionals contacted by GREVIO tend to concur on the fact that the information and assistance of this sort which is available to victims in Italy is mostly at the initiative of civil society and that more could be done by the authorities to enhance victims' access to these mechanisms.

**143. GREVIO invites the Italian authorities to step up their efforts to ensure victims have information on and access to applicable regional and international complaint mechanisms.**

#### **E. Specialist support services (Article 22) and Shelters (Article 23)**

144. In Italy, specialist services for women victims of violence are provided mainly by anti-violence centres. These are centres run by non-governmental organisations which support victims with short and long-term psychological counselling, trauma care, legal counselling, empowerment and support towards achieving economic independence, advocacy and outreach services, telephone helplines and specific services for children as victims or witnesses. Immediate, round-the-clock access to safe accommodation for victims and their children is also ensured by anti-violence centres, a number of which therefore further qualify as shelters.

145. For years, anti-violence centres were regulated exclusively through regional laws. This led to uneven levels of service provision throughout the country due to a series of factors: disparities between regional laws, varying levels of local public support and funding, and the availability of volunteer organisations running these centres. To remedy these shortcomings, Law No. 119/2013<sup>118</sup> introduced the principle of state funding for anti-violence centres. The law also laid the foundation for harmonising the provision of specialist services for victims and led to the conclusion, in November 2014, of the State-Region agreement on minimum requirements for accessing state funding. Under the terms of this agreement, both public local entities and non-governmental organisations may set up anti-violence centres and shelters. To this end, they must be enlisted in the relevant regional registries and their statutes must enshrine, as their exclusive or main goal, the protection and support to victims of gender-based violence against women and their children, in line with the objectives of the Istanbul Convention, or, alternatively, they must possess a proven and consolidated experience of at least five years in the area of preventing and combating violence against women. Moreover, their personnel must be exclusively female and composed of trained operators possessing the necessary specialist skills.

146. At the time of GREVIO's evaluation, the exact numbers of anti-violence and shelters operating in Italy were uncertain. Figures published on the website of the DEO<sup>119</sup> reported a total of 285 anti-violence centres throughout the national territory, including 228 shelters. Women's organisations' estimates were considerably lower: they included 160 anti-violence centres,

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<sup>117</sup> Explanatory report to the convention, paragraph 130.

<sup>118</sup> See Articles 5 and 5-bis of Law No. 119/2013.

<sup>119</sup> See [www.pariopportunita.gov.it/faqs/aumenta-il-numero-dei-centri-antiviolenze-e-delle-case-rifugio/](http://www.pariopportunita.gov.it/faqs/aumenta-il-numero-dei-centri-antiviolenze-e-delle-case-rifugio/).

79 of which run one or more shelters.<sup>120</sup> These disparities are the consequence of the delegation at regional level of the responsibility to identify entities eligible for funding under Law No. 119/2013.<sup>121</sup> Because regions take a varying approach to implementing the law and interpreting the terms of the 2014 State-Region agreement, data compiled by regional authorities and reported to the DEO do not match those of women's NGOs. GREVIO was informed for instance that in some regions, eligibility for state funding was ascertained based on a self-declaration by the entity concerned, without any effective control. Depending on the regions, anti-violence centres that are not successful in accessing state funding during regional tendering procedures, may be excluded from official figures. Hence, official figures are likely to include, on the one hand, entities that do not operate according to the standards of the State-Region agreement of 2014 but receive state funding, while, on the other hand, excluding entities that are aligned with these standards but do not benefit from state funding.

147. These divergent figures make it difficult to verify both the coverage and the quality of specialist service provisions. Based on data from women's NGOs, a 2015 report by WAVE<sup>122</sup> estimated a shortfall of 6 078 beds, a figure updated to 5 451 beds in the shadow report submitted to GREVIO in October 2018. The report further points to an issue of uneven spread of services throughout the country and of limited capacity of existing structures to respond to the needs of all victims and to all forms of violence, including for example forced marriage. Moreover, GREVIO's attention was drawn to the fact that where lists of service providers are compiled based on inaccurate official figures, the ability to properly refer victims to specialist support is undermined.

148. As for the quality of interventions, these figures would appear to signify that several entities catering to the needs of the victims and their children do not necessarily follow the approach advocated by the Istanbul Convention, namely one that is based on a gendered understanding of violence against women and domestic violence and focuses on the human rights and safety of the victim, while aiming to prevent secondary victimisation and empowering victims. Moreover, varying regional interventions have entailed various conditions for admitting victims to services, with some categories of victims – such as young women with no children, or older women accompanied by grown-up children – experiencing heightened difficulties in accessing shelters. Certain regions are reported to make access to a shelter dependent on the victim's income. The consequences of the different regional mechanisms for funding specialist services in terms of their impact on the financial stability of women's NGOs and on the continuity of service provision are examined earlier in this report in relation to Article 8 of the convention.

149. GREVIO welcomes the indication that in order to build an accurate picture of the existing specialist services, ISTAT and the CNR have recently concluded a mapping exercise of all the entities providing support and protection to victims of gender-based violence and their children<sup>123</sup>. The quantitative information gathered by ISTAT and the CNR will be complemented by a qualitative analysis of services extending to such issues as the nature of the service accessed by victims, the type of training received by the personnel delivering the services, how services are financed and whether the service provider is part of a multiagency network. Both quantitative and qualitative information gleaned from this exercise will be essential to guide the necessary interventions aimed at ensuring equal access to specialist services for all victims of all forms of violence against women throughout the national territory. GREVIO emphasises that a mapping exercise of specialist services needs to take into account the requirements established by the Istanbul Convention for the provision of specialist services, in particular those set out in Article 18 of the convention, and it draws the authorities' attention to the fact that the Council of Europe has developed a methodology and tools to establish inventories and to chart the various support services available for women who are victims of the diverse forms of violence covered by the convention, which can help CNR's and ISTAT's further efforts.<sup>124</sup>

<sup>120</sup> Shadow report of women's NGOs, p. 30.

<sup>121</sup> The implications of the regional distribution of state funding are examined in relation to Article 8 of the convention.

<sup>122</sup> See [www.filesserver.wave-network.org/researchreports/WAVE\\_Report\\_2015.pdf](http://www.filesserver.wave-network.org/researchreports/WAVE_Report_2015.pdf).

<sup>123</sup> The results of this exercise can be found at: <http://istat.it/violenza-sulle-donne/la-fuoruscita-dalla-violenza/centri-antiviolenza>.

<sup>124</sup> Mapping support services for victims of violence against women in line with the Istanbul Convention standards – Methodology and tools, L. Kelly Strasbourg, December 2018.

150. Regarding the ways of funding specialist services run by NGOs, GREVIO welcomes the practice of allowing anti-violence centres and shelters to use property seized from the mafia in pursuance of the relevant legislation. GREVIO had a chance to visit such a facility in the region of Apulia and considers that other countries may draw inspiration from this experience to introduce similar mechanisms aimed at utilising assets confiscated from organised crime for the benefit of victims of violence.

**151. Having regard to the suggestions and proposals made earlier in this report in relation to Article 8 of the Istanbul Convention, GREVIO urges the Italian authorities to take the necessary measures to:**

- a. **expand the coverage and capacity of specialist services throughout the country in relation to all forms of violence covered by the convention;**
- b. **harmonise the provision of specialist services with the standards defined by the convention which call for a human rights-based approach, grounded on a gendered understanding of violence against women and aimed at preventing secondary victimisation, ensuring respect for victims' human rights and safety, and empowering victims;**
- c. **guarantee equal access to service provision for all victims throughout the national territory, regardless of conditions such as income;**
- d. **ensure the provision of services pays due attention to the specific needs of groups of victims who are or may be exposed to intersectional discrimination, such as women with disabilities, as well as hard-to-reach groups and child witnesses;**
- e. **ensure the financial sustainability and the continuity of service provision.**

**To this end, the authorities should consider setting more stringent criteria to qualify as an anti-violence centre and/or shelter under the 2014 State-Region agreement and streamlining regions' interventions and funding in this area.**

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

152. Since 2006, the authorities offer a public-service telephone number (helpline 1522) for victims of gender-based violence. Following the entry into force of Law No. 38/2009, the helpline specifically addresses victims of stalking as well. The service is run by an NGO (Telefono Rosa) and can be accessed free of charge anywhere in the country, 24 hours a day, every day of the year. The service is available in Italian, English, French, Spanish and Arabic and provides an initial response to the needs of gender-based violence victims, as well as information concerning the available general and specialist support services. GREVIO was informed that measures are in place to ensure that personal data are collected and stored anonymously in line with applicable national laws. Data on the number of calls, the instances and types of violence reported and referrals are transmitted every three months to the DEO and made public on the department's website<sup>125</sup>. In line with Article 13 of Law No. 38/2009, the authorities ensure the financial coverage of the helpline which amounts to approximately 615 000 euros annually. Women's NGOs running specialist services report that co-ordination between the helpline and anti-violence centres could be improved to ensure all victims are properly referred and receive the required support, notably by ensuring that staff members dealing with calls are provided with an accurate and up-to-date list of existing specialist services.

153. Following the adoption of Law No. 7/2006 on female genital mutilation, a dedicated freephone helpline was set up in 2009 for victims of this form of violence and its management was entrusted to the Ministry of Interior and the national police. The service, however, receives very few calls and is currently inactive, even though it is still officially running and continues to receive state funding. Further, women's NGOs brought to GREVIO's attention the fact that the service was available only in Italian.<sup>126</sup> GREVIO notes that victims may be particularly hesitant to approach a helpline wired to law-enforcement services since the offence of female genital mutilation is subject to *ex officio* investigation.

<sup>125</sup> See <http://www.pariopportunita.gov.it/materiale/report-e-monitoraggio-1522/>.

<sup>126</sup> See page 32 of the shadow report of women's NGOs.

GREVIO recalls in this connection the requirement that helplines should provide information and support confidentially, and that callers should remain anonymous if they so wish.<sup>127</sup> According to specialist NGOs, the helpline should undergo a general overhaul and consideration should be given to the need to reconfigure the service within the general helpline for victims of gender-based violence.<sup>128</sup>

**154. GREVIO invites the Italian authorities to continue to take the necessary measures to:**

- a. ensure the referral by the national helpline of victims of all forms of violence covered by the Istanbul Convention to the appropriate general and specialist support services and enhance co-operation between the helpline and women's organisations, in particular those running anti-violence centres;**
- b. ensure victims of female genital mutilation have access to helpline support which complies with the requirements of the convention, namely the requirement that information and advice should be offered in a confidential manner, with due regard to callers' anonymity, and that the service should be available in all relevant languages and provided by specialist staff with in-depth knowledge of all forms of violence covered by the scope of the convention.**

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

155. In Italy, GREVIO has found evidence that certain specialist departments in public city hospitals would qualify as sexual assault centres offering the medical and forensic examinations, trauma support and counselling for victims required by Article 25. GREVIO visited one such centre, the specialist support unit for victims of sexual and domestic violence that is part of the emergency service of the Mangiagalli Clinic at the Policlinico hospital in Milan. The centre operates within an effective referral system linking relevant sectors, such as health care, law enforcement, and social and legal counselling, and complies with the required standards of risk assessment, respect for the victim's informed consent and confidentiality. Another such centre is reported to operate at the Sant'Anna hospital in Turin. Moreover, all accident and emergency services in major Italian hospitals have the necessary facilities, equipment and staff prepared to receive victims of sexual assault. While some smaller hospitals may lack specialist staffing, victims presenting at these are directed to the local anti-violence centres with which the hospitals co-operate.<sup>129</sup>

156. GREVIO recalls that adequate support for victims of sexual violence is key to allowing victims who wish to report the violence and to enabling effective prosecutorial action. Available prevalence data show very low reporting rates of sexual violence in Italy, with 17% of foreign women reporting abuse compared to 11.4% of Italian women, and lower yet percentages of victims seeking help from support services, namely 6.4% of foreign victims compared to 3.2% of Italian women.<sup>130</sup> In the light of the high proportion of unreported violence, GREVIO is concerned about data showing a gradual and constant reduction in the number of crimes of sexual violence reported. From 2011 to 2016, the total numbers of reported incidents of sexual violence against women and men fell from 4 617 to 4 046 episodes of violence, while the percentage of incidents of male sexual violence against women remained constant (over 90%). The gap between the number of reported crimes of sexual abuse against women and the number of convictions is also a source of concern: in 2016, there were 3 095 instances of sexual violence against a woman reported in the first nine months of the year compared to 1 419 convictions for the entire year.<sup>131</sup> The reasons for such low reporting rates are likely to be manifold and to include inadequate institutional responses to this form of violence as well

<sup>127</sup> Explanatory report to the convention, paragraph 137.

<sup>128</sup> Joint shadow report of AIDOS and the End FGM Network, p. 8.

<sup>129</sup> "Guidance for victims of rape and sexual assault in Italy", prepared by the British Embassy in Rome and the British Consulate-General in Milan, March 2019.

<sup>130</sup> Source: Femicide – The final report of the first Italian Joint Committee of Inquiry (Data and Statistics), March 2018.

<sup>131</sup> Ibid.

as the fact that under current laws sexual violence against adult women is, as a general rule, only prosecutable *ex parte*.<sup>132</sup>

157. GREVIO stresses that one of the fundamental tenets which underlies the provision of support services for victims of sexual violence is that of informed consent, and the need to afford victims control over decisions with respect to forensic and medical examinations, reporting, treatment, referral and the content of medical records.<sup>133</sup> In Italy, medical personnel assisting victims either in the existing sexual assault centres or in the public hospitals are under a duty to report violence whenever the offence is prosecutable *ex officio*. Considering that sexual violence is one of the offences for which the convention prescribes *ex officio* investigation and prosecution, GREVIO stresses the need to ensure the availability of support services for victims of sexual violence which guarantee the victim's confidentiality.

**158. GREVIO urges the Italian authorities to ensure the availability of rape crisis and/or sexual violence referral centres which provide a sensitive response to sexual violence by trained and specialist staff and which uphold the principle of the victim's informed consent and control over decisions with respect to forensic/medical examinations, reporting, treatment, referral and the content of medical records.**

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

159. GREVIO takes positive note of progress made in Italian legislation and policies towards recognising the harmful effects on children of witnessing violence against woman. Article 61, paragraph 11, of the Criminal Code sets out a higher penalty for any act of domestic violence or crime against individual liberty and physical integrity committed in the presence of a child. Moreover, the Law No. 69 of 19 July 2019 codified pre-existing criminal-court case law which equated committing violence against women in the presence of a child to a form of child abuse falling within the scope of Article 572 of the Criminal Code.<sup>134</sup> GREVIO welcomes further the fact that enhancing protection and support to child victims and witnesses of intra-family violence constitutes a separate goal (Priority area 2.4) of the ongoing NAP on violence against women.

160. ISTAT prevalence data show increasing rates of child exposure to domestic violence against their mothers (60.3% in 2006, up to 65.2% in 2014). A national survey conducted in 2015 by the Italian independent authority for children and adolescents,<sup>135</sup> which compared witnessing violence to child abuse, found that witnessing violence was the second most prevalent form of ill-treatment affecting children: approximately one in five children who suffer ill-treatment is a witness to family violence. The same survey analysed the type of support provided to children without, however, defining what form of child abuse the offence entailed. The most prevalent type of intervention carried out by social services involved removing the child from the family (33.7%); other interventions consisted of providing economic (27.9%) and educational (17.9%) support to the family, whereas in 38.4% of cases children were provided with various forms of assistance ranging from psychological counselling to support from anti-violence centres; some 7.9% of children did not receive any form of assistance. The survey further highlighted geographical disparities in the response of social services and the lack of appropriate funding levels for such services.

161. GREVIO notes that based on available information, it is difficult to assess to what extent child witnesses have access to appropriate protection and support services in Italy. It has, however, found that a major obstacle hampering such access is the lack of a proper understanding of gender-based violence and its effects on children among professionals working in social services. The crux of the problem lies in the tendency of competent agencies, in particular social services, to minimise violence, overlook the danger it poses to the safety and well-being of the mother and the child, and blame

<sup>132</sup> See further in this connection considerations developed in this report in relation to Article 55 of the convention.

<sup>133</sup> The only exceptions are (1) to protect the service user, when there is reason to believe that her life, health or freedom is at risk and (2) to protect the safety of others, when there is reason to believe that they may be at risk. See *Combating violence against women: minimum standards for support services*, Council of Europe, 2008, page 19.

<sup>134</sup> See new paragraph 4 of Article 572 of the Criminal Code.

<sup>135</sup> See *Indagine nazionale sul maltrattamento dei bambini e degli adolescenti in Italia, Autorità garante per l'infanzia et l'adolescenza*, CISMAI, Fondazione Terre des Hommes Italia, 2015.

victims for the difficult relationship between the violent father and the child. In these circumstances, many child witnesses are not receiving the support that is in their best interest. As illustrated further in this report in the section dedicated to the analysis of measures taken to implement Article 31 of the convention, this tendency exposes both mothers and child witnesses to a risk of re-traumatisation and secondary victimisation, such as in cases where children are separated from their mothers and placed in foster homes or residential care. Moreover, women's NGOs and researchers have drawn GREVIO's attention to the fact that many social workers suffer from not having received the necessary training. Without the required professional skills, they feel unprepared and "overwhelmed" by the responsibility to handle situations of violence and advise on the best course of action.

162. GREVIO welcomes the adoption of Law No. 4/2018 containing a number of provisions that reinforce the support for children who become orphans as a consequence of the killing of one of their parents at the hands of the other. Support measures introduced by this law include, *inter alia*, the disbursement of scholarships and the financing of training and counselling services to help find employment. The law calls for the allocation of an extra sum of two million euros on a yearly basis to finance such measures under the renamed "Solidarity fund for victims of organised crime, extortion, usury and violent intentional crimes, and orphans of domestic violence crimes". At least 70% of this amount is designed to fund measures in support of children, whereas the remaining 30% is destined to support orphans over the age of 18 who are not economically independent. GREVIO notes however that the actual implementation of the law is being delayed until the adoption of the necessary regulation defining the criteria for disbursing funds.

**163. Having regard to the suggestions and proposals made in this report in relation to Article 31 of the Istanbul Convention, GREVIO urges the Italian authorities to step up efforts to:**

- a. **ensure wider levels of awareness among the professionals concerned, such as social workers, legal and health professionals, and psychologists, of the harmful effects of witnessing domestic violence on children;**
- b. **provide access for child witnesses to appropriate, age-specific support services based on a gendered understanding of violence against women, pay due regard to the best interests of the child and incorporate a risk-assessment process.**

**GREVIO invites the authorities to expedite the adoption of the implementing regulation of Law No. 4/2018 containing support measures for orphans of domestic violence crimes.**

## **I. Reporting by professionals (Article 28)**

164. Italian legislation envisages extensive reporting obligations for professionals who may, in the course of their work, come into contact with victims of violence against women. Articles 361 and 362 of the Criminal Code require a member of any public administration or public service to report any offence which they discover in the discharge of their duties, provided the offence is subject to *ex officio* prosecution. The obligation to report such offences also applies to health-care professionals, unless reporting would expose the person receiving health care to criminal proceedings.

165. Extensive reporting obligations for health-care staff raise issues around victim autonomy. A fundamental element of the doctor-patient relationship is that of confidentiality, and health-care professionals are generally required to respect patient confidentiality. This is based on the notion that individuals should not be prevented from seeking medical treatment for fear of a disclosure of his or her condition to a third party. A confidential relationship is a prerequisite for providing patients with a correct diagnosis and the best possible medical care. This is even more important for victims of domestic violence, rape, sexual violence or other forms of violence covered by the convention. The shadow report submitted to GREVIO by the association BeFree<sup>136</sup> highlights the fact that the national guidelines applied in emergency wards in Italy (the "Pink Code") place a strong emphasis on the requirement to report the crime to law-enforcement agencies and courts, to the detriment of a gender-sensitive approach to violence against women and respect for women's self-determination. As regards

<sup>136</sup> See pages 12 to 14 of the report.

FGM, the shadow report submitted to GREVIO by AIDOS<sup>137</sup> and the EndFGM network indicates that health professionals are not keen on reporting and denouncing cases of FGM or risk of FGM to their patients, because they deem the penalty for parents extremely severe and not in line with the best interest of the child, especially in light of the possible withdrawal of parental rights. Moreover, medical personnel have the general feeling that by reporting FGM cases, they would jeopardise the doctor-patient relationship of trust. At the same time, health-care staff play an important role in identifying victims of violence and may very well be the only professionals to know about a woman suffering from abuse. In general terms, the lack of reporting by medical personnel of cases of FGM makes the phenomenon invisible and very difficult to track.

166. The obligation entailed by Article 28 of the convention is carefully worded in order to allow health-care staff, where they have reasonable grounds to believe that a serious act of violence has been committed and that further serious acts of such violence are to be expected, to report their suspicion to the competent authorities without risking sanctions for breaching their professional duty of confidentiality. The explanatory report explicitly states that this provision does not impose an obligation on such professionals to report.<sup>138</sup> Where the applicable legislation establishes an obligation to report, GREVIO stresses the need for health-care professionals to carefully weigh this obligation against the need to respect victims' autonomy and the risk of distancing victims from seeking institutional support and protection. In GREVIO's view, such an approach is key to empowering victims and, ultimately, increasing victims' general reporting rates.

**167. GREVIO encourages the Italian authorities to ensure that the duty to report is tempered by full and sensitive information provided to the victim to allow her to make an informed decision herself and maintain autonomy, while also ensuring the safety of all, especially children. To this end, the authorities might consider reviewing the existing national guidelines for emergency hospital wards and/or the implementation thereof, with a view to ensuring that they integrate a gendered approach based on respect for women's autonomy and self-determination, while operating in a multiagency perspective involving both statutory agencies and women's NGOs. As regards female genital mutilation, the authorities might wish to constructively engage with medical professionals to find a solution for their lack of reporting of FGM cases.**

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<sup>137</sup> Page 8 of the report.

<sup>138</sup> Explanatory report to the convention, paragraph 147.

## V. Substantive law

168. Chapter V of the Istanbul Convention covers a range of provisions related to substantive law, both in the area 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.

### A. Civil law

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

169. During its evaluation, GREVIO has found scarce evidence of measures taken in accordance with Article 29, paragraph 2, of the convention, to provide victims with adequate 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. One such measure is that which derives from Law No. 117/1988, as amended by Law 18/2015 (known as the Vassalli law). Under this law, anyone who has suffered unfair damage because of an unlawful judicial act or sentence, a judicial decision marred by gross negligence or a denial of justice is entitled to claim compensation. The request for compensation is lodged with the Prime Minister after exhausting all other available means of redress, including appeals before higher courts.

170. According to civil society representatives and lawyers met by GREVIO, however, the Vassalli law is hardly ever applied to investigate the responsibility of magistrates for poorly handling cases of violence against women. GREVIO takes further note that the only related case known to women's NGOs – a ruling by the Court of Messina finding the failure of prosecuting authorities to take measures within their responsibility to prevent the murder of a woman – was overturned by the judges of the court of appeal.<sup>139</sup> A report of the National Assembly dated November 2017 which analysed the state of implementation of the Istanbul Convention in the Italian legal system<sup>140</sup> stated in this regard that there appears to be a legislative gap leaving victims without any proper remedy, contrary to the requirements of Article 29, paragraph 2. GREVIO stresses that the obligation stemming from this provision should not be viewed as being limited to gross negligence or wilful disregard on the part of the judiciary of the duty to protect life<sup>141</sup> and that it should apply to a failure to protect the victim's human rights by any responsible authority, including, for example, law-enforcement agencies and social workers.

171. The measures taken in Italy to provide victims with adequate civil remedies against the perpetrator in accordance with Article 29, paragraph 1, of the convention are analysed further in this report in connection with the assessment of measures to implement Articles 52 and 53 of the convention.

**172. GREVIO urges the Italian authorities to take measures to fill the legislative gap caused by the absence of effective civil remedies against any state authority, whether from the judiciary or other statutory agency, that has failed in its duty to take the necessary preventive or protective measures within the scope of its powers, in accordance with the requirements of Article 29, paragraph 2, of the Istanbul Convention.**

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<sup>139</sup> See the decision by Court of Messina, I civil section, dated 30 May 2017 (and related comment in page 36 of the shadow report of women's NGOs) and decision by the Appeal Court of Messina, II civil section, dated 19 March 2019.

<sup>140</sup> See page 47 of report no. 50 (IV edition) "La Convenzione di Istanbul contro la violenza nei confronti delle donne – L'attuazione nell'ordinamento interno", 15 November 2017.

<sup>141</sup> Explanatory report to the convention, paragraph 163.

## 2. Compensation (Article 30)

173. In Italy, victims of criminal acts may file a request for compensation from the perpetrator either during criminal proceedings or by bringing a separate civil lawsuit.<sup>142</sup> There are no data to indicate how many victims of violence against women have benefited from compensation either in civil or criminal proceedings and what amounts were awarded.

174. Several obstacles would appear to prevent victims from seeking compensation before civil courts, such as a high evidentiary threshold, combined with the costs and delays of the proceedings. According to NGOs, victims hardly ever pursue this legal route and are prevented by the prevailing court practices from claiming damages during civil proceedings for the settlement of custody and visitation rights.<sup>143</sup>

175. To claim compensation during a criminal trial, a victim must become a party to the proceedings. This entails that she is required to back prosecution with her testimony and to supply supporting evidence. Legal practitioners report that this requirement frequently backfires as it will shift the courts' focus from the conduct of the offender to that of the victim and expose her to the courts' scrutiny as to what constitutes a "reliable" victim. Under the enduring stereotype that a "reliable" victim is fragile, remissive and unwilling to pursue compensation, victims are met with disbelief and subjected to frequent secondary victimisation. This would indicate that the existing case law of higher courts,<sup>144</sup> according to which the statement alone of the victim is enough to ground a decision to compensate, is not consistently followed in practice.

176. Where criminal courts rule on the victim's right to compensation without fixing the precise amount, or where they fix the amount of an advance payment,<sup>145</sup> victims' access to full compensation is deferred to the civil courts. In these cases, the delays and the additional costs involved in instituting separate civil proceedings can act as a deterrent to pursuing further action and can furthermore be detrimental to the victim by affording the perpetrator further time to organise his insolvency. Moreover, there are no uniform criteria for assessing and quantifying damages, particularly moral damages.

177. Following the adoption of Law 122/2016 (as amended by Law 167/2017), implementing the EU Directive 2004/80/EC, state compensation can be awarded to a victim of violence against women where compensation cannot be obtained from the perpetrator. The state indemnity is limited to covering any documented medical or social welfare-related expense, save for cases of murder or sexual violence for which compensation can serve to cover other types of expenditure as well. Compensation amounts are financed through a solidarity fund for victims of organised crime, extortion, usury and violent intentional crimes. The actual payment of the state indemnity remains, however, subject to the availability of funds. It is furthermore capped by a maximum threshold which varies depending on the nature of the offence and is not always suitable to represent an "appropriate" compensation as required by the convention.<sup>146</sup> Available data<sup>147</sup> would show that very few women victims benefit from this scheme, thus pointing to the possible inadequacy of its scope to encompass all forms of violence covered by the convention, as well as excessively restrictive conditions on accessing reparation.

178. GREVIO welcomes the adoption of Law No. 4/2018 which introduced specific measures aimed at securing the compensation of orphans of victims of femicide, a measure which goes beyond the strict requirements of Article 30 of the convention. The law introduces the duty of the prosecuting authority to request the attachment of the perpetrator's assets from the beginning of the proceedings,<sup>148</sup> the provisional payment of 50% of the estimated damages, from the moment a

<sup>142</sup> Articles 74 to 76 of the Code of Criminal Procedure.

<sup>143</sup> Shadow report of women's NGOs, p. 37.

<sup>144</sup> *Ibid.*, footnote no. 87.

<sup>145</sup> In pursuance of Article 539 of the Code of Criminal Procedure.

<sup>146</sup> Based on the Ministerial decree of 31 August 2017 issued by the Ministry of Interior, the maximum amounts are 7 200 euros in cases of homicide, 4 800 euros in cases of sexual violence and 3 000 euros for other crimes.

<sup>147</sup> The shadow report quotes figures from the Ministry of Interior, according to which 164 victims have benefited from the state compensation scheme since the enactment of Law 122/2016.

<sup>148</sup> Article 316 of the Code of Criminal Procedure.

conviction is handed down and the extension to the orphans of victims of femicide of the entitlement to benefit from the aforementioned state compensation scheme.

**179. GREVIO strongly encourages the Italian authorities to take further measures to:**

- a. facilitate victims' access to compensation in civil and criminal proceedings and ensure that such reparation is promptly attributed and proportionate to the gravity of the harm suffered;**
- b. develop criteria to ensure the harmonised quantification of damages incurred by the victim, including in particular moral damages;**
- c. ease victims' access to state compensation, ensure that such compensation is adequate in accordance with the requirements of Article 30, paragraph 2, of the Istanbul Convention, that it is granted within a reasonable time as required by Article 30, paragraph 3, of the convention, and that it is appropriate for covering victims of *all* forms of violence within the scope of the convention who have sustained serious bodily injury or impairment of health.**

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

180. Following the enactment of Law No. 54/2006, Italian civil courts are bound by the principle of shared custody as the default solution applying in cases of separation or divorce. Figures from ISTAT reveal that in practice shared custody is applied in nearly 90% of such cases.<sup>149</sup> There is no express obligation under applicable laws for statutory agencies to ensure that, in the determination of custody and visitation rights, incidents of violence covered by the scope of the convention are taken into account, as required by Article 31, paragraph 1, of the convention. Nevertheless, several provisions of the Civil Code allow giving priority to the best interest of the child over and above the principle of shared parenting. Thus, under Article 330 of the Civil Code, courts may decide the forfeiture of parental authority in such cases where a parent violates or neglects his parental duties or abuses his or her authority to the serious detriment of the child. Article 333 of the Civil Code contemplates the removal of the parent from the family home where the parent's conduct does not justify revoking his or her parental responsibility but appears nevertheless to be detrimental to the child. Furthermore, Article 337-querter of the Civil Code provides that the exclusive custody of a child may be granted to a parent if entrusting the custody to the other parent would be contrary to the child's interest. With a view to ensuring the effective implementation of these provisions, Law Decree No. 93/2013 introduced the duty of the prosecuting authority to inform juvenile courts of any pending criminal proceeding involving a crime of ill-treatment, aggravated sexual violence and/or stalking committed against a child or by the parent of a child against the other parent. Communication channels between criminal and civil/juvenile courts were further improved with the enactment of Law No. 69 of 19 July 2019.

181. GREVIO notes however that, *de facto*, these provisions appear to be rarely used to protect children who have witnessed violence against their mothers, even in cases where the violence has led to sentencing and/or other measures, including protection orders, against the perpetrator. GREVIO is especially concerned about information provided by NGOs<sup>150</sup> that would indicate that the system in place, rather than affording protection to victims and their children, "backfires" on mothers who seek to protect their children by reporting the violence and exposes them to secondary victimisation.

182. This information is corroborated by institutional reports<sup>151</sup> and ample research<sup>152</sup> illustrating the adverse effects on victims and their children of the absence of effective channels of communication between civil and criminal jurisdictions and/or of a lack of proper understanding of the phenomenon of violence against women and its consequences on children: civil law magistrates tend to rely on the conclusions of court-appointed experts (CTUs) and/or social services reports which often assimilate

<sup>149</sup> According to these figures, in 2015, 89% of decisions in separation and divorce cases awarded shared custody, whereas exclusive custody was conferred to mothers in 8.9% of cases.

<sup>150</sup> Shadow report on court proceedings in cases of custody.

<sup>151</sup> See paragraph 7.6 of the guidelines issued by the High Judiciary Council in May 2018.

<sup>152</sup> Shadow report of women's NGOs, p. 42.

instances of violence to situations of conflict and entirely dissociate considerations pertaining to the relationship between the victim and the perpetrator from those regarding the relationship between the violent parent and the child. Moreover, victims' claims of abuse by their partner are often dismissed on such dubious grounds as the "parental alienation syndrome" and mothers are blamed for their children's reluctance to meet their violent father. Personality tests, which are not suited to situations of violence, result in many victims been found inept as a parent. GREVIO stresses the high risk potential of the notion of parental alienation and related concepts to be used in a manner allowing for violence against women and their children to remain undetected and/or contested since they ignore the gender-based nature of domestic violence and essential aspects of child welfare.<sup>153</sup>

183. As a consequence, certain civil courts and CTUs not only fail to detect instances of violence, but they tend to ignore them.<sup>154</sup> Where parallel criminal proceedings are instituted, this can lead to situations where victims are pressured into dropping criminal charges against the perpetrator, on the assumption that maintaining such charges prevents pacifying the family and reaching an agreed settlement on the issues of custody and visitation, in the name of such principles as the "friendly parent provision". GREVIO has gathered ample evidence, including numerous individual testimonies, which would suggest that civil courts often require victims to meet their violent partner, regardless of the victim's claim of abuse and without any proper screening or risk assessment, until such an "amicable" agreement is reached.

184. GREVIO stresses that intimate partner violence is an essential factor in the determination of child custody.<sup>155</sup> GREVIO notes that a system based on parents reaching agreements in the best interests of their children might not pose any difficulty for most separated parents. However, it is not appropriate for couples whose relationships have been marred by violence. GREVIO recalls that violence between partners is indicative of a power imbalance in the relationship which may impair the ability to negotiate fairly and come to a mutually acceptable agreement. A woman who has been a victim of domestic violence will usually need specific support to negotiate agreements with the other parent who has been violent. Joint meetings between the abusive and non-abusive parent for the purpose of reaching an agreement on custody decisions can be seen as mandatory mediation since the victim has no choice but to attend in order to arrive at an agreement, contrary to the requirements of Article 48 of the convention.

185. Moreover, GREVIO notes with extreme concern the widespread practice by civil courts of considering a woman who raises the issue of domestic violence as a reason for not attending the meetings and not agreeing to custody or visitation, as an "unco-operative" parent and therefore an "unfit mother" who deserves to be sanctioned.<sup>156</sup> The negative consequences for victims vary: they range from subjecting victims to mandatory therapeutic treatment or training sessions to enhance their parental skills and include limiting and/or depriving them of their parental rights. Courts may also subject children to psychological treatment to recover from the "parental alienation", instead of referring them to appropriate support.<sup>157</sup> GREVIO stresses the need for civil courts to investigate all reports of violence and abuse, either by liaising with criminal courts whenever criminal proceedings are pending against the father of the victim's children, or by proactively seeking information from other

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<sup>153</sup> See the statement dated December 2017 from the European Association for Psychotherapy (EAP) warning that the concepts of "parent alienation syndrome" (PAS) and "parental alienation" (PA) are unsuitable for use in any psychotherapeutic practice. This statement from the EAP, which consists of 128 organisations of psychotherapists from 41 European countries, serves as a guideline for psychotherapists across Europe. See also the interview on this topic by C. Obber of the Italian judge F. Roia, published on 3 August 2018 in *Lettera Donna*, available at: [www.letteradonna.it/it/articoli/conversazioni/2018/08/03/alienazione-parentale-fabio-roia/26323/](http://www.letteradonna.it/it/articoli/conversazioni/2018/08/03/alienazione-parentale-fabio-roia/26323/).

<sup>154</sup> *A deafening silence – Hidden violence against women and children*, P. Romito, 2016.

<sup>155</sup> See statement dated 31 May 2019 of the Platform of United Nations and regional independent mechanisms on violence against women and women's rights.

<sup>156</sup> This practice is encouraged by protocols such as the Charter of Civitanova referred to on page 17 of the shadow report on court proceedings regarding child custody, calling for implementing "administrative, civil, and possibly also criminal, penalties" in cases where a parent "obstructs and/or opposes the exercise of the minor's right to bi-parenting".

<sup>157</sup> See the reference to the programme "REFARE – Reconnecting family relationships programme", mentioned on page 14 of the shadow report on court proceedings regarding child custody.

bodies, including, but not limited to, law enforcement, the local authority, health, education and specialist women's support services.<sup>158</sup>

186. In the light of ample research showing that improper child custody and visitation arrangements may expose women to post-separation abuse<sup>159</sup> and secondary victimisation,<sup>160</sup> GREVIO underlines that the safety of the non-violent parent and children must be a central factor when deciding the best interest of the child in relation to custody and visitation arrangements. As regards the latter, paragraph 2 of Article 31 of the convention requires that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children. This obligation stems from the realisation that for many victims and their children, complying with contact orders can present a serious safety risk because it often means meeting the perpetrator face to face<sup>161</sup> and it can act as a contributing factor to serious instances of violence, including the killing of the woman and/or children.<sup>162</sup> Proper risk assessments must therefore be an integral part of these processes, including where they are based on an agreement of the parents, so as to ensure that the agreed arrangements are in the best interest of the child and in particular that the safety of the parent and the child are protected. While GREVIO fully supports the right of the child to maintain its ties with both parents as enshrined in Article 9, paragraph 3, of the UN Convention on the Rights of the Child, exposure to domestic violence – as a victim or witness – requires exceptions to be made in the best interest of the child.<sup>163</sup>

187. GREVIO notes that the generic wording of the applicable legal provisions does not provide any guidance for avoiding the problematic judicial practices described above. It notes further that while certain examples of good judicial practices exist, the case law of higher courts<sup>164</sup> does not consistently disband the use of defensive arguments based on or akin to the “parental alienation”, nor does it clearly state judges' duty to screen cases for domestic violence and conduct risk assessments in order to determine the best interest of the child. National guidelines<sup>165</sup> have been developed which explicitly refer to the requirements of Article 31 of the Istanbul Convention in relation to the work of all statutory entities mandated to protect children, such as the judiciary and social services, but they are not obligatory nor mainstreamed. GREVIO notes with extreme concern that in some courts, the guidelines are overwritten by local guidelines which ignore the standards of the Istanbul Convention.<sup>166</sup> As a general remark, GREVIO is concerned that the difficulties in fulfilling the requirements of Article 31 might be the consequence of the introduction of a legal reform on shared custody which failed to carefully assess the enduring inequalities between women and men and the high rates of exposure of women and child witnesses to violence, as well as the risks of post-separation violence.

<sup>158</sup> For more detailed indications on how to investigate and detect instances of violence, GREVIO refers to the suggestions and proposals it formulated in paragraph 164 of its evaluation (baseline) report on Portugal, January 2019.

<sup>159</sup> Overview of research in this area shows that for many women and children, violence intensifies after separation; that child contact arrangements (including court-ordered contact) are a significant site for the perpetuation of physical and emotional abuse towards children and women, even where there are high levels of supervision; that child contact often replaces the intimate relationship as the avenue for men to control women, so that child contact can become a form of post-separation violence. See: R. Thiara and C. Harrison, “Safe not sorry: Key issues raised by research on child contact and domestic violence”, Women's Aid, 2016, available at: <https://warwick.ac.uk/study/cll/research/swell/ourwork/final-safe-not-sorry-for-web-jan-2016.pdf>.

<sup>160</sup> Studies on child homicides by perpetrators of domestic violence in the context of unsafe child contact started a national campaign in the United Kingdom, run by Women's Aid (see: [www.womensaid.org.uk/tag/nineteen-child-homicides/](http://www.womensaid.org.uk/tag/nineteen-child-homicides/)) and have led to a review of judicial practices on custody and visitation in some countries.

<sup>161</sup> Explanatory report to the convention, paragraph 176.

<sup>162</sup> At the time of GREVIO evaluation, a case was pending before the European Court of Human Rights (application no. 44166/15 – *Penati v. Italy*) concerning the death of Federico Shady Barakat, the applicant's son, aged eight at the time of the events, at the hands of his father, during an encounter between the father and child in the framework of a protected visitation at the premises of a local health agency (ASL).

<sup>163</sup> The UN Committee on the Rights of the Child emphasises, in paragraph 61 of its General Comment No. 13, that the “interpretation of a child's best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence”.

<sup>164</sup> While the decision of the Criminal Court of Cassation no. 7041 dated 20 March 2013 clearly formulates the court's reservations as to the use of such arguments, the decision of the Civil Court of Cassation no. 6919 dated 8 April 2016 does not take an equally clear stand on this issue.

<sup>165</sup> See “Minimum standards for interventions in cases of child witnesses of violence against mothers”, developed by the Cismai (Coordinamento Italiano dei Servizi contro il Maltrattamento e l'Abuso all'Infanzia), June 2017.

<sup>166</sup> Examples of such local guidelines include the Protocol of the Court of Brindisi, mentioned in footnote 91 of the shadow report of women's NGOs, as well as the Milan protocol and the Charter of Civitanova, mentioned in the shadow report on court proceedings regarding child custody.

**188. GREVIO urges the Italian authorities to take the necessary measures, including legislative amendments, to ensure that the competent courts are under a duty to consider all issues related to violence against women when determining custody and visitation rights and to assess whether such violence would warrant restricting custody and visitation rights. To this end, the authorities should:**

- a. consider amending their legislation to explicitly recognise the need to take into account incidents of violence covered by the scope of the Istanbul Convention in the determination of custody and visitation rights of children;**
- b. take measures to incorporate a systematic process for screening cases related to the determination of custody and visitation rights to determine whether violence has been an issue in the relationship and whether it has been reported;**
- c. duly investigate any report of violence, by improving co-operation with criminal courts and any relevant body, including, but not limited to, law-enforcement agencies, health and education authorities, and specialist women's support services;**
- d. incorporate risk-assessment procedures in the determination of custody and visitation rights in order to determine the best interest of the child;**
- e. ensure that only those professionals, particularly psychologists and child psychiatrists, who are attuned to the issue of violence against women and the requirements of the Istanbul Convention, can be appointed by courts to provide advice on issues of custody and visitation in situations of violence against women;**
- f. ban the use by court-appointed experts, social workers and courts of concepts related to "parental alienation", as well as any other approach or principle, such as the "friendly parent provision", which tend to consider mothers who invoke the violence as "unco-operative" and "unfit" as a parent, and to blame them for the poor relationship between a violent parent and his children;**
- g. abandon the practice of imposing upon the victim and her children the obligation to attend joint meetings with the perpetrator for the purposes of reaching an agreement on custody and visitation, which is tantamount to mandatory mediation;**
- h. build safeguards into the procedures, such as offering parents separate appointments and creating separate waiting areas in courts, to take into account the imbalance of power between the victim and the perpetrator and to prevent the risk of revictimisation;**
- i. ensure an appropriate use of the legal provisions which allow reducing, lifting and/or subjecting to safeguards the perpetrator's custody and visitation rights whenever a situation of violence is ascertained and promote the determination of custody and visitation rights on a provisional basis until all reported facts of violence against women are properly assessed.**

Such measures should be accompanied by the provision of appropriate training and the development of professional guidelines, aimed at raising awareness among the professionals concerned as to the harmful effects of violence on children, including child witnesses, and at familiarising them with the requirements of the Istanbul Convention on the settlement of custody and visitation rights. These guidelines should replace existing methodologies and guidelines which tend to reduce violence to a conflict, promote mediation without due account of the violence and resort to arguable concepts such as "parental alienation" which prioritise maintaining the child-parent relationship at all costs, over and above any consideration of the violence. Progress in this field should be measured by data and analyses of case law illustrating how family courts consider incidents of violence and how they motivate their decisions on custody and visitation rights.

## B. Criminal law

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

189. Prevalence data from the latest survey conducted by ISTAT in 2014 reveal that 10.6% of the women population in Italy report having suffered some form of sexual violence before the age of 16. The incidence rate of sexual violence is almost identical for foreign and Italian women (31.3% and 31.5% respectively), with foreign women reporting the most severe forms of sexual abuse (7.7% of rapes or attempted rapes as opposed to 5.1% for Italian women).<sup>167</sup> Considerations relating to reporting and conviction rates of sexual violence are developed further in this report in connection with the assessment of measures taken by the Italian authorities to implement Chapter VI of the convention. The need to render sexual violence prosecutable *ex officio* in line with the requirements of the convention is analysed below in this report in relation to Article 55 of the convention.

190. The current definition of the offence of sexual violence in Italian criminal law is the result of the enactment of Law No. 66/1996 which qualified sexual violence as a crime against personal freedom, moving away from the previous definition of sexual violence as a crime against public morality. Under the terms of Articles 609-bis and 609-octies of the Criminal Code, sexual violence is qualified as encompassing all sexual acts committed either by one or more persons, with the use of violence, threat, abuse of authority, abuse of the condition of “physical or psychological inferiority” of the victim or by misleading the victim as to the perpetrator’s identity. The legislation of Italy does not therefore define sexual violence as an offence based on the lack of consent given voluntarily as the result of the women’s free will and assessed in the context of the surrounding circumstances, in accordance with the terms of Article 36 of the Istanbul Convention.

**191. GREVIO strongly encourages the Italian authorities to consider amending their legislation to base the offence of sexual violence on the notion of freely given consent as required by Article 36, paragraph 1, of the Istanbul Convention.**

### 2. Forced marriage (Article 37)

192. In July 2019, new legislation was approved to introduce the specific offence of forced marriage into the Criminal Code. Hitherto, the conduct of forced marriage was prosecutable under the generic offence of ill-treatment punishable by Article 572 of the Criminal Code. In the absence of a dedicated offence, no official statistics exist regarding forced marriages but qualitative research into this phenomenon conducted in 2014 found that “the phenomenon of forced marriages has grown exponentially with the increasing immigration of families coming from the Indian subcontinent and other Arabic countries”.<sup>168</sup>

193. The new offence of forced marriage punishes the conduct of inducing a person to enter into marriage or civil union through violence, threat, persuasion based on religious precepts or by taking advantage of the victim’s situation of physical or mental inferiority. The offence applies further to the conduct of anyone who, by means of deception, violence or threats, or by persuasion based on religious precepts, induces a person to go abroad in order to force the victim to enter into marriage or civil union, regardless of whether the marriage or civil union is contracted. The applicable sanction is increased where the offence is committed against a child and the penalty is further increased if the offence is committed against a child younger than 14.

194. GREVIO welcomes these recent legislative measures which send a strong message against the enduring tendency to view forced marriages as a “cultural” issue to be solved within the family and/or community rather than a form of violence against women and a violation of their human rights. As highlighted earlier in this report, GREVIO stresses the importance of combining such criminal measures with equally strong preventive and protective measures and to embed them in a co-ordinated multiagency response, in accordance with the requirements set forth in Article 7 and Article 18 of the convention.

<sup>167</sup> Source: “Femicide – The final report of the first Italian Joint Committee of Inquiry (Data and Statistics)”, March 2018.

<sup>168</sup> See *Forced marriage in Italy: a qualitative research*, Le Onde Onlus, April 2014.

### 3. Female genital mutilation (Article 38)

195. The most recent research on the prevalence of female genital mutilation in Italy was published by the European Institute for Gender Equality (EIGE) in 2018 and found that between 15 to 24% of girls up to the age of 18 coming from countries practising female genital mutilation are at risk of this form of gender-based violence.<sup>169</sup> Since 2006, female genital mutilation has been expressly criminalised under Articles 583-bis and 583-ter of the Criminal Code. In accordance with the requirement of Article 38, indent *a*, of the convention, these provisions sanction the intentional conduct of mutilating female genitalia, including clitoridectomy, excision and infibulation, as well as any other conduct causing an injury to female genitalia with the aim of impairing the victim's sexuality in the absence of any therapeutic need. GREVIO did not, however, find any evidence of the criminalisation of the conducts described in indents *b* and *c* of Article 38 of the convention, namely that of "coercing or procuring a woman to undergo any of the acts listed in point *a*" and of "inciting, coercing or procuring a girl to undergo any of the acts listed in point *a*".

196. Considerations relating to reporting and conviction rates of female genital mutilation are developed further in this report in connection with the assessment of measures taken by the Italian authorities to implement Chapter VI of the convention.

**197. GREVIO invites the Italian authorities to consider introducing into the criminal legislation provisions to cover the conducts described in Article 38, indents *b* and *c*, of the Istanbul Convention.**

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

198. In Italy, forced abortion is criminalised under Law No. 194/1978 on termination of pregnancy. Article 18 of this law punishes with a prison term of four to eight years "whoever causes the interruption of a pregnancy without the consent of the woman". The absence of the victim's consent is configured whenever consent was obtained by using violence, threats or deception. Forced sterilisation can be prosecuted under Article 583, second paragraph, of the Criminal Code as aggravated personal injury. Under the terms of this provision, whoever intentionally causes a personal injury which entails the loss of the ability to procreate incurs a prison term of six to twelve years in prison. There are no data to illustrate to what extent these provisions are applied to punish the forms of violence against women covered by Article 39 of the convention.<sup>170</sup> However, the limited available case law<sup>171</sup> appears to corroborate women's NGOs' claim that these offences might be performed at the request of the victim's family under various medical justifications (endoscopies, biopsies) without going noticed.

### 5. Sexual harassment (Article 40)

199. Italian criminal legislation does not provide for a dedicated offence of sexual harassment. The criminal conduct described in Article 40 of the convention can be subsumed under different existing legal provisions, both criminal and civil, none of which, however, encompasses the entire spectrum of unwanted behaviour of a sexual nature targeted by this provision. Thus, the crime of sexual violence (Articles 609-bis and following of the Criminal Code) does not apply in cases of unwanted physical contact of a sexual nature involving parts of the victim's body other than her genitalia or erogenous zones. The crime of duress (Article 610 of the Criminal Code) is materialised only in cases of the use of violence or threats. The crime of ill-treatment (Article 572 of the Criminal Code) is applied by courts to sanction sexual harassment only within the limited scope of family relations. Civil sanctions apply to the conduct of anyone who "offends the honour or decorum of a person", whether verbally or by means of telegraphic, telephone, computer or telematic communication, or by means of writings or drawings (Article 4, paragraph 1a, of Legislative Decree No. 7/2016), but this type of behaviour is not appropriate for capturing the full range of serious consequences of sexual harassment, in particular

<sup>169</sup> See the factsheet "Current situation of female genital mutilation in Italy", EIGE, 2018.

<sup>170</sup> Considerations related to the need to develop comprehensive integrated policies covering, *inter alia*, these specific forms of violence against women are developed with respect to Article 7 of the convention.

<sup>171</sup> See decision of the Judge De Lorenzo, Court of Catanzaro, dated 18 November 2013: [www.sanita24.ilsole24ore.com/pdf2010/Sanita2/\\_Oggetti\\_Correlati/Documenti/Giurisprudenza/TRIBUNALE\\_CATANZARO\\_ABORTO.pdf?uud=AbxiKnHJ](http://www.sanita24.ilsole24ore.com/pdf2010/Sanita2/_Oggetti_Correlati/Documenti/Giurisprudenza/TRIBUNALE_CATANZARO_ABORTO.pdf?uud=AbxiKnHJ).

when it creates an intimidating, hostile, degrading, humiliating or offensive environment for the victim, as indicated in Article 40 of the convention. Law No. 198/2006 (the Code of Equal Opportunities) defines sexual harassment in the same terms as those used by the drafters of the convention and provides for civil remedies; it is limited, however, to sexual harassment which occurs in the workplace.

200. The lack of an adequate legislative framework to tackle sexual harassment entails the absence of administrative data regarding this form of violence. The available prevalence data reveal high rates of sexual harassment against women victims: a survey conducted by ISTAT in 2015 and 2016 found that 8 816 000 women between the ages of 14 and 65 (43.6% of the female population) had suffered some form of sexual harassment in their lifetime, whereas 1 404 000 women (8.9%) had experienced sexual harassment or blackmail during their working life and/or while seeking a job opportunity.<sup>172</sup>

**201. GREVIO strongly encourages the Italian authorities to consider introducing legislation to ensure that sexual harassment experienced in all areas of life is subject to a legal sanction.**

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

202. 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 parties 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. In other words, no individual falling under the jurisdiction of a court of a party to the convention should be allowed to validly invoke what he or she believes to be an element of his or her culture, religion or other form of personal reason to justify the commission of a criminal offence constituting a form of violence against women. With this article, the drafters of the convention intended to address crimes committed to punish victims in the name of so-called honour and to ensure that such crimes are not justified.<sup>173</sup>

203. So-called honour-related killings were excluded from the Italian criminal legislation in 1981, when Law No. 442/1981 repealed the former Article 587 of the Criminal Code. This provision punished with a lighter sentence anyone who caused the death of a spouse, daughter or sister after discovering that the victim was engaged in an “unlawful carnal relationship” and acting in the “state of wrath caused by the offence to his or her honour or that of the family”. These circumstances could also entail reduced penalties for the crime of causing a personal injury and exoneration from criminal responsibility for the crime of battery.

204. GREVIO takes positive note of this legislative development, as well of the consolidated case law in Italy which tends to harshen criminal punishment under the aggravating circumstance of futile motives (Article 61, paragraph 1, of the Criminal Code), where the perpetrator allegedly acted to defend his “honour” and/or in the name of cultural, religious, social or traditional norms or customs. GREVIO notes, however, with grave concern that courts continue to give relevance to such norms under the generic mitigating circumstances foreseen in Article 62, paragraph 1, of the Criminal Code, invoking such reasons as the “hurt feelings” and the “disappointment” of the perpetrator.<sup>174</sup> GREVIO considers that a review of the relevant case law and an in-depth qualitative analysis of mitigating circumstances applied in a representative sample of judgments in cases related to violence against women, including in particular cases that led to the death of the victim, would be necessary in order to verify whether and to what extent unjustifiable reasons for decreasing the sentences are used.

**205. GREVIO encourages the Italian authorities to take further measures to:**

<sup>172</sup> See ISTAT report available at: [www.istat.it/it/files/2018/02/statistica-report-MOLESTIE-SESSUALI-13-02-2018.pdf](http://www.istat.it/it/files/2018/02/statistica-report-MOLESTIE-SESSUALI-13-02-2018.pdf).

<sup>173</sup> Explanatory report to the convention, paragraph 216.

<sup>174</sup> In March 2019, an appeals court in Bologna halved a sentence to 16 years for a man who strangled his partner in 2016 gripped by what a court psychiatrist said was “an emotional and passionate storm”. In another case, a man who stabbed his wife to death was given 16 years, rather than the 30 years requested by prosecutors, by a court in Genoa who found that the murderer was driven by “anger and desperation, deep disappointment and resentment”.

- a. **dismantle the concept that the honour and prestige of a man or the family are intrinsically associated with the conduct or presumed conduct of women related to them, which is based on patriarchal attitudes and serves to control women and curb their personal autonomy;**
- b. **ensure, including through training of judicial professionals and monitoring of judicial practices, that on no grounds whatsoever do claims that the victim has transgressed cultural, religious, social or traditional norms, customs or “honour” translate into sentence reductions in court practice.**

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

206. Nearly all the circumstances listed in Article 46 of the convention may be taken into consideration under Italian law as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with the convention. The only circumstance for which GREVIO has found a limited implementation of the requirements of Article 46 is that which is foreseen under indent *h*, when the offence resulted in severe physical or psychological harm for the victim. Under current legislation, this circumstance appears to apply in a limited way to the offence of causing personal injuries (Articles 582 and following of the Criminal Code).

**207. GREVIO invites the Italian authorities to take the necessary measures to ensure that causing severe physical or psychological harm to the victim entails the applicability of an aggravating circumstance in relation to all the offences of violence against women established in accordance with the Istanbul Convention.**

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

208. In Italy there are no mandatory alternative dispute resolution processes, either in criminal or in civil legislation, that would contravene the obligation to ban all such processes in relation to all forms of violence covered by the scope of the convention.

209. Nevertheless, as explained in detail in relation to Article 31 of the convention, GREVIO found ample evidence that mediation processes are *de facto* enforced upon victims during child custody processes, running counter to the requirement of Article 48 of the convention. This finding is backed by recent research<sup>175</sup> in this area showing that professionals failed to identify and name domestic violence and labelled it as conflicts .... The “parental couple” was dissociated from the “marital couple”, and mediation was therefore applied as a rule, ignoring the violence and assuming that is not a parenting issue. The discrepancy in the treatment of abused mothers and violent fathers in mediation outcomes was central [in the finding of this study] .... During mediation, the responsibility for the violence and its consequences was attributed to both parents. Women and children were blamed for the perpetrators’ actions and experienced secondary victimization as the perpetrators’ patterns of power and control continued .... “Best interests” considerations prioritize the maintenance of perpetrator/child relationships, and this means that priority was given to “abuser’s rights” over victim safety .... As a result, victims of domestic violence were greatly disadvantaged during mediation, and this process resulted in decisions that put them and their children at risk for further abuse .... In addition, professionals did not know nor apply the Istanbul Convention.

210. GREVIO would like to underscore that there are commendable exceptions to this widespread trend, namely in the Court of Milan where certain high-level magistrates<sup>176</sup> are placing their authority and voice at the heart of efforts to uproot these damaging practices. These efforts are centred on the need for the standards of the Istanbul Convention to become an integral part of the deontological codes and practices of professionals concerned, out of recognition of their duty to protect victims and their children and to uphold their rights. They aim further at discrediting the use by professionals of the so-called parental alienation syndrome, which is often invoked without a proper understanding of

<sup>175</sup> See page 13 of the research paper “Family mediation in child custody cases and the concealment of domestic violence”, M. Feresin, N. Folla, S. Lapierre, P. Romito, 2018.

<sup>176</sup> During its evaluation visit, the GREVIO delegation met the judge Fabio Roia, president of section of the Court of Milan and author of *Crimes against women – Policies, laws, good practices*, 2017.

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the dynamics of violence against women and its effects on children, and in the absence of a thorough risk assessment and case-by-case examination of the specifics of each situation at hand.

211. GREVIO finds it profoundly disquieting that the political agenda of the governing authorities should give legitimacy to the concept of parental alienation as a “serious phenomenon” to combat<sup>177</sup> and give rise to legislative proposals such as the draft decree No. 735 under examination in parliament. In its Articles 1 to 4 and 7 and 8, the decree would introduce compulsory mediation in all separation cases where a child is directly or indirectly involved, elevating mediation to a condition in order to access judicial remedies regardless of any instance of violence. Of particular concern is Article 2 of the draft decree which provides for an obligation of secrecy, meaning that all documents related to the mediation procedure would remain secret and would not be able to be accessed during judicial proceedings except for the agreement reached during mediation. As noted by the UN Special Rapporteur on Violence against Women, this provision would greatly limit the power of the judicial authority to access key information for making a decision in relation to a separation case, limiting the ability of the judiciary to fulfil the state’s obligations regarding the protection of victims/survivors of domestic violence.

212. GREVIO’s proposals and suggestions as to which measures the authorities should take in this area as a matter of urgency are detailed above in this report in relation to Article 6 and Article 31 of the convention.

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<sup>177</sup> See press release from *The Guardian*, dated 19 September 2018, available at: [www.theguardian.com/world/2018/sep/19/italian-womens-groups-fear-law-change-will-hurt-domestic-violence-victims](http://www.theguardian.com/world/2018/sep/19/italian-womens-groups-fear-law-change-will-hurt-domestic-violence-victims).

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

213. 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)**

#### **1. Reporting to and investigations by law-enforcement agencies**

214. The authorities have informed GREVIO that state police offices at the provincial level (“questure”) have either anti-crime departments or specialist units for crimes affecting women and children which includes staff trained on violence against women. When policing cases of violence against women, these units apply a standardised procedure (known as the EVA protocol) which operates as a checklist for the essential information that needs to be recorded on the victim and the perpetrator to detect whether the case reported qualifies as gender-based violence. The protocol requires digitising all the information gathered and is credited for bridging an important gap in law-enforcement agencies’ interventions: prior to its introduction in 2017, when a victim of domestic violence was not willing to bring forth a complaint there would be no recording of police interventions for single acts of violence, such as beatings and threats, which are offences prosecutable *ex parte* but which can nevertheless, if repeated, give rise to the offence of ill-treatment, which is prosecutable *ex officio*. The automated processing of police reports, regardless of whether a criminal lawsuit is initiated, now makes it possible to track a history of domestic violence. GREVIO was informed that a similar procedure is in use by the carabinieri.

215. Moreover, questure have implemented specific ways of ensuring the protected hearing of the victim. These involve the presence of a psychologist and, in several larger cities throughout the country, the existence of special rooms in police stations which are designed to provide victims with the necessary privacy and a suitable environment for reporting the violence without the risk of secondary victimisation.

216. GREVIO welcomes these measures, which, combined with efforts to provide systematic initial and in-service training, have led to tangible and significant progress in how law-enforcement agencies tackle gender-based violence as first responders. Despite these achievements, women’s organisations report that discrepancies persist in how these agencies record, process and notify to the prosecutor’s office women’s reports of violence. Information provided in police reports is at times incomplete, vague and lacks the probative value necessary to support the application for a protection measure such as an emergency barring order. Moreover, there are reports which continue to stigmatise women and treat individual cases with a “one-size-fits-all” approach. Flying squads intervening on the spot may also consider the violence as a “family quarrel” and view their role as being one designed to “reconcile” the couple, rather than to protect the victim and support prosecutorial action with the collection of evidence.<sup>178</sup>

**217. GREVIO encourages the Italian authorities to continue to take measures to ensure that victims are heard without delay by specially trained law-enforcement officials, and that law-enforcement agencies’ handling of cases of violence against women is strongly anchored to a gendered understanding of violence against women and centres on the safety and the human rights of women and their children.**

<sup>178</sup> See page 8 of the shadow report submitted to GREVIO by the NGO BeFree.

## 2. The role of the prosecution services and conviction rates

218. In 2009, the High Judiciary Council in Italy adopted guidelines to promote an effective handling of judicial proceedings in cases of gender-based violence. These guidelines call for assigning judicial proceedings to specialist units/magistrates and aim at encouraging the sharing of best practices. Following the judgment of the European Court of Human Rights in the *Talpis v. Italy* case,<sup>179</sup> the High Judiciary Council launched a monitoring exercise in 2018 to assess to what extent the guidelines were being implemented. The monitoring exercise found a persistent heterogeneity in the application of the recommended organisational models:<sup>180</sup> specialisation is relatively complied with in prosecutorial offices, less so in courts, especially in smaller courts. More particularly, approximately a third of prosecutorial offices (31%) had set up specialist units to deal with gender-based violence-related offences, with the highest concentration of such units located in larger courts. Nearly 70% of prosecutorial offices had adopted specific protocols describing how to handle such cases, including at the investigative stage, and setting stringent deadlines as to the maximum duration of enquiries. An equal percentage of offices had formalised their co-operation with public and private entities involved in supporting victims during the judicial proceedings and/or local networks operating in the field of the prevention of gender-based violence.

219. In comparison, lower numbers of adjudicating offices had implemented existing guidelines. Only 17% had opened specialist units to deliberate on cases of gender-based violence, although almost 75% of them ordinarily prioritised the handling of such cases. Standard operating procedures regarding such matters as the co-operation between civil and criminal courts, suitable procedures for hearing the victim and co-operation protocols with bar associations to prevent a discriminatory and biased response by the judiciary to violence were applied in 6% of courts. One in four adjudicating offices had concluded a formal co-operation protocol with institutional and private entities supporting the victims during judicial proceedings, whereas 40% had entered into such agreements with local networks for the prevention of violence against women.

220. To expedite criminal proceedings, Article 132-bis of the implementing provisions of the Criminal Code requires prioritising judicial investigations into the offences most often associated with instances of gender-based violence, namely ill-treatment, stalking and sexual violence. However, the norm does not alter the general time limits which apply for concluding inquiries into criminal offences (18 months or 24 months in cases of aggravated sexual violence, sexual violence on children and gang rape) and no deadline applies to cases before the courts of appeal and cassation. Available data<sup>181</sup> would indicate that the average duration of first-instance trials into gender-based violence-related cases is three years; however, courts' practices vary considerably and delays in proceedings lead to significant numbers of cases being time-barred. Lengthy proceedings are also reported to occur for minor offences, such as threats and non-serious injuries, which fall within the remit of the competence of justices of the peace.

221. High rates of attrition emerge from an analysis of the limited available data on reporting and conviction rates in cases of gender-based violence. For instance, ISTAT-sourced data quoted in the final report of the first Parliamentary committee of inquiry on femicide and all forms of gender-based violence show that despite rising rates of reporting for the offence of stalking, the number of convictions per year is about 10 times lower than the number of reported crimes (35 convictions in 2009 and 1 601 in 2016, compared to 9 027 and 13 177 reported instances of stalking respectively), with approximately 75% of victims being women. Both reporting rates and conviction rates for sexual violence are relatively low and are declining: while the number of crimes of sexual violence reported fell from 4 617 episodes in 2011 to 4 046 in 2016 (with an incidence rate of women as victims and men as perpetrators in over 90% of cases), the number of perpetrators convicted has dropped from 1 703 to 1 419 in the same period. As for the offence of ill-treatment, increases in both reporting rates and conviction rates have been registered over this period: reported cases have gone from 9 294 to 14 000 while convictions, which relate for the majority to Italian-born men, have risen from 1 320 in

<sup>179</sup> For details of this case, see footnote 88 of this report.

<sup>180</sup> See decision of the High Judiciary Council of 9 May 2018.

<sup>181</sup> See page 165, Parliamentary Inquiry Committee on femicide and all forms of gender-based violence, February 2018.

the year 2000 to 2 923 in 2016. Having said this, it is important to note that although women have become more inclined to report incidents of ill-treatment and courts are more likely to hand down a conviction, the ratio between reports and convictions remains stable at five to one. Moreover, the only case of female genital mutilation which was brought to the attention of the courts since the criminalisation of this offence in 2006 ended with an acquittal.<sup>182</sup>

222. During its evaluation, GREVIO sought to find an explanation for these general low sentencing rates but it appears that the authorities have not conducted an examination into the possible factors contributing to such rates, for instance by analysing the typical pathway of gender-based violence-related cases through the chain of law-enforcement investigation, prosecution and trial, and by seeking to identify the points at which attrition might occur. Such an examination would be necessary to investigate claims by women's organisations that law-enforcement agencies' reports are at times vague and insufficient to support prosecutorial action, while criminal courts often discriminate against women, underestimate the consequences and risks of gender-based violence, harbour sexist prejudices and stereotypes and expose women to secondary victimisation. GREVIO is concerned about this lack of emphasis on attempting to determine why a vast majority of reported cases of violence against women "fall out" of the legal system and do not end in a conviction. While a criminal justice response is not the only one to be pursued in cases of violence against women and must be part of a comprehensive and integrated response across all the relevant areas of prevention, protection, prosecution and integrated policies (the four pillars of the convention), it is important to ensure accountability for criminal acts to build trust in the system and send the message that violence against women is not acceptable. Without a process that holds perpetrators to account, the violence is unlikely to stop, whether it be repeated/continued violence towards the original victim or a new victim. Prosecution and sanctions are therefore an essential part of the protection of women. Moreover, low conviction rates may lessen victims' trust in the criminal justice system and thus contribute to low reporting rates. Law-enforcement agencies and the judiciary should be seeking an increase in crime reporting as their response becomes more effective and trusted, and judicial processes deliver sanctions that match the crime. To this end, a thorough examination of all possible ways to achieve a more focused, driven and outcome-based approach to perpetrators' accountability is necessary.

223. In their attempts to improve the criminal justice response to violence against women, the authorities may seek to generalise the examples of good practices existing in the country which illustrate how courts can make the best use possible of available legal mechanisms while fulfilling the requirements of the convention. One such example is the experience of the Prosecutorial offices of the Court of Tivoli (Eastern Rome). Prosecutors in this court have enacted a series of measures to ensure a prompt and effective response to cases of gender-based violence. These measures range from increasing the number of prosecuting attorneys dealing with such crimes and prioritising these investigations, to ensuring the swift adoption of the necessary precautionary protective measures, placing their implementation under the tight supervision of prosecutors and creating a fast-track for the related trials. Moreover, prosecutors in Tivoli have developed innovative practices: based on an extended interpretation of the anti-mafia legislation in Italy, they apply the special restraining measures foreseen under this legislation to perpetrators of gender-based violence who continue to pose a risk to the safety of the victim after serving their prison sentence. All these measures take place within a robust interinstitutional network, involving statutory agencies and women's organisations, and are complemented by a wide array of preventive measures (training, information for victims, awareness-raising and outreach activities in the community). Since their introduction, reporting rates of cases of domestic violence against women have doubled.

224. GREVIO takes positive note of the introduction of recent legislation<sup>183</sup> aiming at ensuring a swift and effective response to cases of violence against women throughout the criminal justice and law enforcement system. GREVIO was informed that the primary goal of this legislation is to protect victims from repeat victimisation once the violence is reported. GREVIO reserves the right to assess the impact of this new piece legislation in the course of its future evaluation work.

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<sup>182</sup> Joint shadow report of AIDOS and the End FGM Network, p. 9.

<sup>183</sup> Law No. 69 of 19 July 2019.

**225. GREVIO strongly encourages the Italian authorities to:**

- a. pursue their efforts aimed at enabling an expeditious handling of investigations and criminal proceedings into cases of gender-based violence, while ensuring that measures taken to this end are supported by adequately funding;
- b. uphold perpetrators' accountability and to ensure criminal justice for all forms of violence covered by the Istanbul Convention;
- c. ensure that sentencing in cases of violence against women, including domestic violence, is commensurate to the gravity of the offence and preserves the dissuasive function of penalties.

Progress in this field should be measured by appropriate data and supported by relevant analyses of the handling of criminal cases by law-enforcement agencies, prosecutorial offices and courts in order to verify where attrition occurs and to identify possible gaps in the institutional response to violence against women.

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

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

227. In Italy, non-binding guidelines on risk assessment were set out in Annex D of the second NAP on gender-based violence and addressed to all institutional and non-institutional actors involved in dealing with gender-based violence. The guidelines recommend using on an experimental basis the internationally recognised protocol SARA (Spousal Assault Risk Assessment) to assess the risk, including the lethality risk, which perpetrators of domestic violence pose to their victims. The protocol SARA, and its updated versions SARA-Plus and SURPLUS, have since been recognised as a standard working tool for law-enforcement officials and ad hoc training has been provided to promote its use among their ranks. The guidelines for the health-care professionals operating in emergency wards (the Pink Code) also contain provisions on how to assess the risk of revictimisation in cases of ill-treatment.

228. In its report of February 2018, the Parliamentary committee of inquiry on femicide and gender-based violence noted that although there had been an increase in awareness and professionalism in this area, high levels of inefficiency persisted, meaning that in many cases of gender-based violence, risk assessments are totally omitted, while in others, police officials assess risks based on their experience and intuitive skills instead of structured and standardised parameters. The report noted a further shortcoming: where risk assessments are conducted, they are not part of a multiagency effort and their results are not communicated to other statutory agencies concerned. In the judicial sector, the findings of the monitoring exercise conducted by the High Council of the Judiciary in May 2018 revealed that less than 20% of prosecutorial offices and only 8% of adjudicating offices had adopted risk-assessment criteria to enable law-enforcement agencies, prosecuting authorities and criminal or civil courts to prevent reoffending and the escalation of violence. A serious underestimation of the risk is also at the heart of the European Court of Human Rights' judgment in the *Talpis v. Italy* case.<sup>184</sup>

229. Information provided in the shadow report of women's NGOs regarding measures taken by the authorities to implement Article 56 of the convention seemingly raises the issue of the lack of determination in statutory agencies' working methods and practices of all the critical moments at which a risk assessment should be carried out and/or repeated. With the exception of cases for which the law expressly states a duty to inform them,<sup>185</sup> it would appear that victims are not systematically notified about changes in the regime of barring, restraining and other measures of protection.

<sup>184</sup> For the details of this case, see footnote 88 of this report.

<sup>185</sup> See Article 90-ter of the Code of Criminal Procedure.

Consequently, victims are not in a position to inform the authorities of any relevant circumstance which would warrant extending, reinstating or putting in place a different measure of protection. Without such information, the authorities' ability to conduct an effective risk assessment is severely impaired.

230. Although there have been studies carried out by ISTAT on the assessment of recidivism, Italy lacks a mechanism to systematically monitor the efficacy of risk-assessment procedures, in particular where the violence has led to the killing of the victim or another member of her family. Domestic violence fatality or domestic homicide review (DHR) mechanisms are in use in various countries and examine cases of homicide that appear to be the result of domestic violence with the aim of identifying possible systemic gaps in the institutional response to violence and providing recommendations on how to prevent such homicides in the future. These mechanisms assess, *inter alia*, whether careful and repeat risk assessment and co-ordinated safety planning had been carried out and appropriate measures had been applied to protect victims from further harm, including measures of detention in severe cases of violence, whether the victim was under an emergency barring or protection order or had applied for such an order, whether there had been any breach of such an order, and what outcome resulted from investigation and prosecution. The aforementioned report of the Parliamentary committee of inquiry on femicide and gender-based violence analysed the compatibility of the DHR mechanism with the Italian system and concluded in favour of introducing such a system in Italy.

231. GREVIO reiterates that the obligation to ensure risk assessment extends to all forms of violence against women and thus includes cases of forced marriage. Where statutory agencies such as law enforcement and social workers learn of girls and/or women at risk of being forced into a marriage, the risks they may face when opposing the union must be thoroughly assessed and managed. The same consideration applies to the risks of female genital mutilation. The NGO AIDOS and the EndFGM network have reported to GREVIO that a practical tool to evaluate the level of risk of FGM and to help professionals to detect the risk and protect girls from undergoing the practice does not exist yet at national level, although some attempts have been made at regional and local level to develop such a tool.

232. Considerations pertaining to the need to apply risk-assessment procedures in the processes for determining custody and visitation rights are developed above in this report, in relation to Article 31 of the convention.

**233. GREVIO urges the Italian authorities to:**

- a. develop further their risk-assessment and management procedures and ensure their wide dissemination within all statutory agencies involved in dealing with cases of gender-based violence;**
- b. ensure risk assessments are repeated at all the relevant stages of proceedings, including in particular upon the expiry of any protection measure, and that such assessments take into consideration the views and concerns expressed by the victims;**
- c. ensure their risk-assessment and management procedures are a central element of a co-ordinated multiagency response in all cases of violence against women covered by the Istanbul Convention, including forced marriage and female genital mutilation;**
- d. consider introducing a system, such as a domestic homicide review mechanism, to analyse all cases of gender-based killings of women, with the aim of preventing them in the future, preserving the safety of women and holding to account both the perpetrator and the multiple agencies that come into contact with the parties.**

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

234. The ability of criminal courts to adopt barring and restraining orders in cases of domestic violence was first regulated by Law No. 154/2001. Their adoption is governed by Articles 282-bis and 282-ter of the Code of Criminal Procedure regarding precautionary measures. Such measures allow removing the indicted individual from the family home, restraining him from approaching certain locations where the victim usually dwells or from communicating with her, enjoining him to stay at a certain distance from the victim, and ordering him to pay for the expenses or loss of earnings incurred by the victim because of the violence. Precautionary measures are issued by criminal courts upon a request by the public prosecution. No time limits apply to their issuance. Since the entry into force of Law No. 69 of 19 July 2019, the enforcement of a precautionary measure may be effected with the use of electronic devices and the violation of such a measure subjects the offender to a criminal sanction.<sup>186</sup>

235. GREVIO notes with concern that criminal courts do not collect data on precautionary measures issued in cases of violence against women and are therefore not in a position to verify how effectively these measures are used to protect victims. Women's organisations and legal practitioners met by GREVIO report that, at times, victims' requests for safety measures remain unheeded and the risk they are exposed to is underestimated, leading to courts' reluctance to issue precautionary measures (particularly where there is no physical violence), delays in their issuance, negligence in their enforcement and minimisation of the risks signalled by a breach of such measures. Research in this area<sup>187</sup> highlighted that there are no measures in place to enable an immediate reaction to a call reporting the violation of a protection order. GREVIO stresses that an instant response to these calls is pivotal in light of the well-documented fact that a violation of a protective measure is a strong indicator of a potentially high-risk situation.

236. Law no. 154/2001 further regulated the ability of civil courts to adopt barring and restraining orders. This law introduced Articles 342-bis and 342-ter of the Civil Code which entitle any individual who, within the family, faces a serious prejudice to his or her physical or psychological integrity or liberty, to apply to a civil court for a protection order. The request for a protective measure can be made regardless of any criminal proceeding, unless the violence qualifies as the offence of ill-treatment, in which case it is subject to *ex officio* prosecution. The barring/restraining order may be issued by the judge *inaudita altera parte*, in which case it is followed – within a maximum deadline of 15 days – by a hearing at which the judge decides whether to uphold or revoke the protective measure. Protection orders have a maximum duration of one year but may be extended in the presence of “serious motives”. The violation of civil protection orders gives rise to the crime punished under Article 388, paragraph 1, of the Criminal Code of “wilful failure to fulfil a measure issued by a judge”, an offence which, however, can only be prosecuted upon the victim's complaint. When Law No. 38/2009 created the offence of stalking, these measures of protection under civil law became accessible to victims of stalking as well.

237. The authorities do not collect data on civil barring and protection orders, which represents a serious obstacle to the ability to effectively monitor their use. GREVIO is concerned about the indication provided by women's organisations in their shadow report<sup>188</sup> that victims' protection under these measures is undermined by a series of factors. These consist in delays of up to several months before a hearing is held at which the judge decides on the application for the protection order and uneven and restrictive court practices in assessing the conditions under which protection orders apply and can be extended. GREVIO is particularly concerned about the indication that, during the hearing, some civil courts take the questionable approach of seeking to reach a compromise between the victim and the perpetrator rather than taking a position on the request for a protection order, an approach which would reflect a severe misunderstanding of the dynamics of violence against women. GREVIO doubts that placing the burden on the victim to file a complaint when there is a breach of a protection order is an appropriate solution to dealing with the risks these situations generally entail.

<sup>186</sup> See Article 387bis of the Criminal Code.

<sup>187</sup> See page 144 of “Mapping the legislation and assessing the impact of Protection Orders in the European Member States”, S. van der Aa, J. Niemi, L. Sosa, A. Ferreira and A. Baldry, Wolf Legal Publishers, 2015.

<sup>188</sup> See page 35 of the shadow report.

Many victims may not want their partner or former partner to have a criminal record. Moreover, the lack of an automatic reaction on the part of statutory agencies to violations of protection orders sends the message that infringements are tolerated. Once the offender realises he can get away with his misbehaviour, the deterrent potential of protection orders is significantly diminished. This can not only provoke future violations, but it can also seriously discourage the victim, who should not be left alone in having to ensure that protection orders are enforced.

238. Under administrative law, police warnings were first introduced in the Italian legal system for the crime of stalking. Under Article 8 of Law No. 38/2009, as an alternative to lodging a criminal complaint, a victim of stalking may apply for a police warning (*ammonimento*) requiring the offender to cease the offensive behaviour. A violation of the police warning automatically triggers the start of criminal proceedings. With the enactment of Law No. 119/2013, the ability to issue police warnings was extended to cases of domestic violence. Thus, under Article 3 of this law, where police officials are notified of an offence of battery (Article 581 of the Criminal Code) or grievous bodily harm (Article 582 of the Criminal Code) occurring in a context of domestic violence, the chief of police may caution the offender to refrain from further violence after gathering the necessary information and hearing any individual informed about the facts. The issuance of a police warning entails the automatic suspension of the authorisation to hold firearms. Law No. 119/2013 further introduced Article 384-bis of the Code of Criminal Procedure granting law-enforcement agencies the power to bar from the family household the perpetrator caught in the act of committing various crimes, including serious injuries and serious threats, “when there is a serious and current danger to the life or physical and psychological integrity of the injured person”.

239. The Ministry of Interior provided GREVIO with data on the protective measures issued by law-enforcement agencies. In 2016, 2017 and 2018, there have been 266, 281 and 362 barring orders issued in pursuance of Article 384-bis of the Code of Criminal Procedure. Figures regarding warnings are slightly higher: during this time span, there were 948, 992 and 1 263 warnings issued in cases of stalking and 518, 576 and 878 for cases of intimate partnership violence. GREVIO notes that these numbers appear to be low compared to available reporting rates. The information provided in the shadow report on perpetrator programmes<sup>189</sup> showing that a high proportion of the total warnings in cases of stalking were issued in one city alone raises the question of whether this instrument is effectively used across the country. Research in this area<sup>190</sup> showing that after one year from the issuance of the warning about half of the victims continued being stalked points further to the issue of the inability of the warnings to stop the violence and would require analysing the reasons for such inefficiency, by determining for instance why many victims omit reporting the breach of the warning and how law-enforcement agencies could improve their enforcement.

240. Another important protective mechanism introduced by the law is the mandatory arrest in *flagrante delicto* for the offences of ill-treatment and stalking, in pursuance of Article 380, paragraph I-ter, of the Code of Criminal Procedure. Owing to the nature of these offences as habitual crimes, the most prominent difficulty in applying the latter provision is the need to gather evidence of the reiteration over time of the offensive conduct within the short interval allowed by the procedure (48 hours). Recent improvements in the way law-enforcement agencies record their interventions in cases of domestic violence should contribute to easing this task.<sup>191</sup> Nevertheless, the high regional disparities in the application of the measure of arrest in *flagrante delicto*<sup>192</sup> would appear to point to a different issue of uneven levels of awareness and training among law-enforcement and judicial agencies throughout the country.

<sup>189</sup> See page 18 of this report: “in 2016 only 517 warnings were issued in Italy, while 432 were issued in the first 9 months of 2017. These numbers need to take into consideration that in 2016-2017, 400 warrants were issued only in the city of Trento.”

<sup>190</sup> “Victim’s perception of quality of help and support by the police issuing warnings orders in ex intimate Partner Stalking Cases in Italy”, A. C. Baldry, V. Cinquegrana, S. Cacace, E. Crapolicchio, in *Policing: A journal of Policy and Practice*, Vol. 10, Oxford University Press, 2016.

<sup>191</sup> See consideration developed above in this report in relation to Article 50 of the convention.

<sup>192</sup> See report of the Parliamentary committee of inquiry on femicide and gender-based violence.

**241. While emphasising that in cases of severe violence, arrest and detention should remain the preferred solution to protect victims in situations of immediate danger, GREVIO urges the Italian authorities to:**

- a. uphold the principle that emergency barring orders should be accessible to victims of domestic violence in all its manifestations, including psychological violence, and that restraining or protection orders should be available to victims of all the forms of violence covered by the Istanbul Convention, including psychological violence and forms of violence which have been recently criminalised such as forced marriage;**
- b. preserve the deterrent potential of protective measures by enforcing them properly, by guaranteeing a prompt response from statutory agencies in case of violations and by ensuring that such violations carry appropriate sanctions;**
- c. amend the legislation that subjects the sanctioning of violations of civil law protection orders to a complaint of the victim;**
- d. ensure that barring orders are issued swiftly to avert situations of imminent danger and that, where necessary, restraining and/or protection orders are issued on an *ex parte* basis;**
- e. ensure that no gap in the protection of the victim arises because of the expiry of any barring, restraining or protection order by making available successive protection measures that can be applied immediately afterwards;**
- f. put an end to civil courts' practices which assimilate violence to situations of conflict and attempt to mediate arrangements between the victim and the perpetrator instead of assessing the victim's needs in terms of safety;**
- g. improve and harmonise practices regarding the application of other protective mechanisms such as police warnings and arrests in flagrante delicto, by drawing from existing best practices and while ensuring at all times that these measures take into consideration the choice of the victim.**

**Progress in this area should be carefully monitored and analysed, relying on appropriate data collection that highlights, in particular, the number of precautionary measures, whether barring, protection, restraining orders or warnings, requested and granted, whether they were issued upon a request or at the initiative of the authorities, the reasons for not granting them, the type of offence for which they were issued, the average time taken before they were issued, their duration, the frequency of their violations and the consequences of any violations. The results of such monitoring and analyses should be made available to the public.**

#### **D. Investigations and evidence (Article 54)**

**242. The Italian Code of Criminal Procedure contains several provisions aimed at ensuring that in proceedings related to the various forms of violence covered by the Istanbul Convention, evidence relating to the sexual history and conduct of the victim which has no probative value is not permitted.<sup>193</sup> Moreover, the Code of Legal Ethics for lawyers requires legal counsels to avoid questions and methods of examination that inflict further humiliation and convey a moral judgment on the victim's experience. According to women's organisations,<sup>194</sup> however, these norms have only had a limited success in disbanding negative sexist stereotyping from courtrooms and more training and awareness raising on these topics would be necessary for law-enforcement agencies, magistrates and lawyers.**

<sup>193</sup> Article 194, paragraph 2, and Article 472, paragraph 3-bis, of the Code of Criminal Procedure.

<sup>194</sup> Shadow report of women's NGOs, page 52.

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

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

244. While the Italian legislation conforms to this requirement for most of the forms of violence concerned, this is not the case for two types of offence. The first is the offence of simple bodily injury, regulated under Article 582, paragraph 2, of the Criminal Code. Indeed, upon its ratification of the Istanbul Convention, Italy did not enter a reservation which would have exempted it from the obligation to subject all acts of physical violence against women, including minor offences, to *ex officio* investigation and prosecution. The second is the offence of sexual violence regulated by Article 609-bis of the Criminal Code. Sexual violence is prosecutable only upon a complaint of the victim except where the violence is qualified by one of the aggravating circumstances described in Article 609-septies, paragraph 2, of the code. Thus, for instance, sexual violence committed against a child or by a public official is prosecutable *ex officio*.

**245. GREVIO urges the Italian authorities to amend their legislation to make it conform with the rules regarding *ex parte* and *ex officio* prosecution set out in Article 55, paragraph 1, of the Istanbul Convention, as regards in particular the offences of physical and sexual violence.**

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

246. GREVIO takes positive note of the numerous measures which have been adopted in Italy to conform with the obligation, under Article 56 of the convention, to put in place protective mechanisms for victims during legal proceedings. A number of these measures were established following the enactment of Law No. 119/2013. Others were established by way of implementation of EU Directive 2012/29/EU containing minimal standards on the rights, support and protection of victims of crime. These measures have been further strengthened by the case law of higher courts<sup>195</sup> and guidelines have been issued by the High Council of the Judiciary to remind courts of their importance for the purposes of ensuring that victims of gender-based violence are safe from intimidation, retaliation and repeat victimisation.

247. Nevertheless, GREVIO was apprised by legal practitioners that gaps persist in the applicable laws and in courts' practices which may expose victims to further harm. These depend on the fact that the obligation to inform the victim does not apply to all precautionary measures and to all circumstances and stages of the proceedings in which they cease to have effect, meaning that in some cases, victims may not be informed when the perpetrator is no longer detained.<sup>196</sup> GREVIO notes that the relevant rule<sup>197</sup> limits the provision of information to an express request of the victim, a requirement which might be viewed as an excessive restriction to the scope of application of the authorities' responsibility to ensure that victims are informed, at least in cases where the victims and the family might be in danger, when the perpetrator escapes or is released temporarily or definitively, in accordance with Article 56, indent *b*, of the convention. GREVIO notes further that irrespective of the wording of the applicable rules, the authorities are bound by their duty to ensure that an assessment of the lethality of the risk, the seriousness of the situation and the risk of repeated violence is carried out at all stages of the procedures, in accordance with the terms of Article 51, paragraph 1, of the convention. It refers therefore to the considerations developed above in this report in relation to this article.

248. One way of shielding victims from the risk of intimidation and retaliation during legal proceedings is to avoid as much as possible contact between victims and perpetrators within court and law-enforcement premises (Article 56, indent *g*) and to enable victims to testify, according to the rules provided by internal law, in the courtroom without being present or at least without the presence

<sup>195</sup> Court of Cassation, Joint session, decision no. 10959 of 29 January 2016.

<sup>196</sup> Shadow report of women's NGOs, page 52.

<sup>197</sup> Article 90-ter of the Code of Criminal Procedure.

of the alleged perpetrator, notably through the use of appropriate communication technologies, where available (Article 56, indent *l*). In Italy, special means for hearing victims are available to child victims or for those considered to be in a condition of particular vulnerability, in pursuance of Article 90-quater of the Code of Criminal Procedure. Vulnerable victims benefit from the opportunity to have their testimony recorded<sup>198</sup> and measures are foreseen to prevent them from having to repeat their testimony and/or to ensure their hearing takes place in a protected environment.<sup>199</sup> Certain courts have adopted guidelines to promote the use of these special measures for victims of gender-based violence and are equipped with dedicated protected rooms. GREVIO visited such rooms in the premises of the Court of Milan. Despite these measures, women's organisations specialising in the defence of victims indicate that their application and availability vary considerably depending on the sensitivity of each individual judge, as well as on the configuration of court buildings.

249. GREVIO welcomes the indication that a monitoring exercise is underway aimed at obtaining an overview of organisational measures in place to assist and protect victims during legal proceedings. The results of this monitoring process will serve to further raise awareness among the judiciary and law-enforcement agencies as to the need to shield victims from repeat and/or secondary victimisation throughout all stages of the proceedings. Moreover, GREVIO takes positive note of information concerning the recent launching of an inter-institutional working group involving, among other, representatives of the Ministry of Justice, the Ministry of Interior and the State-Region Conference, aimed at creating an integrated network of assistance and support services for victims of crime throughout the entire national territory.

**250. GREVIO encourages the Italian authorities to continue to take measures to:**

- a. ensure victims receive information which is relevant to their protection and the protection of their families from intimidation, retaliation and repeat victimisation, regardless of their express declaration to receive such information, in particular whenever changes occur in the measures designed to protect them;**
- b. promote victims' access to existing protective mechanisms meant to secure their testimony in the most suitable conditions, notably by raising awareness among the professionals concerned, in particular the judiciary, as to the traumatising nature of gender-based violence and the special needs of victims during legal proceedings, and by investing in the necessary material means such as IT equipment and adapted rooms in courthouses with the aim of making these mechanisms widely available to victims across the country;**
- c. mainstream a gender-sensitive approach to violence against women in any novel initiative aimed at creating and/or expanding assistance and support services for women victims of crime during legal proceedings.**

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

251. Following the enactment of Law No. 119/2013, any victim of ill-treatment, stalking, sexual violence and female genital mutilation is entitled to free legal aid, regardless of any condition of income. The law further established an obligation to inform victims about their entitlement to legal aid. In civil law, the general conditions of entitlement to legal aid apply and no exceptions are foreseen for victims of gender-based violence. Thus, only low-income women earning less than 12 000 euros per year may apply for legal aid. Women's organisations and lawyers specialising in the legal representation and defence of victims experience several difficulties in accessing legal aid. The parameters for calculating the aid and courts' varying sensitivity lead to situations where victims can be denied legal aid or where only a fraction of the actual costs incurred are covered by the aid.<sup>200</sup> Another issue derives from the severe delays in disbursing legal aid – delays which entail shifting the economic burden of defence from the victim to the legal counsel and the women's organisations

<sup>198</sup> See Article 134 of the Code of Criminal Procedure.

<sup>199</sup> See Articles 351, paragraph 1-ter, 362, paragraph 1-bis, 392, paragraph 1-bis, 398, paragraph 5-quater and 498, paragraph 4-quater of the Code of Criminal Procedure.

<sup>200</sup> See page 55 of the shadow report of women's NGOs.

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supporting her. Moreover, because the income threshold for access to legal aid in civil proceedings is calculated taking into account the resources of the family, victims who are temporarily housed by family members after seeking refuge from the violence are penalised.

**252. GREVIO encourages the Italian authorities to take the necessary measures to ensure that women victims of all the forms of violence covered by the Istanbul Convention have access to state-sponsored legal aid and that the conditions to access such aid do not place an excessive burden on victims and their legal counsel.**

## VII. Migration and asylum

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

254. As a general consideration, GREVIO stresses that it is fully aware of the challenges facing Italy as a state of first arrival of migrants. While commending Italy's efforts in past years aimed at the reception and integration of asylum seekers and refugees, GREVIO voices its strong belief in the importance of solidarity between European states to ensure that Italy and other states of first arrival are not left to deal with this situation alone.

### A. Residence status (Article 59)

255. In Italy, the provision set forth in Article 59, paragraph 1, of the convention requiring that victims of domestic violence be provided with autonomous residence permits in the event of particularly difficult circumstances is implemented through Article 18-bis of Legislative decree No. 286/98 (Consolidated Act on Immigration). Under this article, a residence permit of one year can be issued for humanitarian reasons where law-enforcement authorities or social services ascertain a situation of violence against a foreign national, threatening his or her safety. The permit is valid for one year and can be renewed if the dangerous conditions that caused it to be issued persist. In theory, this provision is protective, but its restricted scope limits its application: the residence permit can be issued only in cases of serious and repeated domestic violence and provided the victim faces a "real and present danger" to her safety. The existence of an incumbent risk for the woman's safety is often difficult to prove, especially in the case of psychological or economic violence which the authorities often fail to acknowledge as qualifying high-risk situations. Furthermore, as noted earlier in the section of this report regarding measures taken in Italy to implement Article 51 of the convention, policies and practices of risk assessment and risk management are not generally efficient and often fail to involve all responsible statutory agencies and relevant stakeholders. Women who separate from a violent partner have even more difficulties in obtaining a residence permit because of the erroneous assumption that the separation is enough to put an end to the risk of violence. Moreover, practitioners report that the opportunity foreseen in the law to obtain a residence permit without having to press charges is virtually non-existent because social services lack the required specialist knowledge and skills to produce the required reports. Information about obtaining such a permit is not widely available or circulated and it appears that many migrant women victims of violence are unaware of their rights in this respect. These issues seriously limit foreign victims' access to their entitlement to a residence permit under the law, as attested by available figures regarding the exceptionally low numbers of permits issued.<sup>201</sup>

256. GREVIO recalls that the purpose of Article 59, paragraph 1, of the convention is that migrant victims whose residence status is conditional on marriage or on being in a relationship should not fear losing their residence status for leaving an abusive and violent marriage or relationship. States parties should consider being a victim of the forms of violence covered by the scope of the convention committed by the spouse or partner or condoned by the spouse or partner as a particularly difficult circumstance. The conditions relating to the granting of the residence permit, which are left to the discretion of states parties, include establishing which public authorities are competent to decide if the

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<sup>201</sup> Data provided by the Ministry of Interior to the Senate Committee on Femicide showed that since the enactment of Article 18-bis of the Consolidated Act on Immigration in 2013, only 111 such residence permits had been granted in five years.

relationship has dissolved as a consequence of the violence endured and what evidence is to be produced by the victims.<sup>202</sup> In GREVIO's opinion, such conditions should not, however, further limit the scope of application of the residence permit, for instance by requiring that the victim be routinely exposed to acts of violence and/or that she face an incumbent risk to her safety. Besides not complying with the definition of domestic violence given in Article 3*d* of the convention, GREVIO considers that such a restrictive application of Article 59, paragraph 1, runs counter to the spirit of this provision, which is to allow victims to escape from violence before it becomes routine and/or before it becomes so serious that it poses an immediate threat to the safety of the victim.

257. GREVIO did not find any evidence that Italy has taken any measure to implement paragraph 3 of Article 59: this provision requires that a renewable residence permit be issued to victims where their stay is considered necessary owing to their personal situation on account of such factors as the victim's safety, state of health, family situation or the situation in her country of origin, and/or for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings. GREVIO recalls that the objective of this provision is to offer protection to foreign victims, regardless of their legal status. It is intended to benefit, among others, undocumented victims and may apply to victims of domestic violence who have been prevented by their violent partner from renewing their dependent residence status, as a result of violence.

258. Moreover, there is no specific provision in the Italian laws on immigration giving effect to the requirement under paragraph 4 of Article 59 of ensuring that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status. The loss of a residence permit due to the departure from Italy for a period of more than six months (or, in case of residence permits lasting more than two years, for a period of time exceeding half the duration of the residence permit) can be reverted where such a departure is attributable to "serious reasons", in pursuance of the applicable regulation;<sup>203</sup> however, forced marriage is not mentioned as qualifying as a serious reason, nor is it recognised in practice as such.

**259. GREVIO strongly encourages the Italian authorities to take the necessary measures, including legislative amendments, to:**

- a. ensure that the applicable legislation and/or the implementation thereof affords foreign women an autonomous residence permit in the event of particularly difficult circumstances, bearing in mind that such circumstances should include being a victim of the forms of violence covered by the scope of the Istanbul Convention committed and/or condoned by the spouse or partner;**
- b. ensure foreign women victims have access to a renewable residence permit in one of the two or in both the situations described in paragraph 3 of Article 59 of the convention;**
- c. ensure that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status, in accordance with the requirement of Article 59, paragraph 4, of the convention.**

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

### **1. Asylum applications on gender-related grounds**

260. Italy has implemented Directive 2004/83/EU on international protection by Legislative Decree No. 251/2007. Article 7, paragraph 2*a*, of this decree refers to "acts of physical or psychological violence including sexual violence", while Article 8, paragraph 1*d*, refers to "acts directed against a particular social group" for the purposes of qualifying acts of persecution. Legislative Decree

<sup>202</sup> Explanatory report to the Convention, paragraph 303.

<sup>203</sup> See Article 13, paragraph 4, of the Regulations concerning the provisions for implementing the Consolidated Act on Immigration, adopted by Presidential Decree no. 394 of 31 August 1999.

No. 18/2014, which transposed the EU Asylum Qualification Directive 2011/95/EC, explicitly acknowledges the relevance of gender to substantiate asylum claims and recognises female genital mutilation as grounds for the recognition of refugee status. In addition to refugee status and subsidiary protection and until recent legislative changes introduced in November 2018,<sup>204</sup> Article 5, paragraph 5, item 6, of the Consolidated Act on Immigration contemplated the humanitarian protection status: under this form of protection, police headquarters (questure) could issue a residence permit for foreign citizens seeking asylum who were deemed not to qualify for refugee status under the terms of the 1951 UN Refugee Convention but still required protection. From a procedural point of view, the legislation further provides for the prioritisation of cases involving people with specific needs, including survivors of gender-based violence, and for women seeking asylum to be interviewed, as much as possible, by female interviewers and interpreters.

261. Italy received over 130 000 new asylum applications in 2017, in addition to a backlog of over 150 000 applications waiting to be assessed. In 2018 there were approximately 53 500 asylum claims. Women and girls account for 22% of the total of asylum applicants. The lack of data regarding asylum claims made on the basis of gender-related forms of persecutions makes it impossible to ascertain clearly how many women make claims on this basis, and how many of these claimants received refugee status or other forms of international protection. GREVIO understands that women survivors of gender-based violence – including domestic violence, forced marriage, killings related to so-called honour and female genital mutilation – are generally afforded refugee status on the basis of their belonging to a particular social group. Recognised refugees originate from various countries such as Afghanistan, Albania, Cameroon, Cote d'Ivoire, the Democratic Republic of Congo, Ethiopia, Iraq, Libya, Mali, Morocco, Nigeria, Senegal, Somalia and Ukraine. Often, refugee women have been exposed to more than one act of gender-based violence (for instance, sexual violence and forced marriage). In some cases (especially for Somali and Ethiopian women), an additional link besides membership of a particular social group is established, for example race, political opinion and/or religion. Many of the women arriving have experienced violence including torture along the route and/or are victims of trafficking and sexual exploitation. As a result of rape, many are pregnant and have sexually transmitted diseases.<sup>205</sup> Until November 2018, humanitarian protection was granted to women who may have experienced gender-based violence in transit countries or was granted based on the consequences of trauma and psychological conditions of gender-based violence survivors, especially when medical-psychological reports were available. The figures provided in the state report<sup>206</sup> show a high rejection rate for women's asylum claims, and that of those who receive protection, the majority gain only humanitarian or subsidiary protection rather than refugee status.

262. While the authorities have adopted guidelines for the standardisation of identification and the referral of potential victims of trafficking that are seeking asylum, similar comprehensive guidelines have not been issued for survivors of gender-based violence, including sexual violence. The refugee status determination (RSD) procedures carried out by the competent territorial commissions therefore tend to vary from region to region, making it impossible to provide an overall judgment about the integration of gender-sensitive procedures into these procedures at a national level. GREVIO acknowledges, nevertheless, that good practices exist in many areas, such as in Bari where the RSD officers in the territorial commission have received substantive training on gender issues in asylum claims, and on how to ensure a gender-sensitive RSD procedure, including training on how to look for "hidden" violence which the asylum seeker might not immediately divulge during an interview. Interpreters within the territorial commission have also received training on gender sensitivity during interviews. Women asylum claimants in Bari are interviewed by female staff with female interpreters except in cases where it is impossible to arrange this because of a lack of staff. In these cases, the women asylum applicants concerned are asked to provide express consent to being interviewed or to having their interview interpreted by a man. Special attention is provided to persons identified as vulnerable (including women who have been victims of sexual violence). These vulnerable persons

<sup>204</sup> Humanitarian protection was abrogated by Law No. 132/2018. The effects of this law are examined below in this chapter.

<sup>205</sup> The UNHCR report "Desperate journeys – Refugees and migrants arriving in Europe and at Europe's borders, January to December 2018" (available at: [www.unhcr.org/desperatejourneys/](http://www.unhcr.org/desperatejourneys/)) describes the dire conditions faced by women transiting through Libya, which represents the main country of departure of women arriving in Italy by sea.

<sup>206</sup> Page 103 of the state report indicates for instance that in 2016, there were 9 351 women applicants of which 1 475 received refugee status, 1 150 subsidiary protection and 2 840 humanitarian protection; protection was rejected in 3 273 cases (566 applicants did not pursue their claim).

have protected interviews with a specially trained interpreter present. The territorial commission in Bari has concluded protocols with local anti-trafficking organisations in the region, and if trafficking is suspected, the asylum procedure is suspended while the case is assessed by these organisations.

263. Given the above and despite the existence of a legislative framework giving effect to the requirements of Article 60, paragraph 1, of the convention, which provides the grounds for the development of good practices, GREVIO remains concerned that gender-based violence-related claims may not emerge during the refugee status determination process, due to the lack of a systematic and co-ordinated identification process. Moreover, in the light of the available data showing that most women obtaining international protection achieved such protection under the abrogated humanitarian residence permit, GREVIO is concerned that the abrogation of humanitarian protection may have serious consequences on women asylum seekers who are victims of gender-based violence.

## 2. Reception and accommodation facilities

264. Directive 2013/33/EU on minimum standards for the reception of asylum applicants and Directive 2013/32/EU on common procedures for the recognition and revocation of the status of international protection were implemented by Legislative Decree No. 142/2015. Pursuant to this decree and prior to the entry into force of Law No. 132/2018, the reception system for asylum seekers, which is co-ordinated by the Ministry of the Interior, was organised into two phases: (1) the first reception phase, which takes place in specialist centres where asylum seekers remain for the length of time necessary for the identification procedure – first aid and reception centres (CPSA), accommodation centres (CDA), centres for accommodation of asylum seekers (CARA) and emergency (“extraordinary”) reception centres (CAS); and (2) the second reception phase, managed by SPRAR (“System for the protection of asylum seekers and refugees”) with the direct participation of the local authorities, which aims at the social integration of the asylum seekers/refugees. The SPRAR system was abrogated by Law No. 2018, the effects of which are examined below in this report. Legislative Decree No. 142/2015 requires that measures be taken in first-line reception centres to respect applicants’ privacy, as well as gender differences. Article 17, paragraph 1, of the decree requires further that proper arrangements be made during the asylum application procedure to protect individuals with specific needs such as pregnant women and victims of female genital mutilation.

265. Migrants are often detained in so-called hotspots until they have gone through the fingerprinting and initial identification processes and until a place is found in another reception centre. NGO reports<sup>207</sup> unveil the numerous deficiencies of the hotspot approach (overcrowded and mixed facilities, lack of private spaces for conducting interviews in a confidential manner, insufficient numbers of qualified intercultural mediators and interpreters, inaccurate legal information provided to applicants) and the dangers they pose for women in terms of exposure to repeated violence and hindered access to international protection. The hotspot approach officially incorporates a screening for vulnerability of new arrivals, and those who are vulnerable include women who have been victims of violence. This vulnerability screening does not, however, appear to be applied consistently and, in one case, about 20 young Nigerian women were immediately repatriated on arrival in Italy, even though they had physical signs of violence visible on their bodies.<sup>208</sup>

266. The conditions within accommodation and reception centres vary depending on the region and the organisation running the centre. The first-line reception system for asylum seekers is mostly characterised by the presence of large collective facilities, prone to patterns of promiscuity and overcrowding, especially in times of greater pressure and higher numbers of arrivals. There is no guarantee that women will have safe spaces and separate bathroom and toilet facilities. In some centres it has been reported that there are no locks on bedroom doors, and no separate bathroom facilities, exposing women to the risk of violence. Women who feel unsafe or who are victims of

<sup>207</sup> Samira Report, Dire, 2017. <https://terredeshommes.it/comunicati/pozzallo-preoccupazione-per-le-condizioni-di-accoglienza/>.

<sup>208</sup> GRETA (Group of Experts on Action against Trafficking in Human Beings) (2016)29, “Report on Italy under Rule 7 of the Rules of Procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings”, published on 30 January 2017.

violence in such accommodation centres frequently do not have the means to report the violence. Contract specifications provide for a general duty by associations managing the facilities to provide training opportunities to personnel. However, the overall trend seems to reflect very limited training opportunities for reception personnel, even more so for specific thematic training.<sup>209</sup> This is exacerbated by a lack of specialisation in many of the organisations that run these centres – some of which have been suspected of infiltration by the mafia<sup>210</sup> – and a high turnover of staff. Within reception centres and the asylum system in general there is a lack of cultural mediators who might support women victims of gender-based violence in their claims. Specialist NGOs who work on violence against women have very limited access to reception and detention facilities. Because of a lack of places in migrant reception centres, many are forced into other types of accommodation in slums, squats and abandoned buildings where women have limited access to basic services and are exposed to a heightened risk of violence. A report by Médecins sans frontières published in February 2018<sup>211</sup> points to the fact that about 10 000 migrants and refugees are living in what they called “inhumane conditions” in Italy.

### 3. Support services

267. Under Article 60, paragraph 3, of the convention, states are required to develop support services for asylum seekers that provide assistance in a gender-sensitive manner and that cater to their particular needs. This could include taking measures such as providing additional psychosocial and crisis counselling, as well as medical care for survivors of trauma, since many female asylum seekers have been exposed to sexual or other forms of abuse and are therefore particularly vulnerable. Support services should also aim to empower women and enable them to actively rebuild their lives.

268. Under applicable contract specifications, large collective reception facilities include an internal medical service: as a rule, reception personnel in first-line reception facilities include social workers, medical doctors and nurses – with a disproportionately limited number of working hours compared to the number of people accommodated at the facility. Contrary to previous contract specifications, however, the services in reception centres are no longer obliged to include psychological counselling, although some centres have developed good practice in taking measures to ensure minimum standards of protection of mental health.<sup>212</sup> Asylum-seeking and migrant women within reception and accommodation centres therefore do not have access to specialist services unless they are referred to anti-violence networks. GREVIO notes in this respect that effective multidisciplinary co-ordination between the asylum system and specialist services is still limited, to the extent that a codified mechanism of information sharing and standard operating procedures regulating interplay between relevant actors is missing. This opens up the possibility of protracted chronic consequences, in terms of physical and mental health for women victims of gender-based violence, including those who have been granted international protection.

269. In December 2017, the National Commission for the Right of Asylum sent a circular to the Territorial Eligibility Commissions encouraging them to establish referral mechanisms for the support of gender-based violence survivors in co-operation with associations that are part of the anti-violence network D.i.Re. At present, few territorial commissions have ad hoc referral systems in place, although increasing attention seems to be paid to them and to ways to provide them with adequate support. In some cases, informal mechanisms are functioning, while in other instances referrals are made possible through anti-trafficking organisations. In other cases, protocols and agreements are in place. For example, the Crotona territorial commission has a protocol in place on the medical-legal aspect of claims concerning gender-based violence survivors; in the Turin territorial commission, victims of gender-based violence are referred to a hospital and to a centre for dedicated psychological support;

<sup>209</sup> The International Organization for Migration reported that the management staff in accommodation centres are often not well trained in the rights of migrant women victims of violence and do not know how to deal with these cases.

<sup>210</sup> See decision no. 4087 dated 28 January 2019 of the Court of Cassation, I criminal section, confirming suspicions of mafia infiltration in a CARA in the Province of Crotona.

<sup>211</sup> “Out of sight – Informal settlements, social marginality, obstacles to access to healthcare and basic needs for migrants, asylum seekers and refugees| (2nd edition), Médecins sans frontières, February 2018.

<sup>212</sup> The CARA in Bari has put in place a protocol for medical and psychological interviews and screening as soon as women arrive to look out for potential vulnerability and experiences of violence.

in the Milan and Monza-Brianza territorial commissions, there is a service in place through the Niguarda's ethno-psychiatric unit.

#### 4. Effects of Law No. 132/2018

270. Following the submission of Italy's state report to GREVIO, Decree Law No. 113/2018 on international protection, immigration and public security was passed by the Italian Government in October 2018 and converted into Law No. 132 in November 2018. Besides abrogating humanitarian protection, extending the detention period of asylum seekers in hotspots for up to 30 days and doubling that of irregular migrants in repatriation holding centres (CPRs) from 90 to 180 days, Law 132/2018 replaced the SPRAR system for protection of asylum seekers and refugees with the SIPROIMI ("System for the protection of beneficiaries of international protection and foreign national unaccompanied minors"), a system of protection reserved solely for beneficiaries of international and subsidiary protection, foreign unaccompanied children and holders of residence permits for special reasons. A consequence of this legislative change is that many vulnerable asylum seekers, including Dublin returnees, such as pregnant women, women victims of trafficking or gender-based violence, will only have access to first reception centres and CAS, which offer support limited to emergency health care.<sup>213</sup> The reform has prompted certain EU states to re-examine the legality of the Dublin procedures vis-à-vis Italy, with some domestic courts suspending individual transfers on account of an increasing hostile environment on migration.<sup>214</sup> Considering the limitations of reception facilities at present provided by first-line reception centres, GREVIO is concerned that the reception conditions of women victims of gender-based violence are likely to deteriorate.

271. Another consequence of Law 132 of November 2018 is that some prefects have requested that centres included in the SPRAR network only host beneficiaries of international protection and unaccompanied children. This has seen a number of migrants already holding the humanitarian protection permit, including women with small children, to be left on the streets. This appears to be due to an incorrect interpretation of the law<sup>215</sup> and has prompted the Ministry of the Interior to issue a circular<sup>216</sup> to all prefects in order to establish a coherent understanding of the implementing measures of the law. Some local authorities are resisting the new legislation and refusing to expel migrants from accommodation centres. The mayors of Palermo, Naples, Florence and Parma have announced they will not enforce parts of decree, which they consider as infringing constitutional rights.<sup>217</sup>

272. In light of these considerations, GREVIO shares the concerns expressed by the Council of Europe Commissioner for Human Rights in December 2018 about a possible retrogression that would go against Italy's tradition of receiving people in need of protection.<sup>218</sup>

#### 273. GREVIO strongly encourages the Italian authorities to take measures to:

- a. **further standardise refugee status determination procedures which afford a gender-sensitive interpretation of each of the UN's 1951 Refugee Convention grounds and ensure their harmonised application throughout the country;**
- b. **collect quantitative and qualitative data on (1) the number of asylum requests grounded on gender-based violence; (2) how these grounds – including female genital mutilation – for international protection are interpreted and what conditions of protection are offered to victims; (3) the number of decisions granting or refusing protection on such grounds;**

<sup>213</sup> See the concerns expressed by many national NGOs dealing with health rights (HR Commissioner).

<sup>214</sup> A [recent report](#) by the Swiss and Danish Refugee Councils on the situation of persons with special reception needs transferred to Italy under the Dublin III Regulation has found that risks of destitution and exposure to unacceptable reception conditions upon return to Italy from other countries have been exacerbated by the entry into force of the decree.

<sup>215</sup> See statement of the NGO Associazione per gli studi giuridici sull'immigrazione (ASGI) dated 11 December 2018, available at: <https://altreconomia.it/conseguenze-decreto-salvini/>.

<sup>216</sup> The text of the circular can be consulted on the following web page: [www.interno.gov.it/sites/default/files/circolare\\_05155420181218191523.pdf](http://www.interno.gov.it/sites/default/files/circolare_05155420181218191523.pdf).

<sup>217</sup> See [www.thelocal.it/20190103/salvini-furious-as-italian-mayors-defy-new-immigration-rulesitalian-mayors-defy-salvini-over-immigration](http://www.thelocal.it/20190103/salvini-furious-as-italian-mayors-defy-new-immigration-rulesitalian-mayors-defy-salvini-over-immigration).

<sup>218</sup> Commissioner's full statement to the news agency [ANSA](#).

- c. **step up efforts to guarantee gender-sensitive reception procedures and accommodation facilities and increase the number of places in reception centres which provide suitable reception standards for women and girls;**
- d. **ensure that staff operating in initial landing settings, hotspots and reception facilities have received appropriate training for the early detection, protection and referral of women victims of gender-based violence, including female genital mutilation;**
- e. **guarantee that adequate information is provided, in all phases of reception, to all women seeking asylum, with the aim of increasing their awareness of their vulnerabilities and their rights, and facilitating their access to general and specialist protection and support services;**
- f. **ensure reception centres are integrated into a long-term perspective and a multiagency approach, involving health and social services as well as women's NGOs and anti-violence centres;**
- g. **closely monitor the impact of Law No. 132/2018 on women asylum seekers and beneficiaries of international protection on gender-based violence-related grounds.**

**Measures taken to this effect should be supported by adequate financial means and the deployment of mechanisms to monitor the conditions faced by women and girls in the different stages of the asylum-seeking process, including forced repatriation, as well as to enforce gender-sensitive contract specifications upon the entities managing reception centres.**

### **C. *Non-refoulement* (Article 61)**

274. Article 61 of the convention entails the obligation under international law for states to respect the principle of *non-refoulement* in relation to victims of gender-based violence who may fear persecution if returned. According to this principle, states shall not expel or return an asylum seeker or refugee to any country where their life or freedom would be threatened. Article 3 of the European Convention of Human Rights also prevents a person being returned to a place where they would be at real risk of being subjected to torture or inhuman or degrading treatment or punishment. The *non-refoulement* principle also includes not prohibiting access to the territory of a country to asylum seekers who have arrived at its borders or who are prevented from accessing its borders.<sup>219</sup> The obligation to respect the *non-refoulement* principle applies equally to victims of violence against women who are in need of protection, irrespective of the status or residence of the women concerned.<sup>220</sup>

275. The failures of vulnerability assessments to properly detect victims of gender-based violence discussed above in this report in relation to Article 60 can lead to deportations or returns in violation of the obligation of *non-refoulement*. Furthermore, the current policies of abandoning sea rescue and strengthening deterrence at sea, together with the closure of Italian ports to boats carrying rescued migrants (both commercial and NGO boats), poses a serious risk of *refoulement* of women migrants who have experienced violence and who have a right to claim asylum in Europe.<sup>221</sup> Returning sea migrants to Libya where there is evidence of large-scale sexual violence against women can be seen as abusing the right to *non-refoulement* and places women migrants at serious risk of revictimisation.

276. GREVIO is fully aware of the overwhelmingly disproportionate burden that Italy faces as a state of first arrival and trusts that the Italian authorities will continue to work co-operatively with other European countries to find a solution to this issue. GREVIO commends Italy for the efforts it has made in saving lives at sea and in receiving asylum seekers and migrants arriving on its shores over the years. It shares, however, the concerns expressed by the Council of Europe Commissioner for Human Rights<sup>222</sup> about recent measures hampering and criminalising the work of NGOs who play a crucial

<sup>219</sup> Explanatory report to the convention paragraph 320.

<sup>220</sup> Ibid. paragraph 322.

<sup>221</sup> "Sea arrivals to Italy -The cost of deterrence policies", Italian Institute for International Political Studies, M. Villa, October 2018.

<sup>222</sup> Letter dated 31 January 2019 from the Council of Europe Commissioner for Human Rights addressed to the Prime Minister of Italy, Mr Giuseppe Conte.

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role in saving lives at sea, banning disembarkation in Italian ports and relinquishing responsibility for search and rescue operations to authorities which appear unwilling or unable to protect rescued migrants from torture or inhuman or degrading treatment or are themselves in a state of civil war.

**277. GREVIO urges the Italian authorities to uphold their obligation to respect the principle of *non-refoulement* of victims of violence against women, including by ensuring that the human rights of victims rescued at sea are never put at risk because of disagreements about disembarkation.**

## VIII. Concluding remarks

278. As an expression of its genuine political will to prevent and combat gender-based violence, Italy has taken a range of measures to implement the Istanbul Convention. A succession of legislative reforms has created an extensive set of rules and mechanisms reinforcing the authorities' ability to match their intentions with concrete actions to stop the violence. Some of these legislative initiatives were particularly innovative, such as the legislation of 2009 on stalking, which contributed to creating a diffuse awareness as to the dangerousness of this criminal behaviour and the need to afford victims appropriate protection. GREVIO particularly welcomes the adoption of Law No. 119/2013 which formalised the authorities' duty to support and to promote, including by attributing financial means, a vast network of support services for victims. This law acknowledged the experience and achievements of years of commitment on the part of women's organisations who were the first in the country to set up anti-violence centres and shelters for women and their children. More recently, Law No. 69 of 19 July 2019 (known as the Red Code) introduced further measures to increase the effectiveness of judicial responses to violence against women and improve victims' protection.

279. During GREVIO's evaluation, the country was into its third NAP on gender-based violence, the first to achieve the necessary level of comprehensiveness to fully embrace the "4 Ps" approach of the convention, namely the requirement for public interventions on violence against women to address concurrently prevention, protection, prosecution and integrated policies. New measures had been recently introduced to allow following up on policies and measuring their effectiveness. In particular, an independent exercise of evaluation was underway to grasp how policies formulated at the national level had been enacted at regional and local level. Many of these advancements were being carried out for the first time and remain therefore to be consolidated, through sustained and continued investments on the part of the authorities.

280. Amid such progress, this report identifies areas where policies and measures are not attaining the expected outcome and provides guidance and concrete solutions to overcome such resistance. Moreover, the evaluation process registered disturbing signs that decision makers in Italy are considering introducing legislative changes<sup>223</sup> which would erode the progress achieved and radically compromise Italy's ability to fully uphold the standards of the convention. GREVIO recalls the importance for the authorities to persist in their efforts to promote and foster a gendered understanding of violence against women as a violation of their human rights and violence which disproportionately affects women because they are women. Furthermore, GREVIO stresses the potential offered by the Istanbul Convention as a legally binding instrument which is directly applicable in the Italian legal order and which the authorities may therefore invoke to override any conflicting norm or practice. The Istanbul Convention also represents an excellent pedagogical tool which could be further put to use in efforts to train professionals from different categories and to do away with methods and approaches which defeat its purposes and/or undermine its proper implementation.

281. In Italy, efforts by the government to bring to fruition their undertakings under the convention have received the strong support of the national parliament. The creation of the Senate committee of enquiry on femicide and all forms of gender-based violence in January 2017 offers a commendable example of how a national parliament can put into effect the provision of Article 70 of the Istanbul Convention regarding its role in monitoring the measures taken to implement the convention. The first report adopted by this committee in February 2018 provided a comprehensive review of such measures in Italy and is quoted on several occasions within this report. The staunch support of Italian parliamentarians for the Istanbul Convention has further given rise to the setting up in 2015, at the initiative of the Italian delegation to the Parliamentary Assembly of the Council of Europe, the national co-ordinating body, the Ministry of Foreign Affairs and the Conference of University Deans (CRUI) of the national award for the best university and PhD thesis on topics related to violence against women. GREVIO welcomes this measure, which is a concrete expression of the authorities' commitment to support research in the field of violence against women.

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<sup>223</sup> Draft decree No. 735. The text of the proposal (in Italian) can be consulted on the following web page: [www.senato.it/leg/18/BGT/Schede/Ddliter/testi/50388\\_testi.htm](http://www.senato.it/leg/18/BGT/Schede/Ddliter/testi/50388_testi.htm).

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

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

## **Appendix I**

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

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

##### **C. Definitions (Article 3)**

1. With a view to encouraging reporting of domestic violence against women and conveying society's condemnation of such violence as a form of discrimination against women and a violation of their human rights, GREVIO strongly encourages the Italian authorities to ensure an application of the legal provisions on the offence of ill-treatment in the family which is sensitive to the gendered nature of domestic violence against women and is not hampered by stereotyped views of women and their experience of violence. Measures taken to this effect should have regard to the proposals and suggestions made throughout this report about training (Article 15 of the Istanbul Convention) and the requirement to ensure statutory agencies' appropriate and prompt response to violence (Article 50 of the Istanbul Convention). (paragraph 19)

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

2. GREVIO strongly encourages the Italian authorities to: (paragraph 27)

- a. strengthen measures to prevent and combat violence which affects women who are or might be exposed to intersectional discrimination, including women with disabilities, women belonging to minority groups, women from the Roma, Sinti and Travellers community, migrant and asylum-seeking women, women from the LGBTI community, elderly women, women in prostitution and women who abuse substances;
- b. integrate the perspective of such women into the design, implementation, monitoring and evaluation of policies for preventing and combating violence against women, by supporting, funding and closely co-operating with women's NGOs representing them;
- c. mainstream gender-related issues and the prevention of gender-based violence in the activities of the national body(ies) mandated to combat discrimination and in programmes which are tailored to the specific needs of these women, including by developing special programmes aimed at proactively reaching out to them;
- d. raise the awareness of victims belonging to these groups of women about their rights and entitlement to access protection and support services;
- e. develop and improve the accessibility of protection and support services for these groups of women;
- f. support research and add specific indicators in data collection pertaining to violence against women which relate to women and girls who are or might be exposed to intersectional discrimination;
- g. ensure the effective enforcement of the due diligence obligation to diligently prevent, investigate, punish and provide reparation for victims belonging to these groups of women.

##### **E. State obligations and due diligence (Article 5)**

3. GREVIO strongly encourages the Italian authorities to use the same level of commitment in relation to prevention, protection, investigation, punishment and provision of remedies for violence against women, in accordance with the due diligence standard enshrined in Article 5 of the Istanbul Convention. (paragraph 31)

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

4. Bearing in mind the need to constructively engage with and consider the views of specialist women's NGOs, as well as independent experts and academics, when devising policies and laws on women's human rights, gender equality and violence against women, GREVIO urges the Italian authorities to: (paragraph 39)

- a. pursue their efforts to devise and effectively implement policies of equality between women and men and the empowerment of women;
- b. ensure that such efforts are not undermined by policies which overlook or downplay gender inequalities and gender-based violence by failing to acknowledge the structural nature of violence against women as a manifestation of historically unequal power relations between women and men;
- c. consistently mainstream gender and gender-based violence in relevant policy areas, for instance in policies regarding women and girls with disabilities;
- d. systematically screen draft legislation and measures against their potential impact on gender relations and gender-based violence and their alignment with the standards of the Istanbul Convention.

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

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

5. GREVIO strongly encourages the Italian authorities to pursue efforts aimed at: (paragraph 44)

- a. expanding the ongoing endeavours to conduct independent comparative analyses of the existing regional legislation and policies on violence against women, with a particular focus on identifying promising practices that can be recommended throughout Italy, and promote such endeavours both at national and regional levels;
- b. devising and implementing comprehensive and holistic policies to address violence against women in all its forms and manifestations, including in particular sexual violence, sexual harassment, forced marriage, forced sterilisation and abortion, as well as crimes against women committed in the name of so-called honour;
- c. harmonising and monitoring the implementation at regional/local level of policies and measures to prevent and combat violence against women;
- d. improving the co-ordination between national and regional/local government in the implementation of policies to prevent and combat violence against women and strengthening co-operation with regional/local authorities within the administrative make-up of the national co-ordinating body.

Such efforts should be supported by the allocation of adequate financial resources and the promotion of best practices.

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

6. GREVIO strongly encourages the Italian authorities to: (paragraph 54)

- a. develop additional indicators of gender budgeting which would allow the identification of budgets allocated and the amounts actually spent by all central governmental agencies concerned, in support of measures to prevent and combat violence against women;
- b. compile centralised data regarding funding by the different levels of territorial governance (regions, provinces, municipalities);
- c. ensure that the introduction of new policies and measures (such as national action plans, protocols and guidelines) to prevent and combat violence against women is accompanied from the onset by a thorough estimation of their financial implications and by the identification of available sources and amounts of financing;

- d. ensure adequate funding levels for existing measures to prevent and combat violence against women, such as the state compensation fund to which women victims of violence have access where compensation cannot be obtained by the perpetrator;
- e. simplify and expedite the disbursement of funding to NGOs and consider introducing direct transfer of national funds to implementing NGOs, in particular those providing support and protection services to women victims and their children, to prevent disruptions in the provision of services amounting to a violation of women's human rights;
- f. ensure clear minimum criteria to qualify as specialist women's services operating in line with the standards of the Istanbul Convention and recognised best practices, and make access to public funding dependent on the fulfilment of such criteria;
- g. increase the transparency and accountability in the use of public funds, notably by improving monitoring of expenditure at central, regional/provincial and local level;
- h. develop appropriate long-term/multi-annual financing solutions for NGOs, particularly anti-violence centres and shelters, to secure continuous funding for ongoing support and protection services for victims and their children;
- i. step up funding levels for women's specialist services, as well as general policies and measures to prevent and combat all forms of violence against all women exposed to gender-based violence, including migrant and asylum-seeking women.

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

- 7. GREVIO strongly encourages the Italian authorities to: (paragraph 59)
  - a. reinforce their support and recognition of independent women's organisations, by acknowledging the value and expertise they bring in terms of following a gendered approach to violence against women and fostering victims' trust and promoting their human rights;
  - b. strengthen the national and local institutional framework for consulting and co-operating with women's organisations for the purposes of the design, monitoring, evaluation and implementation of measures and policies to prevent and combat violence against women, including within the asylum system;

while ensuring that non-governmental organisations dealing with victims, their children and perpetrators of violence follow a common approach to violence, based on the principles and standards of the Istanbul Convention.

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

- 8. With a view to ensuring continuous policy setting and effective implementation, monitoring and evaluation of measures taken to prevent and combat violence against women, GREVIO strongly encourages the Italian authorities to: (paragraph 66)
  - a. provide the steering committee and technical committee, or equivalent bodies mandated to ensure the implementation and co-ordination of measures and policies to combat violence against women in accordance with the requirements of Article 10 of the Istanbul Convention, with a strong institutional basis beyond the limited time frames of national action plans and the terms of governmental mandates, and to equip them with appropriate dedicated human and financial resources;
  - b. pursue efforts to enable an effective monitoring and evaluation of policies, including by setting clear targets against which to measure progress achieved and by clearly identifying responsible implementing entities when issuing national action plans/strategies;
  - c. improve the co-ordination between national and decentralised governmental structures and enhance the ability of the Department of Equal Opportunities to ensure the consistent application of policies and measures at regional and local level, for instance by allowing the national co-ordinating body to be represented in local co-ordination mechanisms.

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

### **1. Administrative data collection**

9. Bearing in mind the need for data collection to apply to all forms of violence covered by the Istanbul Convention, GREVIO strongly encourages the Italian authorities to take the necessary measures, including – if deemed appropriate – legislative amendments establishing the duty of statutory agencies to collect gender-disaggregated data, to: (paragraph 78)

- a. ensure that data collected by all statutory agencies (namely law-enforcement agencies, judicial authorities, and health and social services) are disaggregated with regard to the gender of the victim and the perpetrator, their relationship and the different forms of violence and offences covered by the Istanbul Convention, and that information on the presence of child witnesses and victims is also included;
- b. harmonise data collection between law-enforcement agencies and the judiciary, with the aim, inter alia, of: allowing the assessment of conviction and attrition rates, and of recidivism rates; enabling a thorough analysis of the pathway of cases in the criminal justice system through the chain – law enforcement, prosecutors' offices and the courts; identifying gaps in the response of institutions which may contribute to low conviction rates and/or discrepancies between reporting rates and conviction rates;
- c. harmonise data collection and analysis regarding cases of violence against women which have resulted in the killing of the woman and, where appropriate, children;
- d. expand data collection to cover risk assessments, civil remedies for victims such as compensation, and protective measures in civil, criminal and administrative law, including data on breaches of these measures and the consequences of such breaches;
- e. introduce a data-collection system that allows the recording of the registration and outcomes of asylum claims made on the basis of gender-related persecution, including female genital mutilation and forced marriage;
- f. ensure that the process of collecting, storing and transforming collected data complies with standards on personal data protection, as contained in the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, and with recognised best practices requiring respect for specialist services' working methods aimed at guaranteeing victims' privacy and anonymity;
- g. increase awareness among the responsible government and regional agencies as to the requirements of the Istanbul Convention regarding data collection and enhance the skills and capacity of the professionals concerned to collect data, including through training in ways to detect and report cases of violence against women.

### **2. Population-based surveys**

10. Bearing in mind the need to cover all forms of violence against women within the scope of the Istanbul Convention, GREVIO encourages the Italian authorities to continue to carry out gender-sensitive surveys and to design surveys appropriate for providing sociologically oriented insights into the general population's opinions and attitudes towards violence against women. In accordance with the requirements of Article 11, paragraph 2, of the Istanbul Convention, the authorities should endeavour to conduct such surveys at regular intervals. (paragraph 81)

### **3. Research**

11. While ensuring full respect for the independence of academia, GREVIO encourages the Italian authorities to step up their support for academic research into issues related to violence against women, including by financially encouraging research into these areas. GREVIO invites the authorities to take further measures to take stock of the expertise and perspective of academia in the design, implementation, monitoring and evaluation of policies to prevent and combat violence against women. (paragraph 85)

### III. Prevention

12. Having regard to the recently adopted Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism, GREVIO strongly encourages the Italian authorities to pursue proactive and sustained measures to promote changes in sexist social and cultural patterns of behaviour, especially of men and young boys, that are based on the idea of inferiority of women. Such measures should include, inter alia, investing in a comprehensive public infrastructure that serves as a platform for women's empowerment and gender equality, developing a policy framework on the elimination of sexism and gender discriminatory stereotypes, and providing victims of sexist behaviour with appropriate remedies, including legal remedies. (paragraph 88)

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

13. GREVIO strongly encourages the Italian authorities to sustain and further develop their awareness-raising efforts in support of a general anti-violence message. Targeted campaigns should be developed both at the national and local level, including with the involvement of grass-roots organisations and specialist women's organisations, to: (paragraph 92)

- a. challenge patriarchal attitudes and stereotypes which contribute to the acceptance of violence and tend to blame women for violence;
- b. raise awareness about the harm caused to children who witness domestic violence;
- c. address all manifestations of violence against women, including in particular those forms of violence which remain underreported, such as sexual violence and rape, as well as female genital mutilation and forced marriage;
- d. convey the notion that under no grounds whatsoever should violence be tolerated, including harmful practices that are often justified through concepts of religion, tradition or so-called honour;
- e. reach vulnerable groups of women and girls and address their specific needs.

Measures taken to this effect should promote an understanding of violence against women based on the principles of the Istanbul Convention and take into consideration the expertise and knowledge of specialist women's NGOs.

#### B. Education (Article 14)

14. Bearing in mind the need to follow an integrated approach in mainstreaming gender in the education system, in line with Recommendation CM/Rec(2007)13 of the Committee of Ministers to member states on gender mainstreaming in education, GREVIO strongly encourages the Italian authorities to: (paragraph 99)

- a. pursue their efforts to mainstream gender equality and information about gender-based violence in all its forms, including forced marriage and female genital mutilation, and the topics covered by Article 14 of the Istanbul Convention in the education system, by ensuring the wide dissemination of the national guidelines on the education of respect in all schools and vocational establishments throughout the country and by promoting obligatory initial and in-service training of teachers and all education staff on these topics;
- b. develop a set of indicators allowing for the measurement of pupils' skills and competences on the topics mentioned in Article 14 of the Istanbul Convention and in relation to all forms of gender-based violence against women;
- c. finalise and implement the national guidelines for education on affectivity, sexuality and reproductive health in schools, as an important means to introduce pupils to the topics of the right to physical integrity and the definition of sexual violence given in Article 36 of the Istanbul Convention.

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

15. GREVIO strongly encourages the Italian authorities to take measures, in close co-operation with regional and local authorities, as well as relevant stakeholders including women's specialist organisations and academia, to: (paragraph 107)

- a. ensure compulsory initial training in all the forms of violence against women covered by the Istanbul Convention in the vocational and professional curricula for health professionals;
- b. expand and make compulsory the available in-service training for practising health professionals, including on how to provide appropriate treatment to victims of female genital mutilation;
- d. pursue efforts to ensure that all law-enforcement officials who might enter into contact with victims receive continuous training on violence against women, which places a strong emphasis on the need to understand the dynamics of violence against women and on the role of law-enforcement agencies in seeking evidence to prosecute cases of violence;
- e. expand the available initial and in-service training opportunities for members of the judiciary and legal professionals to address all forms of violence against women covered by the Istanbul Convention;
- f. provide for compulsory professional training for serving legal professionals;
- g. develop training for other professionals involved in supporting judicial decision-making processes, such as social workers and psychologists;
- h. ensure that professionals involved in the assessment of situations of violence affecting migrant women, such as law-enforcement agencies, lawyers and social services, have access to training which enhances their understanding of gender-based violence and their ability to effectively implement the relevant legislation entitling victims to an autonomous residence permit;
- i. strengthen the training in the early detection, protection and referral of asylum-seeking women victims of gender-based violence, including female genital mutilation, for staff operating in initial landing settings, hotspots and reception facilities;
- j. develop standard training on gender-sensitive refugee status determination processes and provide for compulsory training for immigration and asylum officials;
- h. monitor and ensure the effective implementation of any national guidelines issued to harmonise and systematise training.

Besides covering all the topics mentioned in Article 15 of the Istanbul Convention and all the forms of violence covered by the convention, training developed in pursuance of the aforementioned suggestions and proposals should address: (a) the referral to preventive intervention and treatment programmes in accordance with Article 16 of the convention; (b) victims' right to civil law remedies and compensation against the perpetrator and the state in accordance with Articles 29 and 30 of the convention; (c) the need to recognise the harmful effects of violence on children and to ensure violence against women is taken into account in the determination of custody and visitation rights in accordance with Article 31 of the convention; (d) the requirement that in proceedings on the various forms of violence covered by the Istanbul Convention, evidence relating to the sexual history and conduct of the victim which has no probative value is not permitted in accordance with Article 54 of the convention; (e) the requirement to favour victims' access to protective measures during legal proceedings owing to the traumatising nature of gender-based violence and the special needs of victims as witnesses in accordance with Article 56 of the convention; and (f) the need to avoid placing an excessive burden on victims and their legal counsel when determining the conditions for accessing legal aid in accordance with Article 57 of the convention. They should furthermore follow an approach based on the safety and respect for the human rights of the victim, as well as a gender-equality perspective, and aim to prevent secondary victimisation and challenge professionals' own prejudices and assumptions which stand in the way of delivering effective support and protection for women victims of violence.

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

16. Bearing in mind the need for perpetrator programmes to form an integral part of institutions' multiagency response to violence against women, GREVIO strongly encourages the Italian authorities to: (paragraph 117)

- a. promote the use by all entities running programmes for perpetrators of domestic violence of clear minimum standards and ensure the evaluation of such programmes to determine their short- and long-term impact, including through the development of statistics on perpetrators who have attended them and through scientifically designed outcome studies, in line with the principles of the Istanbul Convention and recognised best national and international practices;
- b. take measures to ensure that only those programmes that are in the position to comply with the requirements of the Istanbul Convention and recognised best national and international practices receive public funding;
- c. expand the number of available programmes for domestic violence perpetrators and sex offenders, including by diversifying the sources of their funding;
- d. promote the attendance of perpetrator programmes both by mandatory and voluntary referral, by ensuring a more consistent application of existing mechanisms intended to encourage their use and by considering introducing the ability for statutory agencies to impose upon the perpetrator an obligation to attend such programmes;

while ensuring that perpetrator programmes uphold the principle of perpetrators' accountability for acts of violence and work in close co-operation with women's specialist services to ensure victims are adequately informed and protected.

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

17. Having regard to the important role of the media in shaping attitudes to the status and role of women in society and in overcoming social tolerance towards violence against women, GREVIO encourages the Italian authorities to: (paragraph 122)

- a. pursue their efforts aimed at effectively implementing policies, monitoring and complaint mechanisms which are intended to ensure respect by the media for the principle of human dignity and to prohibit all discrimination on grounds of sex, as well as incitement to hatred and to any form of gender-based violence;
- b. set incentives, support or otherwise promote the development and monitoring of self-regulatory standards in the non-stereotypical and non-sexist portrayal of women in the media, including in the context of reporting on violence they have suffered.

In giving effect to these suggestions and proposals, the authorities might wish to seek guidance from the Committee of Ministers Recommendation CM/Rec(2013)1 on gender equality and the media.

18. GREVIO strongly encourages the Italian authorities to pursue their efforts to encourage the employment sector to prevent and combat gender-based violence against women in the workplace, ensure a more efficient use of existing mechanisms to encourage reporting of such violence and consider devising new mechanisms to this end. (paragraph 125)

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

#### **A. General obligations (Article 18)**

19. GREVIO urges the Italian authorities to develop further solutions offering a co-ordinated multiagency response to all forms of violence against women and to support their implementation by developing appropriate guidelines and training the staff concerned. Such solutions should be built on the strong involvement of local authorities and the participation of all the stakeholders concerned, including non-governmental organisations defending women's rights and combating violence against women. (paragraph 130)

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

20. GREVIO encourages the Italian authorities to ensure the wider dissemination of information on the support services and legal measures available to victims of domestic and other forms of violence against women. This would include measures such as the dissemination of posters and leaflets as well as the intensification of efforts to ensure that professionals of all relevant institutions take a more proactive approach towards informing victims. The information provided should be adequate and accessible to victims, including foreign victims and victims with disabilities. (paragraph 133)

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

21. Recalling that the decentralisation of the institutional framework to address violence against women does not diminish the central government's responsibility to fulfil, with due diligence, its international and national obligations to effectively tackle such violence, GREVIO strongly encourages the Italian authorities to: (paragraph 141)

- a. step up victims' access to adequate general support services, such as health services, housing services, employment services, public education and training services, financial support and childcare, to address the specific needs of victims of all the forms of violence covered by the scope of the Istanbul Convention;
- b. ensure that these services are evenly distributed throughout the country, adequately resourced and provided by staff members trained in the gendered dynamics of violence against women and the need to follow a victim-centred approach so that they can respond to needs of the victims in a supportive manner;
- c. ensure the service provision pays particular attention to the needs of victims who are or may be exposed to intersectional discrimination and/or those groups of victims who are made vulnerable by particular circumstances, including but not limited to victims with disabilities.

Measures taken to this end should comply with the requirements of Article 18 of the Istanbul Convention, which include the need for services to be part of a multiagency approach to violence against women and to be based on a gendered understanding of violence and a victim-centred approach which focuses on the human rights and empowerment of the victim and does not depend on her willingness to press charges or testify against the perpetrator.

## **D. Assistance in individual/collective complaints (Article 21)**

22. GREVIO invites the Italian authorities to step up their efforts to ensure victims have information on and access to applicable regional and international complaint mechanisms. (paragraph 143)

## **E. Specialist support services (Article 22) and Shelters (Article 23)**

23. Having regard to the suggestions and proposals made earlier in this report in relation to Article 8 of the Istanbul Convention, GREVIO urges the Italian authorities to take the necessary measures to: (paragraph 151)

- a. expand the coverage and capacity of specialist services throughout the country in relation to all forms of violence covered by the convention;
- b. harmonise the provision of specialist services with the standards defined by the convention which call for a human rights-based approach, grounded on a gendered understanding of violence against women and aimed at preventing secondary victimisation, ensuring respect for victims' human rights and safety, and empowering victims;
- c. guarantee equal access to service provision for all victims throughout the national territory, regardless of conditions such as income;
- d. ensure the provision of services pays due attention to the specific needs of groups of victims who are or may be exposed to intersectional discrimination, such as women with disabilities, as well as hard-to-reach groups and child witnesses;
- e. ensure the financial sustainability and the continuity of service provision.

To this end, the authorities should consider setting more stringent criteria to qualify as an anti-violence centre and/or shelter under the 2014 State-Region agreement and streamlining regions' interventions and funding in this area.

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

24. GREVIO invites the Italian authorities to continue to take the necessary measures to: (paragraph 154)

- a. ensure the referral by the national helpline of victims of all forms of violence covered by the Istanbul Convention to the appropriate general and specialist support services and enhance co-operation between the helpline and women's organisations, in particular those running anti-violence centres;
- b. ensure victims of female genital mutilation have access to helpline support which complies with the requirements of the convention, namely the requirement that information and advice should be offered in a confidential manner, with due regard to callers' anonymity, and that the service should be available in all relevant languages and provided by specialist staff with in-depth knowledge of all forms of violence covered by the scope of the convention.

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

25. GREVIO urges the Italian authorities to ensure the availability of rape crisis and/or sexual violence referral centres which provide a sensitive response to sexual violence by trained and specialist staff and which uphold the principle of the victim's informed consent and control over decisions with respect to forensic/medical examinations, reporting, treatment, referral and the content of medical records. (paragraph 158)

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

26. Having regard to the suggestions and proposals made in this report in relation to Article 31 of the Istanbul Convention, GREVIO urges the Italian authorities to step up efforts to: (paragraph 163)

- a. ensure wider levels of awareness among the professionals concerned, such as social workers, legal and health professionals, and psychologists, of the harmful effects of witnessing domestic violence on children;
- b. provide access for child witnesses to appropriate, age-specific support services based on a gendered understanding of violence against women, pay due regard to the best interests of the child and incorporate a risk-assessment process.

GREVIO invites the authorities to expedite the adoption of the implementing regulation of Law No. 4/2018 containing support measures for orphans of domestic violence crimes.

#### **I. Reporting by professionals (Article 28)**

27. GREVIO encourages the Italian authorities to ensure that the duty to report is tempered by full and sensitive information provided to the victim to allow her to make an informed decision herself and maintain autonomy, while also ensuring the safety of all, especially children. To this end, the authorities might consider reviewing the existing national guidelines for emergency hospital wards and/or the implementation thereof, with a view to ensuring that they integrate a gendered approach based on respect for women's autonomy and self-determination, while operating in a multiagency perspective involving both statutory agencies and women's NGOs. As regards female genital mutilation, the authorities might wish to constructively engage with medical professionals to find a solution for their lack of reporting of FGM cases. (paragraph 167)

## **V. Substantive law**

### **A. Civil law**

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

28. GREVIO urges the Italian authorities to take measures to fill the legislative gap caused by the absence of effective civil remedies against any state authority, whether from the judiciary or other statutory agency, that has failed in its duty to take the necessary preventive or protective measures within the scope of its powers, in accordance with the requirements of Article 29, paragraph 2, of the Istanbul Convention. (paragraph 172)

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

29. GREVIO strongly encourages the Italian authorities to take further measures to: (paragraph 179)

- a. facilitate victims' access to compensation in civil and criminal proceedings and ensure that such reparation is promptly attributed and proportionate to the gravity of the harm suffered;
- b. develop criteria to ensure the harmonised quantification of damages incurred by the victim, including in particular moral damages;
- c. ease victims' access to state compensation, ensure that such compensation is adequate in accordance with the requirements of Article 30, paragraph 2, of the Istanbul Convention, that it is granted within a reasonable time as required by Article 30, paragraph 3, of the convention, and that it is appropriate for covering victims of all forms of violence within the scope of the convention who have sustained serious bodily injury or impairment of health.

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

30. GREVIO urges the Italian authorities to take the necessary measures, including legislative amendments, to ensure that the competent courts are under a duty to consider all issues related to violence against women when determining custody and visitation rights and to assess whether such violence would warrant restricting custody and visitation rights. To this end, the authorities should: (paragraph 188)

- a. consider amending their legislation to explicitly recognise the need to take into account incidents of violence covered by the scope of the Istanbul Convention in the determination of custody and visitation rights of children;
- b. take measures to incorporate a systematic process for screening cases related to the determination of custody and visitation rights to determine whether violence has been an issue in the relationship and whether it has been reported;
- c. duly investigate any report of violence, by improving co-operation with criminal courts and any relevant body, including, but not limited to, law-enforcement agencies, health and education authorities, and specialist women's support services;
- d. incorporate risk-assessment procedures in the determination of custody and visitation rights in order to determine the best interest of the child;
- e. ensure that only those professionals, particularly psychologists and child psychiatrists, who are attuned to the issue of violence against women and the requirements of the Istanbul Convention, can be appointed by courts to provide advice on issues of custody and visitation in situations of violence against women;
- f. ban the use by court-appointed experts, social workers and courts of concepts related to "parental alienation", as well as any other approach or principle, such as the "friendly parent provision", which tend to consider mothers who invoke the violence as "unco-operative" and "unfit" as a parent, and to blame them for the poor relationship between a violent parent and his children;
- g. abandon the practice of imposing upon the victim and her children the obligation to attend joint meetings with the perpetrator for the purposes of reaching an agreement on custody and visitation, which is tantamount to mandatory mediation;

- h. build safeguards into the procedures, such as offering parents separate appointments and creating separate waiting areas in courts, to take into account the imbalance of power between the victim and the perpetrator and to prevent the risk of revictimisation;
- i. ensure an appropriate use of the legal provisions which allow reducing, lifting and/or subjecting to safeguards the perpetrator's custody and visitation rights whenever a situation of violence is ascertained and promote the determination of custody and visitation rights on a provisional basis until all reported facts of violence against women are properly assessed.

Such measures should be accompanied by the provision of appropriate training and the development of professional guidelines, aimed at raising awareness among the professionals concerned as to the harmful effects of violence on children, including child witnesses, and at familiarising them with the requirements of the Istanbul Convention on the settlement of custody and visitation rights. These guidelines should replace existing methodologies and guidelines which tend to reduce violence to a conflict, promote mediation without due account of the violence and resort to arguable concepts such as "parental alienation" which prioritise maintaining the child-parent relationship at all costs, over and above any consideration of the violence. Progress in this field should be measured by data and analyses of case law illustrating how family courts consider incidents of violence and how they motivate their decisions on custody and visitation rights.

## **B. Criminal law**

### **1. Sexual violence, including rape (Article 36)**

31. GREVIO strongly encourages the Italian authorities to consider amending their legislation to base the offence of sexual violence on the notion of freely given consent as required by Article 36, paragraph 1, of the Istanbul Convention. (paragraph 191)

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

32. GREVIO invites the Italian authorities to consider introducing into the criminal legislation provisions to cover the conducts described in Article 38, indents b and c, of the Istanbul Convention. (paragraph 197)

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

33. GREVIO strongly encourages the Italian authorities to consider introducing legislation to ensure that sexual harassment experienced in all areas of life is subject to a legal sanction. (paragraph 201)

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

34. GREVIO encourages the Italian authorities to take further measures to: (paragraph 205)

- a. dismantle the concept that the honour and prestige of a man or the family are intrinsically associated with the conduct or presumed conduct of women related to them, which is based on patriarchal attitudes and serves to control women and curb their personal autonomy;
- b. ensure, including through training of judicial professionals and monitoring of judicial practices, that on no grounds whatsoever do claims that the victim has transgressed cultural, religious, social or traditional norms, customs or "honour" translate into sentence reductions in court practice.

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

35. GREVIO invites the Italian authorities to take the necessary measures to ensure that causing severe physical or psychological harm to the victim entails the applicability of an aggravating

circumstance in relation to all the offences of violence against women established in accordance with the Istanbul Convention. (paragraph 207)

## **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**

36. GREVIO encourages the Italian authorities to continue to take measures to ensure that victims are heard without delay by specially trained law-enforcement officials, and that law-enforcement agencies' handling of cases of violence against women is strongly anchored to a gendered understanding of violence against women and centres on the safety and the human rights of women and their children. (paragraph 217)

#### **2. The role of the prosecution services and conviction rates**

37. GREVIO strongly encourages the Italian authorities to: (paragraph 225)

- a. pursue their efforts aimed at enabling an expeditious handling of investigations and criminal proceedings into cases of gender-based violence, while ensuring that measures taken to this end are supported by adequately funding;
- b. uphold perpetrators' accountability and to ensure criminal justice for all forms of violence covered by the Istanbul Convention;
- c. ensure that sentencing in cases of violence against women, including domestic violence, is commensurate to the gravity of the offence and preserves the dissuasive function of penalties.

Progress in this field should be measured by appropriate data and supported by relevant analyses of the handling of criminal cases by law-enforcement agencies, prosecutorial offices and courts in order to verify where attrition occurs and to identify possible gaps in the institutional response to violence against women.

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

38. GREVIO urges the Italian authorities to: (paragraph 233)

- a. develop further their risk-assessment and management procedures and ensure their wide dissemination within all statutory agencies involved in dealing with cases of gender-based violence;
- b. ensure risk assessments are repeated at all the relevant stages of proceedings, including in particular upon the expiry of any protection measure, and that such assessments take into consideration the views and concerns expressed by the victims;
- c. ensure their risk-assessment and management procedures are a central element of a co-ordinated multiagency response in all cases of violence against women covered by the Istanbul Convention, including forced marriage and female genital mutilation;
- d. consider introducing a system, such as a domestic homicide review mechanism, to analyse all cases of gender-based killings of women, with the aim of preventing them in the future, preserving the safety of women and holding to account both the perpetrator and the multiple agencies that come into contact with the parties.

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

39. While emphasising that in cases of severe violence, arrest and detention should remain the preferred solution to protect victims in situations of immediate danger, GREVIO urges the Italian authorities to: (paragraph 241)

- a. uphold the principle that emergency barring orders should be accessible to victims of domestic violence in all its manifestations, including psychological violence, and that restraining or protection orders should be available to victims of all the forms of violence covered by the Istanbul Convention, including psychological violence and forms of violence which have been recently criminalised such as forced marriage;
- b. preserve the deterrent potential of protective measures by enforcing them properly, by guaranteeing a prompt response from statutory agencies in case of violations and by ensuring that such violations carry appropriate sanctions;
- c. amend the legislation that subjects the sanctioning of violations of civil law protection orders to a complaint of the victim;
- d. ensure that barring orders are issued swiftly to avert situations of imminent danger and that, where necessary, restraining and/or protection orders are issued on an ex parte basis;
- e. ensure that no gap in the protection of the victim arises because of the expiry of any barring, restraining or protection order by making available successive protection measures that can be applied immediately afterwards;
- f. put an end to civil courts' practices which assimilate violence to situations of conflict and attempt to mediate arrangements between the victim and the perpetrator instead of assessing the victim's needs in terms of safety;
- g. improve and harmonise practices regarding the application of other protective mechanisms such as police warnings and arrests in flagrante delicto, by drawing from existing best practices and while ensuring at all times that these measures take into consideration the choice of the victim.

Progress in this area should be carefully monitored and analysed, relying on appropriate data collection that highlights, in particular, the number of precautionary measures, whether barring, protection, restraining orders or warnings, requested and granted, whether they were issued upon a request or at the initiative of the authorities, the reasons for not granting them, the type of offence for which they were issued, the average time taken before they were issued, their duration, the frequency of their violations and the consequences of any violations. The results of such monitoring and analyses should be made available to the public.

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

40. GREVIO urges the Italian authorities to amend their legislation to make it conform with the rules regarding ex parte and ex officio prosecution set out in Article 55, paragraph 1, of the Istanbul Convention, as regards in particular the offences of physical and sexual violence. (paragraph 245)

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

41. GREVIO encourages the Italian authorities to continue to take measures to: (paragraph 250)

- a. ensure victims receive information which is relevant to their protection and the protection of their families from intimidation, retaliation and repeat victimisation, regardless of their express declaration to receive such information, in particular whenever changes occur in the measures designed to protect them;
- b. promote victims' access to existing protective mechanisms meant to secure their testimony in the most suitable conditions, notably by raising awareness among the professionals concerned, in particular the judiciary, as to the traumatising nature of gender-based violence and the special needs of victims during legal proceedings, and by investing in the necessary material means such as IT equipment and adapted rooms in courthouses with the aim of making these mechanisms widely available to victims across the country;
- c. mainstream a gender-sensitive approach to violence against women in any novel initiative aimed at creating and/or expanding assistance and support services for women victims of crime during legal proceedings.

#### **G. Legal aid (Article 57)**

42. GREVIO encourages the Italian authorities to take the necessary measures to ensure that women victims of all the forms of violence covered by the Istanbul Convention have access to state-

sponsored legal aid and that the conditions to access such aid do not place an excessive burden on victims and their legal counsel. (paragraph 252)

## **VII. Migration and asylum**

### **A. Residence status (Article 59)**

43. GREVIO strongly encourages the Italian authorities to take the necessary measures, including legislative amendments, to: (paragraph 259)

- a. ensure that the applicable legislation and/or the implementation thereof affords foreign women an autonomous residence permit in the event of particularly difficult circumstances, bearing in mind that such circumstances should include being a victim of the forms of violence covered by the scope of the Istanbul Convention committed and/or condoned by the spouse or partner;
- b. ensure foreign women victims have access to a renewable residence permit in one of the two or in both the situations described in paragraph 3 of Article 59 of the convention;
- c. ensure that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status, in accordance with the requirement of Article 59, paragraph 4, of the convention.

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

#### **4. Effects of Law No. 132/2018**

44. GREVIO strongly encourages the Italian authorities to take measures to: (paragraph 273)

- a. further standardise refugee status determination procedures which afford a gender-sensitive interpretation of each of the UN's 1951 Refugee Convention grounds and ensure their harmonised application throughout the country;
- b. collect quantitative and qualitative data on (1) the number of asylum requests grounded on gender-based violence; (2) how these grounds – including female genital mutilation – for international protection are interpreted and what conditions of protection are offered to victims; (3) the number of decisions granting or refusing protection on such grounds;
- c. step up efforts to guarantee gender-sensitive reception procedures and accommodation facilities and increase the number of places in reception centres which provide suitable reception standards for women and girls;
- d. ensure that staff operating in initial landing settings, hotspots and reception facilities have received appropriate training for the early detection, protection and referral of women victims of gender-based violence, including female genital mutilation;
- e. guarantee that adequate information is provided, in all phases of reception, to all women seeking asylum, with the aim of increasing their awareness of their vulnerabilities and their rights, and facilitating their access to general and specialist protection and support services;
- f. ensure reception centres are integrated into a long-term perspective and a multiagency approach, involving health and social services as well as women's NGOs and anti-violence centres;
- g. closely monitor the impact of Law No. 132/2018 on women asylum seekers and beneficiaries of international protection on gender-based violence-related grounds.

Measures taken to this effect should be supported by adequate financial means and the deployment of mechanisms to monitor the conditions faced by women and girls in the different stages of the asylum-seeking process, including forced repatriation, as well as to enforce gender-sensitive contract specifications upon the entities managing reception centres.

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**C. Non-refoulement (Article 61)**

45. GREVIO urges the Italian authorities to uphold their obligation to respect the principle of non-refoulement of victims of violence against women, including by ensuring that the human rights of victims rescued at sea are never put at risk because of disagreements about disembarkation. (paragraph 277)

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## **Appendix II**

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

#### **National authorities**

- Ministry of Justice
  - o Court of Milan
  - o High Council of the Judiciary
  - o Prosecutor's office of the Court of Tivoli
- Ministry of Health
  - o Mangiagalli clinic of the hospital of Milan – specialist support unit for victims of sexual and domestic violence
- Ministry of Economy and Finance
- Ministry of Education, University and Research
  - o Conference of University Deans (CRUI)
- Ministry of Family and Disability
- Ministry of Internal affairs
  - o Immigration bureau of the prefecture of Bari
  - o Territorial commission of Bari for asylum status determination
  - o Reception centre for asylum seekers (CARA) of Bari Palese
- Ministry of Labour and Social Policies
- Presidency of the Council of Ministers
  - o Department for Equal Opportunities

#### **Regional/local authorities**

- Apulia
  - o Councillor for social affairs of the Municipality of Bari
  - o Permanent task force against violence
  - o Social department of the region
  - o Regional authority for children's rights
- Lombardy
  - o Councillor for policies on family, parenting and equal opportunities of the region
  - o Directorate general of the region for policies on family, parenting and equal opportunities
  - o Permanent round table for preventing and combating violence against women

#### **Public bodies**

- Authority for the Protection of Children
- National Council for Research (CNR)
- National Institute of Statistics (ISTAT)

### **Non-governmental organisations**

- ActionAid Italy
- Associazione Federico nel cuore
- Associazione Manden – Diritti civili e legalità
- Associazione nazionale volontarie Telefono Rosa
- Associazione Nosostras
- Associazione per gli studi giuridici sull’immigrazione (ASGI)
- BeFree cooperativa sociale di Roma
- Centro Antiviolenza RiscoprirSi
- Donne in rete contro la violenza (D.i.Re)
  - o Associazione Artemisia, Firenze
  - o Associazione Casa della donna, Pisa
  - o Associazione Casa delle Donne, Viareggio
  - o Associazione Casa delle donne per non subire violenza, Bologna
  - o Associazione Casa di Accoglienza delle donne maltrattate, Milano
  - o Associazione Centro contro la violenza alle donne “Roberta Lanzino”, Cosenza
  - o Associazione Donne in genere, Roma
  - o Associazione Le Onde, Palermo
  - o Associazione Spazio Donna, Caserta
  - o Associazione Trama di Terre, Imola
  - o Associazione Voce Donna, Pordenone
  - o Centro Veneto Progetti Donna, Padova
  - o Cooperativa Sociale E.V.A., Caserta
- Fondazione famiglia materna
- Fondazione Pangea
- Gruppo indagine resistenza alla follia femminile ah ! (GIRAFFA)
- Italian Association for Women in Development (AIDOS)
- Italian Coordination of the European Women’s Lobby (EWL)
- Italian Forum on Disability (FID)
- Oasi2
- Relive
  - o Italian centre for the promotion of mediation (CPIM)
- Unione donne in Italia (UDI)

### **Civil society organisations and other organisations**

- Association of journalists GIULIA
- General Italian Confederation on Labour (CGIL)
- National federation of the Italian printed press (FNSI)
- Network of universities against gender-based violence (UNIRE)

### **Inter-governmental organisations**

- International Organization for Migration (IOM)
- United Nations High Commissioner for Refugees (UNHCR) Italy



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, including all members of the European Union.

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

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE